



CITY OF NEWBURGH
COUNCIL MEETING AGENDA

April 8, 2013

7:00 pm

Mayor:

1. Prayer
2. Pledge of Allegiance

City Clerk:

3. Roll Call

Proclamation:

4. National Service Recognition Day

Communications:

5. Approval of the minutes of the March 21, 2013 work session and the March 25, 2013 City Council meeting
6. Notice of Claim: Roseann DeGeorge v. City of Newburgh
7. Notice of Claim: Alan David Gardner v. City of Newburgh

Comments from the public regarding the agenda:

Comments from the Council regarding the agenda:

City Manager's Report:

8. Reminder: Newburgh Clean up day is Saturday, April 27
9. Resolution No. 69 - 2013
A resolution amending Resolution No. 223-2012, the 2013 Budget for the City of Newburgh, New York to transfer \$2,400.00 from Contingency to City Council and Mayor Employee Benefits in order to provide dental and vision insurance benefits for the term July 1, 2013 through December 31, 2013.
10. Resolution No. 70 - 2013
A resolution amending Resolution No. 223-2012, the 2013 Budget for the City of Newburgh, New York to transfer \$1,200.00 from Contingency to Fire Department Other Equipment in connection with the purchase of decibel meters.

11. Resolution No. 71 - 2013
A resolution authorizing the execution of a Release of Restrictive Covenants and Right of Re-Entry from a deed issued to Habitat for Humanity of Greater Newburgh, Inc. to the premises known as 45 Chambers Street.
12. Resolution No. 72 – 2013
A resolution authorizing the execution of a Release of Restrictive Covenants and Right of Re-Entry from a deed issued to Habitat for Humanity of Greater Newburgh, Inc. to the premises known as 47 Chambers Street
13. Resolution No. 73 – 2013
A resolution of the City Council of the City of Newburgh assuming lead agency status under the State Environmental Quality Review Act (SEQRA) concerning an amendment of Article VII, entitled “Special Use Permits” of the Zoning Ordinance of the City of Newburgh, declaring the project to be an unlisted action, considering an Environmental Assessment Form, referring same to the Orange County Planning Department as required by Section 239 of the General Municipal Laws and Scheduling a public hearing.
14. Resolution No. 74 – 2013
A resolution to authorize the award of a bid and to execute an agreement for vendor services with Economy Cleaners to provide uniform dry cleaning services to the City of Newburgh Police Department.
15. Resolution No. 75 – 2013
A resolution authorizing the City Manger to enter into a license agreement with the House of Refuge to allow use of City-owned property located at 140 Broadway for the Tuesday Farm Market.
16. Resolution No. 76 – 2013
A resolution reappointing Kathy Parisi to the Board of Assessment Review.
17. Resolution No. 77 – 2013
A resolution authorizing the City Manager to accept a donation of a vehicle from the City of Port Jervis to be used by the City of Newburgh Police Department K-9 unit.
18. Resolution No. 78 – 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 City of Newburgh 25th Annual International Festival.

Agenda - City Council Meeting

April 8, 2013

19. Resolution No. 79 – 2013

A resolution to authorize a settlement in the matter of Rosann DeGeorge against the City of Newburgh in the amount of three thousand four hundred ninety-five dollars.

20. Resolution No. 80 – 2013

A resolution authorizing the extension of time to close title on the Property Located at 34 Carter Street sold at private sale to Stacey Burks.

Old Business:

New Business:

Public Comments Regarding General Matters of City Business:

Further Comments from the Council:

Adjournment:

A regular meeting of the City Council of the City of Newburgh was held on Monday, March 25, 2013 at 7:00 P.M. in the third floor Council Chambers at City Hall, 83 Broadway, Newburgh, NY.

The Prayer was led by Pastor Ron Truncali with the Hudson Valley Christian Church followed by the Pledge of Allegiance.

Present: Mayor Kennedy, presiding; Councilwoman Angelo,
Councilman Dillard, Councilwoman Lee - 4
Absent - Councilman Brown - 1

PRESENTATION

Andrew Dalton, Irish Folk Singer/Dancer played music and sang for the audience.

City of Newburgh Proclamation



Women's History Month 2013

March 25, 2013

Women's History Month 2013 honors generations of women who have used their intelligence, imagination, sense of wonder, and tenacity to make extraordinary contributions

Too often the women were unsung and sometimes their contributions went unnoticed. But the achievements, leadership, courage, strength and love of the women who built America are equally vital as those of men whom we know so well.

For Women's History Month 2013, the City of Newburgh honors a woman with great love for her community, who has brought beauty, joy, and wonder to generations of residents, with celebrations, festivals, historic preservation, and beautification efforts

Therefore, I, Judith L. Kennedy, Mayor, and the City Council of the City of Newburgh do hereby recognize March 2013 as "Women's History Month," with special gratitude for the immense contributions of Deputy Mayor Regina Angelo, which will always be an important part of

The past, the present, and the future of the City of Newburgh

Mayor Judith L. Kennedy

Councilman Cedric Brown

Councilman Curlie Dillard

Councilwoman Gay Lee

COMMUNICATIONS

Councilwoman Angelo moved and Councilwoman Lee seconded that the Minutes of the March 7, 2013 Work Session and the March 11, 2013 City Council Meeting be approved.

Ayes - Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 4

CARRIED

Councilwoman Angelo moved and Councilwoman Lee seconded that the City Clerk's Report and Vital Statistics Report for the month of February be approved, filed and made available to the public.

Ayes - Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 4

CARRIED

Councilwoman Angelo moved and Councilwoman Lee seconded that the Civil Service Administrator's Report for the month of February be received and filed only.

Ayes - Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 4

CARRIED

Councilwoman Angelo moved and Councilwoman Lee seconded that the Notices of Claim and Summons and Verified Complaint be referred to Corporation Counsel with power to act.

Ayes - Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 4

CARRIED

COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Pastor Brock, City of Newburgh, said that the Notice of Claim that she submitted was for a tree falling on her fence. The tree has been removed but it broke her fence and she never received any notification that she had ninety days to respond. When she finally was able to submit her claim she got a response back from the City stating that she waited over ninety days. In regard to National Night Out, when this first started it was to curb drugs for four hours. Now it has been moved from where the drugs are bad to the Activity Center but she has never seen drugs at the Activity Center. Her Church is downtown which is where the drugs are and that is where National Night Out should be held.

Sheila Monk, City of Newburgh, asked for a clarification of the other Notice of Claims and for more information on the Mayor's Redevelopment Roundtable. In regard to the Memorial Day Parade, there are not a lot of participants from the City of Newburgh so this year she would like to see more support and involvement from the City.

Janet Gianopolous, City of Newburgh, asked for a clarification of resolution #57-2013 and the amount of money that is being used for this. She would also like to know what the projected return on investment is.

There being no further comments, this portion of the meeting was closed.

COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

Mayor Kennedy responded to questions regarding resolution #57-2013 and noted that the City is not spending money on this. This is an inter-governmental agreement that supports and she believes that the City of Peekskill received the Grant.

Richard Herbek, City Manager, said that this has been going on for quite a few years and we have participated extensively in the Mayor's Redevelopment Roundtable. He believes it had been funded to a large extent by the Ford Foundation in past years. We don't know if this is going to end up costing the City anything or not as it states in the resolution that we support the initiatives and pledges, if needed, to provide its share of the required \$20,000.00 local share, which would be an average \$1,115.00 per year in conjunction with the other co-applicants. We are hopeful that it won't cost us anything but if it does end up costing something it will be a nominal amount of money for the value that the City has been able to get. They have been extremely instrumental in supporting Grants, Initiatives and things like the Land Bank and regional cooperation among various municipalities in the lower Hudson Valley. A lot of good work has come out of this and he thinks that it is extremely valuable for the City to be a participant in the program.

Mayor Kennedy said to further clarify that this is a group of Mayors up and down the Hudson River who are meeting in terms of collaborating on solving problems that are common amongst us and sharing ideas. That is what the Redevelopment Roundtable is all about.

Richard Herbek, City Manager, said that it is called the Mayor's Redevelopment Roundtable but our staff has extensively participated. It is an opportunity for their colleagues to also get together and attempt to solve problems and deal with regional issues that we need to be working on together to move municipalities in the right direction in the future.

Councilwoman Lee asked how they helped with the Land Bank.

City Manager, Richard Herbek, said that this was an action of the State Legislature to enable municipalities to form Land Banks. He believes what was initially approved were five applications and we were the only City; the others were Counties. That was done through an application process with which we were successful. The PACE Land Use Law Center has helped us extensively with submitting that application and with assistance in putting it all together moving forward.

Mayor Kennedy said that she is not sure that the Round Table itself is actively involved in the Land Bank but Pace Law Center has been active in both efforts.

Michael Vatter, Fire Chief, said that this was formed four or five years ago when a different City Council was seated. It was funded by the Ford Foundation and a huge grant and was basically about Cities for Cities because all of the cities in the Hudson Valley have a lot of the same problems. When Mayor Valentine was going and everyone was reaching for answers he asked them to come to Newburgh which led to the original three pronged approach with trying to get redevelopment kick started down here. We have a lot going on with them and it is easy for him to call and get a hand when he needs it so there is a huge give and take there. He said that he presented at the Mayors Roundtable as all of the cities are dealing with Code Compliance problems in all of our cities and the problems are very similar from city to city. If we can form this unified front, it makes it easier to get our message across to the State and to our County counterparts.

Councilwoman Lee told Chief Vatter that the reason she asked is because he received quite a few kudos from former Congressman Ed Towns and one of the people working on his Committee. They both spoke very highly of him and his involvement with the Roundtable.

There being no further comments this portion of the meeting was closed.

RESOLUTION NO.: 56 - 2013

OF

MARCH 25, 2013

**A RESOLUTION AUTHORIZING AN EXTENSION REGARDING THE
REHABILITATION AND RESALE OF REAL PROPERTY KNOWN AS
23 SOUTH MILLER STREET (SECTION 30, BLOCK 1, LOT 18),
AND 25 SOUTH MILLER STREET (SECTION 30, BLOCK 1, LOT 17)
OWNED BY THRUWAY BUILDERS, INC.**

WHEREAS, by Resolution No. 38-2007 of March 26, 2007, the City Council of the City of Newburgh authorized the preparation of a land disposition agreement for Thruway Builders, Inc. regarding the rehabilitation and sale of real property known as 23 South Miller Street and 25 South Miller Street, more accurately described on the official tax map of the City of Newburgh as Section 30, Block 1, Lots 18 and 17, respectively, and title closed and the deed was delivered on January 9, 2008; and

WHEREAS, said Agreement included a Schedule "C" requiring rehabilitation of the properties to be completed and re-sold to owner occupants within twelve months of the delivery of the deed; and

WHEREAS, Thruway Builders has been unable to comply completely with the deadline to rehabilitate 25 South Miller Street, but has made a good faith effort and substantial progress to complete the rehabilitation by receiving a certificate of occupancy for the property known as 23 South Miller Street; and

WHEREAS, by Resolution No.: 71-2009 of May 11, 2009 the City Council authorized an extension of time to rehabilitate the premises located at 25 South Miller Street until June 30, 2010; and

WHEREAS, by Resolution No.: 89-2010 of April 26, 2010 the Council authorized an extension of time to rehabilitate the premises located at 25 South Miller Street until June 30, 2011; and

WHEREAS, 25 South Miller Street is approximately 60% rehabbed but due to unforeseen circumstances Thruway Builders has requested an additional 12 months to complete the rehabilitation;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that Thruway Builders be and is hereby granted an extension of time to rehabilitate the premises known as 25 South Miller Street until March 25, 2014, that being twelve (12) months from the date of this Resolution;

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that Thruway Builders be and is hereby granted an additional forty-eight (48) months to lease both properties with an option to purchase or retain both as rental properties for a period of five (5) years from the issuance of a certificate of occupancy and then upon the expiration of said five year period re-sell to an owner-occupant.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 4

ADOPTED

RESOLUTION NO.: 57 - 2013

OF

MARCH 25, 2013

**A RESOLUTION IN SUPPORT OF AN APPLICATION BEING
SUBMITTED BY THE CITY OF PEEKSKILL FOR A
LOCAL GOVERNMENT EFFICIENCY GRANT SUPPORTING THE
SHARED REDEVELOPMENT SERVICES PROGRAM OF THE
MAYORS REDEVELOPMENT ROUNDTABLE**

WHEREAS, the City of Newburgh and its redevelopment staff and corporation counsel have been participating in the Mayors' Redevelopment Roundtable (Roundtable) for four years to develop strategies for making the participating cities redevelopment-ready in order to increase its tax base and to stimulate sustainable economic development; and

WHEREAS, the Mayors' Redevelopment Roundtable creates a vehicle for and implements a program for sharing expert development staff and professional services among the cities participating, the staff of the Land Use Law Center, and experts on the strategies being developed; and

WHEREAS, this shared services approach to developing redevelopment strategies realized significant cost benefits through the essential services provided and the addition of development attracted by the strategies to the tax base; and

WHEREAS, the Roundtable has been effective in working with the Mid-Hudson Regional Economic Development Council to create an urban redevelopment policy in its five year strategy so that projects for state funding from Roundtable communities are as competitive as possible; and

WHEREAS, the City of Newburgh benefits from the redevelopment strategies developed through the Roundtable, through the urban policy adopted, and by participating and indicates that the City is cooperating in a regional redevelopment strategy in furtherance of several state policies; and

WHEREAS, the cooperation of the nine communities in the Roundtable is memorialized by a Memorandum of Agreement signed by each of the mayors of the cooperating communities, constituting an intermunicipal agreement to

cooperate in developing redevelopment strategies that respond to the critical issues faced by Roundtable communities; and

WHEREAS, the City of Peekskill has agreed to submit a grant to the State of New York under the Local Government Efficiency Grant Program for a two-year \$200,000 grant to continue the shared services initiative of the Roundtable and to act as the fiscal agent for the Roundtable in administering the grant on behalf of the participating cities which include Yonkers, Mount Vernon, New Rochelle, White Plains, Port Chester (a village), Beacon, Poughkeepsie, and Newburgh; and

WHEREAS, the Grant requires a 10 percent local share, which can be contributed by any of the cooperating communities in the Roundtable through any projects that it funds that are part of the Shared Redevelopment Services Program: representing an average yearly local commitment of approximately \$1,000 per Roundtable community;

BE IT RESOLVED, that the City of Peekskill, through Mayor, Mary Foster, is authorized on behalf of the City of Newburgh to submit an application for \$180,000, two year grant for the \$200,000 Shared Redevelopment Services Program of the Mayors' Redevelopment Council and to execute all financial and administrative processes related to the implementation of the program; and

BE IT FURTHER RESOLVED, that the Newburgh City Council supports this Shared Development Services initiative and pledges, if needed, to provide its share of the required \$20,000 local share required, an average of \$1,115 per year, in conjunction with the other co-applicants: the cities of Mount Vernon, Beacon, Peekskill, New Rochelle, Poughkeepsie, Yonkers, White Plains, and the Village of Port Chester.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 4

ADOPTED

RESOLUTION NO.: 58-2013

OF

MARCH 25, 2013

A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY FROM A CORRECTION DEED ISSUED TO HABITAT FOR HUMANITY OF GREATER NEWBURGH, INC. TO THE PREMISES KNOWN AS 72 BENKARD AVENUE (SECTION 45, BLOCK 2, LOT 11)

WHEREAS, on July 30, 2005, the City of Newburgh conveyed property located at 72 Benkard Avenue, being more accurately described on the official Tax Map of the City of Newburgh as Section 45, Block 2, Lot 11, to Habitat for Humanity of Greater Newburgh, Inc.; and

WHEREAS, on September 17, 2010, the City of Newburgh issued a correction deed for the property located on 72 Benkard Avenue, being more accurately described on the official Tax Map of the City of Newburgh as Section 45, Block 2, Lot 11, to Habitat for Humanity of Greater Newburgh, Inc.; and

WHEREAS, Habitat for Humanity, by their attorney, has requested a release of the restrictive covenants contained in said deed; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the release, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3, 4, 5, 6 and 7 of the aforementioned deed.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 4

ADOPTED

RESOLUTION NO.: 59 - 2013

OF

MARCH 25, 2013

A RESOLUTION DESIGNATING MOBILE LIFE SUPPORT SERVICES, INC. AS THE DESIGNATED PROVIDER OF EMERGENCY MEDICAL SERVICES FOR THE CITY OF NEWBURGH IN ACCORDANCE WITH THE TERMS OF AN AGREEMENT BETWEEN THE PARTIES AND AUTHORIZING THE CITY MANAGER TO EXECUTE A RENEWAL OF SAID AGREEMENT

WHEREAS, by Resolution No. 73 - 2006 of April 10, 2006 the City of Newburgh entered into a contract with Mobile Life Support Services, Inc. ("MLSS") to provide Emergency Medical Services ("EMS") in and for the City of Newburgh; and

WHEREAS, by Resolution No. 68-2011 of March 28, 2011, the City of Newburgh renewed the contract with MLSS for an additional 2 year agreement in the form attached hereto; and

WHEREAS, the parties wish to designate MLSS as the provider of EMS for the City of Newburgh and renew the terms of said agreement for another two year term on condition that MLSS will continuously provide its resources sufficient to meet the EMS needs of the City of Newburgh and its citizens; and

WHEREAS, the City of Newburgh shall not be liable for any costs or expenses to MLSS in this regard; and

WHEREAS, a copy of such agreement is annexed hereto and made a part of this resolution; and

WHEREAS, the City Council has examined such agreement and determined it to be in the best interests of the City of Newburgh to enter into such agreement;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and is hereby authorized to execute and enter into an agreement with Mobile Life Support Services, Inc. in the form attached hereto.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 4

ADOPTED

59-13

AGREEMENT FOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____, 2013, by and between the CITY OF NEWBURGH, a municipal corporation chartered under the authority of the State of New York, hereinafter referred to as the "CITY," with principal offices at 83 Broadway, City Hall, Newburgh, New York 12550; and MOBILE LIFE SUPPORT SERVICES, INC. ("MLSS"), a firm with principal offices at 3188 Route 9W, New Windsor, New York 12553, hereinafter referred to as "VENDOR."

ARTICLE 1. SCOPE OF WORK

VENDOR agrees to perform the SERVICES identified in Schedule A, (the "SERVICES") which is attached to, and is part of this Agreement. VENDOR agrees to perform the SERVICES and/or supply the goods in accordance with the terms and conditions of this Agreement.

Any and all reports, documents, charts, graphs, maps, designs, images, photographs, computer programs and software, artwork, creative works, compositions, and the rights to employ, publish, disseminate, amend or otherwise use same, and/or any other intellectual property to be provided by VENDOR to CITY under the terms of this Agreement shall become the property of the CITY, unless otherwise provided for by the parties. As such, CITY, in its sole discretion, shall have the right to use, copy, disseminate and otherwise employ or dispose of such material in any manner as it may decide with no duty of compensation or liability therefore to VENDOR or to third parties. VENDOR shall have the affirmative obligation to notify CITY in a timely fashion of any and all limitations, restrictions or proprietary rights to such intellectual property and/or materials which may be applicable which would have the effect of restricting or limiting the exercise of the CITY's rights regarding same. VENDOR agrees to defend, indemnify and hold harmless the CITY for failing to notify CITY of same.

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES beginning April 1, 2013, and ending March 31, 2015.

ARTICLE 3. PROCUREMENT OF AGREEMENT

VENDOR represents and warrants that no person or selling agency has been employed or retained by VENDOR to solicit or secure this Agreement upon an agreement or upon an understanding for a commission, percentage, a brokerage fee, contingent fee or any other compensation. VENDOR further represents and warrants that no payment, gift or thing of value has been made, given or promised to obtain this or any other agreement between the parties. VENDOR makes such representations and warranties to induce the CITY to enter into this Agreement and the CITY relies upon such representations and warranties in the execution hereof.

For a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if effected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this Agreement.

ARTICLE 4. CONFLICT OF INTEREST

VENDOR represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have any interest nor shall they acquire any interest, directly or indirectly which would or may conflict in any manner or degree with the performance or rendering of the SERVICES herein provided. VENDOR further represents and warrants that in the performance of this Agreement, no person having such interest or possible interest shall be employed by it and that no elected official or other officer or employee of the CITY, nor any person whose salary is payable, in whole or in part, by the CITY, or any corporation, partnership or association in which such official, officer or employee is directly or indirectly interested shall have any such interest, direct or indirect, in this Agreement or in the proceeds thereof, unless such person submits a letter disclosing such an interest, or the appearance or potential of same, to the City Manager and a copy to the Corporation Counsel of the CITY in advance of the negotiation and execution of this Agreement.

For failure to submit such letter of disclosure, or for a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim for, or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if elected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment to or to take any other action provided for by law, in equity or pursuant to this Agreement.

ARTICLE 5. INDEPENDENT CONTRACTOR

In performing the SERVICES under this Agreement, VENDOR shall operate as, and have the status of, an independent contractor and shall not act as agent, or be an agent, of

the CITY. As an independent contractor, VENDOR shall be solely responsible for determining the means and methods of performing the SERVICES and/or supplying of the goods and shall have complete charge and responsibility for VENDOR'S personnel engaged in the performance of the same.

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

ARTICLE 6. ASSIGNMENT AND SUBCONTRACTING

VENDOR shall not assign any of its rights, interest or obligations under this Agreement, or subcontract any of the SERVICES to be performed by it under this Agreement, without the prior express written consent of the City Manager of the CITY. Any such subcontract, assignment, transfer, conveyance, or other disposition without such prior consent shall be void and any SERVICES provided thereunder will not be compensated. Any subcontract or assignment properly consented to by the CITY shall be subject to all of the terms and conditions of this Agreement.

Failure of VENDOR to obtain any required consent to any assignment, shall be grounds for termination for cause, at the option of the CITY and if so terminated, the CITY shall thereupon be relieved and discharged from any further liability and obligation to VENDOR, its assignees or transferees, and all monies that may become due under this Agreement shall be forfeited to the CITY except so much thereof as may be necessary

to pay VENDOR'S employees for past service.

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

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

ARTICLE 7. BOOKS AND RECORDS

VENDOR agrees to maintain separate and accurate books, records, documents and other evidence and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.

ARTICLE 8. RETENTION OF RECORDS

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

ARTICLE 9. INSURANCE

For all of the SERVICES set forth herein and as hereinafter amended, VENDOR shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, Workers' Compensation insurance, liability insurance covering personal injury and property damage, and other insurance with stated minimum coverages, all as listed below. Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to the CITY who have been fully informed as to the nature of the SERVICES to be performed.

Except for Workers' Compensation and professional liability, the CITY shall be an additional insured on all such policies with the understanding that any obligations imposed upon the insured (including, without limitation, the liability to pay premiums) shall be the sole obligation of VENDOR and not those of the CITY. Notwithstanding anything to the contrary in this Agreement, VENDOR irrevocably waives all claims against the CITY for all losses, damages, claims or expenses resulting from risks commercially insurable under this insurance described in this Article 13. The provisions of insurance by VENDOR shall not in any way limit VENDOR'S liability under this Agreement.

| <u>Type of Coverage</u> | <u>Limit of Coverage</u> |
|--|--|
| Worker's Compensation | Statutory |
| Employer's liability or similar insurance | \$1,000,000 each occurrence |
| Automobile liability | \$1,000,000 aggregate |
| Bodily Injury | \$1,000,000 each occurrence |
| Property Damage | \$1,000,000 each occurrence |
| Comprehensive General Liability, including Broad form contractual Liability, bodily injury and property damage | \$1,000,000 aggregate \$2,000,000 each occurrence |
| Professional liability (If commercially available for your profession) | \$1,000,000 aggregate \$2,000,000 each claim |

VENDOR shall attach to this Agreement certificates of insurance evidencing VENDOR'S compliance with these requirements.

Each policy of insurance shall contain clauses to the effect that (i) such insurance shall be primary without right of contribution of any

other insurance carried by or on behalf of the CITY with respect to its interests, (ii) it shall not be cancelled, including, without limitation, for non-payment of premium, or materially amended, without fifteen (15) days prior written notice to the CITY, directed to the City Manager, the Corporation Counsel and to the Department Head and the CITY shall have the option to pay any necessary premiums to keep such insurance in effect and charge the cost back to VENDOR.

To the extent it is commercially available, each policy of insurance shall be provided on an "occurrence" basis. If any insurance is not so commercially available on an "occurrence" basis, it shall be provided on a "claims made" basis, and all such "claims made" policies shall provide that:

A. Policy retroactive dates coincide with or precede VENDOR'S start of the performance of this Agreement (including subsequent policies purchased as renewals or replacements);

B. VENDOR will maintain similar insurance for at least six (6) years following final acceptance of the SERVICES;

C. If the insurance is terminated for any reason, VENDOR agrees to purchase an unlimited extended reporting provision to report claims arising from the SERVICES performed or goods provided for the CITY; and

D. Immediate notice shall be given to the CITY through the City Manager of circumstances or incidents that might give rise to future claims with respect to the SERVICES performed under this Agreement.

ARTICLE 10. INDEMNIFICATION

VENDOR agrees to defend, indemnify and hold harmless the CITY, including its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement), whether

incurred as a result of a claim by a third party or any other person or entity, arising out of the SERVICES performed and supplied pursuant to this Agreement which the CITY or its officials, employees or agents, may suffer by reason of any negligence, fault, act or omission of VENDOR, its employees, representatives, subcontractors, assignees, or agents.

In the event that any claim is made or any action is brought against the CITY arising out of the negligence, fault, act, or omission of an employee, representative, subcontractor, assignee, or agent of VENDOR either within or without the scope of his respective employment, representation, subcontract, assignment or agency, or arising out of VENDOR'S negligence, fault, act or omission, then the CITY shall have the right to withhold further payments hereunder for the purpose of set-off of sufficient sums to cover the said claim or action. The rights and remedies of the CITY provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

ARTICLE 11. PROTECTION OF CITY PROPERTY

VENDOR assumes the risk of and shall be responsible for, any loss or damage to CITY property, including property and equipment leased by the CITY, used in the performance of this Agreement and caused, either directly or indirectly by the acts, conduct, omissions or lack of good faith of VENDOR, its officers, directors, members, partners, employees, representatives or assignees, or any person, firm, company, agent or others engaged by VENDOR as an expert consultant specialist or subcontractor hereunder.

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

VENDOR agrees to defend, indemnify and hold the CITY harmless from any and all

liability or claim for loss, cost, damage or expense (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement) due to any such loss or damage to any such CITY property described in this Article.

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

ARTICLE 12. CONFIDENTIAL INFORMATION

In the course of providing the SERVICES and/or goods hereunder, VENDOR may acquire knowledge or come into possession of confidential, sensitive or proprietary information belonging to CITY. VENDOR agrees that it will keep and maintain such information securely and confidentially, and not disclose such information to any third parties, including the media, nor use such information in any manner publically or privately, without receiving the prior approval, in writing, of the CITY authorizing such use. VENDORS obligations under this clause to maintain the confidentiality of such information and to refrain from using such information in any manner without the prior written approval of the CITY shall survive the termination or expiration of this Agreement.

ARTICLE 13. TERMINATION

The CITY may, by written notice to VENDOR effective six (6) months upon mailing and failure of VENDOR to cure within such six (6) month period, terminate this Agreement in whole upon the material default of VENDOR to comply with any of the terms or conditions of this agreement, or (ii) upon the VENDOR becoming insolvent or bankrupt.

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

ARTICLE 14. NO ARBITRATION

Any and all disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to arbitration unless specifically agreed thereto in writing by the City Manager of the CITY, but must instead only be heard in the Supreme Court of the State of New York, with venue in Orange County.

ARTICLE 15. GOVERNING LAW

This Agreement shall be governed by the laws of the State of New York. VENDOR shall render all SERVICES under this Agreement in accordance with applicable provisions of all federal, state and local laws, rules and regulations as are in effect at the time such SERVICES are rendered.

ARTICLE 16. ENTIRE AGREEMENT

The rights and obligations of the parties and their respective agents, successors and assignees shall be subject to and governed by this Agreement, including Schedule A, which supersedes any other understandings or writings between or among the parties.

ARTICLE 17. MODIFICATION

No changes, amendments or modifications of any of the terms and/or conditions of this Agreement shall be valid unless reduced to writing and signed by the party to be bound. Changes in the scope of SERVICES in this Agreement shall not be binding, unless prior to the performance of any such SERVICES, the City Manager of the CITY, after consultation with the Department Head and Corporation Counsel, executes an Addendum or Change Order to this Agreement, which Addendum or Change Order shall specifically set forth the scope of such extra or additional SERVICES. Unless otherwise specifically provided for therein, the provisions of this Agreement shall apply with full force and effect to the terms and conditions contained in such Addendum or Change Order.

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

THE CITY OF NEWBURGH

MOBILE LIFE SUPPORT SERVICES, INC.

BY: _____
RICHARD F. HERBEK,
CITY MANAGER

BY: _____
SCOTT WOEBSE
VICE PRESIDENT & COO

DATE: _____

DATE: _____

RESOLUTION NO.: 60 - 2013

OF

MARCH 25, 2013

**A RESOLUTION AUTHORIZING THE EXECUTION OF
A LICENSE AGREEMENT RENEWAL FOR THE USE OF CLASSROOM
SPACE LOCATED AT 22 GRAND STREET FOR THE PURPOSE OF
TRAINING BY THE MOBILE LIFE SUPPORT SERVICES, INC.**

WHEREAS, by Resolution No. 69-2011 of March 28, 2011, the City of Newburgh authorized a license agreement with Mobile Life Support Services ("MLSS") for the use of classroom space located at 22 Grand Street for the training purposes which include various CPR, First Aid and EMS Certification programs; and

WHEREAS, the term of the agreement was for two (2) years commencing on April 1, 2011 and terminating on March 31, 2013 with an annual license fee of \$40,000.00 per year; and

WHEREAS, the parties wish to renew the license agreement for an additional two year term commencing on April 1, 2013 and terminating on March 31, 2015; and

WHEREAS, the City Council has examined such license agreement, a copy of which is annexed hereto and made a part of this resolution, and determined it to be in the best interests of the City of Newburgh to enter into such license agreement.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and is hereby authorized to execute and enter into the attached license agreement, in substantially the same form and with other terms as Corporation Counsel may require, on behalf of the City of Newburgh.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 4

ADOPTED

LICENSE AGREEMENT

This License Agreement, made this ____ day of March, two thousand and thirteen, by and between the CITY OF NEWBURGH (hereinafter "City"), 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 owner of certain premises located at 22 Grand Street in the City of Newburgh, New York as "LICENSOR"; and MOBILE LIFE SUPPORT SERVICES, INC. ("hereinafter "Mobile Life"), a business corporation organized and existing under the laws of the State of New York having a mailing address at 3188 Route 9W, New Windsor, New York 12553 as "LICENSEE";

WITNESSETH THAT:

WHEREAS, Licensee desires the license or privilege of gaining access to and using certain classroom space located at 22 Grand Street, Newburgh, New York as described on Schedule A attached hereto for training purposes;

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 officers, employees, and agents, upon the conditions hereinafter stated, the non-exclusive license or privilege of entering upon certain classroom space located at 22 Grand Street, Newburgh, New York, as described on Schedule A hereto attached hereto (the "Classroom Space"), for training purposes on an as-available basis, for a term of two (2) years commencing on April 1, 2013 and terminating on March 31, 2015. Such training shall include but not be limited to CPR, First Aid, and EMS Certification programs for the benefit of both City employees and involved residents (collectively "Training").

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

Third: As consideration for this License, Licensee shall pay Licensor a license fee of \$40,000.00 per year, to be paid in quarterly payments of \$10,000.00 each on or before January 1, April 1, July 1, and October 1 of each year of this License Agreement, the first payment to be made on April 1, 2013. Licensor shall

not charge Licensee any additional use or maintenance fees for the Classroom Space.

Fourth: Licensee shall notify the Licensor at least ten (10) days in advance of the date of each Training session that it requires the Classroom Room and the anticipated number of participants in such session. The Licensor shall evaluate the request for use of the Classroom Space and shall within two (2) business days advise Licensee whether it is available on such date. If the Classroom Space is not available on such date, Licensor shall provide Licensee with alternative dates. If none of such alternative dates are acceptable to Licensee, Licensee shall find other space for such Training session at no cost to the Licensor.

Fifth: Licensee shall maintain the Classroom Space in the condition it was found prior to each Training session.

Sixth: Third: In connection with the exercise of the license herein, Licensee agrees to hold Licensor harmless from any loss, cost, damages, lawsuit, damage to person or property, and the cost of litigation (including attorneys fees) caused solely by Licensee or its agents, servants or employees in the use of said licensing. After such access, Licensee to return the properties to substantially the same condition as existed prior to said access. Licensee shall, at its sole expense, keep and maintain a policy of commercial public liability insurance which shall include coverage for Licensee's actions upon the properties during the term of this Agreement. This insurance policy shall name Licensor as an additional insured and afford protection in limits of not less than \$2,000,000.00 for bodily injury or death in any one accident, and not less that \$500,000.00 for property damage. All insurance shall be effected under standard form policies, issued by insurers of recognized responsibility authorized to do business in the State of New York and having a national rating of A-9 or better, provided that, at Licensor's option, such coverage may be effectuated through a blanket policy of insurance so long as the risks in respect of the properties are separately scheduled or identified. Licensee has delivered to Licensor certificates of this insurance coverage and, not less than thirty (30) days prior to the expiration of the coverage, a certificate of the new policy accompanied by evidence reasonably satisfactory to Licensor of payment of premiums therefor. Licensee covenants, and this insurance coverage shall include, an agreement by the insurer that the policy shall not be canceled prior to the termination of this Agreement.

THE CITY OF NEWBURGH
LICENSOR

By: _____
RICHARD F. HERBEK, City Manager

MOBILE LIFE SUPPORT SERVICES, INC.
LICENSEE

By: _____
SCOTT WOEBSE, Vice President COO

RESOLUTION NO.: 61 - 2013

OF

MARCH 25, 2013

A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN
THE CITY OF NEWBURGH AND WRIGHT RISK MANAGEMENT
COMPANY LLC TO PERFORM WORKERS' COMPENSATION CLAIMS
RUNOFF SERVICES

WHEREAS, the City of Newburgh wishes to enter into the annexed agreement with Wright Risk Management Company LLC; and

WHEREAS, the agreement is for providing for the Plan Manager, Wright Risk Management, to provide workers' compensation claims runoff management services for the period of January 1, 2013 to December 31, 2013; and

WHEREAS, Wright Risk Management will perform workers' compensation claims runoff services for City claims that arose prior to March 1, 2008, when the City joined the New York State Municipal Workers' Compensation Alliance; and

WHEREAS, the rate for these services is \$500.00 per Claim per year or portion thereof; and

WHEREAS, this Council has determined that entering into this agreement is in the best interests of the City of Newburgh;

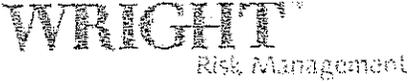
NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the agreement with Wright Risk Management Company LLC, in substantially the same form as annexed hereto with any other provision that Counsel may require, for providing workers' compensation claims runoff management services.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 4

ADOPTED

61-13



CLAIMS RUNOFF MANAGEMENT AGREEMENT (this "Runoff Agreement") dated January 1, 2013 ("Effective Date") between the City of Newburgh, a municipality with its primary address at City Hall, 83 Broadway, Newburgh, NY 12550 ("Member"), and Wright Risk Management Company, LLC, a Delaware limited liability company with its principal place of business at 333 Earle Ovington Boulevard, Suite 505, Uniondale, NY 11553-3624 ("Plan Manager").

RECITALS

WHEREAS, on March 1, 2008 ("Membership Date"), Member became a member of the New York State Municipal Workers' Compensation Alliance (the "Plan"), a cooperative workers' compensation plan for member municipalities (the "Members"), with a principal location at c/o Association of Towns of the State of New York, 146 State Street, Albany, NY 12207; and

WHEREAS, the Plan has retained the program management and other professional services of the Plan Manager pursuant to a management agreement ("Management Agreement"); and

WHEREAS, the Member has incurred certain workers' compensation and employer's liability claims prior to the Membership Date ("the Claims"), and desires that the Plan Manager manage the Claims.

NOW, THEREFORE, the Member hereby engages the services of the Plan Manager, and in consideration of the mutual promises herein contained, the parties agree as follows:

I. TERM.

A. This Runoff Agreement shall be effective commencing on the Effective Date set forth above, and shall continue in effect until December 31, 2013. At the conclusion of the initial term or any additional term, this Runoff Agreement shall automatically renew for an additional term of one year, unless either party gives the other party written notice of its intention not to renew this Runoff Agreement at least thirty (30) days prior to the expiration of the then current term.

B. This Runoff Agreement will terminate effective on the date the Member withdraws or is terminated as a member of the Plan.

II. CLAIM MANAGEMENT SERVICES.

A. During the term of this Runoff Agreement, the Plan Manager will provide claims management services for the Claims, contingent upon the Member remaining a member of the Plan. Notwithstanding, the services provided and the Claims managed under this Runoff Agreement are separate from the services provided and the claims managed by the Plan Manager for the Plan under the Management Agreement. Except for the Member, the Plan and its Members shall have no liability arising from this Runoff Agreement or any of the Claims. The Member shall pay all amounts, fees, and expenses relating to the Claims, using funds established by the Member to finance its workers' compensation obligations (the "Self-Insured Fund").

B. In cooperation with Member, the Plan Manager will design and implement the internal claims reporting system for Member to report Claims that have not yet been reported. The Plan Manager will cooperate with the Member to accomplish the transfer of the Claims that have already been reported; provided that, the Plan Manager shall have no responsibility for managing the Claims until all information relating to the Claims has been received by the Plan Manager. This paragraph shall only apply in the first year that the Plan Manager is handling the Claims.

C. Once a Claim is reported or transferred to the Plan Manager, the Plan Manager will review the Claim to determine if investigation is needed to determine the compensability and extent of the injury claimed. If investigation is necessary, the Plan Manager will perform such investigation immediately and thoroughly. If any third party investigation services are necessary, such as surveillance, review of accident locations, or taking signed statements, the Plan Manager will arrange for such services, and the fees and expenses for such services shall be allocated loss adjustment expense that will be charged against the Self-Insured Fund.

D. If it is determined that a Claim is compensable, the Plan Manager will file all forms required by the Workers' Compensation Board ("WCB") and direct the Member to make payments in accordance with statutory requirements and mandated fee schedules. The Member is responsible for providing any information necessary to complete all forms.

E. If it is determined that a Claim is not compensable, or if the injury is not of the nature or extent claimed by the employee, the Claim will be controverted and the file prepared for argument before WCB. The Plan Manager will provide for appearance by an experienced workers' compensation attorney on all cases in which hearings are held before WCB. Attorney fees, the cost of appeals, and other litigation expenses, if any, shall be allocated loss adjustment expenses that will be charged against the Self-Insured Fund.

F. The Plan Manager shall pursue subrogation whenever it is reasonably anticipated that the Member may be reimbursed for payments made. The costs of retaining third party services to assist in pursuing subrogation, where necessary and appropriate, shall be allocated loss adjustment expenses that will be charged against the Self-Insured Fund.

G. The Plan Manager will provide supervisory services for the Claims during the term of this Runoff Agreement. These supervisory services will include claims adjustment services, general monitoring of medical treatment in order to ensure appropriate treatment and minimize medical costs, and coordinating audit of all medical bills received for legitimate workers' compensation claims to confirm causal relationship and that the amount approved for payment conforms to the prescribed New York State Workers' Compensation Fee Schedules. These supervisory services will not include telephonic or field case management, or other managed care services, which will be arranged and coordinated, as necessary, by the Plan Manager. The costs of telephonic or field case management, or other managed care services shall be allocated loss adjustment expenses that will be charged against the Self-Insured Fund.

H. As appropriate, the Plan Manager will obtain independent medical opinions, using a WCB-registered referral service, to advise the Member as to the appropriateness of medical treatment being received by, and the degree of disability of, the injured employee. The Plan Manager will consult with treating physicians, medical consultants, and other medical professionals to assist in instituting rehabilitative efforts to achieve an injured employee's return to work at the earliest possible time. The referral service and medical consultants' fees shall be allocated loss adjustment expenses that will be charged against the Self-Insured Fund.

I. The Plan Manager will implement a payment procedure for lost time benefits, medical bills, and expense payments. This procedure will be developed with Member personnel to ensure timely and appropriate payment. The payment procedure is set forth in Exhibit A ("Exhibit A"), which is attached to and incorporated into this Runoff Agreement.

J. The Plan Manager will review any reported employers' liability Claims that arise, and advise regarding coverage, defense, and indemnification of such Claims. As necessary, the Plan Manager will arrange for the retention of counsel to represent the Member on employers' liability Claims. Attorney fees, the cost of appeals, and other litigation expenses, if any, shall be allocated loss adjustment expenses that will be charged against the Self-Insured Fund.

K. The Plan Manager will track medical services subject to the Department of Health ("DOH") surcharges mandated by Public Health Law Section 2807, direct payment of applicable surcharges, and file all necessary forms with DOH on a monthly or as needed basis. In the first year of handling the Claims, the Plan Manager shall have no responsibility under this Section unless Member provides medical reports, hospital bills, access to the DOH website, and other information relating to the Claims necessary to perform the Plan Manager's services under this Section.

L. The Plan Manager will provide cumulative quarterly loss runs encompassing all Claims. These loss runs will include the following information:

1. File number.
2. Date of Accident.
3. Name of injured employee/claimant.
4. Occupation.
5. Description of accident.
6. Type of injury/part of body.
7. Status of claim/class.
8. Incurred: medical/indemnity benefits.
9. Amount paid to date: medical/indemnity and expense payments.

M. The Plan Manager will ensure that the Member's open files are properly maintained and available for review and/or audit and will arrange for the storage of the Member's closed/inactive files. The Plan Manager may maintain and store files electronically in lieu of a physical file. Physical storage costs, if any, are an expense that will be charged against the Self-Insured Fund. The foregoing is subject to Section VII of this Agreement.

N. The Plan Manager shall collect sufficient information for compliance with the Medicare, Medicaid, SCHIP Extension Act of 2007 (MMSEA) Section 111.

III. FEE.

The Member shall pay the Plan Manager a management fee as set forth in Exhibit A.

IV. SERVICE COMMITMENT.

The Plan Manager shall devote such time to the performance of its duties under this Runoff Agreement as is reasonably necessary for the satisfactory performance of its duties under this Runoff Agreement.

V. INDEMNIFICATION.

A. The Plan Manager shall hold harmless and indemnify the Member against any loss, liability, damage, or expense, including reasonable attorneys' fees, caused by the willful misconduct, gross negligence, or negligence on the part of the Plan Manager or any of its employees or agents, which result from, or arise out of, a breach of any obligation in this Runoff Agreement. Notwithstanding the foregoing, the Member, not the Plan Manager, shall be liable for payment of compensable Claims.

B. The Member shall hold harmless and indemnify the Plan Manager against any loss, liability, damage, or expense, including reasonable attorneys' fees, caused by the willful misconduct, gross negligence, or negligence on the part of the Member or any of its employees or agents, which result from, or arise out of, a breach of any obligation in this Runoff Agreement.

VI. TERMINATION.

A. Either party may terminate this Runoff Agreement for the following reasons upon sixty (60) days written notice to the other party:

1. Fraud or criminal acts on the part of the other party or pattern of conduct of such other party which constitutes willful misconduct or gross negligence with respect to the performance of such other party's duties hereunder;
2. Substantial and continuing breach of this Runoff Agreement by the other party, provided, however, that the party seeking to terminate shall notify the other party of such breach, identifying such breach in full particulars, and the other party shall have thirty (30) days from receipt of such notice to cure the breach and, if such breach be cured within such period, such breach shall not be cause for termination; or
3. The Superintendent of Insurance shall issue a final order to terminate this Runoff Agreement, and the time for appealing such order shall have expired.

B. This Runoff Agreement shall terminate immediately without notice upon:

1. commencement by either party of any case, proceeding or other action: (a) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (b) seeking appointment of a receiver, trustee, custodian, or other similar official for it or for all or any substantial part of its assets, or either party shall make a general assignment for the benefit of its creditors;
2. commencement against either party of any case, proceeding or other action of a nature referred to in Section VI.B.1 above which: (a) results in the entry of an order for relief or any such adjudication or appointment, or (b) remains undismissed, undischarged or unbonded for a period of sixty (60) days;

3. commencement against either party of any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets which results in the entry of an order for any such relief which shall not have been vacated, discharged, stayed or bonded pending appeal within sixty (60) days from the entry thereof;
4. consent, approval, acquiescence, or any action by either party in furtherance of any of the acts set forth in Sections VI.B.1, 2, or 3 above; or
5. an inability by either party to pay its debts as they become due.

VII. PROPERTY RIGHTS, CONFIDENTIALITY, AND RECORD KEEPING.

A. The Member's Property.

All portions of the claim file, including WCB documents, claim reports, investigation reports, correspondence and claim data of the Member acquired and used by the Plan Manager in the performance of its duties hereunder ("Member Property") shall belong to and remain the sole property of the Member. Upon termination of this Runoff Agreement, the Plan Manager shall promptly return the Member Property to the Member or its designee. The Plan Manager will transfer such files in electronic form that can be produced by the Plan Manager's system without special modification and that will be readable by the Member. The Plan Manager shall keep all Member Property confidential, and shall not use, publish, discuss, disclose, or communicate Member Property to third parties, except as necessary to perform its obligations under this Runoff Agreement, and in accordance with this Runoff Agreement. This provision shall survive termination of this Runoff Agreement.

B. The Plan Manager's Property.

All Systems created by the Plan Manager in the performance of its duties and activities under this Runoff Agreement shall belong to and remain the property of the Plan Manager. "Systems" as used herein shall include data processing, databases, computer programs, computer equipment, formats, management protocols, operation documentation, and internal reports of the Plan Manager pertaining to the Member or the Claims. This includes Systems for the administration, accounting, underwriting, risk management, cost containment and safety programs and services, and management systems developed by the Plan Manager in connection with the performance of its services hereunder. This provision shall survive termination of this Runoff Agreement.

VIII. MISCELLANEOUS.

A. Independent Contractor.

The Plan Manager shall be an independent contractor and not an employee, agent, or servant of the Member. The Plan Manager's employees shall be considered the Plan Manager's employees for all purposes and Plan Manager alone shall be responsible for their work, personal conduct, direction, and compensation. The Member shall not be responsible for withholding taxes with respect to the Plan Manager's compensation and the Plan Manager shall be solely responsible to pay all applicable taxes from such compensation, including any compensation owed to its employees.

B. Entire Agreement.

This Runoff Agreement supersedes any and all other agreements either oral or in writing between the parties hereto relating to the Claims.

C. Assignment.

Neither this Runoff Agreement nor any duties or obligation hereunder shall be assignable by the Plan Manager without the prior written consent of the Member. In the event of an assignment by the Plan Manager to which the Member has consented, the assignee or his legal representative shall agree in writing with the Member to personally assume, perform, and be bound by the covenants, obligations and agreements contained herein.

D. Governing Law.

The laws of the State of New York shall govern the validity of this Runoff Agreement, any of its terms or provisions, and the rights and duties of the parties hereunder.

E. Amendment.

This Runoff Agreement may be amended by the mutual written agreement of the parties to be attached to and incorporated into this Runoff Agreement.

F. Legal Construction.

This Runoff Agreement was negotiated by sophisticated parties at arm's length and shall be construed as if drafted jointly by the parties. No presumption or burden of proof shall arise favoring or disfavoring any party by virtue of authorship of any of its provisions. Any waiver of any other term, condition, or provision of this Agreement will not constitute a waiver of any other term, condition, or provision, nor will a waiver of any breach of a term, condition, or provision constitute a waiver of any subsequent or succeeding breach.

G. Effect of Invalidity.

In case any one or more of the provisions contained in this Runoff Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not effect any other provision thereof and this Runoff Agreement shall be construed as if such invalid, illegal, or unenforceable provision has never been contained herein.

H. Notices.

All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given, if mailed by certified or registered mail, or by nationally recognized overnight carrier, return receipt requested, to the respective party at the addresses set forth below, on the date received or rejected:

If to the Member:

City of Newburgh
City Hall
83 Broadway
Newburgh, NY 12550
Attention: Comptroller

If to the Plan Manager:

Wright Risk Management Company, LLC
333 Earle Ovington Boulevard, Suite 505
Uniondale, NY 11553-3624
Attention: Office of General Counsel

or to such other person and address as either party may designate by notice to the other.

I. Headings.

The headings to the various sections of this Runoff Agreement have been inserted for convenience of reference only and shall not modify, define, limit, or expand the expressed provisions of this Runoff Agreement.

J. Counterparts; Facsimiles.

This Runoff Agreement may be executed in any number of counterparts, each of which shall be an original, and each such counterpart shall together constitute but one and the same Runoff Agreement. Signatures to this Runoff Agreement transmitted by facsimile transmission, by electronic mail in "portable document format" ("pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, shall have the same effect as physical delivery of the paper document bearing the original signature.

IN WITNESS WHEREOF, the parties have caused this Runoff Agreement to be executed by their duly authorized representatives as of the Effective Date.

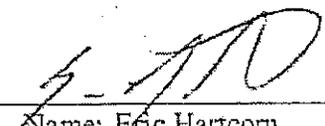
CITY OF NEWBURGH

By: _____

Name:

Title:

WRIGHT RISK MANAGEMENT COMPANY, LLC

By:  _____

Name: Eric Hartcorn

Title: Vice President, Workers' Compensation

EXHIBIT A TO CLAIMS RUNOFF MANAGEMENT AGREEMENT

This Exhibit A is attached to and incorporated into the Runoff Agreement between the Member and the Plan Manager as of the Effective Date.

- A. Payment Procedure. The Plan Manager will prepare payment documentation, including payment authorizations and copies of bills, and forward such documentation to the Member. The Member shall be responsible for printing, signing and distributing checks in compliance with the Plan Manager's instructions.
- B. Management Fee. The Plan Manager will invoice the Member for services under this Runoff Agreement at the rate of \$500 per Claim per year or portion thereof. The Member shall pay such management fee within thirty (30) days of receipt of the invoice.
- C. Assessment Base Factor Report. In April of each year, the Plan Manager will review, complete, and return the Assessment Base Factor report required by WCB to determine the amount of assessments levied against self-insured employers in New York. In order to complete this report, the Plan Manager will verify the indemnity payments made from April 1 of the prior year to March 31 of the current year, consistent with WCB's fiscal year. The Plan Manager will also review all lost time Claims to determine if a Section 15-8 claim has or should be established, and will also ensure that any appropriate amounts are deducted from the report. In the first year of handling the Claims, the Plan Manager shall have no responsibility under this Section unless Member provides a two-year check registry (including payment amounts, payees, and dates of service) and other information relating to the Claims necessary to perform the Plan Manager's services under this Section.
- D. Assessment Billing Notices. The Plan Manager will review all Assessment Billing Notices for accuracy. If the Member becomes overpaid for a WCB fiscal year due to variations in lost time experience from year to year, the Plan Manager will verify that all future credits issued to the Member by WCB are properly issued and applied. In the first year of handling the Claims, the Plan Manager shall have no responsibility under this Section unless Member provides a two-year check registry (including payment amounts, payees, and dates of service) and other information relating to the Claims necessary to perform the Plan Manager's services under this Section.

RESOLUTION NO.: 62 - 2013

OF

MARCH 25, 2013

A RESOLUTION AUTHORIZING THE CITY MANAGER OR THE CHIEF OF POLICE AS MANAGER'S DESIGNEE TO EXECUTE AN INTER-MUNICIPAL AGREEMENT WITH THE COUNTY OF ORANGE CONFIRMING CITY OF NEWBURGH PARTICIPATION IN THE STOP-DWI PROGRAM FOR THE PERIOD OF MARCH 14, 2013 TO JANUARY 1, 2014 AND PROVIDING THE CITY OF NEWBURGH WITH AN AWARD NOT TO EXCEED \$1,935.00 COVERING 40 MAN-HOURS FOR THE FIRST ENFORCEMENT PERIOD OF 2013 (MARCH 14, 2013 - MAY 31, 2013)

WHEREAS, the County of Orange (hereinafter "County") has provided the City of Newburgh (hereinafter "City") with an Inter-Municipal Agreement, to provide for the funding of the STOP-DWI Program within the City of Newburgh for the period of March 14, 2013 and ending January 1, 2014; and

WHEREAS, the City of Newburgh agrees to participate in three (3) STOP DWI Program enforcement campaign periods as follows: First Enforcement Period - March 14, 2013 through May 31, 2013, which includes St. Patrick's Day and the Memorial Day holiday weekend; Second Enforcement Period - July 1, 2013 through September 3, 2013, which includes the Independence Day and Labor Day holiday weekend enforcement campaigns; and the Third Enforcement Period - October 14, 2013 through January 1, 2014, which includes Thanksgiving, Christmas and New Years holiday enforcement campaigns; and

WHEREAS, the County shall reimburse the City of Newburgh for increased patrol and court time in connection with enhanced enforcement of laws prohibiting driving while intoxicated; and

WHEREAS, based on the data submittals submitted for the prior year the City of Newburgh is eligible for an award not to exceed \$1,935.00 covering 40 man-hours for the First Enforcement Period of 2013; and

WHEREAS, this Council has determined that entering into such agreement 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 Manger or the Chief of Police as Manager's designee be and he is hereby authorized to execute an Inter-Municipal Agreement with the County of Orange confirming the City's participation in the STOP-DWI Program for the period of March 14, 2013 through January 1, 2014 and in order to fund the additional cost of stepped-up police patrols and related court appearances related to the First Enforcement Period of 2013 the City of Newburgh is eligible for an award not to exceed \$1,935.00 covering 40 man-hours.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 4

ADOPTED

62-13

ORANGE COUNTY NEW YORK

Stop-DWI / Traffic Safety Programs

22 Wells Farm Rd
Goshen, N.Y. 10924
845-615-0575

Edward A. Diana
County Executive



To: City of Newburgh Police Department

From: Craig Cherry

Date: February 25, 2013

Enclosed is your Department's contract for 2013 STOP-DWI enforcement patrol year funding beginning on **March 14, 2013 and ending on January 1, 2014**. The contract is for participation for the **full year**. The enclosed contract indicates the not to exceed total hours and/or dollar amount for the 1st Period beginning on March 14, 2013 and ending on May 31 in the amount of **(40 hours/\$1935)**.

You will be notified by letter of the total hours/dollars for each subsequent period 2nd and 3rd period of the year. Please review the attached schedule A on the contract for enforcement dates and reimbursement requirements.

Please sign and return this contract along with a board certified resolution to the above address at your earliest convenience to insure that your Department can participate in this enforcement period.

Also included in this mailing is a completion packet containing:

- A Patrol Summary Sheet to be completed at the end of the enforcement period by compiling all Patrol Sheets to be duplicated for use.
- A Final Reimbursement Claim spreadsheet which must be completed with information about the participating officers' names, hours and salary/overtime costs per patrol shift. (NOTE: per discussion with the Police Chiefs STOP-DWI Committee, the STOP-DWI program has determined that **maximum reimbursement will be time-and-one-half based on the participating officers' hourly salary rates, and no hourly rate higher than that of your department's highest-paid Sergeant will be approved.**)

If you have any questions, please do not hesitate to call me.

Thank you to you and your officers for your commitment to deterring Intoxicated driving on our County's roadways.



INTER-MUNICIPAL AGREEMENT

THIS INTER-MUNICIPAL AGREEMENT ("IMA") is entered into this ____ day of _____, 20__ by and between the County of Orange, a County of the State of New York, with its principal offices at 255-275 Main Street, Goshen, New York, by and through its Department of Emergency Services ("COUNTY"), and the City of Newburgh, a City of the State of New York, with its principal offices at 55 Broadway, Newburgh, NY 12550, by and through its Police Department ("MUNICIPALITY").

ARTICLE 1. SCOPE OF AGREEMENT

The COUNTY is a municipal corporation chartered under the authority of the State of New York. Among other powers and duties, the COUNTY, by and through its Department of Emergency Services, administers the COUNTY's Special Traffic Options Program for Driving While Intoxicated in accordance with New York State Vehicle and Traffic Law Section 1197 ("STOP DWI Program"). The purpose of the STOP DWI Program is to coordinate and fund Orange County's town, city, and village efforts to reduce alcohol-related traffic injuries and fatalities. To facilitate this goal the COUNTY and the MUNICIPALITY recognize that police patrol enforcement campaigns are an effective tool towards ensuring safe and sober roadways.

It is the intention of the COUNTY, in order to carry out the goals of the STOP DWI Program, to award to the MUNICIPALITY funds in the manner set forth on Schedule A to be used solely to reimburse the MUNICIPALITY for man-hours dedicated to enforcement campaigns during the applicable campaign periods as more particularly described on Schedule A. The expenditure of these funds and all activity of the MUNICIPALITY relating to such funds, shall be in full compliance with the terms and conditions of this IMA and federal, State of New York ("State"), and local laws.

ARTICLE 2. TERM OF AGREEMENT

The term of this IMA shall commence on March 14, 2013 and end January 1, 2014.

ARTICLE 3. PROCUREMENT OF AGREEMENT

The MUNICIPALITY represents and warrants that no person or selling agency has been employed or retained by the MUNICIPALITY to solicit or secure this IMA upon an agreement for, or upon an understanding of, a commission, percentage, a brokerage fee, contingent fee

or any other compensation. The MUNICIPALITY further represents and warrants that no payment, gift or thing of value has been made, given or promised to obtain this or any other agreement between the parties. The MUNICIPALITY makes such representations and warranties to induce the COUNTY to enter into this IMA and the COUNTY relies upon such representations and warranties in the execution hereof.

For a breach or violation of such representations or warranties, the COUNTY shall have the right to annul this IMA without liability, entitling the COUNTY to immediately recover the funds paid hereunder from the MUNICIPALITY. This remedy, if effected, shall not constitute the sole remedy afforded the COUNTY for such falsity or breach, nor shall it constitute a waiver of the COUNTY's right to claim damages or to take any other action provided for by law or pursuant to this IMA.

ARTICLE 4. CONFLICT OF INTEREST

The MUNICIPALITY represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have an interest, and shall not acquire an interest, directly or indirectly which would or may conflict in any manner or degree with the performance of this IMA. The MUNICIPALITY further represents and warrants that in the performance of this IMA, no person having such interest or possible interest shall be employed by it and that no elected official or other officer or employee of the COUNTY, nor any person whose salary is payable, in whole or in part, by the COUNTY, or any corporation, partnership or association in which such official, officer or employee is directly or indirectly interested shall have any such interest, direct or indirect, in this IMA or in the proceeds thereof, unless such person (1) is required by the Orange County Ethics Law, as amended from time to time, to submit a Disclosure form to the Orange County Board of Ethics, amends such Disclosure form to include his/her interest in this IMA, or (2) submits such a Disclosure form and (a) discloses his/her interest in this IMA, or (b)

seeks a formal opinion from the Orange County Ethics Board as to whether or not a conflict of interest exists.

For a breach or violation of such representations or warranties, the COUNTY shall have the right to annul this IMA without liability, entitling the COUNTY to recover the funds. This remedy, if elected, shall not constitute the sole remedy afforded the COUNTY for such falsity or breach, nor shall it constitute a waiver of the COUNTY's right to claim damages or otherwise refuse payment to or to take any other action provided for by law in equity or, pursuant to this IMA.

ARTICLE 5. ASSIGNMENT AND SUBCONTRACTING

No party shall assign any of its rights, interest, or obligations under this IMA, or enter into a sub-contract relating to the funds, without the prior written consent of the COUNTY.

ARTICLE 6. BOOKS AND RECORDS

The MUNICIPALITY agrees to maintain separate and accurate books, records, documents and other evidence and accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this IMA.

The MUNICIPALITY shall, within five (5) business days written notice from the COUNTY, have all records associated with the funds awarded and the enforcement campaigns available for a physical inspection and/or audit by the COUNTY.

ARTICLE 7. RETENTION OF RECORDS

MUNICIPALITY agrees to retain all books, records and other documents relevant to this IMA for six (6) years after the funds are delivered. The COUNTY, or any State and/or Federal auditors, and any other persons duly authorized by the COUNTY, shall have full access and the right to examine any of said materials during said period.

ARTICLE 8. AUDIT BY THE COUNTY AND OTHERS

All claimant certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said claimant's certification forms or invoices are based are subject to audit by the COUNTY. The MUNICIPALITY shall submit any and all documentation and justification in support of expenditures or fees under this IMA as may be required

by the COUNTY, so that it may evaluate the reasonableness of the charges, and the MUNICIPALITY shall make its records available to the COUNTY upon request. All books, claimant's certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by the COUNTY, the State, the federal government, and/or other persons duly authorized by the COUNTY. Such audits may include examination and review of the source and application of all funds whether from the COUNTY and State, the federal government, private sources or otherwise. The MUNICIPALITY shall not be entitled to any interim or final payment under this IMA if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 9. INDEMNIFICATION

The MUNICIPALITY agrees to defend, indemnify and hold harmless the COUNTY, its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including reasonable attorney fees and costs of litigation and/or settlement) arising out of any act or omission of the MUNICIPALITY, its employees, representatives, subcontractor, assignees, or agents, relating to this IMA or the funds.

ARTICLE 10. TERMINATION

The COUNTY may, by written notice to the MUNICIPALITY, effective upon mailing, terminate this IMA in whole or in part at any time (i) for the COUNTY's convenience, (ii) upon the failure of the MUNICIPALITY to comply with any of the terms or conditions of this IMA, or (iii) upon the MUNICIPALITY becoming insolvent or bankrupt.

Upon termination of this IMA, the MUNICIPALITY shall comply with any and all COUNTY closeout procedures, including, but not limited to, (i) accounting for and refunding to the COUNTY within thirty (30) days, any unexpended funds which have been paid and/or transferred to MUNICIPALITY pursuant to this IMA; and (ii) furnishing within thirty (30) days an inventory to the COUNTY of all equipment, appurtenances and property purchased by MUNICIPALITY through or provided under this IMA, and carrying out any COUNTY directive concerning the disposition thereof.

Notwithstanding any other provision of this IMA, the MUNICIPALITY shall not be relieved of liability to the COUNTY for damages sustained by the COUNTY by virtue of the MUNICIPALITY's breach of this IMA or failure to perform in accordance with applicable standards.

Any rights and remedies of the COUNTY provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or this IMA.

ARTICLE 11. GENERAL RELEASE

The acceptance by the MUNICIPALITY, or its assignees, of the funds and of the terms of this IMA, shall constitute, and operate as a general release in favor of the COUNTY, from any and all claims of the MUNICIPALITY arising out of the performance of this IMA.

ARTICLE 12. SET-OFF RIGHTS

The COUNTY shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, the COUNTY's right to withhold for the purposes of set-off any monies otherwise due to the MUNICIPALITY (i) under any other agreement or contract with the COUNTY, including any agreement or contract commencing prior to or after the term of this IMA, or (ii) from the COUNTY by operation of law.

ARTICLE 13. GOVERNING LAW

IN WITNESS THEREOF, the parties hereto have executed this IMA as of the date set forth above.

COUNTY OF ORANGE

By: _____
Edward A. Diana
County Executive

DATE: _____

This IMA shall be governed by the laws of the State of New York. The MUNICIPALITY shall utilize the funds in accordance with this IMA and applicable provisions of all federal, State, and local laws, rules, and regulations.

ARTICLE 14. ENTIRE AGREEMENT

The rights and obligation of the parties and their respective agents, successors and assignees shall be subject to and governed by this IMA, including Schedule A and each award letter, which supersedes any other understandings or writings between or among the parties.

ARTICLE 15. MODIFICATION

No amendment or modification of any of the terms and/or conditions of this IMA shall be valid unless reduced to writing and signed by both parties. The COUNTY shall not be bound by any changes made to this IMA that is not made in compliance with the above, and which imposes on the COUNTY any financial obligation. Unless otherwise specifically provided for therein, the provisions of this IMA shall apply with full force and effect to any such amendment, modification or change order.

MUNICIPALITY

By: _____
Name:
Title:

DATE: _____

SCHEDULE A

ENFORCEMENT CAMPAIGNS/AGREEMENT TO PARTICIPATE.

MUNICIPALITY agrees to participate in three (3) STOP DWI Program enforcement campaign periods as follows:

First Enforcement Period – March 14, 2013 through May 31, 2013, which includes St. Patrick's Day and the Memorial Day holiday weekend.

Second Enforcement Period – July 1, 2013 through September 3, 2013, which includes the Independence Day and Labor Day holiday weekend enforcement campaigns.

Third Enforcement Period – October 14, 2013 through January 1, 2014, which includes Thanksgiving, Christmas and New Years holiday enforcement campaigns.

Each of the three (3) enforcement campaigns coincides with State and national enforcement campaign efforts.

DATA SUBMITTAL.

MUNICIPALITY agrees to deliver to the COUNTY enforcement activity data in the form provided by the COUNTY, in its sole discretion, and required to be completed by the COUNTY, no later than ten (10) calendar days after the end of each enforcement period. Failure to timely submit the data may result in the MUNICIPALITY receiving the calculated minimum amount of hours/dollars for the next succeeding enforcement period or no award at all.

AWARD OF FUNDS.

Provided that MUNICIPALITY has performed in accordance with the terms of this IMA, the COUNTY, to the extent that funds are appropriated and available, will make up to three (3) awards of funds to support the MUNICIPALITY's STOP DWI Program enforcement campaigns. Each such award shall be data driven based upon the data submitted by the MUNICIPALITY to the COUNTY for enforcement activities occurring during the preceding enforcement period.

FIRST ENFORCEMENT PERIOD AWARD.

Based on data submittals from the MUNICIPALITY for the prior enforcement period (October 14, 2012-January 1, 2013), MUNICIPALITY is eligible for an award not to exceed \$1,935 covering 40 man-hours for the first enforcement period of 2013. The actual award payment to MUNICIPALITY shall be that amount earned as a result of man-hours expended by the MUNICIPALITY for STOP DWI Program enforcement activities during the third enforcement period of 2012 as supported by the data submitted by the MUNICIPALITY.

WRITTEN NOTIFICATION OF AWARDS FOR THE SECOND AND THIRD ENFORCEMENT PERIODS OF 2013.

COUNTY will notify MUNICIPALITY in writing of its eligibility for awards, if any, for the second and third enforcement periods of 2013 by a separate written award letter delivered to MUNICIPALITY prior to the commencement of each such enforcement period. Each award letter shall state a not to exceed dollar value of the funds available to the MUNICIPALITY for reimbursement of man hours expended operating enforcement patrols during the applicable enforcement period and shall be annexed to and made a part of this IMA.

RESOLUTION NO.: 63 - 2013

OF

MARCH 25, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ACCEPT DONATIONS IN SUPPORT OF THE
CITY OF NEWBURGH'S ANNUAL YOUTH PRIDE PARADE, MEMORIAL
DAY AND FOURTH OF JULY OBSERVANCES, NATIONAL NIGHT OUT
AND THE 25TH ANNUAL INTERNATIONAL FESTIVAL**

WHEREAS, the City of Newburgh will be holding its annual Youth Pride Parade, Memorial Day and Fourth of July Observances, National Night Out and its 25th Annual International Festival over the Labor Day holiday; and

WHEREAS, various businesses, firms and individuals have made and are willing to make contributions of money and in-kind assistance to support these events; and

WHEREAS, this Council deems it to be in the best interests of the City of Newburgh to accept such donations;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept said donations with the appreciation and thanks of the City of Newburgh on behalf of its children, families and citizens, for their support and sponsorship of the City of Newburgh's annual Youth Pride Parade, Memorial Day and Fourth of July Observances, National Night Out and the 25th Annual International Festival.

Councilwoman Angelo said that they had a meeting today and they are starting to accept some donations. She noted that this will be our twenty-fifth year and we are going to put on some show this year. They are hoping that if all goes well that they will be back down along the river.

City Manager, Richard Herbek, said that it was his understanding that the City Council would like to return the Festival to Martin Luther King Blvd. where it was held a few years ago. This will involve the closing of a section of Martin Luther King Blvd. for a number of days.

Councilwoman Angelo said that it is the same detour that we have had for years and they will work it out with the Police Department.

City Manager, Richard Herbek, said that he believes the key is to get the word out well in advance so that people know what the plan is for this year. Hopefully it will be a very successful venture being that it is a milestone for that International Festival.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 4

ADOPTED

RESOLUTION NO.: 64 - 2013

OF

MARCH 25, 2013

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH EXPRESSING CONCEPTUAL SUPPORT FOR THE APPLICATION OF MILL STREET PARTNERS, LLC TO THE ORANGE COUNTY OFFICE OF COMMUNITY DEVELOPMENT FOR FUNDING FROM ORANGE COUNTY'S HOME AFFORDABLE HOUSING PRODUCTION PROGRAM TO DEVELOP AND CONSTRUCT THE PROPOSED MIXED USE DEVELOPMENT AT THE MID BROADWAY REDEVELOPMENT SITE

WHEREAS, the City of Newburgh wishes to develop the City-owned .66 acre Lander Street surface parking lot (between Chambers Street and Lander Street) as well as the 1.8 acre principal site that fronts on Broadway (the "Mid-Broadway Site"); and

WHEREAS, by Resolution No. 78-2012 of May 29, 2012, the City Council of the City of Newburgh authorized the City Manger to negotiate a development and land disposition agreement with Mill Street Partners, LLC for the development of the Mid-Broadway site and the City

WHEREAS, by Resolution No. 194-2012 of October 22, 2012, the City Council authorized the City Manager to execute the development agreement between the City and Mill Street Partners, which development agreement formally designated Mill Street Partners as the Developer of the Mid-Broadway Site; and

WHEREAS, the development agreement designates the Mid-Broadway redevelopment as a "Priority Project" of the City of Newburgh; and

WHEREAS, Mill Street Partners is seeking funding through an application to the Orange County Office of Community Development HOME Affordable Housing Production Program;

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Newburgh expresses its conceptual support for the application of Mill Street Partners to the Orange County Office of Community Development for funding from Orange County's HOME Affordable Housing Production Program.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 4

ADOPTED

RESOLUTION NO.: 65 - 2013

OF

MARCH 25, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE AN AGREEMENT WITH HUDSON BAYLOR CORP.
FOR RECYCLING SERVICES**

WHEREAS, the City of Newburgh wishes to enter into an agreement with Hudson Baylor Corp. for recycling services; and

WHEREAS, the term of the agreement will begin on April 1, 2013 and shall expire on April 1, 2014; and

WHEREAS, the City will deliver to the processing facilities located at Beacon NY all Single Stream (loose) recycling materials which are received from City residents; and

WHEREAS, Hudson Baylor Corp. will pay the City of Newburgh the monthly price of Twenty (\$20.00) Dollars per ton; and

WHEREAS, this Council has determined that entering into such agreement is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute an agreement, in substantially the same form annexed hereto and subject to approval of the Corporation Counsel with such other terms and conditions as Counsel may require, with Hudson Baylor Corp. for recycling services.

Mayor Kennedy said that she would like to see us do more education on recycling. Every time you recycle you reduce the amount of garbage that goes into the landfill which helps the City save money because we pay a tipping fee by tonnage. So much goes into the landfill that could be recycled and reused that would both help the environment and reduce fees to the City. She encouraged every citizen in this City to find out about recycling and to encourage others to recycle too because it is a good thing to do.

City Manger, Richard Herbek, said that the education program is extremely important for the success of any recycling program and this might be a subject that the future Conservation Advisory Council might want to undertake. In order to be successful, there needs to be a lot of publicity and we just can't rely on the staff to get this accomplished.

Mayor Kennedy agreed that this is a long term community effort and they will be hearing more about this in the future.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 4

ADOPTED

65-13

RECYCLING SERVICES AGREEMENT

This Recycling Services Agreement ("Agreement") is made as of April 1, 2013 between the City of Newburgh ("Generator") and Hudson Baylor Corp. ("Processor"), each individually a "Party" and collectively the "Parties".

Generator and Processor hereby agree as follows:

1. RESPONSIBILITIES OF GENERATOR

1.1. Generator shall cause to be delivered to Processor's processing facilities located at Beacon NY (the "Facility") all Single Stream (loose) recycling [which is source separated from all other items] received from each residential, commercial, industrial and institutional recycling customers for whom Generator collects single stream within the City Of Newburgh. Title to the Single Stream shall pass from Generator to Processor upon acceptance at the Facilities. Generator will cause its loads to be delivered in conformance with the Facilities' operating hours and the delivery routines and standards described in the Hauler's Rules attached hereto as Schedule B.

Hours of Operation at the Beacon, NY Facility shall be:

Monday through Friday: 7:00 a.m. to 7:00 p.m.

Saturday: 7:00 a.m. to 12:00 p.m.

Holiday Closings: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day

1.2. The Parties expect approximately 100 tons per month of single stream to be generated from all Customers.

1.3. Processor may inspect inbound loads and may reject any delivery that appears to contain by volume or weight more than 8% non-Single Stream, or which contains or appears to contain any hazardous, toxic, radioactive or similarly dangerous unacceptable material. Generator shall reimburse Processor for any costs incurred by Processor resulting from Generator's delivery of any rejected load. Title to Unacceptable Material shall not pass from Generator to Processor.

2. RESPONSIBILITIES OF PROCESSOR: Processor will receive, process and market all single stream delivered to the Facility by the Generator from the Customer. Processor will provide Generator with a monthly report which shall indicate the date, time and net weight for each load, a report of the total tons received for that calendar month and a billing summary.

3. TERM. The term of this Agreement shall commence on the date hereof and shall expire on April 1, 2014 (the "Term"). The Term shall automatically extend for additional consecutive monthly terms unless either Party, no less than thirty (30) days prior to the end of the then-existing Term, provides written notice to the other Party of its intent to not so extend the Term.
4. PRICING. Pricing for single stream delivered by Generator to the Facility shall be as set forth in Schedule A attached hereto. All invoices for single stream delivered by Generator to the Facility shall be due and payable on a strict net thirty (30) days from date of invoice basis. Interest shall accrue on all past-due invoices at the rate of one-half percent (0.5%) per month from the date due until the date paid, and the Party owing such overdue amounts shall pay any and all costs incurred by the other Party for collection of unpaid balances, including without limitation costs of investigation and attorneys' fees.
5. NOTICES. All notices to be given under this Agreement shall be in writing and delivered personally or shall be sent by recognized overnight courier, in each case with signature required, as follows:

If to Processor:

with a copy to:

Hudson Baylor Corp.
809 West Hill Street
Charlotte, NC 28208
Attention: Sean P. Duffy

David Sturgess, General Counsel
Re Community Holdings II, Inc.
809 West Hill Street
Charlotte, NC 28208

If to Generator:

with a copy to:

Richard F. Herbek, City Manager
City Hall, 83 Broadway
Newburgh, NY 12550

Michelle Kelson, Corporation Counsel
City Hall, 83 Broadway
Newburgh, NY 12550

Notices shall be deemed received when actually received.

6. MISCELLANEOUS.
 - 6.1 Termination. This Agreement may be terminated by either Party in the event of a failure by the other Party to perform a material obligation hereunder (a "Default") if the Default has not been cured by the defaulting Party within thirty (30) days from receipt of notice from the non-defaulting Party.
 - 6.2 Assignment. Neither this Agreement nor any of the rights, interests, obligations, and remedies hereunder shall be assigned by either Party, including by operation of law, without the prior written consent of the other, such consent to not be unreasonably withheld, conditioned or delayed, except that no consent shall be required to assign this Agreement (1) to its parents and subsidiaries or entities

under common control with such Party, (2) at its expense to a person, firm, or corporation acquiring all or substantially all of the business and assets of the assigning Party, provided that the assignee assumes the obligations of the assigning Party arising hereunder from and after the date of acquisition, and (3) as security to entities providing financing for the assigning Party or for any of its affiliates or for construction, reconstruction, modification, replacement or operation of any of the facilities of the assigning Party or its parents, subsidiaries or affiliates.

- 6.3 Indemnification. Each Party (each, an "Indemnifying Party") shall indemnify the other Party and any director, officer, affiliate, partner, member or elected or appointed official of the other Party (each, an "Indemnified Party") from and against any and all claims, actions, losses and damages, relating to or arising from personal injury, bodily harm or death, property damage or damage to the environment incurred by any Indemnified Party to the extent that such Losses result from (i) (ii) the material breach by the Indemnifying Party of any of its covenants or agreements contained in this Agreement or (ii) the gross negligence or willful misconduct of the Indemnifying Party or any of its agents, employees or subcontractors.
- 6.4 Limitation of Liability. Neither Party shall be liable to the other for special, incidental, exemplary, punitive or consequential damages.
- 6.5 Insurance. Generator shall maintain, and shall require its subcontractors to maintain, workers' compensation insurance, automobile insurance and commercial general liability insurance in coverage's and amounts satisfactory to Processor. Upon request of Processor, Generator shall provide Processor with evidence reasonably satisfactory to Processor that Generator is insured against any damage, liability or loss caused by the vehicles that deliver Recyclables to the Facility for the Generator or by the drivers thereof. The minimum required insurance coverage limits that must be in place are as follows:

| | |
|-------------------|-----------------|
| General Liability | \$1 million |
| Auto Liability | \$1 million |
| Workers Comp | Statutory Limit |

Processor shall be named as an additional insured on applicable policies. If Processor will be supplying equipment for the use of Generator, Generator must provide proof that the equipment is covered against all perils. Processor shall be named as loss payee for this coverage as it relates to Processor owned equipment placed in the customer's custody, care and control.

- 6.6 Force Majeure. Neither Party shall be liable to the other for damages without limitation (including liquidated damages) if such Party's performance is delayed or prevented due to an event of force majeure. In the event of a delay in either Party's performance of its obligation hereunder for more than sixty (60) days due

to a force majeure, the other Party may, at any time thereafter, terminate this Agreement.

7. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but which together will constitute one and the same instrument.

[balance of page intentionally left blank]

[signature page to Recycling Services Agreement]

IN WITNESS WHEREOF, the Parties have executed this agreement as of the Effective Date.

HUDSON BAYLOR CORP.

THE CITY OF NEWBURGH

By: _____

By: _____

Its

Its

Schedule A

1. Single Stream loads delivered into the Beacon, NY Facility:

Processor will pay Generator the monthly price of \$20.00 per ton.

Schedule B

Haulers' Rules

Scale House:

1. Driver shall approach scale SLOWLY.
2. Driver shall report to scale house operator and identify origin and material as single stream.
3. Weigh inbound.
4. Weigh outbound and pick up scale ticket.

Tip Floor Rules:

1. Wait for operator's OK to enter tip floor for dumping.
2. Safety gear shall be worn when driver exits cab.

Yard Rules:

1. Driver shall maintain safe speeds while traveling within the yard.
2. Driver shall not allow litter to be discharged from the body or cab.
3. Driver shall not loiter in the yard.

RESOLUTION NO.: 66 - 2013

OF

MARCH 25, 2013

RESOLUTION AMENDING RESOLUTION NO: 223-2012,
THE 2013 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
TO TRANSFER \$8,000.00 FROM CONTINGENCY TO
POLICE DEPARTMENT OTHER EQUIPMENT IN CONNECTION
WITH THE PURCHASE OF AN ID PRINTER

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

| | <u>Decrease</u> | <u>Increase</u> |
|--|-----------------|-----------------|
| A.1900 Special Items | \$8,000.00 | |
| .1990 Contingency | | |
| A.3120 Police Department | | \$8,000.00 |
| .0205..0001 Other Equipment - ID Printer | | |

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 4

ADOPTED

RESOLUTION NO.: 67 - 2013

OF

MARCH 25, 2013

**A RESOLUTION TO AUTHORIZE THE RE-PURCHASE OF
REAL PROPERTY KNOWN AS 10 ORCHARD STREET
(SECTION 14, BLOCK 3, LOT 44) AT PRIVATE SALE TO
BERNADETTE BUSH**

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

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

WHEREAS, Bernadette Bush, the former owner of 10 Orchard Street, being more accurately described as Section 14, Block 3, Lot 44 on the official tax map of the City of Newburgh, has requested to re-purchase the property at private sale; and

WHEREAS, the City Council of the City of Newburgh has determined that it would be in the best interests of the City of Newburgh to allow the former owner to re-purchase this property, without the need for litigation and subject to any liens, encumbrances or mortgages of record that existed against this property at the time the City of Newburgh took title in the tax foreclosure proceeding, provided that all taxes, interest and penalties owed are paid expeditiously;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of 10 Orchard Street, Section 14, Block 3, Lot 44, to Bernadette Bush be and hereby is confirmed and that the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon receipt of all past due tax liens, together with all interest and penalties accruing thereon, and all currently due taxes and charges are paid, in full, for a total amount of \$5,859.93, no later than April 30, 2013; and

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

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 4

ADOPTED

RESOLUTION NO.: 68 - 2013

OF

MARCH 25, 2013

RESOLUTION AMENDING RESOLUTION NO: 223-2012,
THE 2013 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
TO TRANSFER \$5,200.00 FROM CONTINGENCY TO
DOWNING PARK OTHER SERVICES IN CONNECTION
WITH THE HIRING OF A PART TIME STAFF PERSON

WHEREAS, the Downing Park Planning Committee wishes to hire a part time staff person without benefits and time off without pay at a rate of \$7.50 per hour and no more than 15 hours per week; and

WHEREAS, such new position requires an amendment to the 2013 Budget; and

WHEREAS, this Council has determined that amending the 2013 Budget is in the best interests of the City of Newburgh and its residents;

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

| | <u>Decrease</u> | <u>Increase</u> |
|--|-----------------|-----------------|
| A.1900 Special Items | \$5,200.00 | |
| .1990 Contingency | | |
| A.7113 Downing Park Planning Committee | | \$5,200.00 |
| .0448 Other Services | | |

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 4

ADOPTED

OLD BUSINESS

Councilman Dillard said that at the Work Session he brought up the Bonds and he believes that the Council and the citizens need a report as to where the money went.

City Manager, Richard Herbek, said that they are working on that and they should have something by the next Work Session.

Councilman Dillard said that they need to track this money now. They need to find out how much is left and what was spent.

Councilwoman Angelo asked the City Manager for an update on the skateboard park.

City Manager, Richard Herbek, said that they had an excellent meeting with the young people who were here a meeting or two ago. They talked about the size of the area they are looking for and ramps. They looked at a lot of pictures and talked about what has and hasn't worked in other municipalities. He noted that he and Community Development Director, Courtney Kain, went out and looked at some of the suggested locations and there is one in particular that they think might be appropriate. It is moving along and he thinks that there is an allocation of funds from the CDBG Program that they would like to allocate for such a program.

There being no further old business, this portion of the meeting was closed.

NEW BUSINESS

There was no new business.

PUBLIC COMMENTS REGARDING GENERAL MATTERS

Janet Gianopolous, City of Newburgh, noted that the City of Newburgh Easter Egg Hunt is scheduled to take place this Saturday and this is one of the many nice activities held at Downing Park. It is tax time and there have been some assistance programs at the Armory for people who need assistance filling out their tax forms and she believes that assistance is also available at the Public Library. She noticed that Middletown has arranged a win/win program. They are going to have a solar panel project in the City from whom the City of Middletown will purchase some of its energy. The article says that the panels would produce one hundred and ten percent of the average amount of electricity that the City uses so perhaps there is something that we could gain from that. Regarding the Gun Buy Back Program there was discussion about having artisans in New York City create something out of the turned in guns and we have plenty of artisans in the City of Newburgh so she would hope that they would look to perhaps find people in our own City who could do that kind of thing because we need jobs here. She also thinks that we need updates on the Consolidated Iron Site and the Courthouse overrun on the construction costs as they are two big ticket items. Additionally there is the Parking Tribunal which is also potentially a big ticket item.

Cynthia with Community Voices Heard said that they know the City is doing a lot of work to improve the housing and land use situations and the City also has a Community Action Team that is working on addressing the issues of bad tenants. The housing issues are a two way street and they are doing the work to address the issue of bad landlords or slumlords in Newburgh. If anyone is dealing with a slumlord that does not fix issues like water damage, out of control pest issues, wiring issues, black mold or lead paint issues then they want to talk to them. They are calling on the residents of the City of Newburgh to take action and stand up. *"No one is going to fix our problems except us."* *"The time to get active is now"*. She noted that they could be contacted at 98 Grand Street or by calling (845) 542-2060.

Juanita King, Cousin of Michael Lembhard, said that this week two members of her family were called down for their "so called" investigation which they found out the City is paying for so this is not an impartial investigation like they asked for. How can he be impartial if the City is paying him? He is in their pocket. If you are paying someone, they are going to say whatever you want them to say. She asked if they could find out how much the City is paying him and next time to leave her family out of it.

Pebbles, City of Newburgh, thanked Chief Ferrara and his department regarding an incident that happened this past weekend. She thanked Chief

Ferrara for his leadership and commitment because not only did they see it but they felt it through his Officers. There was a really bad situation that happened and they needed to call the Police Department. They took care of the situation right away and did it with compassion and professionalism. There are some things that aren't so great going on which is when The Hudson Valley Advocates, Inc. is called in. Some of these things they voluntarily go to but this weekend they were called and when they saw that it was out of their hands they called the Police Department and today it was all done and taken care of at Family Court.

Brian Denniston, Chairman of the Citizens Advisory Committee, read the Minutes from their last meeting. He noted that there were about twenty-eight people present for this meeting and they had a guest speaker from Central Hudson because their computers were recently hacked into. He was an excellent speaker and as he learns more they hope to have him come speak again. He spoke about the investigation and that one third of their customers had the potential to have been accessed. Central Hudson is continuing to work to determine the extent of the incident. There is still no evidence confirming that any data was transferred but customers of Central Hudson should carefully monitor their credit and bank reports. They warn that Scam Artists are posing as Central Hudson representatives in attempts to make contact with customers to solicit personal and credit card information over the telephone. He added that their meetings are open to the public and all are welcome to attend.

Roxie Royal, City of Newburgh, said she was happy to hear that they are going to bring the Festival back down to the River. She would be happy again if they would rethink the National Night Out. As Pastor Brock said earlier, the purpose was to stop the crime for the time that they were out doing this Program and up at the Activity Center is not where the crime is. We have to bring the programs where they are going to be effective. If they are not in the areas that they are needed then they don't serve their purpose.

Lilliam Harris, 26 Hasbrouck Street, said that she is getting her bid in now for Hasbrouck Street Park with spring coming. They need some work done over there and she has been fighting for this Park for the past few years. Before summer gets here could they please fix it up as it is the only one in the City that has swings for the young children. She wished everyone a Happy Easter.

Brenda McPhail, City of Newburgh, said that everyone has heard that they are going to try to close Horizons on the Hudson School and she would like to know where the Council stands on this. She hasn't heard that the City of Newburgh Officials are in support of not allowing that School to close.

There are a lot of reasons why that School should not close. If they close, it will be the last school that is in the inner City of Newburgh and we can't allow that to happen. She is going to make noise and stand out there with signs because this is a serious problem. They need to stop misusing money, and some people need to take cuts in pay. There are too many Assistants which is where all the money is going. She doesn't want to see any School close. Why should the kids have to suffer and not get an education because of someone else's' foolishness. We have to get focused on the things in Newburgh that really matter. We need to get serious because Newburgh is deteriorating right in front of our eyes with broken sidewalks and boarded up buildings. How can you love Newburgh when you see this going on every day? We can't come together because everyone is worried about titles and unnecessary foolishness that is going on because everyone wants to be the hero and not a zero. As long as we continue to keep that mindset we are not going anywhere.

Sheila Monk, City of Newburgh, said that it is election time for the Board of Education and we really need to get out and vote for good people who have the best interests for our kids and our community. She noted that they are supporting Pop Lewis on this one and that they would like to see Councilman Dillard run for County because it starts from the local level. They say that the people in the City of Newburgh are lazy and they don't like to get out and vote but before you vote National and State you have to vote local. They are going to get out and sign people up for registration and bring them to the Polls to vote because this is the time for us to make a change. We only have two schools left; Horizons on the Hudson and Gidney Avenue and she will stand up for what is right in her community. She encouraged everyone to get out and vote because their vote does make a difference.

There being no further comments, this portion of the meeting was closed.

COMMENTS FROM THE COUNCIL

Councilwoman Angelo thanked everyone for coming tonight and said that she has applications for the Parade as they are moving along on that. She noted that the Library will be having a huge art show through the month of April and it is a chance for everyone to show off their artwork. She also thanked the City Manager for following up on the skateboarders.

Councilman Dillard thanked everyone for coming and said in regard to the review of our Police Department that it is being done to update policies and procedures because it appears as though things had gone astray. We need to update these policies and procedures every so many years. This was not done for any one individual; it was done for the people of the City of Newburgh. We have had a lot of difficulty in the City in particular with our young people and he will respond accordingly once this review is completed along with the Council. On another issue, he appreciates the endorsement but it appears as though we have a long fight ahead with this redistricting so if they are ready then he is ready and we can go all the way with this. He wished everyone a good Easter. He added that in accordance with the Gun Guy Back they received a total of one hundred and forty three guns here in the City of Newburgh. This Gun Guy Back was highly successful because anytime you can get a gun off the streets a life will be saved.

Councilwoman Lee said that she wanted to talk about disenfranchisement. When you feel like no matter what happens nothing is going to change or get better. She said that she feels like she is on a wheel and she is walking around in place. We have a Magnet School about to close and a Charter School about to open which sends a message to our kids that their education isn't important enough and it's alright to drop out of school and go to an alternative school. She has a problem with that. She added that there is no way that this City can get anybody to come here and investigate anything for free. We are a Municipality and whatever we want we have to pay for. We are looking at the way in which we are doing business and she is certainly looking at whether the rules around excessive force have been forgotten or not. When you are asked to take part in something, she wishes they would because the questions you think might be simple or stupid and don't mean a thing means something to the person asking. The only way we can get to the bottom of years of abuse in this City is through an investigation which we have to pay for. She noted that she doesn't know these people who are investigating so nobody is telling her what she wants to hear because they don't know what she wants to hear. She pointed out that this is an election year and she doesn't care who anyone votes for but the fact that many people don't vote is a problem. If you think excessive force has been abused or that some office has

overused their authority, the only voice you have is your voice to educate your friends and family about the people who are running for office. If you don't do that then nothing is going to happen. People have fought and died so that you could go to school, get an education and vote. Not just Black people but white people as well and white women. There are so many African-Americans who lost their lives because they voted and we sit around and say we aren't going to vote because it doesn't mean anything but it needs to stop. She said that she is not God and she can't change things that have gone on in this City forever. She sits here and listens to things that just don't make any sense to her. She is not talking about just from the public but from the Council and everywhere and it just doesn't make any sense. *"There are no leaders up here because we all have the same authority and we are all looking to make changes."* She said that she will not support anger, craziness and fighting. She will investigate it and see if she can get to the bottom of it. When the Police Department is investigated she will make her own decisions. She does her own work and it is time for the people in this City to come together and start acting like they are on the same mission. This is something everybody should wrap their arms around and they have every reason to fight during this election because this is their election. They have to get people to register to vote and stand up and talk about their cause. *"Your voice is your vote and if you don't vote then you have no voice."*

Mayor Kennedy said in addition to Councilman Lee's statement that we cannot stand by and wait for somebody else to fix anything. She has said all along that they are not perfect and they don't have all the answers but they try to work through them and do the best they can. In regard to the School, she wants everyone to know that she contacted the School Board immediately when she first heard about this. Education is very, very high on her priority list and we must educate our young people. She is working on an initiative for three to eight year olds to figure out how we can have every child reading in this City. She wants everyone to know that they have not made a decision to close that school and it is still on the board. We don't want to add energy to that idea and she prays that they will not close. She as well as many other people are campaigning hard to keep that school open because it is a key school in the City of Newburgh. On the police investigation report, somebody has to pay people to do their work but they had someone other than themselves select the group to do this. They obtained input from the College and others to select this group and they have tried to stay at arms length from the people doing that investigation. We have not given them any guidance or told them to do it any particular way. They are doing their own thing. We have had audits in our Finance Department and they have come back with a list of problems which we then had to buckle down and work on. We have to pay for people to come in and do audits and investigations. Somebody has to pay the bill but that doesn't mean that they do what we want them to do. We

haven't always liked what some of these audits and reports have come back with but they have always been honest and straight forward and they hope that is true with this police investigation report. She asked everyone to please cooperate with them because that's how they get their say in and tell them what is going on. She thanked Brian for bringing to mind the Central Hudson issue. The Easter Egg Hunt is scheduled for this Saturday at Downing Park and she hopes everyone comes with their little ones to enjoy. In regard to the Parking Tribunal, she believes that the City Manger is in the process right now of getting someone hired for that. The Sidewalk Program has been announced and they are going to be working on fixing up sidewalks this summer. She added that there will be an official ground breaking ceremony for Tyrone Crabb Park on Friday, March 29th at 2:00 p.m. This will be another Park for the children and there is also a Park over by 104 South Lander Street that she thinks also has swings. To all of the Contractors she said that the DEC will be having a four hour contractor training on Tuesday, April 9th from 8:00 a.m. to 12:15 p.m. and they can contact Cornell University for information on that. She said that they had their PILOT training for effective problem solving and about eighteen people in our community attended. It was a follow through to our Spirit Program with the Department of Justice last year to try to do training here and effectively solve problems. Hopefully we can take that to the next step. It was paid for through a Grant that was secured by the Dispute Resolution Center and it was a great training session. She hopes to have more information on that in the future as they move forward. She wished everyone a Happy Easter.

There being no further business to come before the Council the meeting adjourned at 8:20 P.M.

LORENE VITEK
CITY CLERK



CITY OF NEWBURGH

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

LORENE VITEK
CITY CLERK

KATRINA COTTEN
LISETTE ACOSTA-RAMIREZ
DEPUTY CLERKS

MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Lorene Vitek, City Clerk

RE: Notice of Claim:
Roseann DeGeorge vs. City of Newburgh

DATE: March 26, 2013

Please find attached Notice of Claim regarding the above, which was received via FedEx in our office on this date.

Attachment

Cc City Manager ✓
Mayor & Council



In the Matter of the Claim of

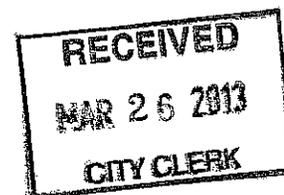
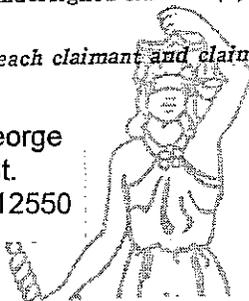
Roseann DeGeorge
34 Poplar St.
Newburgh, NY 12550

TO: City of Newburgh, City of Newburgh Water Dept.

PLEASE TAKE NOTICE that the undersigned claimant(s) hereby make(s) claim and demand against you as follows:

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

Roseann DeGeorge
34 Poplar St.
Newburgh, NY 12550



2. *The nature of the claim:*

Claimant is seeking reimbursement of payment to Instant Plumbing Repair Services, Inc. for services rendered to correct City of Newburgh Water Dept. Violation dated 02/26/2013, since it was determined that the violation belong to the 36 Poplar St. Dwelling.

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

SEE ATTACHED

4. *The items of damage or injuries claimed are (do not state dollar amounts)*

Reimbursement for services rendered by Instant Plumbing Repair Service, Inc. to correct erroneous City of Newburgh Water Dept. violation.

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

03/20/2013 Instant Plumbing Repair Service Inc., excavated at Claimant property's located at 34 Poplar St, Newburgh, New York to correct City of Newburgh Water Dept. violation dated 02/26/2013. As a result, it was determined that the leaking pipe was an old pipe and it was capped off. The work was inspected by a City of Newburgh Water Dept. employee before the trench was filled and closed.

03/20/2013 Evening Dwellers of 36 Poplar St. informed Claimant that they had no Water service.

3/21/2013 The trench was re-opened and it was determined that the leaking pipe was the Service line into the 36 Poplar St dwelling and not the Claimant's property.

SEE ATTACHMENTS

- 1) Copy of City of Newburgh Water Dept. Violation dated 02/26/2013
- 2) Copy of Instant Plumbing Repair Service Invoice # 032893
- 3) Cancelled Bank Check # 1087



CITY OF NEWBURGH

WATER DEPARTMENT
NEWBURGH, NEW YORK 12550
(845)565-3356

JEFFREY WYNANS
SUPERINTENDENT OF WATER

NOTICE OF VIOLATION

February 26, 2013

Ms. Roseann DeGeorge
34 Poplar St
Newburgh, New York 12550

Re: Account #043860

Dear Ms. DeGeorge:

PLEASE TAKE NOTICE

The Water Department has determined that the water is leaking from the above mentioned premises, and that you are indicated as the owner of said premises on City records. You are in Violation of Section 293-19 of the Code of Ordinances of the City of Newburgh and service to the premises shall be terminated on Tuesday, March 13, 2013, fifteen days from the date of this notice. If this condition is not corrected immediately, the City will be forced to act immediately to correct this condition.

Therefore, you are hereby directed, pursuant to my authority as Water Superintendent, under section 293-3 of the Code of Ordinances, to immediately take all actions necessary to correct such condition.

You have a right to request a hearing from the Water Superintendent on the discontinuance of service by applying to the Superintendent in writing within five (5) days of this notice. The hearing, if requested, shall be held within five (5) days, and the Superintendent's determination shall be final. At such hearing, the Water Superintendent may affirm, modify or rescind this order. If you fail to appear at said hearing, or to request an adjournment in writing setting forth a good cause, therefore, you will be deemed to have waived your right to a hearing and this order shall become final.

If you fail to comply with this order, the City shall, pursuant to Chapter 226 of the Code of Ordinances, cause such action to be taken by City employees or contractors as may be necessary to correct this condition, including the termination of the water service. The City will charge to you the cost of any action taken by it pursuant to this order, and such amount may be levied against the property as part of the general City tax or collected from you in a civil action or both.

THE CITY OF NEWBURGH

A handwritten signature in cursive script that reads "Reynaldo Santiago (Acting)".

By:

Reynaldo Santiago
Acting Water Superintendent

RS/dm

cc: Richard F. Herbek, City Manager
Michelle Kelson, Corporation Counsel
George Garrison, Superintendent DPW
Steve Hunter, Code Supervisor
Ed Howard, Plumbing Inspector

View Transaction Printable View

Transaction Information

Description: CHECK NUMBER 1087
From Account: Pinnacle Plus Checking
Amount: -3,495.00
Status: Posted
Payee:
Customer Reference Number: 1087
FI Reference Number: 20130321000001
Transaction: Check 1087
Date/Time Cleared: 03/21/2013 00:00
Date/Time Initiated: 03/21/2013 00:00

Front and Back of Check

Views: Front Back Front and Back

ROSEANN BERGEAGE 1087
24 FOLLEN ST.
REHOBOTH, NY 11953-4002

March 20, 2013

Pay to the Order of *Orchestral Climbing* \$ *3495.00*
Also, thank you for your help!

FIRST NIAGARA PINNACLE PLUS MEMBER
Roseann Bergeage

1087

Enlarge Save

PAY TO THE ORDER OF
ROSEANN BERGEAGE
24 FOLLEN ST.
REHOBOTH, NY 11953-4002

Enlarge Save



CITY OF NEWBURGH

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

KATRINA COTTEN
LISETTE ACOSTA-RAMIREZ
DEPUTY CLERKS

MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Lorene Vitek, City Clerk

RE: Notice of Claim:
Alan David Gardner and Darlene Marie Gardner
vs. City of Newburgh

DATE: March 27, 2013

Please find attached Notice of Claim regarding the above, which was hand delivered to our office on this date.

Attachment

Cc City Manager ✓
Mayor & Council

NOTICE OF CLAIM

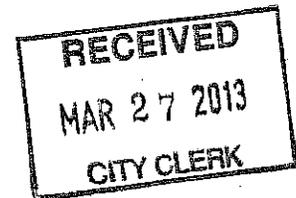
of

ALAN DAVID GARDNER and DARLENE MARIE GARDNER,

Claimants,

-against-

THE CITY OF NEWBURGH



-
1. Claimants reside at:
94 Brown Road
Wappingers Falls, New York 12590

Claimants' counsel is:

Elizabeth M. Hecht, Esq.
Mead Hecht Conklin & Gallagher, LLP
Trial Counsel to Peter K. Overzat, Esq.
925 Westchester Avenue - Suite 302
White Plains, New York 10604
Telephone: 914-899-3100
Facsimile: 914:899-3101

2. The nature of the claim is negligence.
3. Upon information and belief, the claim arose at approximately 9:30 a.m. on December 29, 2012 on the public sidewalk/walkway adjacent to the City of Newburgh Code Compliance Building, 123 Grand Street, Newburgh, New York.

At that time and place, Claimant, ALAN DAVID GARDNER, was caused to fall upon an accumulation of ice and water upon the surface of the public sidewalk/walkway. Upon falling, he fell to the pavement and struck his head and body violently. (Annexed are two

photos. The photos are not intended to depict the conditions as they existed at the time of the incident. Photo "A" shows the general vicinity of the incident; photo "B" shows the specific portion of the sidewalk which is to the right of the stanchion closest to the ramp leading to the building as one walks from the bottom of the photo.)

Upon information and belief, the wrongful, careless and negligent acts of the CITY OF NEWBURGH, its departments, officers, agents, servants, employees and/or contractors, consist of, among other things: permitting snow, ice and water to accumulate upon the surface of the aforementioned sidewalk/walkway; in failing to timely and adequately sand and/or salt and/or apply calcium chloride to the surface of the sidewalk/walkway; in failing to close and/or cordon off the sidewalk/walkway; in failing to take appropriate and adequate measures to warn users of the aforesaid area of the sidewalk/walkway, including Claimant, ALAN DAVID GARDNER, of the hazardous conditions present thereon. It will be further claimed that THE CITY OF NEWBURGH, its departments, officers, agents, servants, employees and/or contractors created the hazardous conditions about which Claimants complain by negligently designing and/or paving, and/or repairing and/or resurfacing and/or inspecting and/or maintaining the aforesaid sidewalk/walkway and by failing to provide adequate drainage for runoff, snow and water in the aforesaid area; created the hazardous runoff and icing condition by permitting improper grading and pitch to persist along with insufficient drainage; and permitting the hazardous conditions to exist, persist and reoccur despite sufficient prior written, actual and/or constructive notice of the dangers presented thereby. It will be claimed that the CITY OF NEWBURGH was negligent in failing to repair, correct or remedy the sidewalk/walkway hazards, and allowed same, after due notice of such conditions, to remain in an unsafe and improper condition for pedestrian travel. As a result of the aforesaid negligence and carelessness, acts of omission and commission there was an accumulation of water and ice causing and creating a hazardous condition which rendered the sidewalk/walkway slippery, dangerous, treacherous and impassable and susceptible to the known, reoccurring hazards and dangers of freeze-thaw cycles. Further, it

will be claimed that the CITY OF NEWBURGH retained incompetent third-parties who negligently designed and constructed the aforesaid sidewalk/walkway and/or failed adequately to address, remedy, correct or rectify the design, maintenance, drainage, icing and freezing problem despite due notice thereof and/or thereby created the dangerous conditions.

4. Upon information and belief, as a consequence of his fall, Claimant ALAN DAVID GARDNER suffered, *inter alia*: contusion of the skull, coup contrecoup injury, loss of consciousness, severe concussive injury, traumatic brain injury, post-concussion syndrome, severe headache, amnesia, attention deficits, impairment of concentration, impairment of executive functioning, memory impairment, aphasia, impairment of his ability to focus, visual impairment, blurred vision, sleep disruption and disturbance, irritability, fatigue, loss of stamina, mood disturbance, lumbar injury, lumbar derangement, lumbar spasm. All of the foregoing injuries are persisting and believed to have permanency; all involve injuries and adverse ramifications to the surrounding tissues, blood vessels, nerves, tendons, ligaments and musculature.

Upon information and belief, as a consequence of the fall of Claimant, ALAN DAVID GARDNER, Claimant, DARLENE MARIE GARDNER has suffered and will continue to suffer the loss of the society and consortium of her lawful, wedded spouse, ALAN DAVID GARDNER all to her damage and detriment.

As a consequence of the injuries suffered by Claimant, ALAN DAVID GARDNER, he has been extremely limited in his ability to work in his chosen occupation. It is estimated that, to date, he has lost approximately \$25,000 in lost earnings and those losses continue and will continue into the future.

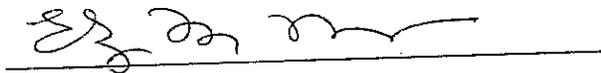
Moreover, he has been and will be required to make co-payments to his medical providers for care, treatment and assessment of his accident-related injuries. Details will be provided when available.

Dated: Fishkill, NY
March 25, 2013


ALAN DAVID GARDNER

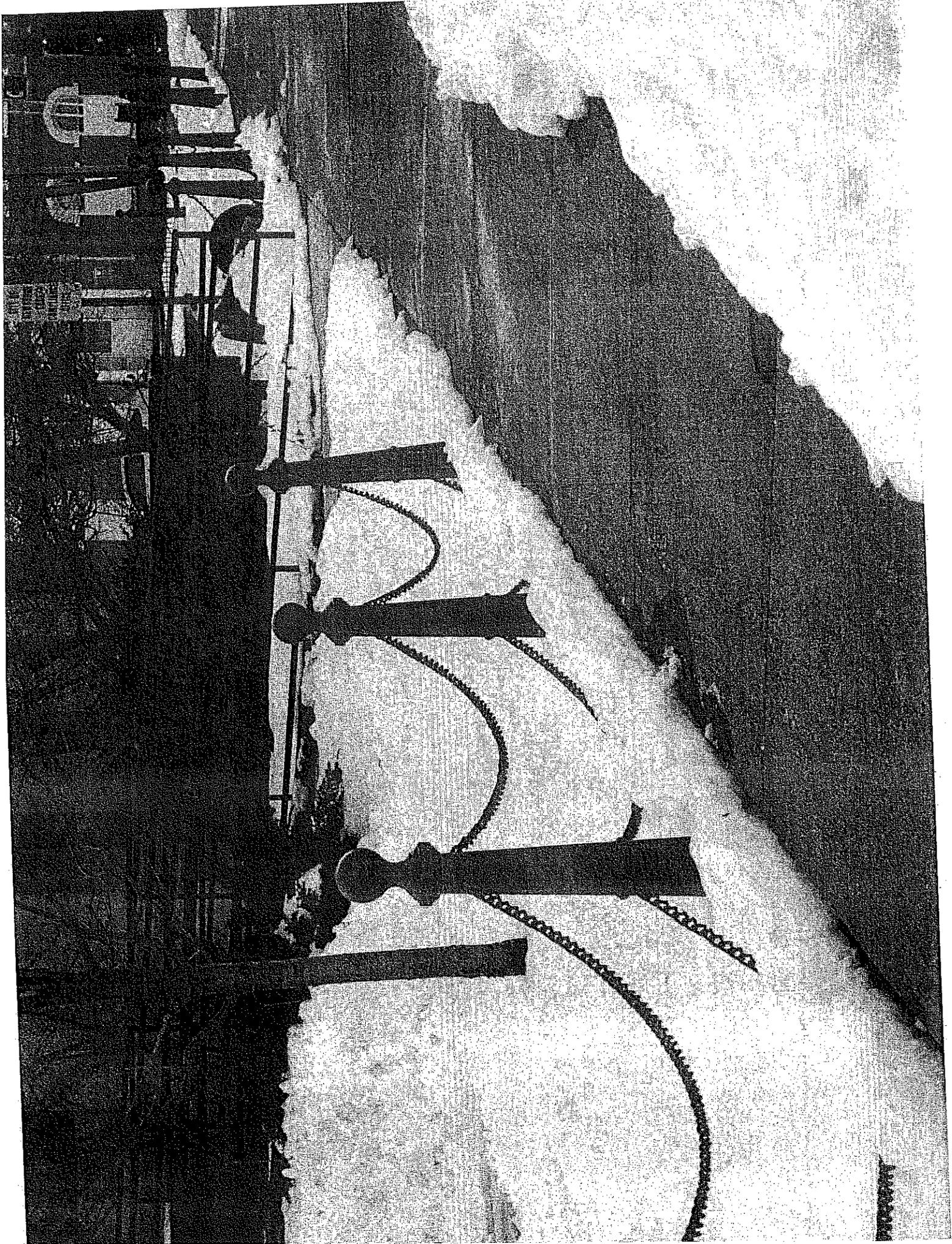
Before me this date did appear ALAN DAVID GARDNER who did swear in my presence that the contents of the within Notice of Claim are true to the best of his knowledge and belief and that those matter alleged upon information and belief are believed by him to be true under penalties of perjury.

Sworn to before me this 27th day of
March, 2013


Notary Public

ELIZABETH M. HECHT
A Notary Public, State of New York
No. 4803897
Qualified in Westchester County
Commission Expires 7-15-15

A



B

