

**CITY OF NEWBURGH  
INDUSTRIAL DEVELOPMENT AGENCY  
(A Component Unit of the City of Newburgh)  
NEWBURGH, NEW YORK  
FINANCIAL STATEMENTS AND  
SUPPLEMENTARY INFORMATION  
FOR THE YEAR ENDED DECEMBER 31, 2009**

**CITY OF NEWBURGH, NEW YORK  
INDUSTRIAL DEVELOPMENT AGENCY  
(A Component Unit of the City of Newburgh)  
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DECEMBER 31, 2009**

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## **INDEPENDENT AUDITORS' REPORT**

To the Board of Directors  
City of Newburgh Industrial Development Agency  
83 Broadway  
Newburgh, New York 12550

We have audited the accompanying financial statements of the business-type activities of the City of Newburgh, New York Industrial Development Agency (the Agency), a component unit of the City of Newburgh, as of for the year ended December 31, 2009. These financial statements are the responsibility of the Agency's management. Our responsibility is to express an opinion on these basic financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the basic financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall basic financial statement presentation. We believe that our audit provides a reasonable basis for our report.

In our opinion, the financial statements referred to above present fairly, in all material respects, the Statement of Net Assets of the City of Newburgh, New York Industrial Development Agency, as of December 31, 2009.

Management's Discussion and Analysis, listed in the Table of Contents, is not a required part of the basic financial statements, but is supplementary information required by accounting principles generally accepted in the United States of America. We applied limited procedures, consisting principally of inquiries of management regarding the methods of measurement and presentation of the supplementary information. We did not audit the information and express no opinion thereon.

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The audit was conducted for the purpose of forming an opinion on the basic financial statements taken as a whole. The additional information on the Schedule of Supplemental Information on page 14 is presented for the purpose of additional analysis and is not a required part of the basic financial statements. Such information, except for the number of current full-time employees on which we express no opinion, has been subjected to the auditing procedures applied in the audit of the basic financial statements, and, in our opinion, the information is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

In accordance with *Government Auditing Standards*, we have also issued our report dated April, 27 2011 on our consideration of the City of Newburgh Industrial Development Agency's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts and grants. The report on compliance with laws and regulations and internal control over financial reporting is an integral part of an audit performed in accordance with *Government Auditing Standards* and, in considering the results of our audit, this report should be read in conjunction with this report in considering the results of our audit.

*Sedore Hudson Valley CPAs*

Poughkeepsie, New York  
November 8, 2011

**CITY OF NEWBURGH, NEW YORK  
INDUSTRIAL DEVELOPMENT AGENCY  
MANAGEMENT'S DISCUSSION AND ANALYSIS (Unaudited)  
DECEMBER 31, 2009**

The following "Management's Discussion and Analysis" report (MD&A) provides the reader with an introduction and overview to the financial activities and performance of the City of Newburgh Industrial Development Agency for the year ended December 31, 2009, as mandated by GASB #34. This information should be reviewed in conjunction with the audited financial statements of the Agency.

**FINANCIAL OPERATIONS HIGHLIGHTS**

There was a decrease in Net Assets in 2009 of \$1,320.

**SUMMARY OF REVENUES AND EXPENSES**

<b><u>REVENUES:</u></b>	<b><u>2009</u></b>	<b><u>2008</u></b>
Fees	\$87,849	\$105,993
Gain on Sale of Property	-0-	605,100
Other	9,341	191,500
Interest Earnings	<u>30,709</u>	<u>26,864</u>
Total Revenues	<u>\$127,899</u>	<u>\$929,457</u>
<b><u>EXPENSES:</u></b>		
Operating Expenses	<u>\$129,220</u>	<u>\$234,262</u>
Total Expenses	<u>\$129,220</u>	<u>\$234,262</u>

**CITY OF NEWBURGH, NEW YORK  
INDUSTRIAL DEVELOPMENT AGENCY  
MANAGEMENT'S DISCUSSION AND ANALYSIS (Unaudited)  
DECEMBER 31, 2009**

**FINANCIAL POSITION SUMMARY**

Net Assets serve as an indicator of the Agency's financial position. The Agency's Net Assets were \$482,699 as of December 31, 2009.

For details of the Agency's finances, see the accompanying financial statements and Notes thereto.

**FINANCIAL STATEMENTS**

The Agency's financial statements are prepared in accordance with generally accepted accounting principles, as promulgated by the Governmental Accounting Standards Board (GASB). The Agency is structured as an enterprise fund.

**CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY  
(A COMPONENT UNIT OF THE CITY OF NEWBURGH)  
STATEMENT OF NET ASSETS  
DECEMBER 31, 2009**

<u><b>ASSETS</b></u>	<u><b>2009</b></u>
<b>Current Assets:</b>	
Cash and Cash Equivalents	\$ 317,158
Accounts Receivable	88,384
Real Property Held for Sale or Development	197,000
<b>Total Current Assets</b>	<u>602,542</u>
<b>Other Assets:</b>	
Loans Receivable	592,359
Mortgage Receivable	302,500
Due from City of Newburgh Local Development Corporation (Net of \$752,740 Allowance for Doubtful Accounts)	-
<b>Total Other Assets</b>	<u>894,859</u>
<b>TOTAL ASSETS</b>	<u><u>\$ 1,497,401</u></u>
 <u><b>LIABILITIES AND NET ASSETS</b></u>	
<b>Current Liabilities:</b>	
Accrued Liabilities	\$ 29,388
Security Deposits	6,000
Deferred Revenue - current	23,952
<b>Total Current Liabilities</b>	<u>59,340</u>
<b>Non-Current Liabilities:</b>	
Deferred Revenue	459,192
Due to City of Newburgh	300,000
Judgment and claims	196,170
<b>Total Non-Current Liabilities</b>	<u>955,362</u>
<b>Total Liabilities</b>	1,014,702
<b>Net Assets:</b>	
Unrestricted	<u>482,699</u>
<b>Total Net Assets</b>	<u>482,699</u>
<b>TOTAL LIABILITIES AND NET ASSETS</b>	<u><u>\$ 1,497,401</u></u>

The Independent Auditors' Report and the Notes to the Financial Statements should be read in conjunction with these financial statements.

**CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY  
(A COMPONENT UNIT OF THE CITY OF NEWBURGH)  
STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET ASSETS  
FOR THE YEAR ENDED DECEMBER 31, 2009**

<b><u>OPERATING REVENUES:</u></b>	<b><u>2009</u></b>
Lease Income	\$ 87,850
<b>Total Operating Revenues</b>	<b><u>87,850</u></b>
<b><u>OPERATING EXPENSES:</u></b>	
Personnel	149
Office and Operations	9,199
Contractual and Project Costs	<u>119,872</u>
<b>Total Operating Expenses</b>	<b><u>(129,220)</u></b>
<b>Net Operating Revenues (Expenses)</b>	<b><u>(41,370)</u></b>
<b><u>NON-OPERATING REVENUES (EXPENSES):</u></b>	
Interest Income	30,709
Other Revenues	<u>9,341</u>
<b>Net Non-Operating Revenues (Expenses)</b>	<b><u>40,050</u></b>
<b>Excess of Revenues or (Expenses)</b>	<b>(1,320)</b>
<b>Net Assets, January 1, 2009</b>	<b><u>484,019</u></b>
<b>Net Assets, December 31, 2009</b>	<b><u>\$ 482,699</u></b>

The Independent Auditors' Report and the Notes to the Financial Statements  
should be read in conjunction with these financial statements.

**CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY  
(A COMPONENT UNIT OF THE CITY OF NEWBURGH, NEW YORK)  
STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED DECEMBER 31, 2009**

	<u>YEAR ENDED 2009</u>
<b>Cash Flows from Operating Activities:</b>	
Receipts from providing services	\$ 58,834
Payments to contractors	(120,582)
Net cash (used) by operating activities	<u>(61,748)</u>
<b>Cash Flows from Non Capital Financing Activities:</b>	
Repayments & Settlements from the City of Newburgh	\$ 190,000
Net cash (used) by Non capital financing activities	<u>190,000</u>
<b>Cash Flows from Investing Activities:</b>	
Net cash provided by investing activities	<u>-</u>
<b>NET INCREASE IN CASH AND CASH EQUIVALENTS</b>	128,252
<b>CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR</b>	<u>188,906</u>
<b>CASH AND CASH EQUIVALENTS, END OF YEAR</b>	<u><u>\$ 317,158</u></u>
<b>Reconciliation of operating income (loss) to net cash provided (used)</b>	
<b>By operating activities</b>	
Operating Income (Loss)	\$ (1,320)
Adjustments to Reconcile Operating Income (Loss) to Net Cash Provided by Operating Activities:	
<b>Changes in Assets and Liabilities:</b>	
Accounts Receivable	(45,113)
Accrued Liabilities	8,638
Deferred Revenue	<u>(23,953)</u>
<b>NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES</b>	<u><u>\$ (61,748)</u></u>

The Independent Auditors' Report and the Notes to the Financial Statements  
should be read in conjunction with these financial statements.

**CITY OF NEWBURGH, NEW YORK  
INDUSTRIAL DEVELOPMENT AGENCY  
(A Component Unit of the City of Newburgh)  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED DECEMBER 31, 2009**

**Note 1 - Summary of Significant Accounting Policies**

Organization and Purpose

The City of Newburgh Industrial Development Agency "the Agency" was established on July 22, 1982, for the purpose of encouraging economic growth in the City of Newburgh. It helps with financing arrangements, and has the authority to grant mortgage and sales tax exemptions. The Agency is exempt from Federal, State and local income taxes. For financial statement reporting, the City of Newburgh Industrial Development Agency is a component unit of the City of Newburgh.

The Reporting Entity

The Agency is considered a component unit of the financial reporting entity known as the City of Newburgh. Inclusion in the financial reporting entity, the City of Newburgh, is determined based on financial accountability as defined by GASB Statement No. 14, "The Financial Reporting Entity". Component units are legally separate entities for which the City of Newburgh Industrial Development Agency is financially accountable. The City of Newburgh Council appoints all of the Agency's Board Members. This level of control meets the criteria for financial accountability as defined by GASB Statement No. 14.

Basis of Accounting

The financial statements of the Agency have been prepared in conformity with generally accepted accounting principles (GAAP) as applied to governmental units. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles. Under standards set by GASB, the Agency is considered a proprietary fund. Proprietary fund financial statements are prepared on the accrual basis of accounting, which records the financial effects of transactions and other events when these transactions and events occur. Revenues are recognized when they are earned and expenses are recognized when they are incurred. The measurement focus is the flow of economic resources.

**CITY OF NEWBURGH, NEW YORK  
INDUSTRIAL DEVELOPMENT AGENCY  
(A Component Unit of the City of Newburgh)  
NOTES TO THE FINANCIAL STATEMENTS (CONT'D.)  
FOR THE YEAR ENDED DECEMBER 31, 2009**

**Note 1 - Summary of Significant Accounting Policies (Cont'd.)**

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expense during the reporting period. Actual results could differ from those estimates.

**Note 2 - Cash, Cash Equivalents and Investments**

The Agency's investment policies are governed by New York State statutes. Agency funds must be deposited in FDIC-insured commercial banks or trust companies located within New York State. The Agency is authorized to use demand accounts and certificates of deposit. Permissible investments include obligations of the U.S. Treasury and obligations of New York State or its localities.

Collateral is required for demand deposits and certificates of deposit not covered by Federal Deposit Insurance. Obligations that may be pledged as collateral are obligations of the United States and its agencies and obligations of the State and its municipalities and school districts.

Governmental Accounting Standards Board Statement No. 40 *Deposits and Investment Risk Disclosure*, directs custodial credit risk be disclosed if deposits are not covered by depository insurance, or collateralized by securities held by the Agency or in the Agency's name. Deposits are categorized as either (1) insured by FDIC insurance, (2) collateralized, and for which the securities are held by the pledging financial institution's trust department or agent in the Agency's name or (3) un-collateralized.

Total financial institution (bank) balances at December 31, 2009 were \$317,157. These deposits are categorized as follows:

1	2	3	Carrying Value
\$255,868	\$ -	\$ 68,139	\$ 324,007

Deposits balances differ from amounts on financial statements by outstanding checks and deposits in transit.

**CITY OF NEWBURGH, NEW YORK  
INDUSTRIAL DEVELOPMENT AGENCY  
(A Component Unit of the City of Newburgh)  
NOTES TO THE FINANCIAL STATEMENTS (CONT'D.)  
FOR THE YEAR ENDED DECEMBER 31, 2009**

**Note 3 – Real Property Held for Sale or Development**

Real property held for sale or development includes various real estate parcels in the City of Newburgh carried at the estimated market value of the property at the time of transfer to the Agency or historical value. These properties are typically transferred to the Agency by the City of Newburgh or the State. As of December 31, 2009 the historical value of the Agency's Real Property Held for Sale or Development amounted to \$197,000.

**Note 4 – Notes Receivable**

The Agency had an investment interest in a local property. In 2006 the property was sold to the City of Newburgh and the City assumed the properties obligations. Currently, the amount of the investment plus interest is payable to the Agency. Notes receivable consist of the following at December 31, 2009:

Notes Receivable due from City of Newburgh	
Original amount	\$ 493,528
Accrued interest at 5%	<u>98,831</u>
Total Notes Receivable at December 31, 2009	<u>\$ 592,359</u>

As of December 31, 2009, the Agency is due \$752,740 from the City of Newburgh Local Development Corporation (LDC). This receivable has been reserved in the amount of \$752,740 since the LDC does not currently have sufficient working capital to be able to make payments to the Agency. However, the LDC also had an interest in the property sold in 2006 and should receive some proceeds from the sale to pay some of the balance owed to the Agency.

**Note 5 – Mortgage Receivable**

During 2009 the City of Newburgh transferred \$300,000 the Agency to fund a mortgage for a development project in the City of Newburgh. At December 31, 2009 the Agency was the mortgagee of record.

Mortgage Receivable	
Original amount	\$ 300,000
Accrued interest at 5%	<u>2,500</u>
Total Notes Receivable at December 31, 2009	<u>\$ 302,500</u>

**CITY OF NEWBURGH, NEW YORK  
INDUSTRIAL DEVELOPMENT AGENCY  
(A Component Unit of the City of Newburgh)  
NOTES TO THE FINANCIAL STATEMENTS (CONT'D.)  
FOR THE YEAR ENDED DECEMBER 31, 2009**

**Note 6 – Due to the City of Newburgh**

During 2009 the City of Newburgh transferred \$300,000 the Agency to fund a mortgage for a development project in the City of Newburgh. The source of these funds was the Kingston Newburgh Economic Corporation (KNEC) Revolving Loan Fund.

**Note 7 – Deferred Revenue**

Deferred rental revenue at December 31, 2009 consists of three long-term leases of property owned by the IDA. The first lease term is for 60 years, where the last 40 years are payable at \$100 per year. As such, the rental receipts to be received for the first 20 years, totaling \$663,599, are deferred and recognized as income over the 60 year lease term. The second lease has a term of 48 years, with total rents received in advance of \$5,000, which are being recognized over the 48-year term of the lease. The third lease term is for 10 years, with total rents received in advance of \$118,300, which are being recognized over the 10 year term of the lease. As of December 31, 2009, deferred revenue of the agency amounted to \$483,144, \$23,952 of which is considered short term.

**Note 8 – Judgment and Claims**

The IDA and the City of Newburgh jointly applied for and received a grant from the U.S Department of Commerce and for the periods from 2003 until 2006, incurred costs to develop certain properties within the City. The grant for this project was to partially (68.63%) reimburse the costs of development. The matching portion (31.37%) was a local share but it was unclear in the contracts which entity was responsible for this share. As of December 31, 2009 there is an estimated liability for a possible exposure in the amount of \$196,170 which represents 50% of the unreimbursed eligible costs of the project. Actual exposure could be higher pending the outcome of a settlement.

**CITY OF NEWBURGH, NEW YORK  
INDUSTRIAL DEVELOPMENT AGENCY  
(A Component Unit of the City of Newburgh)  
NOTES TO THE FINANCIAL STATEMENTS (CONT'D.)  
FOR THE YEAR ENDED DECEMBER 31, 2009**

**Note 9 – Operating Leases**

The following is a five-year schedule of minimum future rentals or non-cancelable operating leases including anticipated renewal periods as of December 31, 2009.

<u>Year</u>	<u>Rental Income</u>
2010	\$ 56,368
2011	58,312
2012	60,324
2013	62,407
2014	64,279
2015-2040	<u>1,137,679</u>
Total	<u>\$ 1,439,369</u>

**Note 10 - Industrial Revenue Bond and Note Transactions**

Certain revenue bonds and notes authorized by the Agency and issued through various lending institutions are considered special obligations of the Agency. They are secured by property, which is leased to private companies and educational institutions and are usually retired by the related lease payments. The bonds and notes are not guaranteed by the Agency, or by the City of Newburgh. Recourse by the lending institutions and ultimate bondholders is limited to the collateralized properties and related lease revenues. Therefore, the Agency does not record the assets and liabilities resulting from completed bond and note issues in its financial statements since its primary function is to arrange the financing between the borrowers and the bond and note holders, and funds arising there from are normally controlled by trustees or banks acting as fiscal agents. A supplemental schedule of these transactions is provided on page 14.

**Note 11 - Tax Exemptions**

In 2008, the City of Newburgh Industrial Development Agency was barred from issuing new tax exemptions as a result of not filing required reports with the Office of the State Comptroller and the Authority Budget Office of the State of New York, in a timely fashion. The Agency is currently working to satisfy those requirements.

**CITY OF NEWBURGH, NEW YORK  
INDUSTRIAL DEVELOPMENT AGENCY  
(A Component Unit of the City of Newburgh)  
NOTES TO THE FINANCIAL STATEMENTS (CONT'D.)  
FOR THE YEAR ENDED DECEMBER 31, 2009**

**Note 12 – Subsequent Event**

Subsequent to December 31, 2009 the Agency assigned the Note and Mortgage, referred to in Note 5, to the City of Newburgh. This assignment also relieves the Agency's liability to the City of Newburgh referred to in Note 6.

**OTHER SUPPLEMENTAL INFORMATION**

**CITY OF NEWBURGH, NEW YORK  
INDUSTRIAL DEVELOPMENT AGENCY  
(A Component Unit of the City of Newburgh)  
SCHEDULE OF SUPPLEMENTAL INFORMATION  
FOR THE YEAR ENDED DECEMBER 31, 2009**

<u>Description</u>	<u>Principal Outstanding at Beginning of Year</u>	<u>Debt Issued During Year</u>	<u>Debt Paid During Year</u>	<u>Principal Outstanding at End of Year</u>
GEMMA	\$ 3,678,702	\$ -	\$ (167,382)	\$ 3,511,320
Bourne & Kenney	4,055,000	-	(85,000)	3,970,000
Belvedere Housing, LP	15,910,877	-	(481,537)	15,429,340
St. Lukes Hospital Parking Garage	20,410,000	-	(620,000)	19,790,000
	<u>\$ 44,054,579</u>	<u>\$ -</u>	<u>\$(1,353,919)</u>	<u>\$ 42,700,660</u>

Note: These bonds are not obligations of the City of Newburgh Industrial Development Agency.



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**INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER  
FINANCIAL REPORTING AND ON COMPLIANCE  
AND OTHER MATTERS BASED ON AN AUDIT OF  
FINANCIAL STATEMENTS  
PERFORMED IN ACCORDANCE WITH  
GOVERNMENT AUDITING STANDARDS**

To the Board of Directors  
City of Newburgh Industrial Development Agency  
83 Broadway  
Newburgh, New York 12550

We have audited the financial statements of the business-type activities of the City of Newburgh, New York Industrial Development Agency (the Agency), a component unit of the City of Newburgh, as of and for the year ended December 31, 2009, which collectively comprise the basic financial statements of the Agency and have issued our report thereon dated April 27, 2011. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

**Internal Control Over Financial Reporting**

In planning and performing our audit, we considered the City of Newburgh, New York Industrial Development Agency's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements but not for the purpose of expressing an opinion on the effectiveness of the City of Newburgh, New York Industrial Development Agency's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Agency's internal control over financial reporting.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions to prevent or detect misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented or detected and corrected on a timely basis.

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Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of the section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We identified Finding number one and two in the schedule of Findings and Recommendation as a deficiency in internal control over financial reporting that we consider to be material weaknesses, as defined above.

### **Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the City of Newburgh Industrial Development Agency, financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed one instance of noncompliance as noted in our schedule of Findings and Recommendations as well as other matters that are required to be reported under *Government Auditing Standards*.

This report is intended solely for the information and use of management, the Chairman, Agency Board, and others within the Agency and is not intended to be, and should not be, used by anyone other than these specified parties.



Poughkeepsie, New York  
April 27, 2011

**CITY OF NEWBURGH, NEW YORK  
INDUSTRIAL DEVELOPMENT AGENCY  
(A Component Unit of the City of Newburgh)  
SCHEDULE OF FINDINGS AND RECOMMENDATIONS  
FOR THE YEAR ENDED DECEMBER 31, 2009**

**CONTINUING FINDINGS FROM THE PRIOR YEAR:**

**MATERIAL WEAKNESS:**

**Finding 1:** The Agency has not developed an internal control policy and did not have adequate segregation of duties during 2009.

**Cause:** Lacked sufficient staff to segregate duties or maintain accounting records.

**Effect:** Expenses and Revenues were not recorded in a timely manner. Neither Accounts Payable nor Accounts Receivable were maintained during 2009.

**Recommendation:**

The Agency should develop an internal control policy and ensure that all expenses and Revenues of the Agency are properly recorded in a timely manner. The Agency should also segregate duties such as initiating, authorizing, recording transactions and periodic review of activities.

**SIGNIFICANT DEFICIENCIES:**

**Finding 2:** Significant adjustments were needed to be made to correct the Agency's records. The Agency is required to reconcile its books for accurate reporting to the City, to state agencies and for the audited financial statements. During this process management should review each balance sheet account (cash, receivables, payables, deferred revenues, etc) and make appropriate adjustments. Material adjustments that the audit finds without management having proposed them to the auditors are required to be reported as significant deficiencies of internal control under the Statement on Auditing No 115. Accounting procedures failed to provide complete and accurate output necessary for management of the Agency's finances and budgetary control.

**Cause:** The Agency records were not reconciled on a regular basis.

**Effect:** Interim financial statements printed from this system would have been materially inaccurate.

**CITY OF NEWBURGH, NEW YORK  
INDUSTRIAL DEVELOPMENT AGENCY  
(A Component Unit of the City of Newburgh)  
SCHEDULE OF FINDINGS AND RECOMMENDATIONS  
FOR THE YEAR ENDED DECEMBER 31, 2009**

**Finding 2: (Continued)**

**Recommendation:**

The Agency needs to adjust record keeping system to maintain accurate financial reporting; internally and externally. Any audit adjustments should be posted by management.

**OTHER MATTERS:**

**Finding 3:** The Agency is not in compliance with Public Authority's Law and has not filed the required PARIS report with the Authority Budget Office (ABO). Subsequently, because of late filing the Agency has lost their right to issue Sales Tax Exemptions.

**Cause:** Turnover in management and training on PARIS reporting.

**Effect:** The Agency is listed as not in compliance with the ABO and is barred from issuing new tax exemptions.

**Recommendation:**

The Agency must file its PARIS reports as soon as possible.

**Finding 4:** The Agency has conduit debt obligations that must be reported in their annual audited financial statements as well as in the PARIS report. The Agency has been unable to obtain the required information for one of these revenue bonds.

**Cause:** Lack of recordkeeping by former management.

**Effect:** The Agency will risk not being in compliance with Public Authorities Law.

**Recommendation:**

The Agency must contact the holder of the conduit debt obligation (listed in the supplemental section of the financial statements) and gather the necessary information (amount of bond, amount outstanding and payments during the year) and report it in the PARIS system.

**CITY OF NEWBURGH, NEW YORK  
INDUSTRIAL DEVELOPMENT AGENCY  
(A Component Unit of the City of Newburgh)  
SCHEDULE OF FINDINGS AND RECOMMENDATIONS  
FOR THE YEAR ENDED DECEMBER 31, 2009**

**Finding 5:** The Agency's bank accounts lacked sufficient collateral. Deposits as of December 31, 2009 amounted to \$317,157. FDIC coverage amounted to \$250,000 leaving \$67,157 of the Agency's deposits uncollateralized.

**Cause:** Lack of oversight by management.

**Effect:** The Agency's deposits are subject to risk of bank failure and are required to be reported as under-collateralized

**Recommendation:**

Governments are required to have collateral for deposits in excess of FDIC coverage. The Agency should pursue collateralization for their deposits.

**Finding 6:** The Agency's bank account, with a significant balance, was not interest bearing in 2009.

**Cause:** Lack of oversight by management.

**Effect:** The Agency is losing interest earnings.

**Recommendation:**

The Agency should review cash requirements and move funds to interest bearing accounts until needed..

**Satisfied findings from prior year: None.**

**APPENDIX A**

**Management's Responses to the Findings and Recommendations**

**CITY OF NEWBURGH**  
**INDUSTRIAL DEVELOPMENT AGENCY**

**83 Broadway, Newburgh, NY 12550**

**(T) 845-569-9400    [ida@cityofnewburgh-ny.gov](mailto:ida@cityofnewburgh-ny.gov)    (F) 845-569-9700**

**Board Members**

Joshua Smith, Chair  
Richard Bedrosian, Vice Chair  
Michael Curry, Treasurer  
John Penney, Secretary  
Spencer Gulliver  
Jerry Maldonado  
Sean O'Shea

**Staff**

Theresa Waivada,  
Executive Director  
Craig Skelly,  
Chief Financial Officer  
C.K. Boyle,  
Recording Secretary

**Counsel**

Thomas Whyatt, Esq.

**Sedore & Company, CPA's, P.C.**  
**2678 South Road, Suite 101**  
**Poughkeepsie, NY 12603**

**City of Newburgh Industrial Development Agency Management**  
**Response to Audit Findings 2009**

December 19, 2011

**Background:**

It should be noted that since 2005 audits of the City of Newburgh Industrial Development Agency (Agency) were not completed, approved nor submitted to the Authority Budget Office by March 31<sup>st</sup> of each year as required under GML Article 18A. This, and failure to comply with the Public Authorities Accountability Act of 2005 requirements lead to the Agency's decertification in 2007. Since 2009 a newly appointed, independent Board of Directors has undertaken the task to bring the Agency into compliance, hire experienced and professional staff, and administer itself independently.

Since the inception of the Agency, it was operated as a unit of the City. Records indicate that bills were reviewed and approved by the Administrator, and then forwarded for approval by the City Manager or City Comptroller. Only one signature, that of the Administrator, was required on Agency checks. Similarly, record keeping and files were comingled with those of the Department of Planning and Development. A majority of the Agency's were members of the City Council.

In addition, the Administrator of the Agency, a part time position, was appointed by the City Manger and also served as the Director of Planning and Economic Development and Director of the Newburgh Local Development Corporation. The coordinative/integrated role was established by the City Charter as follows:

**ARTICLE XIV**

**Department of Planning and Development**

*[Added 1-27-2003 by L.L. No. 1-2003]*

*§ C14.00. Establishment; head.*

*There shall be a Department of Planning and Development, headed by a Director of Planning and Development, who shall be appointed by the City Manager and who shall serve at the pleasure of the City Manager.*

*§ C14.01. Director of Planning and Economic Development.*

*The Director of Planning and Development shall be appointed on the basis of his*

*education and experience in carrying out the duties of the position. Among the Director's functions and duties, but not by way of limitation, shall be the following:*

*A. To act as a full-time administrator of the Department, the Newburgh Local Development Corporation and the Newburgh Industrial Development Agency offices to ensure a coordinated and comprehensive approach to community and economic development within the City of Newburgh.*

*B. To develop and administer a combined and integrated staff to support the Newburgh Community Development Agency, Newburgh Local Development Corporation and the Newburgh Industrial Development Agency and other community-based programs recognized by the Council.*

[In 2011, the Acting City Manager recognized the independence of the Agency.]

In 2007 and 2008, the board consisted of all five members of the City Council and two members at large. In mid 2008, seven independent board members were appointed by the City Council; but the first meeting of the new board was not held until September 2008. At that time, the new members elected officers, and appointed two standing committees: Governance and Audit. They also sought compliance direction from the NYS Comptroller's Office and staff of the Authority Budget Office. [In 2009, the new members completed the required Public Authorities Accountability Act training.]

The new members of the Agency met with resistance from its Administrator and were unable to obtain information of the Agency's internal processes, its past activities, location of its files, or the information regarding Agency's finances. In February 2009 at Special Meeting, the Agency members adopted the resolutions to take full control of contracts, fiscal reviews and approval of all expenditures. Between 2008 and 2011, the Agency had 4 different administrators due to retirements, resignations and new appointments of the City's Director *of Planning and Economic Development*.

In 2009, the Agency questioned the City's use of IDA funds for multi-year payment of the City's Planning and Economic Development staff and operations. The Agency brought an Article 78 against the City. A judgment was made in favor of the Agency, including a repayment of \$190,000, and stipulation the city would provide the administrative services to enter Agency information to the Public Authorities Recording and Information System (PARIS.) A copy of the Court's Stipulated Order of Settlement attached.)

**The following responds to the 2009 Audit findings, including responses to 2008 Audit findings.**

**Finding - 1 Lack of Internal Controls.**

In 2009, the Agency established internal controls of its finances which required that all disbursement and contracts be approved by the members of the Agency at its monthly meetings. The Administrator was no longer permitted to access to the Agency bank account. In late 2010, the Agency advertised for an accountant, the position was filled in February of 2011 and upgraded to a Chief Financial Officer position, and. Subsequently, an internal control policy was established and all financial record-keeping is current.

**Finding - 2 Significant Adjustments/Corrections**

In 2008, the City administered the Agency's financial record keeping. The actions taken in 2009 and subsequent years by the Agency ended City-control and places all financial reporting (externally and internally) and record keeping within the control of the Agency and its Chief Financial Officer. The Chief Financial Officer is overseen by the Agency's Treasurer. All disbursements, financial management and contracts are approved by the Board at its monthly meetings.

**Finding -3 Compliance with State requirements.**

The Agency will be in compliance with the Authority Budget Office when the 2007, 2008, 2009, 2010 and 2011 audits are completed and submitted on or before March 31, 2011. The 2010 audit is underway. Audit service contracts to undertake the 2011 and 2012 audits, following a competitive process, are pending with the provision that the audits be completed by march 15<sup>th</sup> of each year.

**Finding – 4 Conduit Debt Record Keeping.**

In 2011, the Agency obtained conduit debt records from project trustees for its active bond projects. It should be noted that administrators assigned to the IDA by the City in the past were not experienced or knowledgeable in the ABO/Comptroller's reporting process.

It should be noted: One 1997 bond project, for Atlas Textiles, remains open at this time. According to the Treasurer of the now defunct company, the debt was paid off but the Agency has only a copy of draft of a close-out agreement. Neither the Agency's archives nor a search of the minutes from 2000 and later, have located any Agency authorizations to execute a close-out agreement or transfer the property from Agency fee ownership to the company/property owner. It should be that the property was transferred and the Agency no longer has a fee interest in the property. This could not have occurred if there was outstanding debt on the property. Further, the former trustee, US Trust merged with BNY Mellon. For almost six months, BNY Mellon has been searching its archives to locate the settlement. As of this writing, BNY Mellon will pursue a mechanism to attest to the bond close-out.

**Finding – 5 Bank Collateralization of the Agency's account.**

On August 30, 2010 the Agency executed a Collateralization Agreement with Keybank.

**Finding – 6 The Agency's bank accounts were not interest bearing.**

The Agency funds have been transferred to interest bearing account in December, 2011. In 2012 the Agency will issue a RFP for financial services consistent with FDIC and state requirements and insure its funds are competitively invested.

Respectfully Submitted

City of Newburgh Industrial Development Agency

  
Michael Curry  
Treasurer

Attachment follows.

## Management Response to Audit Findings 2007, 2008, 2009

### **Background:**

The 2007 audit was submitted in May of 2008. There is no record to indicate that the audit was reviewed or adopted by the members of Agency. The Agency's composition at the time was not in compliance with Public Authorities Accountability Act of 2005. It should be noted that the audit raised serious questions on the Agency's fiscal policies. It also made numerous recommendations .

Since the inception of the Agency, it was operated as a unit of the City. Records indicate that bills were reviewed and approved by the Administrator, and then forwarded for approval by the City Manager or City Comptroller. Only one signature that of the Administrator, was required on checks. Similarly record keeping and files were comingled with those of the Department of Planning and Development. The members of the Agency were primarily members of the City Council.

In addition, the Administrator of the Agency, a part time position, was appointed by the City Manger and also served as the Director of Planning and Economic Development and Director of the Newburgh Local Development Corporation. The position also oversees the Newburgh Community Development Agency. The coordinative/integrated role was established by the **City Charter** as follows:

### **ARTICLE XIV**

#### **Department of Planning and Development**

*[Added 1-27-2003 by L.L. No. 1-2003]*

*§ C14.00. Establishment; head.*

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*§ C14.01. Director of Planning and Economic Development.*

*The Director of Planning and Development shall be appointed on the basis of his education and experience in carrying out the duties of the position. Among the Director's functions and duties, but not by way of limitation, shall be the following:*

*A. To act as a full-time administrator of the Department, the Newburgh Local Development Corporation and the Newburgh Industrial Development Agency offices to ensure a coordinated and comprehensive approach to community and economic development within the City of Newburgh.*

*B. To develop and administer a combined and integrated staff to support the Newburgh Community Development Agency, Newburgh Local Development Corporation and the Newburgh Industrial Development Agency and other community-based programs recognized by the Council.*

In 2007 and 2008, the board consisted of all five members of the City Council and two members at large. In mid 2008, independent board members were appointed by the City Council; but the first meeting of the new board was not held until September 2008. At that time, the new members elected officers and appointed two standing committees: Governance and Audit.

The new members of the Agency met with resistance from its Administrator and were unable to obtain information of internal processes, past activities, files, or the Agency's finances. In February 2009 at Special Meeting, the Agency members adopted the resolutions to take full control of contracts, fiscal reviews and approval of all expenditures.

In 2009, the Agency questioned the City's use of IDA funds for multi-year payment of the City's Planning and Economic Development staff and operations. The Agency brought an Article 78 against. A judgement was made in favor of the Agency and of \$190,000. A copy of the Court's decision is attached.

**The 2008 Audit was received by the Agency on April 2010. [many of the same finding are reported for the audit of 2009.] The following responds to these findings.**

Finding - 1 Lack of Internal Controls.

In 2009, the Agency established internal controls of its finances which required that all disbursement and contracts be approved by the members of the Agency at its monthly meetings. In late 2010, the Agency advertised for an accountant, the position was upgraded to a Chief Financial Officer position and was filled in February-March of 2011. Subsequently, an internal control policy was established and all financial record keeping is current.

Finding – 2 Significant Adjustments/Corrections

In 2008, the City administered the Agency's financial record keeping. The actions taken in 2009 and subsequent years by the Agency places all financial reporting (externally and internally) and record keeping within the control of the Agency and its Chief Financial Officer. The Chief Financial Officer is overseen by the Agency's Treasurer.

Finding -3 Compliance with State requirements.

The Agency will be in compliance with the Authority Budget Office when the 2007, 2008, 2009, 2010 and 2011 audits are completed and submitted by March 31, 2011.

Finding – 4 Conduit Debt Record Keeping.

In 2011, the Agency obtained conduit debt records for its active bond projects. It should be noted that administrators assigned to the IDA by the City in the past were not knowledgeable in the ABO reporting process. One bond project, for Atlas Textiles, remains open at this time. According to the Treasurer of the now defunct company, the debt was paid off but there does not appear to be an executed close out agreement for the bond settlement. For almost six months, BNY Mellon has been searching its archives to locate the settlement.

It should be noted that that Agency no longer has a fee interest in the property, because the bond was paid off, the title to the property was transferred for the project owner. Unfortunately, a search of the Agency's minutes, lawyer's files and archives indicate that no authorization was given by the Agency to execute the settlement agreement or to transfer title back to the owner of the property.

Finding – 5 Bank Collateralization of the Agency's account.

On August 30, 2010 the Agency executed a Collateralization Agreement with Keybank.

Finding – 6 The Agency's bank accounts were not interest bearing.

The Agency funds will be interest bearing in December, 2011. In 2012 the Agency will issue a RFP for financial services and collateralization consistent with FDIC and state requirements and insure its funds are competitively invested.

IX  
DISP  
SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ORANGE

-----X  
In the Matter of the CITY OF NEWBURGH  
INDUSTRIAL DEVELOPMENT AGENCY,

Petitioner,

For a Judgment Pursuant to Article 78 of the  
Civil Practice Law and Rules,

**STIPULATED ORDER  
OF SETTLEMENT**  
Index No: 04867/09

- against -

LOURDES ZAPATA, in her capacity as Director  
of the Department of Planning and Development for  
the City of Newburgh and as Administrative Director  
of the City of Newburgh Industrial Development Agency,  
CHARLES EMBERGER, in his capacity as Director of  
Finance for the City of Newburgh and as City Comptroller  
of the City of Newburgh and DWIGHT DOUGLAS, in his  
capacity as Acting City Manager of the City of Newburgh,

Respondents.

-----X  
WHEREAS, Petitioner City of Newburgh Industrial Development Agency  
("Agency") and respondents, acting by and through their successors in office (said  
successors hereinafter referred to as "Respondents," as the original respondents no longer  
in their offices have no authority to bind their respective offices), are desirous of a full,  
final and complete settlement of this matter, it is hereby agreed by and between the  
parties, and so-ordered by this Court, as follows:

1. The Respondents will cause the City of Newburgh to pay to the Agency the  
sum of \$190,000 on or before December 31, 2009 by check payable to the City of  
Newburgh IDA or wire deposit into the City of Newburgh IDA Operating/Fees Account,

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ORANGE COUNTY CLERK  
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account no. 3330007455 with KeyBank in Newburgh, New York.

2. Neither Petitioner nor the Respondents shall seek from each other any additional reimbursement for any matters that were raised, or could have been raised, in connection with the Verified Petition herein, by the parties in this action.

3. The City of Newburgh Department of Planning and Development through its Director shall provide to the Agency the following staffing services so that the Agency may continue to operate in accord with the General Municipal Law of the State of New York, the City Charter of the City of Newburgh and the by-laws of the City of Newburgh Industrial Development Agency: Administrative Director, Secretary and Planner.

4. The staffing services to be provided by the City of Newburgh Department of Planning and Development through its Director shall be provided to the Agency without charge to the Agency through December 31, 2009 and that beginning January 1, 2010 the parties agree that the provision of staffing services to the Agency by the City of Newburgh Department of Planning and Development through its Director will be at such charges as agreeable to the parties.

5. The Respondents will cause the City of Newburgh to continue to provide Directors and Officers ("D and O") insurance coverage naming the Agency, Agency's officers and Agency's Board of Directors as insureds in the same manner and form as previously provided and shall provide evidence of such insurance to the Agency. In the event of cancellation or material change to the aforementioned insurance policy, the Respondents shall immediately notify the Agency's Treasurer by registered mail, return

receipt requested.

6. The Respondents through the City of Newburgh Department of Planning and Development and Office of the City Comptroller within ten (10) calendar days from the date this Order is signed will provide staffing services as required to set up the Public Authorities Reporting Information System (PARIS) pursuant to the requirements of the New York State Public Authorities Budget Office for the Petitioner Agency and that the Respondents shall cause the City of Newburgh to assume the total cost of setting up the PARIS system for the Agency.

7. The City of Newburgh Department of Planning and Development and the Office of the City Comptroller within twenty (20) days from the date this order is signed will provide to the Agency such personnel as needed to input data into the PARIS system in order to bring the Agency current in its filings obligations pursuant to the Public Authorities Accountability Act through December 31, 2009 and the Respondents will cause the City of Newburgh to assume all costs incurred in connection with the entry of such data.

8. The Petitioner's Order to Show Cause that was presented to the Court on August 6, 2009 seeking a preliminary injunction and other relief is hereby withdrawn with prejudice.

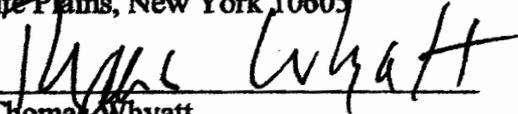
9. The Petitioner's Verified Petition entitled In the Matter of the City of Newburgh Industrial Development Agency v Lourdes Zapata, et al., Index No.: 04867/2009 is hereby discontinued with prejudice. Within twenty-one (21) days from

the date of this Order, Petitioner shall file a Notice of Discontinuance with the Clerk of the court and shall serve a filed copy thereof by first class mail upon the Respondents and their counsel.

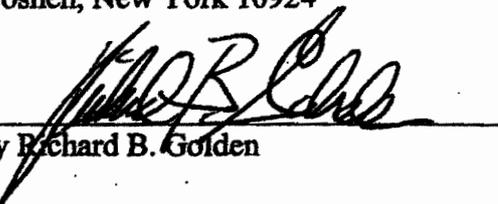
Dated: Goshen, New York

*September 17, 2009*

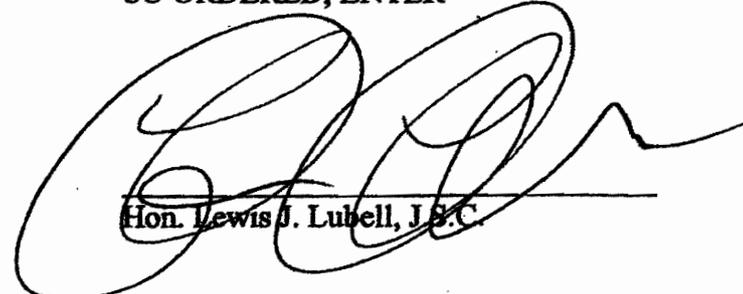
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by Thomas Whyatt

Burke Miele and Golden, LLP  
Attorneys for Respondents  
40 Matthew Street Room 209  
Goshen, New York 10924

  
by Richard B. Golden

SO ORDERED, ENTER

  
Hon. Lewis J. Lubell, J.S.C.