



City of Newburgh Council Work Session
6:00 pm
August 9, 2012

AGENDA

1. Procedural Items Related to the City Council Meeting of August 12:
 - a. Approval of meeting minutes
 - b. Departmental Reports
 - c. Professor John Nolon will give an update on the Newburgh Community Land Bank

2. Upcoming Public Hearings to be held on August 13:
 - a. The 2013 Housing and Community Development Needs
 - b. (Local Law 4) Amendment to Chapter 270 of the Code to provide for the addition of Article XII entitled "Exemption for Conversion of Certain Multiple Dwellings".

3. Community & Economic Development and Real Estate:
 - a. IDA property proposal – Teri Waivada, IDA Executive Director and John Cappello, Esq.
 - b. CDBG update – Courtney Kain, CD Director
 - c. (Res. 125) License agreement with GNP for the clean up of the northeast corner of Montgomery Street and South Street.
 - d. (Res. 126) License Agreement with Mill Street Partners, LLC
 - e. (Res. 127) Demolition project (to be supplied soon)
 - f. (Res. 128) Approving the Terms of Sale for the conveyance of City-owned properties sold via sealed bid process
 - g. (Res. 129) Approving the Terms of Sale for the conveyance of City-owned properties sold via auction
 - h. (Res. 130) Release of Restrictive Covenants – 3 Marne Avenue
 - i. (Res. 131) Release of Restrictive Covenants – 65 Liberty Street and 65 Liberty Street (rear).
 - j. Streamlining Newburgh's Land Use Process:
 - (Res. 132) Assuming lead agency under SEQRA, declaring the project unlisted, considering an EAF, referring EAF to County Planning and scheduling a public hearing on the proposed local law.
 - Proposed Local Law: Amendment to Article 158 entitled "Environmental Quality Review", Section 158-2, "Actions Requiring and not Requiring Impact Statements" of the Code of Ordinances.

- Proposed Ordinance: Amendment to Chapter 200 entitled "Zoning" to exempt certain activities from requiring a certificate of appropriateness from the ARC.

4. Finance Department:

- a. Monthly cash report for June
- b. (Res. 133) Amendment to the 2012 Budget to provide for police overtime costs

5. Engineering:

- a. (Res. 134) Award of a bid to Peak Power Systems Inc. for the manufacturing of the WWTP back-up generator upgrade in accordance with the DEC Consent Order
- b. (Res. 135) Contract with TAM Enterprises, Inc. for the emergency replacement of the sewer interceptor.
- c. (Res. 136) Support for the proposed intermunicipal agreement for sharing water supply and the design and construction of infrastructure.

6. Discussion:

- a. (Res. 137) Agreement with the Newburgh Enlarged City School District to fund the salary and benefits of one police officer to service as a Community Resource Officer in Newburgh Free Academy.
- b. (Res. 138) Agreement with Wright Risk Management Company, LLC to perform workers compensation management services
- c. (Res. 139) Authorizing various agreements related to the International Festival
- d. Notification of possible downgrade from the Insurance Service Organization – Chief Michael Vatter
- e. (Res. 140) Authorizing the City Manager to apply for and accept the (SAFER) grant from the Department of Homeland Security
- f. License Agreement with Sterling Ponder to run recreation programs
- g. Peddlers and Vendors Law amendments
- h. Police Department Overtime

DRAFT



CITY OF NEWBURGH COUNCIL MEETING AGENDA

August 13, 2012
7:00 pm

Mayor:

1. Prayer
2. Pledge of Allegiance

City Clerk:

3. Roll Call
4. Approval of the minutes of the July 12, 2012 Work Session meeting
5. Approval of the minutes of the July 16, 2012 City Council meeting
6. Approval of the minutes of the July 30, 2012 Work Session meeting
7. City Clerk's Report for the month of July
8. Registrar of Vital Statistics Report for the month of July
9. Civil Service Administrator's Report for the month of July

Communications:

10. Notices of Claim and Tax Certiorari Matters to be referred to Corporation Counsel (copies posted on website and available for review in the office of the City Clerk)

Public Hearings:

11. Public hearing concerning the housing and community development needs of the City of Newburgh in order to assist in the preparation of its Housing and Community Development Plan for fiscal year 2013.
12. Public hearing concerning a local law amending Chapter 270 entitled "Taxation" to provide for the addition of Article XII entitled "Exemption for Conversion of Certain Multiple Dwellings".

Presentation:

13. Newburgh Community Land Bank update – Professor John Nolon

Comments from the public regarding the agenda:

Comments from the Council regarding the agenda:

City Manager's Report:

14. Local Law 3 - 2012
A local law adding Article XII entitled "Exemption for Conversion of Certain Multiple Dwellings" to Chapter 270 "Taxation" of the Code of the City of Newburgh".
15. Resolution No. 125 – 2012
A resolution authorizing the City Manager to enter into a license agreement with the Greater Newburgh Partnership, Inc. to allow cleaning and greening activities on City-owned properties known as 140 Montgomery Street, 146 Montgomery Street, 137 Smith Street and 207 Water Street.
16. Resolution No. 126 – 2012
A resolution authorizing the City Manager to execute a license agreement with Mill Street Partners, LLC in connection with the development of City-owned properties known as the mid-Broadway site.
17. Resolution No. 127 – 2012
A resolution regarding the current demotion bids (to be provided soon)
18. Resolution No. 128 - 2012
A resolution approving the standard terms of sale for property purchased through the City of Newburgh 2012 sealed bid process.
19. Resolution No. 129- 2012
A resolution approving the terms and conditions of sale for property purchased through the City of Newburgh 2012 auction.
20. Resolution No. 130- 2012
A resolution authorizing the execution of a release of restrictive covenants and right of re-entry from a deed issued to William Rose to the premises known as 3 Marne Avenue (Section 7, Block 7, Lot 8.1).
21. Resolution No. 131- 2012
A resolution authorizing the execution of a release of restrictive covenants and right of re-entry from a deed issued to JCL Media, Inc. to the premises known as 65 Liberty Street and 65 Liberty Street Rear.
22. Resolution No. 132- 2012
A resolution of the City Council of the City of Newburgh assuming lead agency status under the State Environmental Quality Review Act concerning an amendment of Section 300-36 and 300-80 of the Zoning Ordinance of the City of Newburgh and

Section 158-2, "Actions Requiring and not Requiring Environmental Impact Statements" of the Code of Ordinances, declaring the project to be an unlisted action, considering the 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 for September 10, 2012 at 7:00 pm at the Activity Center.

23. Resolution No. 133- 2012
A resolution amending Resolution 238-2011, the 2012 Budget for the City of Newburgh, New York to transfer \$53,280.00 from Police/Salary to Police/Overtime to provide for overtime costs.
24. Resolution No. 134 - 2012
A resolution to authorize the award of a bid and the execution of a contract with Peak Power Systems, Inc. for the manufacturing of a back-up generator for the wastewater treatment plan at a base bid of \$131,599.00.
25. Resolution No. 135- 2012
A resolution authorizing the City Manager to execute a contract with TAM Enterprises, Inc. and amending Resolution No. 238-2011, the 2012 Budget for the City of Newburgh, New York for the south interceptor sewer main repair.
26. Resolution No. 136- 2012
A resolution supporting the pursuit of intermunicipal agreements for sharing water supply and the design and construction of infrastructure for such purpose.
27. Resolution No. 137- 2012
A resolution authorizing the City Manager to accept \$100,000.00 from the Newburgh Enlarged City School District to fund the salary and benefits of one police officer to be hired to backfill police department personnel currently serving in the City's secondary school as a Community Resource Office.
28. Resolution No. 138- 2012
A resolution authorizing an agreement between the City of Newburgh and Wright Risk Management Company LLC to perform workers' compensation claims runoff services.
29. Resolution No. 139 – 2012
A resolution authorizing the City Manager to agreement with various parties to provide performing artists and related services in connection with the City of Newburgh 24th Annual International Festival.

30. Resolution No. 140 – 2012

A resolution authorizing the City Manager to apply for and accept if awarded, a grant in an amount not to exceed one-million six-hundred thousand dollars from the Department of Homeland Security under the Staffing for Adequate Fire and Emergency Response Program to provide funding to hire fifteen firefighters in the City of Newburgh with no City match required.

Old Business:

31. Ordinance No. 5 - 2012

An ordinance amending Chapter 223 of the Code of Ordinances entitled "Peddlers, Vendors and Solicitors".

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, July 16, 2012 at 7:00 P.M. in the Council Chambers at City Hall, 3rd Floor, 83 Broadway, Newburgh, New York 12550.

The Prayer was led by Pastor Rosie Andrews followed by the Pledge of Allegiance.

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

Councilwoman Lee moved and Councilwoman Angelo seconded that the minutes of the June 14, 2012 Work Session and the June 18, 2012 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 the Registrar of Vital Statistics Report for the month of June be received, filed and made available to the Press.

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 June be received and filed only.

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

COMMUNICATIONS

Councilwoman Lee moved and Councilwoman Angelo seconded that Notice of Claim: *Tanya Rhode v. City of Newburgh* be referred to Corporation Counsel with power to act.

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

CARRIED

Councilwoman Angelo moved and Councilwoman Lee seconded that the Notice of Claim: *Martinez & Ernesto Garcia v. City of Newburgh*; and Summons and Verified Complaint: *Leroy Walden, Jr. & Evelyn Walden v. City of Newburgh* be referred to Corporation Counsel with power to act.

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

CARRIED

PROPOSED PUBLIC HEARING

RESOLUTION NO. 110-2012

OF

JULY 16, 2012

RESOLUTION SCHEDULING A PUBLIC HEARING
FOR AUGUST 13, 2012 TO HEAR PUBLIC COMMENT
REGARDING THE HOUSING AND COMMUNITY DEVELOPMENT
NEEDS OF THE CITY OF NEWBURGH IN ORDER TO ASSIST
IN THE PREPARATION OF ITS HOUSING AND COMMUNITY
DEVELOPMENT PLAN FOR FISCAL YEAR 2013

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments regarding the housing and community development needs of the City of Newburgh in order to assist in the preparation of its Housing and Community Development Plan for fiscal year 2013; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 13th day August 2012 in the third floor Council Chambers located at 83 Broadway, City Hall, Newburgh, New York

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

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

ADOPTED

PROPOSED PUBLIC HEARING

RESOLUTION NO.: 111 - 2012

OF

JULY 16, 2012

**A RESOLUTION SCHEDULING A PUBLIC HEARING
FOR AUGUST 13, 2012 TO HEAR PUBLIC COMMENT
CONCERNING A LOCAL LAW AMENDING
CHAPTER 270 ENTITLED "TAXATION" TO PROVIDE FOR THE ADDITION
OF ARTICLE XII ENTITLED
"EXEMPTION FOR CONVERSION OF CERTAIN MULTIPLE DWELLINGS"**

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning an Local Law amending Chapter 270 entitled "Taxation," to provide for the addition of Article XII, entitled "Exemption for Conversion of Certain Multiple Dwellings"; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 13th day of August, 2012, in the 3rd Floor Council Chambers, City Hall, 83 Broadway, Newburgh, New York.

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

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

ADOPTED

LOCAL LAW NO.: _____, 2012

OF

A LOCAL LAW ADDING ARTICLE XII ENTITLED
"EXEMPTION FOR CONVERSION OF CERTAIN MULTIPLE DWELLINGS"
TO CHAPTER 270 "TAXATION" OF THE CODE OF THE CITY OF NEWBURGH

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

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Adding Article XII entitled 'Exemption for Conversion of Certain Multiple Dwellings' to Chapter 270 of the Code of the City of Newburgh".

SECTION 2 - PURPOSE AND INTENT

The purpose of this local law is to adopt a real property tax exemption from general municipal taxes in the City of Newburgh for owners of multiple dwelling buildings which are reconstructed, altered or converted to owner-occupied one-family or two-family residential buildings as authorized by Real Property Tax Law Section 421-k.

SECTION 3 - AMENDMENT

Chapter 270 entitled "Taxation" of the Code of the City of Newburgh is hereby amended by the addition of Article XII entitled "Exemption for Conversion of Certain Multiple Dwellings" to read as follows:

"ARTICLE XII

Exemption for Conversion of Certain Multiple Dwellings

§270-71. Purpose.

The City Council of the City of Newburgh encourages property owners of single and two-family residential dwelling to invest in improvements to one and two-family buildings used solely for residential purposes by providing an exemption from general municipal taxes pursuant to Section 421-K of the Real Property Tax Law of the State of New York.

§270-72. Definitions.

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

OWNER-OCCUPIED MULTIPLE DWELLING BUILDING - any building or structure designed and occupied as the temporary or permanent residence or home of two or more families, including the owner of such building.

§270-73. Exemption granted; amount.

Multiple dwelling buildings that are reconstructed, altered, improved and/or converted back to an owner-occupied single-family or any owner-occupied multiple dwelling that is reduced to at most two units by such reconstruction shall be exempt from taxation levied by the City of Newburgh on the increase in assessed value attributable to such conversion to the extent provided hereinafter pursuant to Section 421-k of the New York State Real Property Tax Law. The length of said exemption shall be eight years and shall be computed in accordance with the following table:

Year of Exemption	Percent of Exemption
1	100%
2	87.5%
3	75%
4	62.5%
5	50%
6	37.5%
7	25%
8	12.5%

§270-74. Exemption base and market value defined.

A. Such buildings within the City of Newburgh shall be exempt for a period of one year to the extent of one hundred (100%) per centum of the increase in assessed value thereof attributable to such reconstruction alteration or improvement and for an additional period of seven years, as shown in the table set forth in Section 270-73, subject to the following:

1. The extent of such exemption shall be decreased by twelve and one-half (12.5%) per centum of the "exemption base" each year during such additional period. The "exemption base" shall be the increase in assessed value as determined by the initial year of the term of the exemption, except as provided in subsection 2 of this section.
2. In any year in which a change in level of assessment of fifteen (15%) per centum or more is certified for a final assessment roll pursuant to the rules of the State Board, the exemption base shall be multiplied by a fraction, the numerator of which shall be the total assessed value of the parcel on the immediately preceding final assessment roll (after accounting for any physical or quantity changes to the parcel since the immediately preceding assessment roll), and the denominator which shall be the total assessed value of the parcel on the immediately preceding final assessment roll. The result shall be the new exemption base, notwithstanding the fact that the Assessor receives certification of the change in level of assessment after the completion, verification and filing of the final assessment roll. In the event the Assessor does not have custody of the roll when such certification is received, the Assessor shall certify the recomputed exemption to the local officers having custody and control of the roll, and such local officers are hereby directed and authorized to enter the recomputed exemption certified by the Assessor on the roll. The Assessor shall give written notice of such recomputed exemption to the property owner, who may, if he or she believes that the exemption was recomputed incorrectly, apply for a correction in the manner provided by Title 3 of Article 5 of the New York State Real Property Tax Law.
3. Such exemption shall be limited to \$100,000.00 in increased market value, but not less than \$10,000.00, of the property attributable to such reconstruction, alteration or improvement, and any increase in market value greater than such amount shall not be eligible for the exemption pursuant to this section. For the purposes of this section, the market value of the reconstruction, alteration or improvement shall be equal to the increased assessed value attributable to such reconstruction, alteration or improvement divided by the Class I ratio in a special assessing unit or the most recently established state equalization rate or special equalization rate in the remainder of the state, except where the state equalization rate or special equalization rate equals or exceeds ninety-five (95%) per centum in which case the increase in assessed value attributable to such reconstruction, alteration or improvement shall be deemed to equal the market value of such reconstruction, alteration or improvement.

§270-75. Exclusions from exemption.

A. No such exemption shall be granted for reconstruction, alterations or improvements unless:

1. Such reconstruction, alteration or improvement was commenced subsequent to the date on which this Local Law takes effect;
2. The value of such reconstruction, alteration or improvement exceeds five thousand (\$5,000.00) Dollars; and
3. The greater portion, as so determined by square footage, of the building reconstructed, altered or improved is at least five years old.

B. For purposes of this section, the terms "reconstruction," "alteration" and "improvement" shall not include ordinary maintenance and repairs.

§270-76. Time to File Application.

A. Any exemption pursuant to this Article shall be granted only upon application by the property owner on a form prescribed by the State Board of the Office of Real Property Services. The application shall be filed with the Assessor of the City of Newburgh on or before the taxable status date of March 1 to be eligible for an exemption to be entered on the assessment roll prepared on the basis of said taxable status date.

B. If satisfied that the applicant is entitled to an exemption pursuant to this section, the assessor shall approve the application and such building shall thereafter be exempt from taxation and special ad valorem levies as provided in this article commencing with the assessment roll prepared on the basis of the taxable status date referred to in Section 270-76 of this article. The assessed value of any exemption granted pursuant to this article shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

§270-77. Exemption discontinuance.

In the event that a building granted an exemption pursuant to this article ceases to be used primarily for residential purposes or title thereto is transferred to other than the heirs or distributees of the owner, the exemption granted pursuant to this section shall cease.

SECTION 4 - VALIDITY

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

SECTION 5 - EFFECTIVE DATE

This Local Law shall be effective when it is filed in the Office of the New York State Secretary of State in accordance with the provisions of New York State Municipal Home Rule Law and shall apply to assessment rolls on the basis of taxable status dates occurring on and after January 1, 2013.

SECTION 6 - FILING

In addition to the Office of the New York State Secretary of State, copies of this Local Law shall be filed with the State Board of the Office of Real Property Services and the City of Newburgh Assessor.

COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Brigidanne Flynn asked that the addresses involved in Resolutions #120-2012, #121-2012 and #122-2012 be provided. Second, while she is all in favor of competitive business, the peddling and solicitation in the city needs to be looked at closely. Current trends across the nation depict the popularity of food trucks, especially at lunch time. Vendors are parking their trucks on public streets, and possibly at metered parking spaces. Perhaps we could provide a list reminding them of current laws they should be aware of, thus ensuring compliance with health inspections, clean-up, etc.

Christine Bello remarked that the peddlers and solicitation ordinance was put into effect two councils ago to protect our businesses. She pays \$12K a year just to operate her business. Those taxes are paid to support public safety, the water department and the sanitation department. If the council eliminates the 1000 Ft distance clause, then a peddler would be able to virtually set up his operation directly in front of her store for \$75. A peddler could undersell her, because he or she does not have the same overhead costs that she incurs. There are three Mexican-American restaurants on her block. A half of block further is a huge taco truck that is parallel parked on Broadway. It takes up six parking spaces. The businesses on her block are starving, because peddlers there are underselling them. Beacon and Poughkeepsie both have 1000 ft radius limits, because they support their businesses. She stated to the council that its decision on this tonight is going to determine whether Newburgh supports its businesses or not.

Barbara Smith asked if there are typographical errors in Resolutions #121-2012 and #122-2012. She noticed that one resolution requires three votes to carry and the other resolution requires four votes to carry. Yet they both contain the same wording. Second, are we removing the peddling distance requirement altogether? Or are we reducing it, for example from 1000 feet to 500 feet, so that we will still have an ordinance in place that protects business owners?

Herbek explained that they are not typographical errors. It is a matter of how the properties were acquired. Also he pointed out that the peddling distance clause is being removed from the ordinance.

Janet Gianopolous remarked that the IDA is going to be doing a study in order to help us attract businesses. The study is going to look at the strengths and weaknesses, opportunities and threats. [Res. #118-2012]. So if we want to continue to attract businesses in our city, we have to continue to acknowledge that someone else can not come in, set up shop in front of a

business and undersell the shop owner. [Ord. #5-2012]. Gianopolous would be in favor of a modification, but not a revocation of the space limit. Next, it is too bad we could not hire someone from Newburgh to complete the HUD analysis. It does not help move the city forward. [Res. #123-2012]

Pastor Austin commented about Ordinance #5-2012. This is an issue of economic survival and not one of camaraderie. It generates a lot of emotions, because survival today is the very key to all of our existence. However, Newburgh has been working on attracting new businesses to this city. This is what economic development is all about. As a new business owner, she is very sensitive to overhead costs. She commends the council for its bravery and for taking a bold step in keeping the small vendors in mind. She stated that the vendors were invited by council members to go the waterfront. They gladly accepted that invitation. Then they were penalized and issued tickets. It was very embarrassing and humiliating. To date, she still has not resolved her issue with that. She applauds the council for its consideration in eliminating and not just modifying the distance clause. She pointed out that it is the smaller businesses that sustain a city.

Leo Drye remarked that he has been a small vendor at the waterfront for ten years. On June 23rd he was issued a summons ticket, similar to almost being arrested, for selling hot dogs. He was approached by an officer in front of his children. He felt threatened and embarrassed. Here he is trying to pay his mortgage and feed his children and do the right thing, and here it is that the city is trying to arrest him. He stated that he had the proper paperwork in place and a permit allowing him to peddle at the waterfront. Yet when he presented it to the officer, he was told it was not valid. He had his health inspection permit from the County Health Department, as well as proof of payment of taxes that he has been paying. All of this was overlooked, only for him to have to appear in court with twenty persons ahead of him being called to the bench one at a time for various *real* crimes. The City of Newburgh should be ashamed. He applauds any member of council who stands in favor of the vendors. He'll do everything in his power to continue to do the right thing. He has a permit to work at Front Street and he plans to stay there.

Darren Williams stated he has been a hot dog vendor at Front Street for seven years. Vendors were invited to the waterfront for an event held there on June 16th. He stated that while he was talking to his daughter, he was approached by a police officer. He was given a ticket to appear in court. This was the second time he had to appear in court for selling hot dogs. Williams stated that the judge told him that if he came back for the same offense, then he could possibly face a fifteen-day jail sentence. He was fined \$250. He has not paid the ticket to date. There could be a warrant issued for his arrest, but he does not know. He came here to see what is going on with this situation.

His trailer has been towed multiple times. He has all the required paperwork, which has been signed off on by the Police Chief. Also he alleged that Councilwoman Angelo told him, "You never quit, do you?" Williams commented that he is just going to have to do jail time, because he does not plan on moving. He is trying to make a living like everyone else. He feels that life is about competition and only the strong survive. The riverfront is full of restaurant establishments lined up in a row basically selling the same thing. He said, "You can't be serious," to think that hot dogs vendors are really putting a dent into the restaurant owners' pockets.

Dawn Jackson spoke on behalf of her church. They undertake a huge Feed the Community event each year. They were invited to come to the riverfront to sell dinners in June. She stated she noticed the two men and Pastor Austin being ticketed, but since she was on the other side she did not know the reason. Subsequently when she paid for the Fourth of July event, she received a phone call saying that the church was not welcomed to the waterfront. She did not understand why, since the whole purpose for selling dinners is to raise money for the August event to feed the people of the City of Newburgh. This is crazy. In New York City you see businesses set up back to back selling goods. She felt very embarrassed. Newburgh needs a change. The riverfront should be welcoming to everybody.

A woman spoke on behalf of Steve, a hot dog vendor who has been at the waterfront for ten years. The problem is the distance requirement is a law in the code that should be removed. She does not want the young people to think that the cops are doing something wrong. Perhaps the council should limit the number of vendors at different locations, which would also help the other businesses. She has three grand children, and she can not afford to bring them all into a restaurant to eat. Also there may be diabetics who visit the waterfront. They would benefit from being able to get a quick snack or drink, instead of having to wait to be seated at a restaurant. She stated that when Steve was told to stop, he did. There were other vendors who did not obey the law and continued to sell hot dogs. She pointed out that good, law-abiding citizens are the ones getting hurt. She implored the council's mercy to allow the vendors that are down there now to be able to remain there. Children, disabled clients, diabetics and elderly persons all visit the waterfront. The bathrooms need to remain open, as well.

Lillie Howard commented about Resolutions #118-2012 and #119-2012. She stated that she is sick and tired of monies coming into the city to supposedly correct the poverty in our community. Yet she sees nothing within this Land Bank that discusses affordable housing, inclusionary zoning, or any of the things that are going to enable people in this target area the resources to be able to stay here. The bottom line is that people need to wake up. Look at

Harlem in New York City. That is the way it is going to be here in the City of Newburgh. It is time for our so-called leaders, preachers and the NAACP to stand up and show the transgressions against us. This city- the poor - is being transgressed against because there is no leadership here.

Timothy Hayes-el remarked that Ordinance #5-2012 really let's us know what time it is. He pointed out that the waterfront was developed with CDBG funds. So now we have people at the waterfront who don't want other people from the community to be there. Those funds were supposed to help create jobs for community residents. Yet there are no jobs. He pointed out that the transgressions in the city that Howard mentioned are already occurring. As far as leadership goes, it is a done deal. We can only hope for and strive to bring about a change in the city.

Pastor Rosie Andrews wanted to clarify what we think the Mayor's position is in the City of Newburgh. She feels that it would help us to communicate better if we understood what that position actually is. She feels that her remarks are appropriate at this time, because it ties into how we respond to all of the agenda items and how this city is run. Many people think that the mayoral position is similar to that of CEO. Newburgh is not a Mayor-run city. We can not expect and ask someone to take responsibility for something that he has not been charged to do in the first place.

*** Mayor Kennedy commented that Pastor Rosie's comments are not agenda- specific, and probably would be best left for the general public comments portion of the meeting ***

Omari Shakur stated that the Mayor is in control. That is why we have a mayor and council. This panel is the boss of the police department, code enforcement and every other city department. So don't let anyone tell you that she is only one vote. When she ran for office she stated what she would do for the city. So, in his eyes that means that she is in charge.

*** Mayor Kennedy pointed out that everyone is aware of the rules of meeting order. So let's stick to the rules. Everyone is allotted one time at the microphone to speak for three minutes about an agenda-specific matter. After the City Manager's Report the public can speak about general matters of business***

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

COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

Councilwoman Angelo wanted to clarify some things about the vendors. Three vendors had set up at the waterfront the day the Bounty ship arrived. Vendors D, Leo and Steve were ready to sell hot dogs. All of a sudden two police officers came along with copies of the Code of Ordinances in their hands. The officers read them the Summons. Angelo stated that she did not call the police.

*** The meeting was adjourned for 30 minutes due to lack of meeting order ***

RESOLUTION NO.: 112 - 2012

OF

JULY 16, 2012

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF NEWBURGH NEW YORK SUPPORTING THE
CONSOLIDATED FUNDING APPLICATION OF IL STRATEGY GROUP INC.
A SISTER CORPORATION OF INDEPENDENT LIVING, INC.
FOR URBAN INITIATIVES PROGRAM FUNDING THROUGH
THE OFFICE OF COMMUNITY RENEWAL**

WHEREAS, the purpose of the Urban Initiatives Program is to provide funding to New York communities for the restoration and improvement of housing, commercial areas and public facilities in urban neighborhoods; and

WHEREAS, Urban Initiatives Program funding will be awarded to organizations with a direct interest in improving the health, safety and economic viability of a distressed urban neighborhood; and

WHEREAS, IL Strategy Group, Inc., a sister-corporation of Independent Living, Inc. is requesting funding for the purpose of constructing a multi-story, mixed tenancy, fully accessible apartment building on the vacant parcel of land located at 11 Washington Terrace in Newburgh; and

WHEREAS, monies granted will be used to complete environmental assessments, soil testing, traffic and market studies, preliminary architectural drawings and other activities necessary to seek planning and zoning approvals; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh, New York fully supports the Consolidated Funding Application of IL Strategy Group, Inc., a sister-corporation of Independent Living, Inc. for Urban Initiatives Program funding through the Office of Community Renewal.

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.: 113 - 2012

OF

JULY 16, 2012

**A RESOLUTION REJECTING ALL BIDS RECEIVED
IN CONNECTION WITH THE JOHNES STREET
BUILDING DEMOLITION PROJECT**

WHEREAS, the City of Newburgh has duly advertised for bids in connection with the Johnes Street Building Demolition Project; and

WHEREAS, two (2) bids were received and opened; and

WHEREAS, upon review of the bids it has been determined that all bids received far exceeded the pre-bid estimate; and

WHEREAS, this Council has determined that rejecting all bids is in the best interests of the City of Newburgh and the project;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that all bids received in connection with the Johnes Street Building Demolition Project be and are hereby rejected; and

BE IT FURTHER RESOLVED, that City staff is hereby authorized to take the necessary and appropriate measures to advertise the Johnes Street Building Demolition Project for re-bid.

Councilwoman Angelo moved and Councilwoman Lee seconded that resolution be adopted

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

ADOPTED

RESOLUTION NO.: 114 - 2012

OF

JULY 16, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER ACCEPT
A GRANT FROM THE STATE OF NEW YORK DEPARTMENT OF
CRIMINAL JUSTICE SERVICES WITH NO CITY MATCH FOR THE
OPERATION IMPACT IX PROGRAM TO ENHANCE LAW ENFORCEMENT
IN THE CITY OF NEWBURGH TO ACHIEVE LONG-TERM CRIME
REDUCTION AND AUTHORIZING THE CITY MANAGER TO EXECUTE ANY
DOCUMENTS AND TAKE SUCH ACTIONS REQUIRED TO CARRY OUT
SUCH PROGRAM

WHEREAS, the Orange County Operation Impact Partnership has been awarded
a Grant in an amount not to exceed \$676,850.00 under the Operation IMPACT IX
Program with \$340,650 as the City of Newburgh portion; and

WHEREAS, Operation IMPACT IX is part of a comprehensive strategy to
reduce crime in New York State by enhancing law enforcement by enabling local police
agencies to better analyze crime patterns and data, expand the scope of the positions of
Crime Analyst and Field Intelligence Officer, expand focused enforcement on street
level violence and burglary; and

WHEREAS, the Program will enhance enforcement and prosecution efforts
against crime in the City of Newburgh and no City matching funds are required;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of
Newburgh, New York that the City Manager be and he hereby is authorized to accept a
Grant award, from the New York State Department of Criminal Justice Services under
the Operation IMPACT IX Program, in an amount not to exceed \$340,650 with no City
match required, to be used to carry out the program and implement the purposes set forth
herein; and to execute all such further contracts and documentation, and take such further
actions as may be appropriate and necessary to accept such grant and administer the
programs funded thereby.

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.: 115 - 2012

OF

JULY 16, 2012

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO APPLY FOR AND ACCEPT IF AWARDED A GRANT
FROM THE HUDSON RIVER ESTUARY PROGRAM
2012 MINI-GRANTS PROGRAM, ROUND II, IN THE
AMOUNT OF \$5,000.00 FOR THE
SOUTH STREET PARK WATERFRONT REVITALIZATION PROJECT**

WHEREAS, the Waterfront Advisory Committee, in cooperation with the Shade Tree Commission, has requested that the City of Newburgh apply for funds from the Hudson River Estuary Program 2012 Mini-Grants Program, Round II, in connection with the South Street Park Waterfront Revitalization Project; and

WHEREAS, such funding request shall be in accordance with the provisions of the Request for Applications of the New York State Department of Environmental Conservation ("NYSDEC"); and

WHEREAS, such funding shall be in an amount not to exceed Five Thousand (\$5,000.00) Dollars, requiring a fifty percent (50%) match not to exceed Two Thousand Five Hundred (\$2,500.00) Dollars; and

WHEREAS, upon approval of such application the City shall be required to enter into a contract with the NYSDEC for such financial assistance; and

WHEREAS, this Council has determined that making such application and accepting such funds if awarded is in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to apply for and accept if awarded a grant from the Hudson River Estuary Program 2012 Mini-Grants Program, Round II, in the amount of \$5,000.00 for the South Street Park Waterfront Revitalization Project; and

BE IT FURTHER RESOLVED, that the City Manager be and he is hereby authorized to enter into a contract with the New York State Department of Environmental Conservation, in a form subject to approval by the Corporation Counsel, to effectuate such financial assistance.

Councilman Dillard asked if this is the award for part of South Street that has been out for some time. Also he asked when the work would begin.

Corporation Counsel Michelle Kelson responded that she did not know the exact date.

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.: 116 - 2012

OF

JULY 16, 2012

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AN AGREEMENT WITH C & N AMUSEMENTS
FOR AMUSEMENT RIDES, ATTRACTIONS AND CONCESSIONS AT
THE CITY OF NEWBURGH INTERNATIONAL FESTIVAL**

WHEREAS, the City of Newburgh will hold its annual International Festival on Friday, August 31, 2012 through Monday, September 3, 2012, dates inclusive;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into an agreement, a copy of which is annexed hereto, and in a form subject to approval of the Corporation Counsel with such other terms and conditions as Corporation Counsel may require, with C & N Amusements for services in connection with the City of Newburgh International waterfront Festival.

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

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

ADOPTED

AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____ 2012, 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 **C & N AMUSEMENTS**, a firm with principal offices at 209 Lakeside Road, Newburgh, New York 12550, hereinafter referred to as "**VENDOR**."

ARTICLE 1. SCOPE OF WORK

VENDOR agrees to perform the SERVICES and/or supply the goods 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. It is specifically agreed that the CITY will not compensate VENDOR for any SERVICES and/or goods provided outside those specifically identified in Schedule A, without prior authorization, evidenced only by a written Change Order or Addendum to this Agreement executed by the City Manager of the CITY after consultation with the City Department Head responsible for the oversight of this Agreement (hereinafter "Department Head").

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning August 31, 2012, and ending September 3, 2012.

ARTICLE 3. COMPENSATION

For satisfactory performance of the SERVICES and/or receipt of conforming goods or, as such SERVICES or goods may be modified by mutual written agreement, the CITY agrees to compensate VENDOR in accordance with the fees and expenses as stated in Schedule A, which is attached to and is part of this Agreement. VENDOR SHALL submit to the CITY a monthly itemized invoice for SERVICES rendered during the prior month, or as otherwise set

forth in Schedule A, and prepared in such form and supported by such documents as the CITY may reasonably require. The CITY will pay the proper amounts due VENDOR within sixty (60) days after receipt of a CITY Claimant's Certification form, and if the Claimant's Certification form is objectionable, will notify VENDOR, in writing, of the CITY'S reasons for objecting to all or any portion of the invoice submitted by VENDOR.

A not-to-exceed cost of \$0.00 ZERO Dollars has been established for the scope of SERVICES and/or the supply of goods rendered by VENDOR. Costs in excess of such not-to-exceed cost, if any, may not be incurred without prior written authorization of the City Manager of the CITY, evidenced only by a written Change Order or Addendum to this Agreement, after consultation with the Department Head. It is specifically agreed to by VENDOR that the CITY will not be responsible for any additional cost or costs in excess of the above noted not-to-exceed cost if the CITY'S authorization by the City Manager is not given in writing prior to the performance of the SERVICES giving rise to such excess or additional costs.

ARTICLE 4. EXECUTORY CLAUSE

The CITY shall have no liability under this Agreement to VENDOR or to anyone else beyond funds appropriated and available for this Agreement.

ARTICLE 5. 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 6. 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 or to take any other action provided for by law, in equity or pursuant to this Agreement.

ARTICLE 7. FAIR PRACTICES

VENDOR and each person signing on behalf of the VENDOR represents, warrants and certifies under penalty of perjury, that to the best of their knowledge and belief:

A. The prices in this Agreement have been arrived at independently by VENDOR without collusion, consultation, communication, or agreement with any other bidder, proposer or with any competitor as to any matter relating to such prices which has the effect of, or has as its purpose, restricting competition;

B. Unless otherwise required by law, the prices which have been quoted in this Agreement and on the proposal or quote submitted by VENDOR have not been knowingly disclosed by VENDOR prior to the communication of such quote to the CITY or the proposal opening directly or

indirectly, to any other bidder, proposer or to any competitor; and

C. No attempt has been made or will be made by VENDOR to induce any other person, partnership, corporation or entity to submit or not to submit a proposal or quote for the purpose of restricting competition.

The fact that VENDOR (i) has published price lists, rates, or tariffs covering items being procured, (ii) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (iii) has provided the same items to the other customers at the same prices being bid or quoted, does not constitute, without more, a disclosure within the meaning of this Article.

ARTICLE 8. INDEPENDENT CONTRACTOR

In performing the SERVICES and/or supplying goods and incurring expenses 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 9. 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 10. 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 11. 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 12. AUDIT BY THE CITY 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 CITY. VENDOR shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the CITY so that it may evaluate the reasonableness of the charges, and VENDOR shall make its records available to the CITY 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 CITY, the State of New York, the federal government, and/or other persons duly authorized by the CITY. Such audits may include examination and review of the source and application of all funds whether from the CITY, State, the federal government, private sources or otherwise. VENDOR shall not be entitled to any interim or final payment under this Agreement if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 13. 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.

Type of Coverage	Limit of Coverage
Worker's Compensation	Statutory
Employer's liability or similar insurance	\$1,000,000 each occurrence
Automobile liability	\$1,000,000 aggregate
Bodily Injury	\$2,000,000 each occurrence
Property Damage	\$1,000,000 each occurrence
Comprehensive General Liability, including	\$1,000,000 aggregate
Broad form contractual Liability, bodily injury and property damage	\$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 14. 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/or goods 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 15. 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 16. TERMINATION

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

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

A. Accounting for and refunding to the CITY within thirty (30) days, any unexpended funds which have been paid to VENDOR pursuant to this Agreement; and

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

In the event the CITY terminates this Agreement in whole or in part, as provided in this Article, the CITY may procure, upon

such terms and in such manner as deemed appropriate, SERVICES similar to those so terminated, and the VENDOR shall continue the performance of this Agreement to the extent not terminated hereby. If this Agreement is terminated in whole or in part for other than the convenience of the CITY, any SERVICES or goods procured by the CITY to complete the SERVICES herein will be charged to VENDOR and/or set-off against any sums due VENDOR.

Notwithstanding any other provision of this Agreement, VENDOR shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of VENDOR'S breach of the Agreement or failure to perform in accordance with applicable standards, and the CITY may withhold payments to VENDOR for the purposes of set-off until such time as the exact amount of damages due to the CITY from VENDOR is determined.

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 17. GENERAL RELEASE

The acceptance by VENDOR or its assignees of the final payment under this Agreement, whether by Claimant's Certification form, judgment of any court of competent jurisdiction, or administrative means shall constitute and operate as a general release to the CITY from any and all claims of VENDOR arising out of the performance of this Agreement.

ARTICLE 18. SET-OFF RIGHTS

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

the CITY by operation of law, the CITY also has the right to withhold any monies otherwise due under this Agreement for the purposes of set-off as to any amounts due and owing to the CITY for any reason whatsoever including, without limitation, tax delinquencies, fee delinquencies or monetary penalties or interest relative thereto.

ARTICLE 19. 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 or, if appropriate, in the Federal District Court with venue in the Southern District of New York, White Plains division.

ARTICLE 20. 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 21. CURRENT OR FORMER CITY EMPLOYEES

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

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 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 22. 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 Schedules A and B, which supersede any other understandings or writings between or among the parties.

ARTICLE 23. 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, and no payment shall be due in connection therewith, 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 and the amount of compensation and the extension of the time for performance, if any, for any such 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.

ARTICLE 24: CLOSE OUT & CLEAN UP

The parties agree that VENDOR shall make its best effort to remove all property and equipment from the site no later than the end of the day, September, 5, 2012. However, in the event of unforeseen delays or other circumstances beyond the control of the parties, VENDOR shall have until September 6, 2012 to remove all such property and equipment from the site.

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

THE CITY OF NEWBURGH

C & N AMUSEMENTS

BY: _____
RICHARD E. HERBEK,
CITY MANAGER

BY: _____
ROBERT RIVERA

DATE: _____

DATE: _____

APPROVED AS TO FORM

MICHELLE KELSON
Corporation Counsel

CHERYL A. GROSS,
City Comptroller

SCHEDULE A
SCOPE OF SERVICES

RIDES:

35% OF RIDE GROSS UP TO \$30,000.00

37% OF RIDE GROSS AFTER \$30,000.00

TABLES:

\$125.00	EVERY GAME TRAILER
	EVERY FOOD TRAILER

RESOLUTION NO.: 117 - 2012

OF

JULY 16, 2012

**A RESOLUTION APPOINTING STEVE RUELKE AND VIRGINIA DIORIO
TO THE CITY OF NEWBURGH HUMAN RIGHTS COMMISSION**

WHEREAS, the City of Newburgh has created the City Human Rights Commission pursuant to Section 239-q of the General Municipal Law; and

WHEREAS, this City Council deems it to be in the best interests of the City of Newburgh to appoint members to serve as Commissioners to fill vacancies and to carry on the important work of such Commission;

NOW, THEREFORE, BE IT RESOLVED, that the following persons be and are hereby confirmed and appointed to serve as Commissioners of the City of Newburgh Human Rights Commission for the term indicated:

1. Steve Ruelke, to serve a three-year term commencing on April 28, 2012 and expiring on April 27, 2015;
2. Virginia DiOrio, to serve a three-year term commencing on April 28, 2012 and expiring on April 27, 2015; and

BE IT FURTHER RESOLVED, that the following individuals be and are hereby re-appointed to the City of Newburgh Human Rights Commission for the term indicated:

1. Dr. Benilda Armstead-Jones, to serve a new three-year term commencing on April 28, 2011 and expiring on April 27, 2014;
2. Ramona L. Burton, to serve a new three-year term commencing on April 28, 2011 and expiring on April 27, 2014;

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.: 118-2012

OF

JULY 16, 2012

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF NEWBURGH APPROVING AN AGREEMENT
WITH THE CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY
AS A SUB-RECIPIENT OF FISCAL YEAR 2012
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

WHEREAS, the City is scheduled to receive entitlement funds under the Community Development Block Grant (CDBG) Program from the United States Department of Housing and Urban Development (HUD); and

WHEREAS, the City has been duly designated to carry out activities authorized by the Newburgh City Council and HUD; and

WHEREAS, the City of Newburgh Industrial Development Agency ("IDA") has submitted a proposal for funding which states the purpose, specific goals and objectives of their program, which is attached hereto and made a part of this Agreement; and

WHEREAS, the 2012 Community Development Block Grant program will fund the agreement from expense code 8686.0448.8000.2012;

WHEREAS, the City wishes to engage the Agency as sub-grantee to conduct the aforementioned program for the period of 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 the annexed agreement between the City of Newburgh and the City of Newburgh Industrial Development Agency as a sub-grantee to receive funds under the Community Development Block Grant Program from the United States Department of Housing and Urban Development.

City Manager Richard Herbek pointed out that the dollar amount is up to \$15K.

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

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

ADOPTED

AGREEMENT

THIS AGREEMENT, entered into this _____ day of July 2012

BY AND BETWEEN:

NAME: City of Newburgh Industrial Development Agency "The Agency"

ADDRESS: 83 Broadway, Newburgh NY 12550

FEDERAL EMPLOYER ID #: _____

A public body corporate established under the laws of the State of New York, having its principal office at 83 Broadway, Newburgh, Orange County, New York, hereinafter referred to as referred to as the 'SUB-GRANTEE', and the CITY OF NEWBURGH, a municipal corporation duly organized under the laws of the State of New York, having its principal office and place of business at 83 Broadway, City Hall, Newburgh, Orange County, New York, hereinafter referred to as "CITY",

WHEREAS, the City is scheduled to receive entitlement funds under the Community Development Block Grant (CDBG) Program from the United States Department of Housing and Urban Development (HUD); and

WHEREAS, the City has been duly designated to carry out activities authorized by the Newburgh City Council and HUD; and

WHEREAS, the Sub-grantee has submitted a proposal for funding which states the purpose, specific goals and objectives of their program, which is attached hereto and made a part of this Agreement (attachment I); and

WHEREAS, City wishes to engage the Agency as sub-grantee to conduct the aforementioned program for the period of such agreement;

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

WHEREAS, the City is scheduled to receive entitlement funds under the Community Development Block Grant (CDBG) Program from the United States Department of Housing and Urban Development (HUD); and

WHEREAS, the City has been duly designated to carry out activities authorized by the Newburgh City Council and HUD; and

WHEREAS, the Newburgh City Council has authorized the funding of the program and purpose as detailed in Attachment A, and the project budget not to exceed \$15,000.

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

Article I. SCOPE OF SERVICES

(1) The Agency, as Sub-grantee shall establish and implement a program within the City of Newburgh as set forth in the Agency, as Sub-grantee's funding proposal and assures the City that the Agency, as Sub-grantee will employ personnel and/or consultants who are thoroughly familiar with the procedures and requirements of the said The Agency, as Sub-grantee to execute their program. When required, it may request pertinent assistance from other agencies.

(2) The Agency, as Sub-grantee will continue to maintain adequate office facilities at a suitable location within the designated area and provide essential equipment, supplies and services as needed for the operation of such office. Such office shall provide convenient access and service primarily to existing and prospective residents of the designated area. The office and services to be provided shall be clearly identified with a sign as to being funded, in whole or in part, by the City under the Housing and Community Development Act of 1974. Such office and services provided are intended to provide assistance principally to existing and prospective residents of the City and to carry out those activities authorized under this agreement.

(3) The Agency, as Sub-grantee shall maintain a complete job description for all full-time personnel to be employed by said agency for the purpose of this Agreement. Such job description shall fully describe the title, minimum education and experience requirements, salary range and benefits, work hours and responsibilities. The Agency, as Sub-grantee shall also maintain an Affirmative Action Program in accordance with the Equal Employment Opportunity provisions of Article VII.

(4) The Agency, as Sub-grantee agrees to provide a quantifiable increase in a comprehensive service already being rendered by the Agency, as Sub-grantee on the date of this agreement and/or the introduction of a new service as set forth in the attached request for funding proposal. Any changes in the scope of services included in this agreement are to be approved by the Executive Director of the City.

(5) The Agency, as Sub-grantee agrees to provide technical support to carry out this service as stated in Article I (4). The administrative requirements set forth in OMB Circular A-110, copies of which are attached and made a part of this agreement, are applicable to this agreement except those sections which are deleted.

ARTICLE II. Payment by the CDBG Program

- (1) The services of The Agency, as Sub-grantee are to commence upon execution of this agreement and extend for a period ending one (1) year from the date thereof or as otherwise provided herein.
- (2) This contract may be terminated at any time by either party on ten (10) days notice in writing to the other party. This agreement may be terminated for any breach of the agreement or for other reasons herein stated. One cause for termination is failure to achieve the goals and objectives or performance standards for any one month, quarter, or semi-annual period.

ARTICLE III. SERVICES TO BE PROVIDED BY THE CITY

- (1) Upon request by the Agency, as Sub-grantee, the CITY may provide such technical and/or advisory assistance as is requested, based upon requirements and availability of staff. Approval of such requests is at the sole discretion of the Executive Director of the City.
- (2) If, in the opinion of the City, technical assistance is required from HUD or New York State, a request may be initiated by the City for such assistance.

ARTICLE IV. PROGRAM DOCUMENTATION

- (1) The Agency, as Sub-grantee hereby agrees to maintain confidential documentation for all clients served and all activities sponsored in the conduct of the aforesaid program. These confidential records will be subject to and made available for periodic site review by the Compliance Officer/representative of the City. For each such review, the representative of the City will prepare a written report containing comments on overall program performance and effectiveness.
- (2) The Agency, as Sub-grantee hereby agrees to maintain separate and complete accounting for all funds received from the City of Newburgh under this agreement. Complete and accurate time and attendance records will be maintained for all personnel receiving funds under this grant.
- (3) Certified yearly audits of the Agency, as Sub-grantee must be submitted to the City for review by the City's CPA. If the Agency, as Sub-grantee is a Governmental unit or agency, such as the County, it will comply with the Single Audit regulations and the audit will be on file at the main governmental office.

ARTICLE V. COMPENSATION

- (1) Notwithstanding anything to the contrary herein, it is understood and agreed by the parties to this agreement that the agreement of the City to fund the Agency, as Sub-grantee shall be deemed executory to the extent that CDBG grant monies are available to it for the purpose of carrying out the terms of this contract and that no liability shall be

incurred by the City should the grant monies not be available for such purposes. No general or other funds of the City shall be used by the City for the funding of this agreement.

(2) Total payment under this Contract shall not exceed) Thirty Thousand DOLLARS as full payment for all services rendered by the Agency, as Sub-grantee during the period of this agreement. The adopted budget of the Agency, as Sub-grantee is annexed hereto as Attachment "3".

(3) The City may withhold any payment whenever the Agency, as Sub-grantee fails to achieve its program goals for the vouchered expenditure period. Unless otherwise specified, goals are considered the pro rata share for the period of billing, e.g. monthly, quarterly, semi-annually, based on the total goals set forth for the life of the contract.

ARTICLE VI. METHOD OF PAYMENT

(1) Within thirty (30) days of the execution of this Agreement, and on a monthly basis, thereafter, for the term of this Agreement, the City shall pay, and the Agency, as Sub-grantee agrees to accept as full compensation for such services and in conformity with the approved budget attached hereto, the following amounts under this Agreement:

(a) For the first month and for each succeeding monthly period, payments will be made based upon vouchers submitted which reflect actual authorized expenses per budget for the period and contain documentation for all expenditures. Vouchers documenting expenditures for the billing period must be submitted on or before the 15th of the month. In no event shall such expenditures exceed unless prior written approval of the excess expenditure of funds is obtained from the Executive Director of the City.

(c) Payment for services shall cease upon termination of the contract or upon the payment of the amount stated in Article V above, whichever occurs first. All payments for services are to be made from CDBG funds. Neither the City shall be obligated by this agreement to make any payments from the General Fund or any other funds.

ARTICLE VII. EQUAL EMPLOYMENT OPPORTUNITY

(1) In carrying out the obligation of this Contract, the Agency, as Sub-grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or disability. The Agency, as Sub-grantee shall take affirmative action to ensure that applicants for employment and employees of the Agency, as Sub-grantee are treated without regard to their race, color, religion, sex, national origin or handicap. Such actions shall include, but are not limited to the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training and apprenticeship.

(2) The Agency, as Sub-grantee shall post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Agency, as Sub-grantee shall state that all qualified

applicants will receive consideration for employment without regard to race, color, religion, sex, national origin or handicap.

(3) The Agency, as Sub-grantee shall also comply with Executive Order 11246, as amended, and HUD regulations (24 CFR 130) applicable to HUD assisted construction contracts.

(4) No person employed on the work covered by this Agreement shall be discharged or in any way discriminated against because s/he has filed any complaint or instituted, or caused to be instituted, any proceeding; or has testified, or is about to testify, in any proceeding under or relating to the labor standards applicable hereunder.

ARTICLE VIII. ASSIGNMENT BY THE AGENCY, AS SUB-GRANTEE

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

ARTICLE IX. RECORDS AND REPORTS

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

(2) The Agency, as Sub-grantee shall submit a report to the City identifying prescribed activities funded under this Agreement. This report will be submitted with the monthly, quarterly, or semi-annual voucher and will be the format as prescribed in Attachment "1" or in such other form agreed as may be required by the Executive Director of the City.

ARTICLE X. AUDITS

(1) Certified yearly audits made by a Certified Public Accountant shall be submitted to the City for review within three (3) months of the end of each year of this agreement. If the Agency, as Sub-grantee is a governmental unit or agency, it will comply with Single Audit regulations and will file the audit in the main office of the governmental unit.

(2) The Agency, as Sub-grantee shall maintain records of all details with respect to work and services to be performed under this Agreement and income, expenses, liabilities and assets. These records will be made available for audit purposes in accordance with OMB Circular A-133 to the City, HUD or the Comptroller General of the United States or any authorized representative and will be retained for such periods of time as may be required by Federal, State and local statutes, but in any event, not less than three (3) years.

ARTICLE XI. CONFIDENTIALITY

With the exception of specific identifiers, such as individual names of persons and addresses, all reports, information, data, etc., prepared or assembled by the Agency, as Sub-grantee in performing the services set forth in the funding proposal and pursuant to this Agreement, are public documents. The Agency, as Sub-grantee hereby agrees that they shall be available to any individual, organization or corporation in accordance with the Freedom of Information Act of the State of New York.

ARTICLE XII. FACILITIES AND PERSONNEL

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

ARTICLE XIII. INTEREST OF CORPORATION, ITS OFFICERS, EMPLOYEES, AGENTS AND SUBCONTRACTORS

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

ARTICLE XIV. INTEREST OF MEMBERS, OFFICERS OR EMPLOYEE THE CITY; MEMBERS OF THE COMMON COUNCIL, OR OTHER PUBLIC OFFICIALS

- (1) No member, officer or employee of the City or its designees or agents, no member of the Common Council of the City of Newburgh, New York and no other public official of the City, its Departments or of any other public agencies which exercise any functions or responsibilities with respect to the Community Development Block Grant Program, during his/her tenure in office or for one year thereafter, shall have any interest, direct or indirect,

in any contract or subcontract, or the proceeds thereof, for work to be performed under this Agreement.

(2) The Agency, as Sub-grantee shall incorporate, or cause to be incorporated, in all subcontracts, a provision prohibiting such interest as prohibited by this Article.

ARTICLE XV. INTEREST OF CERTAIN FEDERAL OFFICIALS

No member or delegate of the Congress of the United States, or other federal officials, shall be permitted to any share or part of this Agreement or to any benefit to arise from the same.

ARTICLE XVI. SOLICITATION OR PROCUREMENT OF AGREEMENT

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

ARTICLE XVII. CHANGES AND MODIFICATIONS

The City, at any time by written notice to and with the written agreement of the Agency, as Sub-grantee, may modify the scope or quantity of services and work to be furnished under this Agreement. If such changes cause an increase or decrease in the amount of services to be provided by the Agency, as Sub-grantee or in the time required for their performance, an equitable adjustment shall be made in the provisions of this Agreement for payments to the Agency, as Sub-grantee or for the time and performance of the services, or for both, as may be agreed upon by the parties in writing.

ARTICLE XVIII. EFFECT OF TERMINATION OF AGREEMENT

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

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

ARTICLE XIX. INDEMNIFICATION

(1) The Agency, as Sub-grantee hereby assumes entire responsibility for any and all damage or injury of any kind, name or nature (including death resulting therefrom) to all

persons, including third parties, and for all property damage when such personal and/or property damage is cause by, results from, arises out of or occurs in connection with any act, or failure to act, of the Agency, as Sub-grantee or its agents, sub-contractors, servants or employees.

(2) If any personal shall make a claim for any damage or injury (including death resulting therefrom) as described above, the Agency, as Sub-grantee hereby agrees to save harmless the City from and against any and all loss, expense, damage or injury whatsoever.

THE FOLLOWING INDEMNIFICATION CONDITIONS DO NOT APPLY TO UNITS OF GOVERNMENT OR GOVERNMENTAL AGENCIES SUCH AS ORANGE COUNTY OR New York STATE.

(3) The City hereby assumes entire responsibility and liability for which it would otherwise be legally responsible for any and all damage or injury of any kind, name or nature (including death resulting therefrom) to all persons, including third parties and for all property damage when such personal and/or property damage is cause by, results from, arises out of or occurs in connection with any act or failure to act of the City or its agents, sub-contractors or employees (except the City shall be responsible for the acts of the Agency, as Sub-grantee, its agents and employees).

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

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

(A) The Agency, as Sub-grantee shall provide Worker's Compensation Insurance, if it has employees, in accordance with the statutes of the State of New York.

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

PROPERTY DAMAGE LIABILITY

Each Occurrence

\$1,000,000

PERSONAL INJURY LIABILITY

Each Person
\$1,000,000

Occurrence
\$2,000,000

ARTICLE XX. MODIFICATION

This Agreement may not be modified orally. It may only be modified by written agreement signed by the parties hereto. Notices of any nature referred to in this agreement shall be in writing by certified mail or delivery by hand, or sent by facsimile. Notices shall be effective on the date of receipt

To the City: City Manager
Executive Office
83 Broadway,
Newburgh, NY 12550

To the Agency: Executive Director
City of Newburgh IDA
83 Broadway,
Newburgh, NY 12550

With a copy to: Michelle Kelson
Corporation Counsel
83 Broadway
Newburgh NY 12550

With a copy to: Thomas Whyatt
Oxman Tulis Kirkpatrick Whyatt
120 Bloomingdale Road
Suite 100
White Plains, NY 10605

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

SUB-GRANTEE

WITNESS BY: _____

City of Newburgh Industrial Development Agency

By: _____

Title: _____

Date: _____

CITY OF NEWBURGH

WITNESS BY: _____

By: _____
City Manager

Date _____

APPROVED AS TO FORM BY:

APPROVED BY:

Corporation Counsel

Comptroller

ATTACHMENT I

SCOPE OF SERVICES

Business Development

1. Create a database of businesses in the City by sector (NAICS). Identify clusters, important employers and make businesses aware of available assistance programs (website and direct mail).
1. Complete a small business SWOT Analysis including outreach to and with local businesses.
2. Prepare and Distribute a directory of small business programs available from local, CDBG, IDA, State and federal entities.
3. Develop a 2013 action plan of goals and objectives for review and adoption by City Council, CDBG Advisory group and IDA Board of Directors.
4. Create and City and IDA Business website which will house data and services and promote an online one stop shop (i.e. website development).
5. Develop a formal intake form to assess individual business needs that come to the City for help.

Small Business Lending

1. Create a simplified application and agreement for small businesses so they can access the same privileges large businesses receive.
2. Assist local businesses access to CDBG and IDA resources.

Workforce Development Coordination

1. Identify workforce growth obstacles and opportunities; refer findings to Workforce Development Initiative and related resources.
2. Educate Businesses on workforce training and hiring incentive programs.

RESOLUTION NO.: 119 - 2012

OF

JULY 16, 2012

**A RESOLUTION REALLOCATING A PORTION OF THE \$196,000.00
ECONOMIC DEVELOPMENT INITIATIVE GRANT FROM THE UNITED
STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR
PLANNING AND DESIGN WORK IN THE NEWBURGH COMMUNITY
LANDBANK TARGET AREA
AND AUTHORIZING AN AGREEMENT WITH THE NEWBURGH
COMMUNITY LANDBANK AS A SUB-RECIPIENT OF THE GRANT FUNDS**

WHEREAS, by Resolution No. 45-2010 of March 8, 2010 the City of Newburgh accepted an Economic Development Initiative Grant, Federal Action Number B-08-SP-NY-0469 ("EDI Grant") in the amount of \$196,000.00 from the United States Department of Housing and Urban Development for planning and design efforts; and

WHEREAS, by Resolution No. 230-2010 of September 7, 2010, adopted on October 18, 2010, the City of Newburgh established a budget for the EDI Grant, which included \$86,000.00 for a Broadway Corridor study; and

WHEREAS, the Newburgh Community Land Bank submitted a proposal to reallocate \$86,000.00 of the EDI Grant funds for planning activities in the Newburgh Community Land Bank target area; and

WHEREAS, the City Council finds that reallocating the EDI grant funds is in the best interest of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that this Council authorizes the reallocation of \$86,000.00 of the EDI Grant funds for planning activities in the Newburgh Community Land Bank target area; and

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized to execute a sub-recipient grant agreement in substantially the same form as annexed hereto with other provisions as Counsel may require with the Newburgh Community Land Bank for the administration of the reallocated grant funds consistent with the planning activities set forth in the scope of work set forth in Schedule "A" of the agreement.

Mayor Kennedy clarified that \$86K is going to be allocated.

Councilwoman Lee desired clarification of the resolution. She wished that the resolution simply stated \$86K.

The City Manager pointed out that this is a grant that the City had received to do various planning and development studies in the mid-Broadway area. Originally it was connected to the Armory. These are planning funds that are going to be utilized for the mid-Broadway project. The City is working closely with the developer and the Newburgh Community Land Bank.

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.: 120 - 2012

OF

JULY 16, 2012

A RESOLUTION AUTHORIZING THE SALE
OF CITY OWNED PROPERTIES
THROUGH THE SEALED BID PROCESS

WHEREAS, the City of Newburgh has acquired title to several parcels of real property by tax foreclosure *in rem*; and

WHEREAS, the City of Newburgh now desires to dispose of these properties;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the properties on the list attached hereto as Schedule A are to be sold through a sealed bid process; and

BE IT FURTHER RESOLVED, the City Manager be and he hereby is directed to take all action necessary to implement this resolution.

The list of properties was read

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.: 121- 2012

OF

JULY 16, 2012

A RESOLUTION AUTHORIZING A PUBLIC AUCTION
OF CITY OWNED PROPERTIES

WHEREAS, the City of Newburgh has acquired title to several parcels of real property by tax foreclosure *in rem* and through other sources of title; and

WHEREAS, the City of Newburgh now desires to dispose of these properties; and

WHEREAS, upon the recommendation of City staff, this Council has determined that auctioning the parcels on the attached Schedule "A" is in the best interests of the City of Newburgh; and

WHEREAS, the properties on the attached Schedule A are to be sold to the highest bidder and are subject to the final approval of each sale by this Council; and

WHEREAS, the City of Newburgh has determined that it is in the best interests of the City to retain a professional auction company to conduct the public auction of City owned properties; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the properties on the list attached hereto as Schedule A are to be sold at public auction to the highest bidder subject with the final approval of each sale by this Council; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into an agreement, in a form subject to approval of Corporation Counsel with such other terms and conditions as the City Manager and Corporation Counsel may require, with Haroff Auction and Realty, Inc./Absolute Auctions & Realty, Inc. for services in connection with a public auction; and

BE IT FURTHER RESOLVED, the City Manager be and he hereby is directed to take all steps and execute any and all instruments and documents necessary to implement this resolution.

The list of properties was read

Councilwoman Lee asked whether these properties remain city properties or do they get conveyed to the Land Bank in the event they are not sold at auction.

The City Manager pointed out that these are city properties. There is no intention to transfer these properties to the Land Bank.

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.: 122- 2012

OF

JULY 16, 2012

A RESOLUTION AUTHORIZING A PUBLIC AUCTION
OF CITY OWNED PROPERTIES

WHEREAS, the City of Newburgh has acquired title to several parcels of real property by means other than *in rem* tax foreclosure proceedings; and

WHEREAS, the City of Newburgh now desires to dispose of these properties;
and

WHEREAS, upon the recommendation of City staff, this Council has determined that auctioning the parcels on the attached Schedule "A" is in the best interests of the City of Newburgh; and

WHEREAS, the properties on the attached Schedule A are to be sold to the highest bidder and are subject to the final approval of each sale by this Council; and

WHEREAS, the City of Newburgh has determined that it is in the best interests of the City to retain a professional auction company to conduct the public auction of City owned properties; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the properties on the list attached hereto as Schedule A are to be sold at public auction to the highest bidder subject with the final approval of each sale by this Council; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into an agreement, in a form subject to approval of Corporation Counsel with such other terms and conditions as the City Manager and Corporation Counsel may require, with Haroff Auction and Realty, Inc./Absolute Auctions & Realty, Inc. for services in connection with a public auction; and

BE IT FURTHER RESOLVED, the City Manager be and he hereby is directed to take all steps and execute any and all instruments and documents necessary to implement this resolution.

The list of properties was read

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.: 123 - 2012

OF

JULY 16, 2012

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AN AGREEMENT WITH ERIN COUSINS TO COMPLETE
THE ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING STANDARDS AS
REQUIRED BY THE UNITED STATES DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

WHEREAS, the City of Newburgh is a municipal corporation duly created and chartered under the laws of the State of New York; and

WHEREAS, the Analysis of Impediments to Fair Housing (AI) is an assessment required by the United States Department of Housing and Urban Development to provide local government, grantees, housing developers and non-profits with the tools to affirmatively further fair housing; and

WHEREAS, the Department of Housing and Urban Development is committed to eliminating racial and ethnic segregation, illegal physical and other barriers to persons with disabilities and other discriminatory practices in housing; and

WHEREAS, Erin Cousins has completed the first two phases of the analysis, community outreach and statistical analysis; as an intern, and will complete the policy analysis and authoring the documentation by January 1, 2013; and

WHEREAS, City of Newburgh completed the AI in 2006 and is required to make updates to that document; and

WHEREAS, this Council has reviewed such agreement annexed hereto and made a part hereof, and has determined that entering into such agreement is in the best interests of the City of Newburgh; and

WHEREAS, the 2012 Community Development Block Grant program will fund the agreement from expense code 8686.0448.8100.2012 in the amount not to exceed \$7,000;

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 with Erin Cousins to complete the 2012 Analysis of Fair Housing.

The City Manager pointed out that the amount is up to \$7K.

Mayor Kennedy commented that half of the work is completed already, so it makes sense to finish the analysis.

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

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

ADOPTED

AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____ 20____

BY AND BETWEEN:

Erin Cousins
Cornwall NY

hereinafter referred to as the "VENDOR", and the CITY OF NEWBURGH, a municipal corporation duly organized under the laws of the State of New York, having its principal office and place of business at 83 Broadway, City Hall, Newburgh, Orange County, New York, hereinafter referred to as "CITY", and the City, a public body corporate established under the laws of the State of New York, having its principal office at 83 Broadway, Newburgh, Orange County, New York, hereinafter referred to as "THE CITY".

ARTICLE I. SCOPE OF SERVICES

(1) The Vendor shall establish and implement a program within the City of Newburgh as set forth in the Vendor's funding proposal and assures the City that the Vendor will employ personnel and/or consultants who are thoroughly familiar with the procedures and requirements of the said Vendor to execute their program. When required, it may request pertinent assistance from other agencies.

(2) The Vendor agrees to provide a quantifiable increase in a comprehensive service already being rendered by the Vendor on the date of this agreement and/or the introduction of a new service as set forth in the attached request for funding proposal. Any changes in the scope of services included in this agreement are to be approved by the Executive Director of the City.

(3) The Vendor agrees to provide administrative support to carry out this service as stated in Article I(4). The administrative requirements set forth in OMB Circular A-110, copies of which are attached and made a part of this agreement, are applicable to this agreement except those sections which are deleted.

ARTICLE II. TERMS OF CONTRACT

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

(2) This contract may be terminated at any time by either party on ten (10) days notice in writing to the other party. This agreement may be terminated for any breach of the agreement or for other reasons herein stated. One cause for termination is failure to achieve the goals and objectives or performance standards for any one month, quarter, or semi-annual period.

ARTICLE III. SERVICES TO BE PROVIDED BY THE THE CITY

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

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

ARTICLE IV. PROGRAM DOCUMENTATION

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

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

(3) Certified yearly audits of the Vendor must be submitted to the City for review by the City's CPA. If the Vendor is a Governmental unit or agency, such as the County, it will comply with the Single Audit regulations and the audit will be on file at the main governmental office.

ARTICLE V. COMPENSATION

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

(2) Total payment under this Contract shall not exceed) \$7,000 DOLLARS as full payment for all services rendered by the Vendor during the period of this agreement. The adopted budget of the Vendor is annexed hereto as Attachment "2".

(3) The City may withhold any payment whenever the Vendor fails to achieve its program goals for the vouchered expenditure period. Unless otherwise specified, goals are considered the pro rata share for the period of billing, e.g. monthly, quarterly, semi-annually, based on the total goals set forth for the life of the contract.

ARTICLE VI. METHOD OF PAYMENT

(a) \$1,000.00 on the date of the execution of the contract to commence work, \$2,500.00 on the submission of the first draft no more than 12 weeks following the commencement of the contract, and \$3,500.00 upon submission of the final draft no more than 18 weeks from the commencement of the contract.

(b) Payment for services shall cease upon termination of the contract or upon the payment of the amount stated in Article V above, whichever occurs first. All payments for services are to be made from CDBG funds. Neither the City shall be obligated by this agreement to make any payments from the General Fund or any other funds.

ARTICLE VII. EQUAL EMPLOYMENT OPPORTUNITY

(1) In carrying out the obligation of this Contract, the Vendor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or disability. The Vendor shall take affirmative action to ensure that applicants for employment and employees of the Vendor are treated without regard to their race, color, religion, sex, national origin or handicap. Such actions shall include, but are not limited to the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training and apprenticeship.

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

(3) The Vendor shall also comply with Executive Order 11246, as amended, and HUD regulations (24 CFR 130) applicable to HUD assisted construction contracts.

(4) No person employed on the work covered by this Agreement shall be discharged or in any way discriminated against because s/he has filed any complaint or instituted, or caused to be instituted, any proceeding; or has testified, or is about to testify, in any proceeding under or relating to the labor standards applicable hereunder.

ARTICLE VIII. ASSIGNMENT BY THE VENDOR

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

ARTICLE IX. RECORDS AND REPORTS

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

(2) The Vendor shall submit a report to the City identifying prescribed activities funded under this Agreement. This report will be submitted with the monthly, quarterly, or semi-annual voucher and will be the format as prescribed in Attachment "1" or in such other form agreed as may be required by the Executive Director of the City.

ARTICLE X. AUDITS

(1) Certified yearly audits made by a Certified Public Accountant shall be submitted to the City for review within three (3) months of the end of each year of this agreement. If the Vendor is a governmental unit or agency, it will comply with Single Audit regulations and will file the audit in the main office of the governmental unit.

(2) The Vendor shall maintain records of all details with respect to work and services to be performed under this Agreement and income, expenses, liabilities and assets. These records will be made available for audit purposes in accordance with OMB Circular A-133 to the City, HUD or the Comptroller General of the United States or any authorized representative and will be retained for such periods of time as may be required by Federal, State and local statutes, but in any event, not less than three (3) years.

ARTICLE XI. CONFIDENTIALITY

With the exception of specific identifiers, such as individual names of persons and addresses, all reports, information, data, etc., prepared or assembled by the Vendor in performing the services set forth in the funding proposal and pursuant to this Agreement, are public documents. The Vendor hereby agrees that they shall be available to any individual, organization or corporation in accordance with the Freedom of Information Act of the State of New York.

ARTICLE XII. FACILITIES AND PERSONNEL

The Vendor represents that it has and shall continue to have proper facilities and personnel to perform the work and services agreed to be performed hereunder. The

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

**ARTICLE XIII. INTEREST OF CORPORATION, ITS OFFICERS,
EMPLOYEES, AGENTS AND SUBCONTRACTORS**

(1) The Vendor hereby agrees that it presently has no interest and shall not acquire any interest, direct or indirect, in the area which would conflict in any manner or degree with the performance of its obligations under this Agreement.

(2) The Vendor further agrees that it shall fully disclose, in writing to the City, upon execution of this Agreement and as such becomes known to it, any conflicting interest held by any of its directors or officers, or any of its paid employees, agents or sub-contractors or by any close relative of such persons.

(3) The City shall have the right to publicly disclose any disclosures made to it under this Agreement.

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

(1) No member, officer or employee of the City or its designees or agents, no member of the Common Council of the City of Newburgh, New York and no other public official of the City, its Departments or of any other public agencies which exercise any functions or responsibilities with respect to the Community Development Block Grant Program, during his/her tenure in office or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed under this Agreement.

(2) The Vendor shall incorporate, or cause to be incorporated, in all subcontracts, a provision prohibiting such interest as prohibited by this Article.

ARTICLE XV. INTEREST OF CERTAIN FEDERAL OFFICIALS

No member or delegate of the Congress of the United States, or other federal officials, shall be permitted to any share or part of this Agreement or to any benefit to arise from the same.

ARTICLE XVI. SOLICITATION OR PROCUREMENT OF AGREEMENT

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

ARTICLE XVII. CHANGES AND MODIFICATIONS

The City, at any time by written notice to and with the written agreement of the Vendor, may modify the scope or quantity of services and work to be furnished under this Agreement. If such changes cause an increase or decrease in the amount of services to be provided by the Vendor or in the time required for their performance, an equitable adjustment shall be made in the provisions of this Agreement for payments to the Vendor or for the time and performance of the services, or for both, as may be agreed upon by the parties in writing.

ARTICLE XVIII. EFFECT OF TERMINATION OF AGREEMENT

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

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

ARTICLE XIX. INDEMNIFICATION

(1) The Vendor hereby assumes entire responsibility for any and all damage or injury of any kind, name or nature (including death resulting therefrom) to all persons, including third parties, and for all property damage when such personal and/or property damage is caused by, results from, arises out of or occurs in connection with any act, or failure to act, of the Vendor or its agents, sub-contractors, servants or employees.

(2) If any personal shall make a claim for any damage or injury (including death resulting therefrom) as described above, the Vendor hereby agrees to save harmless the City from and against any and all loss, expense, damage or injury whatsoever.

THE FOLLOWING INDEMNIFICATION CONDITIONS DO NOT APPLY TO UNITS OF GOVERNMENT OR GOVERNMENTAL AGENCIES SUCH AS ORANGE COUNTY OR NEW YORK STATE.

(3) The City hereby assumes entire responsibility and liability for which it would otherwise be legally responsible for any and all damage or injury of any kind, name or nature (including death resulting therefrom) to all persons, including third parties and for all property damage when such personal and/or property damage is caused by, results from, arises out of or occurs in connection with any act or failure to act of the City or its agents, sub-contractors or employees (except the City shall be responsible for the acts of the Vendor, its agents and employees).

ARTICLE XX. MODIFICATION

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

IN WITNESS WHEREOF, the Vendor, City have executed this Agreement the day and year herein mentioned.

VENDOR

WITNESS:

By _____

Title _____

Date: _____

CITY OF NEWBURGH

WITNESS

By _____

City Manager

BY: _____

Date _____

APPROVED AS TO FORM BY:

APPROVED BY:

Corporation Counsel

Comptroller

Objective	Tasks	Outcome
-Review data collected -Wrap up outreach campaign	-Meet with CVH staff to discuss surveys and public meetings: -Identify holes in data	-Status report on outreach campaign, action plan for public meeting to discuss the findings of the Analysis
I. Introduction and Executive Summary of Analysis		A. Who conducted B. Participants C. Methodology Used D. How Funded
II. Jurisdictional Background Data	-Update statistics with most current Census data	A. Demographic Data (snapshot) B. Income Data
II. Jurisdictional Background Data	-Analyze demographic trends and patterns	C. Employment Data D. Housing Profile E. Maps F. Other Relevant Data
III. Evaluation of Jurisdiction's Current Fair Housing Status	- Determine if there have been any housing discrimination suits filed since the last Analysis of Impediments Report. -Evaluate the housing discrimination complaint process for impediments.	A. Fair housing complaints or compliance Reviews Discrimination findings B. Fair housing discrimination suit filed by the department of justice or private plaintiffs C. Reasons for any trends D. Discussion of other fair housing concerns or problems (regional patterns)
IV. Identification of Impediments to Fair Housing Choice	-Speak with housing practitioners, City staff, and residents about the success of Neighborhood revitalization programs, and other public sector housing services.	A. Public sector: Zoning and Site selection, Neighborhood Revitalization, Municipal and Other Services, PHA and Other Assistance/Insured Housing, Provider Tenant Selection Procedures; Housing Choices for Certificates and Voucher Holders
IV. Identification of Impediments to Fair Housing Choice	-Analyze local lending institutions lending practices and policies looking for predatory lending or discrimination	B. Private Sector: Lending policies and practices
IV. Identification of Impediments to Fair Housing Choice	-Review of municipal enforcement of building code violations and programs to address problems such as	C. Private and public sector: Fair Housing Enforcement Informational programs

	vacancy and abandonment.	
V. Assessment of Current Public and Private housing programs and activities in the jurisdiction	-How do current programs respond to housing issues highlighted through the outreach campaign?	
Conclusions	-Determine what impediments to fair housing in the City of Newburgh (if any) can be addressed by the City.	
Recommendations	-Develop a list of steps to address any Impediments identified.	Conclusions and recommendations will be discussed in a public meeting organized to share findings of the report.
Appendices		Maps, Sources, Details regarding outreach campaign TBD

APPENDIX I. Scope of Work : *Analysis of Impediments to Fair Housing Choice*

RESOLUTION NO.: 124 - 2012

OF

JULY 16, 2012

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO
ENTER INTO A MASTER SERVICES AGREEMENT BETWEEN THE CITY OF
NEWBURGH AND C.T. MALE ASSOCIATES, PC FOR DAM RELATED
ENGINEERING SERVICES**

WHEREAS, the City of Newburgh through a competitive process in which proposals for professional services were solicited, reviewed and evaluated to provide dam related Engineering Services for ongoing dam inspection analysis and repairs; and

WHEREAS, the City has received a proposal from CT Male Associates, P.C. which has been identified as the most qualified firm to provide said services;

WHEREAS, such professional services are funded under General Fund or applicable Enterprise Fund on a project specific basis and the length of the contract shall be for one (1) year with an option to extend the term of service for up to two (2) additional years for a maximum of three (3) years; and

WHEREAS, the scope of work and budget for individual work elements will be subject to further approved by the City Council;

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 a master services agreement with C.T. Male Associates, P.C. for dam related Engineering Services.

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

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

ADOPTED

ORDINANCE NO.: 5-2012

OF

JULY 16, 2012

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

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

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

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

- A. No vendor or peddler shall have any exclusive right to any location in the public streets, nor shall one be permitted a specified stationary location, nor shall he be permitted to operate in any congested area where his operations reasonably would or might impede or inconvenience the public or cause congestion or public disorder or block or impede the free flow of pedestrian or vehicular traffic. For the purpose of this chapter, the judgment of a police officer or other City officer or official charged with the duty or possessing the authority to enforce the City Code and any applicable laws, rules or regulations, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public is impeded or inconvenienced or the use made by the vendor or peddler is contrary to the provisions hereof. Such officer or official shall have the authority to compel any vendor(s) or peddler(s) to move to a different location in order to relieve congestion or otherwise resolve any disputes and restore calm and order at any public location.
- B. No vendor or peddler shall engage in any vending business on any sidewalk unless such sidewalk has at least an eight-foot-wide clear pedestrian path to be measured from the boundary of any private property to any obstructions in or on the sidewalk or, if there are no obstructions, to the curb. In no event shall any pushcart or stand be placed on any part of a sidewalk other than that which abuts the curb.
- C. No vendor or peddler shall occupy more than 10 linear feet of public space parallel to the curb in the operation of a vending business and, in addition, no vendor or peddler operating any vending business on any sidewalk shall occupy more than four linear feet to be measured from the curb toward the property line.

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

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

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

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

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

Section 2. This Ordinance shall take effect immediately.

Mayor Kennedy suggested that the council table this resolution. There are a lot of pieces to this that need to be looked at further. She would like to put a moratorium in place to prevent persons from being fined while the council is working on it. There are a lot of factors to discover, and they do not wish to exacerbate the problem by issuing fines. Somewhere in here is a win-win solution. We just need to put our heads together to reach it.

Councilman Dillard mentioned that to be fair and equitable to everyone, the waterfront exists for the pleasure and enjoyment of all of the people in the City of Newburgh. He believes that we can all come under one solid accord in reaching a solution. He agrees that it should be tabled. Yet as it is tabled tonight, rest assured that they are going to be working on it tomorrow. We are asking the business owners and the vendors to come together, so that we will not have anything like this arise in the future.

Councilwoman Lee agrees to table this for now as they find a happy medium. But she agrees that the waterfront is for everyone. No one group or two or three groups should be able to say who can or can not use the waterfront. That is appalling. She supports the small businesses and all of the businesses in our city. She acknowledges that all businesses pay taxes, not just a select few.

Councilwoman Lee moved and Councilwoman Angelo seconded that the ordinance be tabled.

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

TABLED

OLD BUSINESS

There was no old business to discuss.

NEW BUSINESS

There was no new business to come before the council.

PUBLIC COMMENTS REGARDING GENERAL MATTERS OF CITY
BUSINESS

Lillie Howard wants everyone to understand that she is speaking from a heart filled with love, not hatred. She is concerned to see that there is nothing for our young people. It is fabulous to see that Poughkeepsie has *Youth Build*. At one time she thought Newburgh had applied for *Youth Build*, but she does not know what has become of that application. Next she spoke to those who may not understand what it feels like to have a loved one killed by the police. She stated that you will never know until you have walked in those same shoes. It is outright disgusting to hear how some of the people in this audience have been talking about the Lembhard family on the Voy website. What do we think would happen in our city if these were White youth who were being killed by Black Police Officers? She spoke directly to the city council and said, "Your police department is out of control." She has to ask herself if this is being done deliberately, so that you can chase a certain group of people out of the community. Something is wrong when you are continuously being told about the behavior of your police department, and yet nothing changes. To her that shows that you are in agreement with the behavior. She urged the council to address this problem, because you've got a keg of dynamite ready to explode in the City of Newburgh.

Jan Murchison wants to ensure that sensitivity training for police officers be a priority use of grant money for the enhancement of law enforcement. These officers are rude and disrespectful. She stated she previously spoke with the police chief, Mr. Herbek and the Corporation Counsel when this first happened to the Lembhard family. Nothing is getting better. The police are acting like rogue officers. Those officers should be transferred out of this department, because no one is safe here anymore. There are solutions to deal with the problem, but no one is heeding the suggestions. We are sitting here spinning our wheels. She does not know why she even comes to all of these meetings, because nothing is being done.

Jason Alfred stated he was pulled over by a City of Newburgh police officer earlier today for no reason whatsoever. The female officer was very rude toward him, and she proceeded to handcuff him for allegedly running a red light. He stated that he advised her that he was recording her behavior from the onset of the stop. She told him, "Take the ticket and you better hope that I never pull you over alone." He stated he is not a threat to anybody. Now when he gets pulled over, is he just supposed to sit there and wait for something bad to happen? This is ridiculous and things are really getting out of hand.

Omari Shakur remarked that he is a spokesperson for the Lembhard family. He stated he is present tonight because the city council decided to bring the police officers back to work. He feels that the reason the meeting was shut down was because they did not want to discuss it. He is asking for the police chief's resignation. An autopsy was performed in May, in which three staff members of the police department were present. There is a chain of command, and somebody lied. But at the very least he feels that the police chief knew, because three of his officers showed up at the autopsy. Shakur feels that council members were ill-informed of the autopsy findings, and pertinent information was withheld. Yet it was voted to bring these officers back to work.

He may not have won the campaign for mayor, but he knows what a mayor is supposed to do. The first thing he would do is convene his fellow panel members and ask the City Manager why they were not informed about the autopsy. The official report from the Medical Examiner states that Lembhard was shot fifteen times. Is following protocol defined as shooting a man fifteen times, eight of which were in the back? Is this what we want for our community?

[Councilman Brown arrived during this portion of the meeting]

Jose Servillon spoke on behalf of his nephew. The family is in need of the police department to sign forms for Immigration. His nephew is twenty-seven years old, and he has been in the country since he was six years old. His nephew was a victim of assault in 2009 and he suffered great injuries. Servillon feels that the sergeant does not want to sign these important forms for his nephew to remain in the country. He asked the council for its assistance, as these forms need to be signed within the next two weeks.

Rasheeda commented that she works for the Center of Hope. The late Michael Lembhard's brother Basil attended the center. She asked the council what is the message we are sending to our children when we allow police officers to return to work after shooting an individual 15 times? She does not understand it. Are we trying to create a civil war in the community? She tearfully stated that she does not know how to explain to the youth that this cop literally got away with murder. How does she tell the kids to continue to respect the law when the law continues to betray them?

Also not one business owner at the waterfront allowed any of the youth to work at their restaurant. The wages were going to be paid for by the County Department of Social Services for the purpose of training the children and teaching them the value of jobs. The applications were denied because they

did not want to deal with that. She has stopped coming to these meetings, because when you meet too much nothing gets done. Without jobs, the kids are going to resort to stealing and robbing. Right now the violence is contained here in the City. But when it starts to spread into the surrounding towns, then it will be dealt with.

Last, she has heard terrible statements about the Lembhard family. She pointed out how young Donald Lembhard lost his brother, yet he volunteers his time to an organization dedicated to the youth in the community.

Adrian Coolidge thanked Pastor Andrews for praying for Newburgh. He stated that perhaps his late nephew Michael Lembhard is in Heaven looking down on us. Perhaps he sees us all fighting and not correcting the problem. Coolidge stated that if we put these police officers back on the street, then we won't be moving the city forward. People are going to be afraid to be stopped by the police. These officers are not going to feel comfortable working in this environment either. Every time they have to get out of their police car to answer a call, they are going to be living in fear of what could happen. He remarked that there are still a lot of good police officers in our city. He had even heard on the news that there is talk about bringing back some of the veteran police officers, which might not be a bad idea. He feels that the police chief needs to do something. Why can't we switch police officers with another town? He is sure there are senior officers elsewhere that would love to come to Newburgh. Those officers should be put back to work somewhere else, not Newburgh. Let's keep the department safe and the community safe.

Sandra Harris would like to know our plans for working together on peddling ordinance that was tabled. She thinks it is atrocious that the waterfront restaurants do not want vendors present. The restaurants need to support the people of the City of Newburgh, because it is the people who support the restaurants. This apparent line of division is ridiculous. It needs to be addressed and rectified.

Councilman Dillard responded that the plan is for them to develop a timeline in-house, and get the information out to the vendors. He stated that they are going to deal with this and come to a solution in a short manner of time

Sheila Monk commented that her heart goes out to the family. She recalled a statement that was made on television, in which someone stated that the family needs to continue on with their lives. She experienced being physically hit by a police officer just a few weeks ago. She can not even imagine a cop just blatantly shooting a person fifteen times. We can not bring Michael Lembhard back, but we can change the life of another person. We do

this by changing the laws. We, as a community, really have to stick together. This is not a coincidence. God is showing us these things to wake us up. We need a Michael Lembhard Law so this does not happen to anybody else.

Next, she attends meeting after meeting, and it is apparent that the community is not in the plans of the City of Newburgh. There is nothing for our children to do. We have to stop asking for different things, and start demanding them. You have to demand your right and your respect. She understands that the new council can only do but so much. A lot of things have happened in the prior administration. There are election seats coming up. We have to start voting. She has been learning that there is a lot of dirty politics that exists. But she is not going anywhere. God has his warriors on his side and we are fighting the good fight.

Janet Gianopolous stated that perhaps it is a Freudian slip, but we *do* need a Board of Ethics in place. Ethics is basically at the core of all these issues she is hearing. The council needs to have its citizens' civilian boards in place to give advice. Also the CDBG Advisory Committee needs to be in place so that it is able to advise us of the expenditure of CDBG funds. We do not have a good handle on where the money has been invested. We need that committee to meet as soon as possible.

Next, she congratulated the City of Newburgh on the state's passage of the parking tribunal. We need to think about how this poor community can benefit from the \$2-\$3 Million in revenue that can be generated from the parking tribunal. It has been a while since this was passed, and we need to have a plan as to how we can get those parking tickets adjudicated to bring in revenue. Last, she applauded the council for tabling the matter of vendors and fixed businesses. Fixed businesses are not able to move anywhere. We need to discuss the issues. Also what are the advantages of changing the footage and fees for the street vendors and mobile vendors? We have to come to a fair understanding and use our brains on everything.

Barbara Smith read Isaac Newton's Third Law of Motion, in which *for every action there is an equal and opposite reaction*. She stated this is what we are dealing with in our city government. She is concerned about the amendment of a local law amending Article VIII of the City Charter, in which she feels that the council was stripped of its legislative powers to protect the interest of the tax-payers of this city. [SEE COMMENTS ATTACHED]

Juanita King stated she has been in the forefront for her cousin since March 8, 2012. Naturally, tensions are going to be high. Her family has not slept or eaten since March 7th. When she and her family react, it should be expected. She stated that if you do not want her reaction, then you should

remove her from the room. And if you remove her, you are going to remove her by force. She stated that the police department has been antagonizing her family since Day 1. The police force shows discrimination. Basil was stabbed on July 4th. While the entire family was at the hospital by his side, her 15-year old son was arrested. When it was discovered that he was not the person they were looking for, he was released on his own accord on Chambers Street. He is a minor, and he should have been released to his mother.

Second, she stated that police officers were driving by on the day the Grand Jury rendered its decision, laughing and waving at her family. It would have been wrong if she had thrown a garbage can at them. The police have stopped her family members for no reason. This is the type of harassment her family has been enduring. It stops now or her family is going to start.

Newton's third law

“ Law III: To every action there is always an equal and opposite reaction; or the forces of two bodies on each other are always equal and are directed in opposite directions. ”

Why am I concerned?

Upon receiving several water and sanitation bills lately, I realized that the city council no longer is petitioned by resolution to warrant for the collection of these fees, which prompted an inquiry to my City Manager. See attachment 1

I use Newton's third law because I believe it adequately describes the action taken unbeknownst to the City Council on June 14, 2010. A local law amending Article VIII of the City's Charter. This amendment was presented as extraneous and merely housekeeping to put things in order. In reality it turned out to be something quite different.

Because of time constraints I can not adequately discuss my concerns, I will attempt to capsulize my concerns and give you all the research I have accumulated to help you come to a just conclusion.

I am asking you to review and bring back to memory the meeting that stripped you of one of the powers designated to you as the Legislators of this City's business.

I will read a salient point that our charter gave you to protect the interest of the tax-payers of this city. Attachment 2

Because I believe this is a government of the people, by the people and for the people, I made a request of the City Manager to re-address this issue and give you back the power this amendment took from you. He did not agree with me, but in his good judgment he believes that if the council approved the resolution, it should be the Council who initiates the process to reverse the amendment. This issue is important enough for you to act on. Good government can not and should not methodically take away the powers of their legislators. With the interest of the people in mind it should never be too time consuming or should we be too busy to conduct business within the dictates of the charter that the city has adopted, after all these are the codes we live and govern by.

The key words are, deliver to the Council so you may confirm the warrant to collect.

Ask yourselves, what does a warrant do? Is it a legal document? Why did the authors of our charter believes checks and balances are important?

I close with a quote from Colin Powell, "*None of us can change our yesterdays, but all of us can change our tomorrows.*"

Take back one of your powers to legislate for the people.

File for minutes

Due to lack of order in the meeting hall, the meeting was adjourned at
8:55 P.M.

Respectfully Submitted,

KATRINA COTTEN
DEPUTY CLERK

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

Thursday, July 12, 2012

Members Present: Mayor Judy Kennedy
Councilwoman Regina Angelo
Councilman Curlie Dillard
Councilwoman Gay
Councilman Cedric Brown

Also Present: Richard F. Herbek, City Manager
Michelle Kelson, Corporation Counsel

Call to Order: The meeting was called to order by City Manager Richard F. Herbek at 6:05 pm.

Executive Session: At 9:11 p.m. a motion was made by Councilwoman Regina Angelo and seconded by Councilwoman Gay Lee to enter into executive session regarding matters of pending litigation.

YES: 5
NO: 0
CARRIED

Adjournment: Upon consensus the Council adjourned the meeting noting the time as 10:25 p.m.

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

Monday, July 30, 2012

Members Present: Mayor Judy Kennedy
Councilwoman Regina Angelo
Councilman Curlie Dillard
Councilwoman Gay

Members Absent: Councilman Cedric Brown

Also Present: Richard F. Herbek, City Manager
Michelle Kelson, Corporation Counsel

Call to Order: The meeting was called to order by City Manager Richard F. Herbek at 6:00 pm.

Executive Session: At 6:02 p.m. a motion was made by Councilwoman Regina Angelo and seconded by Councilwoman Gay Lee to enter into executive session regarding matters pertaining to the employment history of a particular employee and matters of pending litigation.

YES: 4

NO: 0

CARRIED

Adjournment: Upon consensus the Council adjourned the meeting noting the time as 8:15 p.m.

LOCAL LAW NO.: 4 - 2012

OF

AUGUST 13, 2012

A LOCAL LAW ADDING ARTICLE XII ENTITLED
"EXEMPTION FOR CONVERSION OF CERTAIN MULTIPLE DWELLINGS"
TO CHAPTER 270 "TAXATION" OF THE CODE OF THE CITY OF NEWBURGH

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

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Adding Article XII entitled 'Exemption for Conversion of Certain Multiple Dwellings' to Chapter 270 of the Code of the City of Newburgh".

SECTION 2 - PURPOSE AND INTENT

The purpose of this local law is to adopt a real property tax exemption from general municipal taxes in the City of Newburgh for owners of multiple dwelling buildings which are reconstructed, altered or converted to owner-occupied one-family or two-family residential buildings as authorized by Real Property Tax Law Section 421-k.

SECTION 3 - AMENDMENT

Chapter 270 entitled "Taxation" of the Code of the City of Newburgh is hereby amended by the addition of Article XII entitled "Exemption for Conversion of Certain Multiple Dwellings" to read as follows:

"ARTICLE XII

Exemption for Conversion of Certain Multiple Dwellings

§270-71. Purpose.

The City Council of the City of Newburgh encourages property owners of single and two-family residential dwelling to invest in improvements to one- and two-family buildings used solely

for residential purposes by providing an exemption from general municipal taxes pursuant to Section 421-K of the Real Property Tax Law of the State of New York.

§270-72. Definitions.

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

OWNER-OCCUPIED MULTIPLE DWELLING BUILDING - any building or structure designed and occupied as the temporary or permanent residence or home of two or more families, including the owner of such building.

§270-73. Exemption granted; amount.

Multiple dwelling buildings that are reconstructed, altered, improved and/or converted back to an owner-occupied single-family or any owner-occupied multiple dwelling that is reduced to at most two units by such reconstruction shall be exempt from taxation levied by the City of Newburgh on the increase in assessed value attributable to such conversion to the extent provided hereinafter pursuant to Section 421-k of the New York State Real Property Tax Law. The length of said exemption shall be eight years and shall be computed in accordance with the following table:

Year of Exemption	Percent of Exemption
1	100%
2	87.5%
3	75%
4	62.5%
5	50%
6	37.5%
7	25%
8	12.5%

§270-74. Exemption base and market value defined.

A. Such buildings within the City of Newburgh shall be exempt for a period of one year to the extent of one hundred (100%) per centum of the increase in assessed value thereof attributable to such reconstruction alteration or improvement and for an additional period of seven years, as shown in the table set forth in Section 270-73, subject to the following:

1. The extent of such exemption shall be decreased by twelve and one-half (12.5%) per centum of the "exemption base" each year during such additional period. The "exemption base" shall be the increase in assessed value as determined by the initial year of the term of the exemption, except as provided in subsection 2 of this section.

2. In any year in which a change in level of assessment of fifteen (15%) per centum or more is certified for a final assessment roll pursuant to the rules of the State Board, the exemption base shall be multiplied by a fraction, the numerator of which shall be the total assessed value of the parcel on the immediately preceding final assessment roll (after accounting for any physical or quantity changes to the parcel since the immediately preceding assessment roll), and the denominator which shall be the total assessed value of the parcel on the immediately preceding final assessment roll. The result shall be the new exemption base, notwithstanding the fact that the Assessor receives certification of the change in level of assessment after the completion, verification and filing of the final assessment roll. In the event the Assessor does not have custody of the roll when such certification is received, the Assessor shall certify the recomputed exemption to the local officers having custody and control of the roll, and such local officers are hereby directed and authorized to enter the recomputed exemption certified by the Assessor on the roll. The Assessor shall give written notice of such recomputed exemption to the property owner, who may, if he or she believes that the exemption was recomputed incorrectly, apply for a correction in the manner provided by Title 3 of Article 5 of the New York State Real Property Tax Law.

3. Such exemption shall be limited to \$100,000.00 in increased market value, but not less than \$10,000.00, of the property attributable to such reconstruction, alteration or improvement, and any increase in market value greater than such amount shall not be eligible for the exemption pursuant to this section. For the purposes of this section, the market value of the reconstruction, alteration or improvement shall be equal to the increased assessed value attributable to such reconstruction, alteration or improvement divided by the Class I ratio in a special assessing unit or the most recently established state equalization rate or special equalization rate in the remainder of the state, except where the state equalization rate or special equalization rate equals or exceeds ninety-five (95%) per centum in which case the increase in assessed value attributable to such reconstruction, alteration or improvement shall be deemed to equal the market value of such reconstruction, alteration or improvement.

§270-75. Exclusions from exemption.

A. No such exemption shall be granted for reconstruction, alterations or improvements unless:

1. Such reconstruction, alteration or improvement was commenced subsequent to the date on which this Local Law takes effect;
2. The value of such reconstruction, alteration or improvement exceeds five thousand (\$5,000.00) Dollars; and

3. The greater portion, as so determined by square footage, of the building reconstructed, altered or improved is at least five years old.

B. For purposes of this section, the terms “reconstruction,” “alteration” and “improvement” shall not include ordinary maintenance and repairs.

§270-76. Time to File Application.

A. Any exemption pursuant to this Article shall be granted only upon application by the property owner on a form prescribed by the State Board of the Office of Real Property Services. The application shall be filed with the Assessor of the City of Newburgh on or before the taxable status date of March 1 to be eligible for an exemption to be entered on the assessment roll prepared on the basis of said taxable status date.

B. If satisfied that the applicant is entitled to an exemption pursuant to this section, the assessor shall approve the application and such building shall thereafter be exempt from taxation and special ad valorem levies as provided in this article commencing with the assessment roll prepared on the basis of the taxable status date referred to in Section 270-76 of this article. The assessed value of any exemption granted pursuant to this article shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

§270-77. Exemption discontinuance.

In the event that a building granted an exemption pursuant to this article ceases to be used primarily for residential purposes or title thereto is transferred to other than the heirs or distributees of the owner, the exemption granted pursuant to this section shall cease.

SECTION 4 - VALIDITY

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

SECTION 5 - EFFECTIVE DATE

This Local Law shall be effective when it is filed in the Office of the New York State Secretary of State in accordance with the provisions of New York State Municipal Home Rule Law and shall apply to assessment rolls on the basis of taxable status dates occurring on and after January 1, 2013.

SECTION 6 - FILING

In addition to the Office of the New York State Secretary of State, copies of this Local Law shall be filed with the State Board of the Office of Real Property Services and the City of Newburgh Assessor.

RESOLUTION NO.: 125 - 2012

OF

AUGUST 13, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO
A LICENSE AGREEMENT WITH THE GREATER NEWBURGH PARTNERSHIP, INC.
TO ALLOW CLEANING AND GREENING ACTIVITIES ON CITY-OWNED PROPERTIES
KNOWN AS 140 MONTGOMERY STREET (SECTION 12, BLOCK 4, LOT 10)
146 MONTGOMERY STREET (SECTION 12, BLOCK 4, LOT 2.1)
137 SMITH STREET (SECTION 12, BLOCK 4, LOT 4.1)
AND 207 WATER STREET (SECTION 12, BLOCK 3, LOT 2.1)

WHEREAS, The Greater Newburgh Partnership, Inc. ("GNP") is a non-profit organization created for the improvement of the City of Newburgh, the greater Newburgh area and its many stakeholders; and

WHEREAS, the City of Newburgh is the owner of real properties located at 140 Montgomery Street, 146 Montgomery Street, 137 Smith Street and 207 Water Street, and more accurately described on the official tax map of the City of Newburgh as Section 12, Block 4, Lot 10; Section 12, Block 4, Lot 2.1; Section 12, Block 4, Lot 4.1 and Section 12, Block 3, Lot 2.1, respectively, City of Newburgh, New York; and

WHEREAS, the GNP has offered to provide services to the City by performing cleaning and greening activities for the beautification of the aforementioned properties and has requested access to the properties to conduct these activities; and

WHEREAS, such access to the properties requires the parties to execute a license agreement, a copy of which is attached hereto and made a part of this resolution; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached license agreement with The Greater Newburgh Partnership to allow access to City-owned properties known as 140 Montgomery Street, 146 Montgomery Street, 137 Smith Street and 207 Water Street for the purpose of performing cleaning and greening activities.

LICENSE AGREEMENT

This Agreement, made this ____ day of _____, two thousand and twelve, by and between the GREATER NEWBURGH PARTNERSHIP, INC., with offices at _____ as "LICENSEE"; and the CITY OF NEWBURGH, a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 as "LICENSOR";

WITNESSETH THAT:

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

SCHEDULE "A"

140 Montgomery Street, 146 Montgomery Street, 137 Smith Street and 207 Water Street, and more accurately described on the official tax map of the City of Newburgh as Section 12, Block 4, Lot 10; Section 12, Block 4, Lot 2.1; Section 12, Block 4, Lot 4.1 and Section 12, Block 3, Lot 2.1, respectively, City of Newburgh, New York

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, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor's properties located at 140 Montgomery Street, 146 Montgomery Street, 137 Smith Street and 207 Water Street, in the City of Newburgh, New York, and taking thereupon such vehicles, equipment, tools, machinery and other materials as may be necessary; for the purposes of and to perform "greening" improvements on property owned by Licensor. No improvements other than planting beds, walkways and the installation of a fence surrounding the perimeter of the property may be erected on the premises. The erection of a fence must be in conformance with Chapter 166 of the City Code.

Second: Licensee agrees to do such work and maintain said facilities in such manner as will comply fully with the provisions of any laws, ordinances or other lawful authority obtaining any and all permits required thereby. If, in the course of performing such work, Licensee, or any employees, agents, contractors and consultants engaged by

Licensee to perform the subject work, find, uncover, identify or otherwise locate asbestos or other hazardous material, Licensee, or employees, agents, contractors and consultants of Licensee, shall immediately cease and desist from the performance of the subject work and report said findings to the City Manager.

Third: Licensor acknowledges that the use of the subject properties shall inure to the benefit of both parties, and shall be satisfactory, adequate and sufficient consideration for the Licensee granted hereunder.

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

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

Sixth: This Agreement and the license or privilege term is from ____, 20__ to ____, 20__ and will be subject to renewal on mutual agreement of both parties for additional one (1) year terms each.

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

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

WITNESSETH:

THE CITY OF NEWBURGH

LICENSOR

By: _____
Richard F. Herbek, City Manager

GREATER NEWBURGH
PARTNERSHIP, INC.

LICENSEE

By:

Name:
President

SCHEDULE "A"

140 Montgomery Street	Section 12, Block 4, Lot 10
146 Montgomery Street	Section 12, Block 4, Lot 2.1
137 Smith Street	Section 12, Block 4, Lot 4.1
207 Water Street	Section 12, Block 3, Lot 2.1

RESOLUTION NO.: 126 -2012

OF

AUGUST 13, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A LICENSE AGREEMENT WITH
MILL STREET PARTNERS, LLC IN CONNECTION WITH THE DEVELOPMENT OF
CITY OWNED PROPERTIES KNOWN AS THE MID-BROADWAY 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

WHEREAS, Mill Street Partners, LLC has requested that the City of Newburgh allow them access to the Mid-Broadway site prior to finalizing the development and land disposition agreement for the purposes of conducting certain pre-development activities, including but not limited to survey work and preliminary environmental testing; and

WHEREAS, such access to the properties requires the parties to execute a license agreement, a copy of which is attached hereto and made a part of this resolution; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into a license agreement with Mill Street Partners, LLC, and their contracted agents, in substantially the same form as annexed hereto with other provisions as Corporation Counsel may require, to allow access to the Mid-Broadway site for the purposes of and to perform predevelopment activities.

LICENSE AGREEMENT

This Agreement, made this _____ day of _____, two thousand and twelve by and between the CITY OF NEWBURGH, a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 as "LICENSOR," and MILL STREET PARTNERS, LLC, a limited liability company organized and existing under the laws of the State of New York, having an office at 853 Broadway, New York, New York 10003, and their consultants and contractors as "LICENSEE";

WITNESSETH THAT:

WHEREAS, Licensee desires the license or privilege of gaining access to and performing work upon the premises of Licensor, on behalf of itself and its employees, agents and contractors, known as 132, 136, 138, 140, 142, 142A, 144, 146 and 148 Broadway; 6, 10, 12 and 16 Johnston Street; and 6, 8 and 14 Lander Street, and more accurately described on the official tax map of the City of Newburgh as Section 30, Block 3, Lot(s) 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37 and 38, City of Newburgh, New York, hereinafter collectively referred to as "140 Broadway".

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

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

First: Licensor hereby gives to Licensee and Licensee's employees, agents and contractors, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor's property located at 140 Broadway, in the City of Newburgh, New York, and taking thereupon such vehicles, equipment, tools, machinery and other materials as may be necessary for the purposes of inspecting the property which inspections may include, but are not limited to, conducting surveys, physical inspections, tests, engineering and construction evaluation and reports, architectural study and planning, and environmental study, testing, and such other tests and evaluations as are reasonably required for an evaluation of the property and the prosecution of any applications for governmental approvals.

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

Third: Licensee hereby agrees to defend, indemnify and hold Licensor harmless against any claims, actions and proceedings brought against Licensor arising out of, in connection with and/or relating to Licensee's use of the premises. Licensee has posted evidence of and shall

maintain throughout the term of this License public liability insurance naming the Licensor as additional insured in a minimum coverage amount of One Million (\$1,000,000.00) Dollars.

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

Fifth: This Agreement and the license or privilege hereby given shall commence on _____, 20__ and expire and terminate upon the execution of a land development agreement between Licensor and Licensee.

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

WITNESSETH:

THE CITY OF NEWBURGH

LICENSOR

By:

Richard F. Herbek, City Manager

MILL STREET PARTNERS, LLC

LICENSEE

By:

RESOLUTION NO.: 128 - 2012

OF

AUGUST 13, 2012

**A RESOLUTION APPROVING THE
STANDARD TERMS OF SALE FOR PROPERTY PURCHASES
FOR THE CITY OF NEWBURGH 2012 SEALED BID PROCESS**

WHEREAS, this Council, by Resolution No.: 120-2012 authorized the sale of City owned properties through the sealed bid process; and

WHEREAS, such properties shall be sold pursuant to the attached Standard Terms of Sale for Property Purchases; and

WHEREAS, this Council has reviewed such Standard Terms of Sale for Property Purchases;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the Standard Terms of Sale for Property Purchases, attached hereto and made a part of this Resolution, be and are hereby approved for the City of Newburgh 2012 Sealed Bid Process.

Standard Terms of Sale For Property Purchases

PLEASE NOTE SOME TERMS ARE SPECIFIC FOR AN AUCTION PROCESS AND MAY NOT BE APPLICABLE

1. City of Newburgh acquired title to these properties in accordance with Article 11 of the Real Property Tax Law of the State of New York, and all known rights of redemption under said provisions of law have been extinguished by the tax sale proceedings and/or as a result of forfeiture.
2. For purposes of these Terms and Conditions, parcel shall be defined as a section, block and lot number.
3. All real property, including any buildings thereon, is sold "AS IS" and without any representation or warranty whatsoever as to the condition or title, and subject to: (a) any state of facts an accurate survey or personal inspection of the premises would disclose; (b) applicable zoning/land use/building regulations; (c) water and sewer assessments are the responsibility of the purchaser, whether they are received or not; (d) easements, covenants, conditions and rights-of-way of record existing at the time of the levy of the tax, the non-payment of which resulted in the tax sale in which City of Newburgh acquired title; (e) 2009 - 2010, 2010-2011 and 2011-2012 school taxes, water rents and assessments, and sewer rents and assessments and any other applicable charges (including, but not limited to, omitted and pro rata taxes, demolition charges, interest and penalties); and (f) for purposes of taxation, the purchaser shall be deemed to be the owner prior to the next applicable taxable status date after the public auction.
4. The properties are sold subject to unpaid school taxes for the tax years of 2009 - 2010, 2010-2011 and 2011-2012 and also subject to all school taxes levied subsequent to the date of the City Council resolution authorizing the sale. The purchaser shall reimburse the City for any school taxes paid by the City for the tax year 2009 - 2010, 2010-2011 and 2011-2012 and subsequent levies up to the date of the closing. Upon the closing, the properties shall become subject to taxation. Water and sewer charges and sanitation fees will be paid by the City to the date of closing.
5. All purchasers are advised to personally inspect the premises and to examine title to the premises prior to the date upon which the sale is scheduled to take place. Upon delivery of the quitclaim deed by the City of Newburgh to the successful purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.
6. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the successful purchaser following the closing of sale.
7. All informational tools, such as slides, tax maps, deeds, photos, auction listings, auction catalogs, auction signs, property record cards, etc., are for identification purposes only and are neither a guarantee nor a warranty as to location, dimensions, parcel use and/or size, or anything else. **THE CITY MAKES NO WARRANTY EXPRESSED OR IMPLIED IN CONNECTION WITH THIS SALE.**
8. The City of Newburgh reserves the right, in its sole discretion, to withdraw from the sealed bid sale any of the properties listed on the schedule of real property or cancel the sale of any property at any time prior to closing.
9. Notice is hereby given that all sealed bid properties lie within the City of Newburgh's East End Historic District as designated upon the zoning or tax map. These parcels are being sold subject to all provisions of law applicable thereto and it is the sole responsibility of the Purchaser to redevelop such parcel so designated in accordance with same.
10. **WARNING: FAILURE TO COMPLY WITH THE TERMS OF THIS PARAGRAPH MAY RESULT IN YOUR LOSS OF THE PROPERTY AFTER PURCHASE.** The deed will contain provisions stating that the purchaser is required to rehabilitate any building on the property and bring it into compliance with all State, County and Local standards for occupancy within (18) months of the date of the deed. Within such eighteen (18) month time period the purchaser must obtain a Certificate of Occupancy for all buildings on the property and make all buildings granted a Certificate of Occupancy before the date of purchase fit for the use stated in such Certificate of Occupancy. The deed shall require the purchaser to schedule an inspection by City officials at or before the end of the eighteen (18) month period. If the purchaser has not complied with the deed provisions regarding rehabilitation of the property and obtained a Certificate of Occupancy or Certificate of Compliance by that time, then the title to the property shall revert to the City of Newburgh. The deed shall also provide that the property shall not be

conveyed to any other person before a Certificate of Occupancy or Certificate of Compliance is issued. A written request made to the City Manager for an extension of the eighteen (18) month rehabilitation period shall be accompanied by a non-refundable fee of \$250.00 per parcel for which a request is submitted. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to rehabilitate of up to, but not to exceed, three (3) months. Any additional request thereafter shall be made in writing and placed before the City Council for their consideration.

11. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Properties may contain paint or other similar surface coating material containing lead. Purchasers shall be responsible for the correction of such conditions when required by applicable law. Properties also may contain other environmental hazards. Purchasers shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchasers shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing. Bidder acknowledges receivership of the pamphlet entitled "Protecting Your Family from Lead in Your Home." Bidder also acknowledges that he/she has had the opportunity to conduct a risk assessment or inspection of the premises for the presence of lead-based paint, lead-based paint hazards or mold.
12. The owner of the property, or his agent, shall not be permitted to bid on the property or purchase same, unless the amount exceeds the amount of tax arrears. If the former owner reacquires the property, all liens existing prior to the foreclosure, will be reinstated and the purchaser (former owner) must sign an agreement to reinstate the liens. Purchaser shall provide information necessary to complete, and shall execute, the necessary forms and documents required for recording the deed in the City of Newburgh Clerk's Office. Offer to Purchase Form and sale cannot be assigned. Unless the City agrees in writing, the purchaser executing the auction terms and conditions of sale may not assign or otherwise transfer his right to complete the bid. The deed prepared will be in the name of the successful bidder (and spouse) only. No third party bidding will be accepted, unless the bidder identifies that he is bidding as an agent for a disclosed principal.
13. The Purchaser will complete and execute the Sealed Bid Application. The approval of each bid by Resolution of the Newburgh City Council will not constitute a Contract of Sale and the City reserves the right to reject any bid and/or application prior to the closing of title and the recording of the deed.
14. All recording costs and transfer taxes shall be paid by the purchaser. **All deposits and payments must be in cash or guaranteed funds made payable to the "City of Newburgh Comptroller" and drawn on banks insured by the Federal Deposit Insurance Corporation (FDIC). No exceptions.**
15. All bids shall be subject to approval by the Newburgh City Council, which shall have the right, in the Council's sole discretion, to reject any bid for any reason whatsoever.
16. The entire purchase price and all closing costs/fees must be paid by cash or guaranteed funds to the City of Newburgh Comptroller's Office on or before **December 7, 2012**. **The City is not required to send notice of acceptance to the Purchaser. If the purchaser fails to pay the balance of the purchase price as herein provided, the deposit shall be forfeited.** The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days. No request shall be entertained unless in writing, stating the reasons therefore, and unless accompanied by a fee of \$250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. In addition, should any bidder fail to close within the time set forth above, the entire deposit shall be forfeited to the City as liquidated damages without further notice to the bidder. Any additional request made thereafter shall be made in writing and placed before the City Council for their consideration.
17. Previously defaulting parties are not allowed to bid. If a purchaser owes any outstanding and delinquent taxes to City of Newburgh, those delinquent taxes must be paid in full prior to closing on any purchases made at this sale. Failure to comply with this provision will be grounds for default and forfeiture of any deposits paid.
18. If the successful bidder fails to tender such amount due by the close of business on **December 7, 2012**, then, the City may, but is not obligated to offer any unsold property to the second highest bidder. All terms and conditions for the sale set forth herein above shall apply to the second highest bidder and/or any other purchaser.
19. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the successful bidder shall be entitled only to a refund of the purchase money paid with interest. Purchasers agree that they shall not be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.

20. All sales shall be final, absolute and without recourse once title has closed and the deed has been recorded. In no event, shall City of Newburgh be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, its heirs, success or assigns, against City of Newburgh arising from this sale.
21. Conveyance shall be by quitclaim deed only, containing a description of the property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon recording of deed.**
22. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject property, which deed shall be drawn by the City Corporation Counsel. The City shall not convey its interest in any street, water, sewer or drainage easement, or any other interest the City may have in the property. For properties acquired by the City by *in rem* tax foreclosure, the City shall only convey that interest obtained by the City pursuant to the judgment rendered in an *in rem* tax foreclosure action filed in the Orange County Clerk's Office.
23. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh and provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Consulting Engineer.
24. Evictions, if necessary, are solely the responsibility of the successful bidder after closing and recording of the deed.
25. The successful purchaser on each parcel must remove any associated signage within seven (7) days after the recording of the deed.
26. By acknowledging and executing the sealed bid application, the purchaser certifies that he/she is not representing the former owner(s) of the property against whom City of Newburgh foreclosed and has no intent to defraud City of Newburgh of the unpaid taxes, assessment, penalties and charges which have been levied against the property. The purchaser agrees that neither he/she nor his/her assigns shall convey the property to the former owner(s) against whom City of Newburgh foreclosed within 24 months subsequent to the auction date. If such conveyance occurs, the purchaser understands that he/she may be found to have committed fraud, and/or intent to defraud, and will be liable for any deficiency between the purchase price at auction and such sums as may be owed to City of Newburgh as related to the foreclosure on the property and consents to immediate judgment by City of Newburgh for said amounts.

RESOLUTION NO.: 129 -2012

OF

AUGUST 13, 2012

A RESOLUTION APPROVING THE TERMS AND CONDITIONS
OF THE AUCTION FOR THE CITY OF NEWBURGH
2012 PROPERTY AUCTION

WHEREAS, this Council, by Resolution Nos.: 121-2012 and 122-2012, respectively, authorized a public auction of City owned properties; and

WHEREAS, such properties shall be sold pursuant to the attached Terms and Conditions of the Auction; and

WHEREAS, this Council has reviewed such Terms and Conditions of the Auction;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the Terms and Conditions of the Auction, attached hereto and made a part of this Resolution, be and are hereby approved for the City of Newburgh 2012 Property Auction.

Terms and Conditions of the Auction

DATE: October 3, 2012

TIME: TBD

**LOCATION: Homewood Suites
Newburgh N.Y. 12550**

STANDARD TERMS:

1. City of Newburgh acquired title to these properties in accordance with Article 11 of the Real Property Tax Law of the State of New York, and most of all known rights of redemption under said provisions of law have been extinguished by the tax sale proceedings and/or as a result of forfeiture, except for these properties not acquired by in rem tax foreclosure as follows: 33 City Terrace, Section 29, Block 4, Lot 16 and 251 Third Street, Section 22, Block 1, Lot 17.
2. For purposes of these Terms and Conditions, parcel shall be defined as a section, block and lot number.
3. All real property, including any buildings thereon, is sold "AS IS" and without any representation or warranty whatsoever as to the condition or title, and subject to: (a) any state of facts an accurate survey or personal inspection of the premises would disclose; (b) applicable zoning/land use/building regulations; (c) water and sewer assessments are the responsibility of the purchaser, whether they are received or not; (d) easements, covenants, conditions and rights-of-way of record existing at the time of the levy of the tax, the non-payment of which resulted in the tax sale in which City of Newburgh acquired title; (e) 2009-2010, 2010-2011 and 2011-2012 school taxes, water rents and assessments, and sewer rents and assessments and any other applicable charges (including, but not limited to, omitted and pro rata taxes, demolition charges, interest and penalties); and (f) for purposes of taxation, the purchaser shall be deemed to be the owner prior to the next applicable taxable status date after the public auction.
4. The properties are sold subject to unpaid school taxes for the tax years of 2009-2010, 2010-2011 and 2011-2012, and also subject to all school taxes levied subsequent to the date of the City Council resolution authorizing the sale. The purchaser shall reimburse the City for any school taxes paid by the City for the tax year 2009-2010, 2010-2011 and 2011-2012, and subsequent levies up to the date of the closing. Upon the closing, the properties shall become subject to taxation. Water and sewer charges and sanitation fees will be paid by the City to the date of closing.
5. **WARNING: FAILURE TO COMPLY WITH THE TERMS OF THIS PARAGRAPH MAY RESULT IN YOUR LOSS OF THE PROPERTY AFTER PURCHASE.**

For all properties other than 16 William Street, the deed will contain provisions stating that the purchaser is required to either: a) both obtain a building permit within twelve (12) months of the date of the deed and to rehabilitate any existing building on the property and bring it into compliance with all State, County and Local standards for occupancy within (18) months of the date of the deed, or b) complete demolition of such building within twelve (12) months of the date of the deed. Within such eighteen (18) month rehabilitation period, the purchaser must either: i) obtain a Certificate of Occupancy for all buildings on the property, or ii) make all buildings granted a Certificate of Occupancy before the date of purchase fit for the use stated in such Certificate of Occupancy. The deed shall also require the purchaser to schedule an inspection by City officials at or before the end of the eighteen (18) month period. The deed shall also require that the property may not be conveyed to any other person before a Certificate of Occupancy or Certificate of Compliance is issued for rehabilitation of the building or demolition of the building is completed. Failure to comply with any of the requirements in the deed shall cause the title to the property to revert to the City of Newburgh. A written request made to the City Manager for an extension of the twelve (12) month building permit period or the eighteen (18) month rehabilitation period shall be accompanied by a non-refundable fee of \$250.00 per parcel for which a request is submitted. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to obtain a building permit or rehabilitate of up to, but not to exceed, three (3) months.

Any additional request thereafter shall be made in writing and placed before the City Council for their consideration.

For 16 William Street, a Certificate of Appropriateness has been issued by the Architectural Review Commission to permit demolition of the existing building located thereon. The deed to such property shall require that demolition of such building be completed within six (6) months of the deed, and shall also provide that the property may not be conveyed to any other person before demolition of the building is completed; otherwise, title shall revert to the City of Newburgh.

6. A property with no existing building and which is substandard in size under zoning, purchased by an adjoining property owner must be merged with the adjoining property at title closing.
7. All informational tools, such as slides, tax maps, deeds, photos, auction listings, auction catalogs, auction signs, property record cards, etc., are for identification purposes only and are neither a guarantee nor a warranty as to location, dimensions, parcel use and/or size, or anything else. **THE CITY, THE AUCTIONEER, AND THE BROKER MAKE NO WARRANTY EXPRESSED OR IMPLIED IN CONNECTION WITH THIS SALE.**
8. The City of Newburgh reserves the right, in its sole discretion, to withdraw from the auction any of the properties listed on the schedule of real property.
9. Notice is hereby given that the properties identified as 61 Campbell Street, Section 23, Block 7, Lot 4; 87 Carson Avenue, Section 45, Block 8, Lot 10; 22 City Terrace, Section 29, Block 5, Lot 27; 33 City Terrace, Section 29, Block 4, Lot 16; 330 Liberty Street, Section 12, Block 1, Lot 16; 374 Liberty Street, Section 10, Block 1, Lot 31; 163 S. William Street, Section 45, Block 2, Lot 2; 162 South Street, Section 11, Block 3, Lot 21; 81 South Street, Section 19, Block 1, Lot 5; 251 Third Street, Section 22, Block 1, Lot 17; 16 William Street, Section 35, Block 3, Lot 14; 50 William Street, Section 38, Block 2, Lot 36; 122 William Street, Section 44, Block 3, Lot 17; 79 William Street, Section 39, Block 2, Lot 23; 85 William Street, Section 39, Block 2, Lot 21; and 87 William Street, Section 39, Block 2, Lot 20 lie within the East End Historic District as designated upon the zoning or tax map. These parcels are being sold subject to all provisions of law applicable thereto and it is the sole responsibility of any bidder to redevelop such parcel so designated in accordance with same. In addition to the foregoing, 16 William Street has been issued a Certificate of Appropriateness by the Architectural Review Commission to permit demolition of the existing building located thereon.
10. All purchasers are advised to personally inspect the premises and to examine title to the premises prior to the date upon which the sale is scheduled to take place. Upon delivery of the quitclaim deed by the City of Newburgh to the successful purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.
11. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the successful purchaser following the closing of sale.
12. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Properties may contain paint or other similar surface coating material containing lead. Purchasers shall be responsible for the correction of such conditions when required by applicable law. Properties also may contain other environmental hazards. Purchasers shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchasers shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing. Bidder acknowledges receivership of the pamphlet entitled "Protecting Your Family from Lead in Your Home." Bidder also acknowledges that he/she has had the opportunity to conduct a risk assessment or inspection of the premises for the presence of lead-based paint, lead-based paint hazards or mold.

AT THE AUCTION

13. All bidders are required to register and provide suitable personal identification, such as a driver's license and passport, at registration. Auctioneer reserves the right to decline registration if identification is not sufficient. Individuals, other than lawyers, acting on behalf of others, not in attendance at the auction,

must produce a "Power of Attorney" duly executed and notarized. Incorporated entities, (Inc., Corp., LLC, etc.) are required to provide a corporate resolution with a corporate seal affixed where applicable, authorizing the purchase of real property, prior to the transfer of title, and are encouraged to provide same at registration,

14. All bidders are required to use the bidder number issued to them for all purposes associated with the auction. A bidder may not bid on behalf of a party who is on the prohibited bidder list. A party will be added to such list if he has defaulted in payment of a purchase price or taxes following a purchase. Previously defaulting parties are not allowed to bid.
15. The former owner of the property, or his agent, shall not be permitted to bid on the property or purchase same at the public auction, unless the amount exceeds the amount of tax arrears. If the former owner reacquires the property, all liens existing prior to the foreclosure, will be reinstated and the purchaser (former owner) must sign an agreement to reinstate the liens.
16. The auctioneer's decision regarding any disputes is final, and the auctioneer reserves the right to reject any bid that is not an appreciable advancement over the preceding bid.
17. The Successful Bidder will execute an Offer to Purchase form at the auction for each property he/she is the successful bidder on. The approval of each bid by Resolution of the Newburgh City Council will bind the bidder only and will not constitute a Contract of Sale and the City reserves the right to reject any bid prior to the closing of title and the recording of the deed.
18. The Successful Bidder shall provide information necessary to complete and shall execute the necessary forms and documents required for recording the deed in the Orange County Clerk's Office. The bidder executing the auction terms and conditions of sale may not assign or otherwise transfer his right to complete the bid, unless the City agrees in writing. The deed prepared will be in the name of the successful bidder (and spouse) only. No third party bidding will be accepted, unless the bidder identifies that he is bidding as an agent for a disclosed principal, or unless the bidder is a lawyer.
19. The Successful Bidder shall be responsible for the payment of an eleven percent (11%) buyer's premium (1% buyer's premium discount for cash and other guaranteed funds) in addition to the accepted purchase price, an advertising fee of 1.5% of the bid price, and the closing fees/costs. The "buyer's premium" is the fee/commission earned by the auctioneer. Accepted purchase price is the amount of the bid by the highest bidder, which has been approved by the Newburgh City Council.
20. All required deposits must be paid in full for all successful bids immediately upon being declared the successful bidder. Any successful bidder, who fails to tender the deposit, will be forbidden to participate in this or any other auction. Any parcels which the City did not receive deposits for, per these terms and conditions, will be considered to be defaulted, and the bidder will be disqualified from further bidding. Furthermore, upon a default in payment for any one parcel, either during the auction or subsequent thereto, the bidder shall not be permitted to purchase any other parcel(s) bid on, and any deposit monies paid thereon will be forfeited to the City. Additionally, if a declared high bidder at the auction leaves the auction without making the required down payment, he/she will be prohibited from participating at future auctions held by NYSAuctions.com, Haroff Auction & Realty, Inc., Absolute Auctions & Realty, Inc., and the City of Newburgh reserves the right to take legal action against this high bidder.
21. The terms "bidder", "highest bidder" and "successful bidder" shall all have the same meaning.
22. \$1,000.00 or 20% of the total contract price (total contract price is the combination of the high bid and the buyer's premium, as defined in Section 23 of these terms and conditions), whichever is higher, shall be paid as a down payment on the day of the auction upon execution of an Offer to Purchase Form. Total contract prices selling for less than \$1,000.00 must be paid in full at auction, including all closing costs will be paid with the down payment on the day of the auction for each parcel; to wit; (a) New York State Transfer Tax [\$2.00 for each \$500.00 of the purchase/bid price]; (b) Filing Fee for the Real Property Transfer Report [\$125.00 for residential and \$250 for commercial]; (c) Filing Fee for combined Gains Transfer Tax Affidavit [\$5.00]; and (d) all fees required by the Orange County Clerk for recording of the deed [\$40.00 to record one page deed; \$5.00 for each additional page; and \$.50 for any cross reference]. *Closing costs may be subject to an increase in fees as required by law, without notice.* All recording costs and transfer taxes shall be paid by the purchaser. **All deposits must be made in credit/debit card (Master Card or VISA), cash or guaranteed funds (bank checks/tellers checks/cashiers check) made payable to the "City of Newburgh Comptroller" and drawn on banks insured by the Federal Deposit Insurance Corporation (FDIC). No exceptions. Wire transfers will not be accepted. The City Comptroller may refund overage of a deposit made in**

excess of the total contract price plus closing costs/fees once the funds have cleared, or apply said sum to the balance owing on the purchase price.

AFTER THE AUCTION

23. All bids shall be subject to approval by the Newburgh City Council, which shall have the right, in the Council's sole discretion, to reject any bid for any reason whatsoever.
24. The entire balance of the accepted purchase price, the buyer's premium as defined in Section 19 of these terms and conditions, and all closing costs/fees must be paid by cash or guaranteed funds to the City of Newburgh Comptroller's Office on or before December 3, 2012. *The City of Newburgh does not accept credit card payments for the balance of the purchase price, buyer's premium and closing costs/fees after the date of the auction.* **The City is not required to send notice of acceptance or any other notice to a purchaser. If the purchaser fails to pay the balance of the purchase price as herein provided, the deposit shall be forfeited.** The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days. No request shall be entertained unless in writing, stating the reasons therefor, and unless accompanied by a fee of \$250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. In addition, should any bidder fail to close within the time set forth above, the entire deposit shall be forfeited to the City as liquidated damages without further notice to the bidder. Any additional request made thereafter shall be made in writing and placed before the City Council for their consideration.
25. Previously defaulting parties from prior auctions or other sales of city property are not allowed to bid. If a purchaser owes any outstanding and delinquent taxes to City of Newburgh, those delinquent taxes must be paid in full prior to closing on any purchases made at this auction. Failure to comply with this provision will be grounds for default and forfeiture of any deposits paid.
26. If the successful bidder fails to tender such amount due by the close of business on December 3, 2012, then, the City may, but is not obligated to offer any unsold property to the second highest bidder. All terms and conditions for the sale set forth herein above shall apply to the second highest bidder and/or any other purchaser.
27. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the successful bidder shall be entitled only to a refund of the purchase money paid with interest. Purchasers agree that they shall not be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
28. All sales shall be final, absolute and without recourse once title has closed and the deed has been recorded. In no event, shall City of Newburgh and/or Haroff Auction & Realty and Absolute Auction & Realty be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, its heirs, success or assigns, against City of Newburgh and/or Haroff Auction & Realty and Absolute Auction & Realty arising from this sale.
29. Conveyance shall be by quitclaim deed only, containing a description of the property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price, buyer's premium, and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon recording of deed.**
30. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject property, which deed shall be drawn by the City Corporation Counsel. The City shall not convey its interest in any street, water, sewer or drainage easement, or any other interest the City may have in the property. The City shall only convey that interest obtained by the City pursuant to the judgment rendered in an *in rem* tax foreclosure action filed in the Orange County Clerk's Office.
31. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh and provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Engineer.
32. Evictions, if necessary, are solely the responsibility of the successful bidder after closing and recording of the deed.

33. The successful purchaser on each auction parcel must remove the auction sign within seven (7) days after the recording of the deed.
34. By acknowledging and executing these Terms & Conditions, the purchaser certifies that he/she is not representing the former owner(s) of the property against whom City of Newburgh foreclosed and has no intent to defraud City of Newburgh of the unpaid taxes, assessment, penalties and charges which have been levied against the property. The purchaser agrees that neither he/she nor his/her assigns shall convey the property to the former owner(s) against whom City of Newburgh foreclosed within 24 months subsequent to the auction date. If such conveyance occurs, the purchaser understands that he/she may be found to have committed fraud, and/or intent to defraud, and will be liable for any deficiency between the purchase price at auction and such sums as may be owed to City of Newburgh as related to the foreclosure on the property and consents to immediate judgment by City of Newburgh for said amounts.

RESOLUTION NO.: 130-2012

OF

AUGUST 13, 2012

A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM A DEED ISSUED TO WILLIAM ROSE
TO THE PREMISES KNOWN AS 3 MARNE AVENUE
(SECTION 7, BLOCK 7, LOT 8.1)

WHEREAS, on January 6, 2012, the City of Newburgh conveyed property located at 3 Marne Avenue, being more accurately described on the official Tax Map of the City of Newburgh as Section 7, Block 7, Lot 8.1, to William Rose; and

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

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

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

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

RESOLUTION NO.: 131-2012

OF

AUGUST 13, 2012

A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM A DEED ISSUED TO JCL MEDIA, INC.
TO THE PREMISES KNOWN AS 65 LIBERTY STREET
(SECTION 39, BLOCK 5, LOT 15.1) AND 65 LIBERTY STREET REAR
(SECTION 39, BLOCK 5, LOT 15.2)

WHEREAS, on June 8, 2006, the City of Newburgh conveyed property located at 65 Liberty Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 39, Block 5, Lot 15.1 and 65 Liberty Street Rear, being more accurately described on the official Tax Map of the City of Newburgh as Section 39, Block 5, Lot 15.2, to JCL Media, Inc.; and

WHEREAS, on November 23, 2010, the City of Newburgh issued a correction deed to JCL Media, Inc. for the sole purpose of amending the use to allow commercial use on the ground floor, and residential use on the second and third floors of the Premises identified as 65 Liberty Street as provided for in covenant number one (1); and

WHEREAS, JCL Media, Inc., by their attorney, has requested a release of the restrictive covenants contained in said deed; and

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

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

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

RESOLUTION NO.: 132 - 2012

OF

AUGUST 13, 2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH ASSUMING LEAD AGENCY STATUS UNDER STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) CONCERNING AN AMENDMENT OF SECTIONS 300-26 AND 300-80 OF THE ZONING ORDINANCE OF THE CITY OF NEWBURGH AND SECTION 158-2, "ACTIONS REQUIRING AND NOT REQUIRING ENVIRONMENTAL IMPACT STATEMENTS" OF THE CODE OF ORDINANCES, DECLARING THE PROJECT TO BE AN UNLISTED ACTION, CONSIDERING AN ENVIRONMENTAL ASSESSMENT FORM(EAF), REFERRING SAME TO THE ORANGE COUNTY PLANNING DEPARTMENT AS REQUIRED BY SECTION 239 OF THE GENERAL MUNICIPAL LAWS AND SCHEDULING A PUBLIC HEARING

WHEREAS, by Resolution No. 87-2012 of June 18, 2012, the City Council of the City of Newburgh accepted and authorized the City Manager to take other steps necessary and appropriate to implement the recommendations in the Streamlining Newburgh's Land Use Process report and recommendations; and

WHEREAS, in furtherance of the City's goal to streamline its land use process, the City is proposing to adopt an amendments to Chapter 158 and Chapter 300 of the Code of Ordinances, as follows:

1. Section 158-2: to eliminate the requirement for an environmental impact statement for actions which do not exceed certain thresholds set forth in New York State regulations;
2. Section 300-26: to eliminate the requirement of a certificate of appropriateness for certain activities within the City's historic and architectural design districts; and
3. Section 300-80: to eliminate the Architectural Review Commission advisory opinion to the Zoning Board of Appeals for applications for variances within the City's historic and architectural design districts; and

WHEREAS, in compliance with SEQRA, the City Council of the City of Newburgh wishes to assume Lead Agency status, declare the action to be an Unlisted action, proposes to accept as complete an Environmental Assessment Form ("EAF"), refer the proposed ordinance to the Orange County Planning Department pursuant to General Municipal Law Section 239, and schedule a public hearing in connection with the proposed legislation.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York as follows:

1. That the City Council of the City of Newburgh hereby declares itself as the Lead Agency for the environmental review of the action pursuant to 6 NYCRR 617.6; and
2. Classifies the action as an Unlisted Action; and
3. Proposes to accept as complete the Environmental Assessment Form ("EAF") attached hereto;
4. Refers the proposed Ordinance to the Orange County Planning Department as required by General Municipal Law Section 239; and
1. Schedules a public hearing to receive comments concerning "A Local Law Amending Article 158 Entitled 'Environmental Quality Review', Section 158-2, 'Actions Requiring and Not Requiring Environmental Impact Statements' of the Code of Ordinances of the City of Newburgh" and "An Ordinance to Amend Chapter 300 entitled "Zoning" of the Code of Ordinances of the City of Newburgh to Exempt Certain Activities from Requiring a Certificate of Appropriateness from the Architectural Review Commission and to Eliminate the Architectural Review Commission Advisory Opinion in Applications for Variances within in the Historic or Architectural Design Districts to the Zoning Board of Appeals"; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 10th day of September, 2012, at the Activity Center, 401 Washington Street, Newburgh, New York.

LOCAL LAW NO.: _____ - 2012

OF

A LOCAL LAW AMENDING ARTICLE 158 ENTITLED
"ENVIRONMENTAL QUALITY REVIEW"
SECTION 158-2, "ACTIONS REQUIRING AND NOT REQUIRING
ENVIRONMENTAL IMPACT STATEMENTS"
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH

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

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Amending Article 158 Entitled 'Environmental Quality Review', Section 158-2, 'Actions Requiring and Not Requiring Environmental Impact Statements' of the Code of Ordinances of the City of Newburgh".

SECTION 2 - AMENDMENT

Article 158, Section 158-2, "Actions Requiring and Not Requiring Environmental Impact Statements" is hereby amended to read as follows:

§158-2. Actions requiring and not requiring environmental impact statements and not requiring environmental assessment forms.

All actions ~~that may likely to~~ have a significant adverse impact ~~effect~~ upon the environment within the meaning of Section 617.744 of Title 6 of NYCRR ~~and defined as "Type I" actions in Section 617.4 of Title 6 of NYCRR~~ shall require the preparation of an environmental impact statement, unless they are unlisted actions as to which the relevant local reviewing agency determines that a conditional negative declaration is appropriate. Type II actions, as described in Section 617.5 ~~therein, or determined to be such under local law~~ will not require the preparation of an environmental assessment form ~~impact statement.~~

SECTION 3 - VALIDITY

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

Underlining denotes additions

~~Strikethrough~~ denotes deletions

SECTION 4 - EFFECTIVE DATE

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

Underlining denotes additions
~~Strikethrough~~ denotes deletions

ORDINANCE NO.: _____-2012

OF

AN ORDINANCE TO AMEND CHAPTER 300 ENTITLED "ZONING"
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH
TO EXEMPT CERTAIN ACTIVITIES FROM REQUIRING
A CERTIFICATE OF APPROPRIATENESS FROM THE ARCHITECTURAL REVIEW
COMMISSION AND TO ELIMINATE THE ARCHITECTURAL REVIEW COMMISSION
ADVISORY OPINION IN APPLICATIONS FOR VARIANCES
WITHIN IN THE HISTORIC OR ARCHITECTURAL DESIGN DISTRICTS
TO THE ZONING BOARD OF APPEALS

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapter 300 of the Code of Ordinances shall be amended as follows:

Section 1: § 300-26. Certificate of appropriateness.

- A. Certificate required. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark, nor shall any person make any material change in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of a district and its designated properties, without first obtaining a certificate of appropriateness.
1. Exemptions. The following activities do not require a certificate of appropriateness under this Article:
 - a. Repair, replacement and installation of electrical, plumbing, heating and ventilation systems, provided that such work does not affect the exterior of the structure.
 - b. Caulking, weather-stripping, glazing and repainting of windows.
 - c. Repair of porches, cornices, exterior siding, doors balustrades, stairs or other trim when the repair is done in-kind to match existing material and form.
 - d. Repair of storm windows (exterior, interior or wood), provided they match the shape and size of historic windows and that the meeting rail coincides with that of the historic window; color should match trim.

Underlining _____ denotes additions

| ~~Strikethrough~~ denote deletions

- e. Installation of new window jambs or jamb liners.
- f. Repair or replacement of awnings when work is done in-kind to match existing materials and form.
- g. Roof repair of historic roofing with material that matches the existing material in form or better.
- h. Repair of gutters and downspouts.
- i. Installation of insulation where exterior siding or trim is not altered or damaged.
- j. Repair of existing roads, driveways, sidewalks and curbs provided that work is done so that there are no changes in dimension or configuration of those features.
- k. Exterior lead paint abatement that includes scraping and repainting of exterior work and masonry surfaces.
- l. Repair of fencing when work is done in-kind to match existing material and form.
- m. Repair or replacement of water, gas, storm or sewer lines.
- n. Emergency repairs necessitated by a casualty to the property (fire, storm, flood, etc.).

Section 2: § 300-80. Procedures.

The powers and duties of the Zoning Board of Appeals shall be exercised in accordance with the procedures set forth in this article plus the following additional procedures:

- A. Strict compliance. The Zoning Board of Appeals shall act in strict accordance with the procedures specified by law and by this chapter.
- B. Fees. All appeals made to the Zoning Board of Appeals shall be accompanied by the fee established by the City Council as provided for § 300-83. The Board may, in its discretion, return to the applicant part or all of the fee paid by him in the event that his appeal is under § 300-78 hereof and is partially or wholly successful.
- C. Contents of applications. Each appeal shall fully set forth the circumstances of the case. Every appeal shall refer to the specific provision of the chapter involved and shall exactly set forth, as the case may be, the interpretation that is claimed.
- D. Hearing appeals. The jurisdiction of the Zoning Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order,

Underlining _____ denotes additions

~~Strikethrough~~ denote deletions

requirement, decision, interpretation, or determination made by the administrative official charged with the enforcement of any ordinance or local law. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the City.

- E. Time of appeal. Such appeal shall be taken within 60 days after the filing in the City Clerk's office of any order, requirement, decision, interpretation, or determination of the administrative official charged with the enforcement of such ordinance or local law by filing with such administrative official and with the Zoning Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The administrative official from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- F. Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such ordinance or local law, from whom the appeal is taken, certified to the Zoning Board of Appeals, after the notice of appeal shall have been filed with the administrative official, that by reasons of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.
- G. Public hearings. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and the applicant shall be notified of such date. At least 10 days prior to such hearing the Secretary of the Board shall mail, by regular mail, at the applicant's expense, a notice of such hearing and of the substance of the appeal to the owners of all properties within 300 feet of the exterior boundaries of the property affected by the appeal, provided that no such mailing or proof of mailing shall be required where the application is for an area variance of less than three feet in regard to any front, rear or side yard setback. At least 10 days prior to such hearing, the Secretary of the Zoning Board of Appeals, at the expense of the applicant to be paid in advance, shall cause to be published in the official newspaper of the City a notice of such hearing and of the substance of the appeal. Prior to said hearing, the applicant shall submit to the Board affidavits of the Secretary of the Board swearing that the required mailings and publication have been performed, which documents shall become part of the application. For the purpose of the mailings required by this section, the term "owner" shall be construed to mean the owner as indicated on the assessment roll of the City of Newburgh.
- H. Planning Board advisory opinion. The Zoning Board of Appeals is not required to but may, in its discretion, refer any requests for appeals or applications for variances to the Planning Board for review and recommendations. The Zoning Board shall defer any decision on these

Underlining _____ denotes additions

~~Strikethrough~~ denote deletions

matters pending the receipt of a report from the Planning Board. If no report is received from the Planning Board within 31 days, the Zoning Board of Appeals may render its decision without said report.

~~I. Architectural Review Commission advisory opinion. The Zoning Board of Appeals shall, within 10 days of its submission, refer any requests for appeals or applications for variances within historic districts or architectural design districts to the Architectural Review Commission for review and recommendations. The Zoning Board of Appeals shall defer any decision on these matters pending the receipt of a report from the Architectural Review Commission.~~

J. Waterfront Advisory Committee. Whenever a request for appeal or application for variance involves the City's waterfront area, the Zoning Board of Appeals shall refer a copy of a completed coastal assessment form (CAF) to the Waterfront Advisory Committee within 10 days of its submission and, prior to making its determination, shall consider the recommendation of the Waterfront Advisory Committee with reference to the consistency of the proposed action as set forth in Chapter 296 of the Code of the City of Newburgh, known as the "City of Newburgh Waterfront Consistency Review Law." In the event that the Waterfront Advisory Committee recommendation is not forthcoming within 30 days following referral of the CAF, the Zoning Board of Appeals shall make its decision without the benefit of the Waterfront Advisory Committee recommendation.

K. Notice to Park Commission and County Planning Department. At least 10 days before such hearing, the Board of Appeals shall mail notices thereof to the regional State Park Commission having jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal and to the Orange County Planning Department, as required by § 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of such proposed action, as defined in Subdivision 1 of § 239-m of the General Municipal Law.

L. Time of decision. The Zoning Board of Appeals shall decide upon an appeal within 62 days after the conduct of the public hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.

M. Filing of decision or action. The decision of the Zoning Board of Appeals on the appeal shall be filed in the office of the City Clerk or the zoning office, if such office has been established, within five business days after the day such decision is rendered and a copy thereof mailed to the applicant.

N. Compliance with Environmental Quality Review Act. The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

Underlining _____ denotes additions

Strikethrough denote deletions

| ⊖ N. Rehearing. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reheard may be made by any member of the Board. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing, the Board may reverse, modify, or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

Section 3. This ordinance shall take effect immediately.

Underlining _____ denotes additions

| ~~Strikethrough~~ denote deletions



Edward A. Diana
County Executive

Orange County Department of Planning

Submittal Form for Mandatory Review of Local Planning Action as per NYS General Municipal Law §239-l,m, & n

Referral ID#
County/Agency

This form is to be completed by the local board having jurisdiction. Submittals from applicants will not be accepted unless coordinated with both the local board having jurisdiction and the County Department of Planning.

Please include all materials that are part of a "full statement" as defined by NYS GML §239-m (i.e. "all materials required by and submitted to the referring body as an application on a proposed action").

Municipality:	City of Newburgh	Tax Map #:	
Local Referring Board:	City Council	Tax Map #:	
Applicant:	City Council	Tax Map #:	
Project Name:	Streamlining Newburgh's Land Use Process	Local File No.:	
Location of Project Site:	City Wide	Size of Parcel*:	
		*If more than one parcel, please include sum of all parcels.	
Reason for County Review:	Referral pursuant to GML § 239-m.	Current Zoning District (include any overlays):	

Type of Review:

- Comprehensive Plan Update/Adoption
- Zoning Amendment
 - Zoning District Change from _____ to _____
 - Ordinance Modification (cite section): §§ 300-26 and 300-80
- Local Law
 - Amending Article § 158-2.
- Site Plan
 - Sq. feet proposed (non-residential only): _____
 - Which approval is the applicant currently seeking? SKETCH / PRELIM / FINAL (circle one)
- Subdivision
 - Number of lots proposed: _____
 - Which approval is the applicant currently seeking? SKETCH / PRELIM / FINAL (circle one)
- Special Use Permit _____
- Lot Line Change _____
- Variance AREA / USE (circle one) _____
- Other _____

Is this an update to a previously submitted referral? YES / NO (circle one)

Local board comments or elaboration:

Signature of local official _____ Date _____ Title _____

Municipal Contact Phone Number: _____

If you would like the applicant to be cc'd on this letter, please provide the applicant's address:

Please return, along with full statement, to: Orange County Dept. of Planning 124 Main St. Goshen, NY 10924
Question or comments, call: 845-615-3840 or email: planning@orangecountygov.com