

**CITY OF NEWBURGH, NEW YORK
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, 2010**

**CITY OF NEWBURGH, NEW YORK
INDUSTRIAL DEVELOPMENT AGENCY
(A Component Unit of the City of Newburgh)
TABLE OF CONTENTS
DECEMBER 31, 2010**

<u>DESCRIPTION</u>	<u>PAGE(S)</u>
Independent Auditors’ Report.....	1-2
Management’s Discussion and Analysis (Unaudited)	3-4
FINANCIAL STATEMENTS:	
Statement of Net Assets	5
Statements of Revenues, Expenses and Changes in Net Assets	6
Statement of Cash Flows	7
Notes to the Financial Statements.....	8-13
OTHER SUPPLEMENTAL INFORMATION:	
Schedule of Supplemental Information.....	14
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.....	15-16
Schedule of Findings and Recommendations	17-18
Appendix A – Management’s Responses to the Findings and Recommendations.....	19

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 New York, as of December 31, 2010 which collectively comprise the Agency's basic financial statements for the year then ended as listed in the foregoing Table of Contents. These financial statements are the responsibility of the City of Newburgh Industrial Development 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 opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the City of Newburgh, New York Industrial Development Agency, as of December 31, 2010, and the results of its operations, and cash flows, for the year ended in conformity with accounting principles generally accepted in the United States of America.

Accounting principles generally accepted in the United States of America require that Management's Discussion and Analysis, listed in the Table of Contents, be presented to supplement the financial statements. Such information, although not a part of the financial statements, is required by the Governmental Accounting Standards Board, who considers it to be, an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context.

We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance

Our audit was conducted for the purpose of forming an opinion on the financial statements 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 February 14, 2012 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 and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. 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 should be considered in assessing the results of our audit.

Poughkeepsie, New York
February 14, 2012

**CITY OF NEWBURGH, NEW YORK
INDUSTRIAL DEVELOPMENT AGENCY
(A Component Unit of the City of Newburgh)
MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED)
DECEMBER 31, 2010**

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, 2010, as mandated by GASB #34. This information should be reviewed in conjunction with the audited financial statements of the Agency.

FINANCIAL OPERATIONS HIGHLIGHTS

Total assets amounted to \$1,188,442, consisting of an increase in Net Assets in 2010 of \$210,925. Total liabilities amounted to \$494,290, with \$435,240 designated as long-term liabilities. Other income increased due to a \$196,170 loss contingency that was not realized instead it became grant income to be realized in the amount of \$103,000.

SUMMARY OF REVENUES AND EXPENSES

<u>REVENUES:</u>	<u>2010</u>	<u>2009</u>
Fees	\$115,560	\$87,850
Other	344,170	9,341
Interest Earnings	<u>15,563</u>	<u>30,709</u>
Total Revenues	<u>\$475,293</u>	<u>\$127,900</u>
 <u>EXPENSES:</u>		
Operating Expenses	<u>\$165,010</u>	<u>\$129,220</u>
Total Expenses	<u>\$165,010</u>	<u>\$129,220</u>

**CITY OF NEWBURGH, NEW YORK
INDUSTRIAL DEVELOPMENT AGENCY
(A Component Unit of the City of Newburgh)
MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED) (CONT'D.)
DECEMBER 31, 2010**

FINANCIAL POSITION SUMMARY

Net Assets serve as an indicator of the Agency's financial position. The Agency's Net Assets were \$694,152, as of December 31, 2010. This includes a decrease of \$98,831 over the prior year. The decrease can be attributed to accrued interest due from the City of Newburgh in the amount of \$98,831, which was written off as a prior period adjustment during the period.

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

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. It is a component unit of the City of Newburgh, New York. It is a component unit of the City of Newburgh, New York because the City of Newburgh Council appoints all of the Agency's Board Members.

**CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY
(A COMPONENT UNIT OF THE CITY OF NEWBURGH)
STATEMENT OF NET ASSETS
DECEMBER 31, 2010**

ASSETS

	2010
Current Assets:	
Cash and Cash Equivalents	\$ 333,892
Accounts Receivable	51,778
Grant Receivable	103,000
Loans Receivable	493,528
Prepaid Expenses	9,244
Real Property Held for Sale or Development	197,000
TOTAL ASSETS	\$ 1,188,442

LIABILITIES AND NET ASSETS

Current Liabilities:	
Accrued Liabilities	\$ 29,098
Security Deposits	6,000
Deferred Revenue - current	23,952
Total Current Liabilities	59,050
Non-Current Liabilities:	
Deferred Revenue	# 435,240
Total Non-Current Liabilities	435,240
Total Liabilities	494,290
Net Assets:	
Unrestricted	694,152
Total Net Assets	694,152
TOTAL LIABILITIES AND NET ASSETS	\$ 1,188,442

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)
STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN NET ASSETS
FOR THE YEAR ENDED DECEMBER 31, 2010**

	2010
<u>OPERATING REVENUES:</u>	
Lease Income	\$ 115,560
Total Operating Revenues	115,560
<u>OPERATING EXPENSES:</u>	
Personnel	306
Office and Operations	63,392
Contractual and Project Costs	101,312
Total Operating Expenses	(165,010)
Net Operating Revenues (Expenses)	(49,450)
<u>NON-OPERATING REVENUES (EXPENSES):</u>	
Interest Income	15,563
Other Revenues	344,170
Net Non-Operating Revenues (Expenses)	359,733
Excess of Revenues or (Expenses)	310,283
Net Assets, January 1, 2010, as originally presented	482,700
Prior Period Adjustment	(98,831)
Net Assets, January 1, 2010, as restated	383,869
Net Assets, December 31, 2010	\$ 694,152

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, 2010**

	2010
Cash Flows From Operating Activities	
Receipts from providing services	\$ 55,316
Payments to contractors	(155,476)
Interest received	15,563
Net cash (used) in operating activities	\$ (84,597)
 Reconciliation of operating income to net cash used in operating activities	
Change in Net Assets	\$ 211,454
Adjustments to Reconcile Change in Net Assets to Net Cash Provided by Operating Activities	
(Increase)/Decrease in:	
Accounts Receivable	36,606
Grants Receivable	(103,000)
Prepaid Expenses	(9,244)
(Increase)/Decrease in:	
Accrued Liabilities	(290)
Judgement and Claims	(196,170)
Deferred Revenues - Current	(23,952)
NET CASH (USED IN) OPERATING ACTIVITIES	(84,597)
 Cash Flows from Non Capital Financing Activities:	
Repayments & Settlements from the City of Newburgh	101,331
NET CASH PROVIDED BY FINANCING ACTIVITIES	101,331
 NET INCREASE IN CASH AND CASH EQUIVALENTS	16,734
 CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR	317,158
 CASH AND CASH EQUIVALENTS, END OF YEAR	\$ 333,892

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, 2010**

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, which was temporarily suspended, (See Note 11). 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.

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

**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, 2010**

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

Use of Estimates

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, 2010 were \$333,892. These deposits are categorized as follows:

<u>1</u>	<u>2</u>	<u>3</u>	<u>Carrying Value</u>
\$ 333,892	\$ -	\$ -	\$ 333,892

Deposit 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, 2010**

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, 2010 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. In 2011 a settlement was reached and full payment was received from the City of Newburgh. The note was written down to the amount realizable. Notes receivable consist of the following at December 31, 2010:

<u>Notes Receivable due from City of Newburgh</u>	
Original amount	\$ 493,528
Accrued interest at 5%	98,831
Less settlement on accrued interest @ 5%	<u>(98,831)</u>
Total Notes Receivable at December 31, 2010	<u><u>\$ 493,528</u></u>

As of December 31, 2010, 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 to the Agency to fund a mortgage for a development project in the City of Newburgh. At December 31, 2010 the Agency was the

**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, 2010**

Note 5 – Mortgage Receivable (Continued)

mortgagee of record. During 2011 the Agency assigned the note and mortgage payable to the City of Newburgh, consequently mortgage receivable is \$0 at December 31, 2010.

<u>Mortgage Receivable assigned to the City of Newburgh</u>	
Original amount	\$300,000
Accrued interest at 5%	2,500
Less settlement on accrued interest @ 5%	(2,500)
Less assignment of Mortgage Receivable to the City of Newburgh	<u>(300,000)</u>
Total Mortgage Receivable at December 31, 2010	<u>\$ -</u>

Note 6 – Grant Receivable

The Agency applied for and received a grant from the U.S. Department of Commerce. The grant was to partially reimburse the costs of development for costs incurred to develop certain properties within the City. At December 31, 2010 the grant receivable is \$103,000.

Note 7 – Due to the City of Newburgh

During 2010 the Agency assigned a \$300,000 mortgage payable note, which was formerly for a development project to the City of Newburgh. Consequently due to this assignment \$300,000 was written off at December 31, 2010.

Note 8 – Deferred Revenue

Deferred rental revenue at December 31, 2010 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.

**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, 2010**

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, 2010.

<u>Year</u>	<u>Rental Income</u>
2011	\$ 96,868
2012	99,774
2013	102,768
2014	105,851
2015	109,027
2016-2040	1,346,452
Total	<u>\$ 1,860,740</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, 2010

Note 12 Prior Period Adjustment

During 2010 the Agency recorded a prior period adjustment pertaining to the 2009 year for interest accrued on a note receivable. The note due from the City of Newburgh, (see Note 4) was accruing interest at the rate of 5% and amounted to \$98,831. Through settlement the Agency agreed to write off interest accrued, during the subsequent period, resulting in a decrease in interest income recognized and net assets in the amount of, \$98,831.

Note 13 – Subsequent Event

Subsequent to December 31, 2011 the Agency assigned a \$300K note receivable and mortgage payable, (see notes 5 and 7), to the City of Newburgh. This assignment effectively transferred any liability or right to income for the aforementioned mortgage payable and note receivable to the City of Newburgh. referred to in Note 7. The net effect of the assignment resulted in a decrease in net assets of \$2,538.

Note 14 – Litigation

The written response from the attorneys for the Agency enumerated several actions that the Agency was a party to. However, after a review, it was determined that none of the matters gave rise to a loss contingency that would require the recording of a liability as of December 31, 2010.

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, 2010**

<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	\$ 3,511,320	\$ -	\$ (358,401)	\$ 3,152,919
Bourne & Kenney	3,970,000	-	(95,000)	3,875,000
Belvedere Housing, LP	15,429,340	-	(513,788)	14,915,552
St. Luke's Cornwall Hospital Parking Garage	19,790,000	-	(640,000)	19,150,000
	<u>\$ 42,700,660</u>	<u>\$ -</u>	<u>\$ (1,607,189)</u>	<u>\$ 41,093,471</u>

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

**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, 2010, which collectively comprise the basic financial statements of the Agency and have issued our report thereon dated February 14, 2012. 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.

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
February 14, 2012

**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, 2010**

CONTINUING FINDINGS FROM THE PRIOR YEAR:

MATERIAL WEAKNESS:

Finding 1: The Agency did not have adequate segregation of duties during 2010.

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 2010.

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 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, 2010**

Finding 2: (Continued)

Recommendation:

The Agency needs to adjust its record keeping system to maintain accurate financial reporting; internally and externally.

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's bank account, with a significant balance, was not interest bearing in 2010.

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: Two.

APPENDIX A

Management's Responses to the Findings And Recommendations



**City of Newburgh
Industrial Development Agency**

83 Broadway, Newburgh, NY 12550 (T) 845-569-7369 (F) 845-569-9700
<http://www.cityofnewburgh-ny.gov/gov/IDA>
Email: ida@cityofnewburgh-ny.gov

*Joshua L. Smith, Chair
Richard Bedrosian, Vice Chair
Michael Curry, Treasurer
John Penney, Secretary
Jerry Maldonado
Sean O'Shea
Theresa G. Waivada, Exec. Director*

March 12, 2012

Sedore Hudson Valley CPA
2678 South Road, Suite 101
Poughkeepsie, NY 12603

Re: 2010 Audit – Management Response to Auditors findings

Sir/Madam

We are providing this letter in connection with your audit of the financial statements of the City of Newburgh, New York Industrial Development Agency (the Agency), as of December 31, 2010 and for the year then ended for the purpose of expressing opinions as to whether the financial statements present fairly, in all material respects, the respective financial position of the Agency and the respective changes in financial position and, where applicable, the cash flows thereof in conformity with accounting principles generally accepted in the United States of America. We confirm that we are responsible for the fair presentation of the previously mentioned financial statements in conformity with U.S. generally accepted accounting principles. We are also responsible for adopting sound accounting policies, establishing and maintaining internal control, and preventing and detecting fraud.

It should be noted that:

Since the inception of the Agency and continuing until September 2011, the Agency was provided staff under a tradition that the City of Newburgh established by the City Charter as follows:

“City Newburgh Charter, 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."

Note: The current members of the Agency have advised the City of Newburgh that its charter provision is superseded by the Public Authorities Accountability Acts of 2005 and 2009 relative to requirement that each Public Authority board hire an experienced administrator.

During 2009 and 2010 the Agency experienced no less than three turnovers in its Administrative Director position. In each case, the appointed directors did not have experience in compliance procedures of an industrial development agency.

When the current members of the Agency were appointed, they faced financial uncertainties and had no power to initiate fee generating projects. As a result the Agency pursued recovery of receivables through legal action and negotiations.

A) In 2009 the Agency pursued an Article 78 proceeding to recoup \$388,825.95 that had been removed from the Agency's account and paid to the City of Newburgh, purportedly in payment for administrative services to the Agency. The disbursement was not authorized by the Agency. On December 7, 2009 the Supreme Court of the State of New York, County of Orange ordered that the City return \$190,000 to the Agency. It further stipulated that the Department of Planning and Development and Office of the City Comptroller provide staffing services to input data into the PARIS system in order to bring the Agency current in its filings through December 31, 2009. A copy of the STIPULATED ORDER OF SETTLEMENT FOLLOWS.

B) Following unsuccessful attempts to collect on a Promissory Note (See Auditors Note 4, page 10) dated 12/7/2007 regarding a real property transaction for the Broadway School; the City offered a settlement for full payment of the original note less accrued interest. The 2011 payment from the City of Newburgh was from bonding (not general funds) it incurred to rehabilitate the school into a new city court. (See Auditors Note 12, page 12.)

C) In 2010, the Agency and City successfully negotiated the closure of a US Economic Development Administration Public Works grant awarded to the City of Newburgh and the Agency. (See Auditor's Note 6, page 11) Agency books and records carried a liability from 2005, when the Agency entered into the grant agreement, through the grant receipt and into 2011. Agency books and records reflected the uncollected grant as a contingent liability. In 2009, the Agency received demand notice for monies against this grant. The settlement with the City resulted in a reimbursement of \$103,000 to the Agency, and removal of the liability from its books and records.

The aforementioned situations, until settled, placed unusual and significant constraints upon Agency finances, through the time of their conclusion. In the period prior to conclusion of the above,

- Agency books and records showed assets less doubtful accounts were significantly outweighed by liabilities.
- The Agency did not have financial capacity to hire sufficient independent staff to adequately service the Agency needs, nor even its obligations.

Agency Actions to Audit Findings on its Administrative Capacity:

In 2009 the Agency contracted, through a competitive process, for the services of a Recording Secretary and in 2011 for the services of a Financial Officer. In late 2010, the Agency determined that its Administrator did have the expertise to complete the PARIS reporting for recertification process. As a result, the Agency, in February 2011, contracted an experienced specialist for compliance. In September 2011, the Agency named the individual to serve as its Chief Executive Officer and Executive Director as defined and required by the ABO.

Material Weakness

Finding 1: The Agency did not have adequate segregation of duties during 2010: As discussed above, during 2010 the Agency had limited and uncertain finances. Once funding reimbursements were secured, the Agency moved to secure professional services for its management and operations to insure segregation of duties. Management finds it has sufficient resources to retain proper staff going forward.

Other Matters

Finding 2: Significant adjustments were needed to correct the Agency's records: Utilizing the staff discussed, current practices utilize contemporaneous entries of all transactions into the Agency's QuickBooks system. At the time of drafting this response, the Auditor has not disclosed to, nor discussed with the Agency, the nature of the adjustments the Auditor discusses in Finding 2 and therefore is not able to respond further. Nonetheless, aside from the aforementioned situations, each of which the board is fully aware, Management is not aware of any adjustments required to its records. Be assured, that when advised, required corrections will be made.

Finding 3: The Agency is not in compliance with Public Authorities Law and has not filed the required PARIS report with the ABO, subsequently and therefore has lost ability to grant new Sales Tax Exemptions: The Agency recognizes it is currently not compliance with PARIS reporting requirements of the Authority Budget Office. The lack of continuity, lack of adequate staff, and the lack of records, or inability to draw necessary information from the records to become compliant with ABO standards has been the primary challenge of the Authority. Additionally, the lack of records, compounded by staff turnovers resulted in a loss of a communication channels with bond trustees, and principals of IDA projects. Reestablishing communications, and rebuilding conduit debt records has proved to be particularly time consuming and difficult. At the time of drafting the Agency has posted and certified its 2007 information to PARIS, 2008 and 2009 are posted and scheduled to be certified. Upon acceptance of the 2010 Audit, the 2010 report will be posted. The Agency is currently under contract, and is making every effort to submit its 2011 Audit and PARIS report by March 31, 2012.

Finding 4: The Agency's bank account with significant balance was not interest-bearing in 2010: The Agency acknowledges its funds were not in interest bearing accounts in 2010. As discussed Agency books and records indicated significant liabilities through 2010. The Agency's Investment policy permits the CFO and Treasurer to adjust the Agency's accounts to interest bearing accounts. However, the Agency gave priority to settlement of its recorded liabilities, while holding assets liquid if the event funds would be required for settlement. In December 2011, the Agency asked its financial institution to establish interest bearing checking and savings accounts.

Sincerely,

Theresa Waivada
Administrative Director



Michael B. Curry
Treasurer

STIPULATED ORDER OF SETTLEMENT FOLLOWS.

IX

DESP

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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158

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.

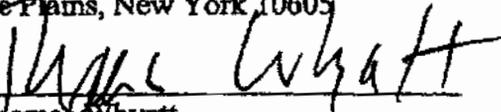
9. The Petitioner's Verified Petition entitled In the Matter of the City of Newburgh Industrial Development Agency v Lourdes Zapata, et al., Index No.: 04867/2009 is hereby discontinued with prejudice. Within twenty-one (21) days from

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.

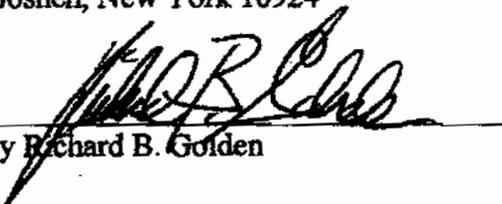
Dated: Goshen, New York

September 17, 2009

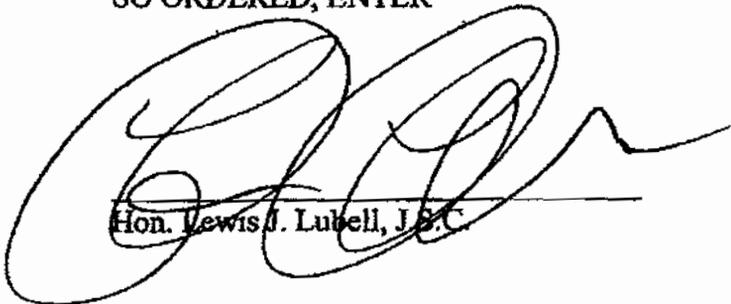
Oxman Tulis Kirkpatrick Whyatt & Geiger LLP
Attorneys for Petitioners
120 Bloomingdale Road, Suite 100
White Plains, New York, 10605


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.