

**A regular meeting of the City Council of the City of Newburgh was held on Monday, March 12, 2012 at 7:00 P.M. in the Council Chambers at City Hall, 3<sup>rd</sup> Floor, 83 Broadway, Newburgh, New York 12550.**

**The Prayer was led by Rabbi Larry Freedman followed by the Pledge of Allegiance.**

**Present: Mayor Kennedy, presiding; Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee - 5**

**Councilwoman Lee moved and Councilwoman Angelo seconded that the minutes of the February 23, 2012 Work Session and the February 28, 2012 City Council meeting be approved.**

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**CARRIED**

## PRESENTATION

John Nolan from Pace University Land Use Law Center gave a Land Bank Update. On July 29, 2011 the State of New York adopted an amendment to the Not-For Profit Corporation Law allowing Land Banks to be set up so that they are much more public in nature and they are responsible to have public meetings. They must give a report every year to the City Council and maintain every single property that they are acquiring and list all of the properties that they have disposed of. They think that this is good so they have come back to the City Council with the idea that they should reorganize this Organization under the Land Bank Legislation and there is a resolution before the Council tonight that will allow them to move forward and apply for Land Bank status under this new legislation. They have until March 30<sup>th</sup> to get an application into the State and it is his understanding that they are very anxious for Newburgh to come in. They are only going to award five cities to be the first Land Banks in the State of New York. This is a wonderful opportunity for Newburgh to let the rest of the State know that there is a unified vision and commitment to move forward and break the cycle that we have had here for so many years. They are hopeful that the City Council will adopt this resolution tonight and move this project forward so that it becomes a model for the State of New York.

## COMMUNICATIONS

Councilwoman Angelo moved and Councilwoman Lee seconded that the Notice of Claim be referred to Corporation Counsel with power to act.

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5

CARRIED

## COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Regina Lewis, City of Newburgh, said in response to Mr. Nolan's presentation that what he said sounds eloquent but we have heard it all before. The reason these buildings are empty and this community is in the state that it is in is because we have been run off of the property by our taxes. There are plenty of people in this community who are astute and intelligent and who have put forth resolutions and proposals all the time but were ignored. The funding that comes into this community that is supposed to go to people like her doesn't make it into their pockets. Her question to the City Council is that if people like this keep coming to our community and getting all of these properties to fix up making them indebted, where is their stake in the ground? Why can't people like her get these properties for \$1.00 and get the funding that comes in here to fix it up?

Pebbles, City of Newburgh, said in regard to resolution #34-2012 that her concern is that the community needs to understand what the Land Bank is. We need to understand what area the Land Bank covers and how the Newburgh Greater Partnership interacts with the Land Bank and we need to know why the area from Dubois Street to Grand Street is being called "College Heights". They would like the Community Advisory Committee to be on that application before it is submitted not after because that way they all get to put their input in on this area that will affect everyone.

Janet Gianopoulos, City of Newburgh, said that in regard to resolutions #34-2012 and #39-2012 she knows there are still some questions which she presumes the City Council will be able to explain with the decisions that they make tonight. Regarding harms and liabilities regarding the Land Bank she is wondering how it will benefit the taxpayers at large to establish this Land Bank. Obviously the home owning taxpayers are in a precarious situation right now so they would like to know what the benefits of this will do for them. There also seems to be a question about the northern boundary of the Land Bank because in some paperwork she sees South Street and on others she sees Gidney Avenue. She would like a confirmation of the area that they are talking about.

Jessie Blackman, 213 N. Miller Street, said that he also used to own properties at 212 and 214 Dubois Street but this Land Bank that you are voting for are the same people that swindled him out of his properties. A homeowner that comes from this neighborhood won't make it. There are no programs for someone doing the right things. These people that are here trying to get our money to do something different will only mess up our neighborhood and if we don't do something for ourselves and make sure that those that do have

something can make the payments and get rid of these high taxes then there is nothing else happening. If you want to give them money and jobs, then keep doing what you are doing but if you want to give us jobs so we can save our homes and do what we have to do to live, then do the right thing and find programs to help people.

Lillie Howard, Newburgh, said that she saw the plans for that area on the website and they are beautiful but it reminded her of Urban Renewal. She asked if they have checked for any programs like they used to have years ago such as the Urban Homesteading Program whereby people were given properties for a nominal fee that they could fix up and stay in the houses. Her concern is that yes Newburgh will look beautiful but who will be residing in Newburgh.

Mr. Harris, City of Newburgh, said that he is twenty-five years old and he has been here for one year and he believes that change comes when the community stands up for itself. If the community would pull together and be more positive, then that positivity will override the negativity. Everything going on in this Country has been going on for a reason and it is up to us as a whole to understand how to change. It is 2012 and it is time for change so if we can all pull together it will get better.

Nelson McAllister, City of Newburgh, read the attached letter. (copy attached)

Sheila Burnett, Newburgh, said that her daughter helped build a couple of the Habitat houses and they were all under the impression that they were for low income but then all of the city people moved in. They realize that land by water is very valuable and right now all of the blacks are on the valuable land. They are trying to make this pretty package to move everyone out and away from the valuable land. They will buy up this property and not one of us will be residing there. She added that they know what is behind everything that is being presented to them and they need to take their Land Bank and put it in another community because right now we aren't moving.

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

## COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

Councilwoman Angelo said that she feels good about the fact that they have added to the resolution a community based citizens group. We have to make a decision as there is one more meeting before the 31<sup>st</sup> deadline and we might have to appoint a committee before that meeting. She is trying to decide if this should be tabled for tonight.

Councilman Dillard said that as Rev. McAllister has indicated this has to do with timing and he believes that Newburgh is on the threshold of coming back. He does not believe that something is being taken from us because those buildings have been there for years and no one has come forth saying that they would like to buy these buildings. We can't stay poor all of our lives so he is thinking seriously about this.

Councilwoman Lee agrees that this should have been on the resolution long before this but it is on now. Unrelated to the Land Bank there is some concern about the changing of the name of part of the City of Newburgh to College Hill. There is concern about the involvement of the Colleges and the Hospital and at the last Work Session she asked for stipulations on the land and she thinks that the resolution suggests that the property won't be transferred to not-for-profits. This is an application so the City Council still decides what gets transferred to the Land Bank. She is inclined to agree with Councilwoman Angelo but she knows that we have to make some decision on it tonight because it is only the application. In all honesty she said that if we decide to approve this and they cross us, they won't like the outcome. As a resident she has seen decisions made where we think that we are getting specific things only to find out that we are not. They have added to the resolution that we will have an Advisory Board and just prior to this meeting they agreed to appoint a Board as soon as possible so she is happy to report that they are working with them. She will see what happens with the vote tonight and they can always have a special meeting if need be. As far as she can see, what the community has asked for has been added to the resolution and approving this doesn't mean that the residents don't have a voice it only means that we are giving the Land Bank permission to file an application.

Mayor Kennedy said that when this Land Bank was first announced she got involved with it because she wanted to be right. She has attended the meetings for the Land Bank since the beginning because she wanted to completely understand what they are doing. Things have been the way they are because there hasn't been a structure to change it and the Land Bank is simply a structure. It is not going to take anything from anybody. They haven't taken any property so if anyone has lost property right now it was not

through a Land Bank. The Land Bank has not done anything with any property because it hasn't had that opportunity and we haven't granted anything. The only property that would go into the Land Bank is property that the City actually owns already. It would only be property that is in need of some kind of update or needs to be torn down. Right now we are living in a city with a lot of dangerous buildings that have been boarded up for years. That is something that not one of us likes to have because it creates dangerous situations for our children when they play in these buildings. It also creates rats, mice and cockroaches and all kinds of things that no one wants. There is an opportunity here and she knows that everyone fears what they don't know about but she has done serious work and diligence in trying to find out what this is about and make sure that she understands what she is voting for. She is not voting blindly and she has looked at what has happened in other communities. Having the Community Advisory Board with this adds more security and putting the current Land Bank under the new legislation actually gives the community more guarantee not less. It adds more oversight and more visibility and it puts more stringent requirements on the Board of Directors and insures that the community has more control not less which she thinks is what everyone wants. It also takes property out of the city and puts in into the Land Bank so that the city no longer pays school taxes which would lower our tax burden. It gives opportunity to create new construction jobs and she knows some sub contractors here right now that need jobs. She said that she is a strong advocate for Section 3 jobs and this is an opportunity for that to happen. The deadline for this is on the 31<sup>st</sup> and the Advisory Committee will be set up so voting for this tonight does not preclude or stop any input or any step along the way. It simply gets us in under the deadline for the State otherwise this community will lose the opportunity to open some doors for the residents so she wants everyone to understand why she will vote the way she votes tonight.

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

## CITY MANAGER'S REPORT

Richard Herbek, City Manager, said that he wanted to bring the community and the Council up to date with two things that he accomplished today. He met with the Transportation Committee with regard to the creation of an Administrative Tribunal for the City for the adjudication of certain parking violations. This is something that has been approved in various cities in the State and we know that the City of Peekskill has one so we are looking for similar legislation. He noted that we have over fifty thousand outstanding summonses with outstanding fines of 1.1 million dollars and penalties of 1.8 million totaling over three million dollars worth of outstanding revenue that is due to the City of Newburgh. The City of Newburgh has been requesting authorization for an Administrative Tribunal since 1997 and today he presented a packet to the Transportation Committee that is headed by Assemblyman Gantt and hopefully we made some good progress today. They have all of the information that we put together including the last quarterly update and multi-year financial plan so that they know exactly where we stand financially going forward. He is hopeful that maybe this year we can get this bill approved. It has been approved in the Senate and on March 5<sup>th</sup> it was referred to the Transportation Committee in the Assembly. In eight days we should have a new Assemblyman and we will have to make this a top priority for whoever is elected. The second reason that he went to Albany today was to personally deliver to the Governor's Office the resolution approved on Friday night. He met with Elizabeth Glazer, Deputy Secretary for Public Safety, Mary Kavaney, Assistant Secretary for Public Safety and the newly appointed Commissioner of the Department of Criminal Justices, Michael Green. That resolution along with a cover letter whereby the City is requesting a special prosecutor to investigate this shooting has been personally delivered to the Governor's Office.

**RESOLUTION NO.: 31 - 2012**

**OF**

**MARCH 12, 2012**

**A RESOLUTION AUTHORIZING THE CITY MANAGER OR  
THE CHIEF OF POLICE AS MANAGER'S DESIGNEE  
TO EXECUTE AN AGREEMENT WITH THE COUNTY OF ORANGE  
CONFIRMING CITY OF NEWBURGH PARTICIPATION  
IN THE STOP-DWI PROGRAM  
FOR THE PERIOD OF MARCH 15, 2012 TO MAY 31, 2012 PROVIDING  
THE CITY WITH AN AMOUNT NOT TO EXCEED \$3,465.00**

**WHEREAS**, the County of Orange (hereinafter "County") has provided the City of Newburgh (hereinafter "City") with an agreement, to provide for the funding of the STOP-DWI Program within the City of Newburgh for the period of March 15, 2012 and ending May 31, 2012, which includes St. Patrick's Day and the Memorial Day holiday weekend enforcement campaigns; and

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

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manger or the Chief of Police as Manager's designee be and he is hereby authorized to execute an agreement with the County of Orange confirming the City's participation in the STOP-DWI Program in order to fund the additional cost of stepped-up police patrols and related court appearances for the period of March 15, 2012 through May 31, 2012, not to exceed \$3,465.00

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**

31-12



## INTER-MUNICIPAL AGREEMENT

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

### ARTICLE 1. SCOPE OF AGREEMENT

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

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

### ARTICLE 2. TERM OF AGREEMENT

The term of this IMA shall commence on March 15, 2012 and end January 1, 2013.

### ARTICLE 3. PROCUREMENT OF AGREEMENT

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

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

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

### ARTICLE 4. CONFLICT OF INTEREST

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

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

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

## **ARTICLE 5. ASSIGNMENT AND SUBCONTRACTING**

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

## **ARTICLE 6. BOOKS AND RECORDS**

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

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

## **ARTICLE 7. RETENTION OF RECORDS**

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

## **ARTICLE 8. AUDIT BY THE COUNTY AND OTHERS**

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

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

## **ARTICLE 9. INDEMNIFICATION**

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

## **ARTICLE 10. TERMINATION**

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

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

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

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

**ARTICLE 11. GENERAL RELEASE**

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

**ARTICLE 12. SET-OFF RIGHTS**

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

**ARTICLE 13. GOVERNING LAW**

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

**COUNTY OF ORANGE**

By: \_\_\_\_\_  
Edward A. Diana  
County Executive

DATE: \_\_\_\_\_

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

**ARTICLE 14. ENTIRE AGREEMENT**

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

**ARTICLE 15. MODIFICATION**

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

**MUNICIPALITY**

By: Michael D. FERRARA  
Name: Michael D. Ferrara  
Title: Police Chief

DATE: 2-24-12

## **SCHEDULE A**

### **ENFORCEMENT CAMPAIGNS/AGREEMENT TO PARTICIPATE.**

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

First Enforcement Period – March 15, 2012 through May 31, 2012, which includes St. Patrick's Day and the Memorial Day holiday weekend.

Second Enforcement Period – July 1, 2012 through September 4, 2012, which includes the Independence Day and Labor Day holiday weekend enforcement campaigns.

Third Enforcement Period – October 14, 2012 through January 1, 2013, which includes Thanksgiving, Christmas and New Years holiday enforcement campaigns.

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

### **DATA SUBMITTAL.**

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

### **AWARD OF FUNDS.**

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

### **FIRST ENFORCEMENT PERIOD AWARD.**

Based on data submittals from the MUNICIPALITY for the prior enforcement period (October, 2011-January 1, 2012), MUNICIPALITY is eligible for an award not to exceed \$3465 covering 70 man-hours for the first enforcement period of 2012. The actual award payment to MUNICIPALITY shall be that amount earned as a result of man-hours expended by the MUNICIPALITY for STOP DWI Program enforcement activities during the first enforcement period of 2012 as supported by the data submitted by the MUNICIPALITY.

**WRITTEN NOTIFICATION OF AWARDS FOR THE SECOND AND THIRD ENFORCEMENT PERIODS OF 2012.**

COUNTY will notify MUNICIPALITY in writing of its eligibility for awards, if any, for the second and third enforcement periods of 2012 by a separate written award letter delivered to MUNICIPALITY prior to the commencement of each such enforcement period. Each award letter shall state a not to exceed dollar value of the funds available to the MUNICIPALITY for reimbursement of man hours expended operating enforcement patrols during the applicable enforcement period and shall be annexed to and made a part of this IMA.

**RESOLUTION NO.: 32 - 2012**

**OF**

**MARCH 12, 2012**

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO EXECUTE AN AGREEMENT WITH THE COUNTY OF ORANGE  
TO PROVIDE FOR REIMBURSEMENT OF FUNDS TO  
THE CITY OF NEWBURGH WITH RESPECT TO CERTAIN  
URBAN RENEWAL PROJECTS FOR THE PERIOD  
OF JANUARY 1, 2012 TO DECEMBER 31, 2012  
IN THE AMOUNT OF THIRTY THOUSAND (\$30,000.00) DOLLARS**

**WHEREAS**, the Orange County Department of Public Works (hereinafter "County") has provided the City of Newburgh (hereinafter "City") with an agreement, a copy of which is attached hereto and made a part hereof, to provide for the funding of certain urban renewal projects within the City for the year 2012; and

**WHEREAS**, the County shall provide the City a total annual sum not to exceed Thirty Thousand (\$30,000.00) Dollars for the completion of certain urban renewal projects; and

**WHEREAS**, such funds shall be used exclusively for the acquisition, rehabilitation, improvements and otherwise implementing and completion of urban renewal projects within the City's limits; and

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the attached agreement with the County of Orange to provide for a total annual sum not to exceed Thirty Thousand (\$30,000.00) Dollars in order to obtain the available funding for certain urban renewal projects.

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**

32-12

**AGREEMENT  
BETWEEN THE  
COUNTY OF ORANGE  
AND  
THE CITY OF NEWBURGH  
FOR THE FUNDING OF CERTAIN  
URBAN RENEWAL PROJECTS, AS FURTHER DEFINED HEREIN**

This **Agreement** for funding certain Urban Renewal Projects, hereinafter "**Agreement**," represents the entire understanding between the parties hereto the **County of Orange**, a municipal corporation organized and existing under the laws of the State of New York, with its principle offices at 255 – 275 Main Street, Goshen, New York 10924, hereinafter referred to as the "**County**" and, the **City of Newburgh** with its principle offices at 83 Broadway, City Hall, Newburgh, New York 12550, hereinafter referred to as the "**City**." Further, the parties hereto agree as follows:

**WHEREAS**, the **County** and the **City** share a commitment to the rehabilitation and revitalization efforts in Orange County, and

**WHEREAS**, the **County** shall provide to the **City** a total annual sum of **THIRTY THOUSAND (\$30,000.00) DOLLARS**, for completing the activities enumerated in this **Agreement** and performed during the period of **January 1, 2012 to December 31, 2012**. These funds shall be used exclusively for the acquisition, rehabilitation, improvements, and otherwise implementing and completion of urban renewal projects within the **City's** limits and as described herein (Exhibit A). The **County** shall have no obligation to the **City** beyond the payment of these monies in accordance with the terms and conditions of this **Agreement**, and

**NOW, THEREFORE**, it is mutually agreed by and between the **County** and the **City** that:

1. The **County** will pay to the **City**, for the Capital Improvements, an annual amount, not-to-exceed **THIRTY THOUSAND (\$30,000.00) DOLLARS**. The **City** shall submit any and all documentation in support of such expenditures or the **County** may require fees under this **Agreement** as so that it may evaluate the reasonableness of the charges. All such requests shall be reasonable in time and scope; and
2. Proceeds shall be paid to the **City** for eligible costs based upon approved requests for payments. All requests for payments shall be directed to the Orange County Department of Public Works. Each request for payment shall include an itemization of all monies due for eligible costs, labor performed and/or materials supplied for the period covered by the request, a statement describing the eligible expenses, work that was performed using such labor and material, and a release of liens by subcontractors, laborers or material suppliers. Other appropriate receipts, invoices, bills or other documentation evidencing the expenditures to be reimbursed shall be appended to the request forms. As a condition of receiving payment, the **City** shall deliver to the **County** complete releases from all

relevant contractor's, laborers, or suppliers. Once the releases have been obtained and the Department of Public Works has certified that all work has been completed or that the total sum made available from the **County** has been expended payment may be made to the **City**. The **County** will not withhold a payment, without cause, for more than **THIRTY (30) DAYS** after a request for payment but, the **County** shall not be restricted from withholding payment for cause, as determined by the Department of Public Works including but not limited to that in the judgement of the Department of Public Works, after consultation with the Orange County Department of Law and the County Executive, the funds available, from all sources whatsoever, to complete the project, are insufficient to do so. The **County** will use its best efforts to make all payments due the **City** within 15 business days of receiving an approved payment request.

3. The **City** agrees to maintain separate and accurate books, records, documents and other evidence and accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this **Agreement**. The **City** agrees to retain all books, records, and other documents relevant to this **Agreement** for six (6) years after the payment or termination of this **Agreement**, whichever occurs later. **County**, State and/or Federal auditors, and any other persons duly authorized by the **County**, shall have full access and the right to examine any of said materials during said period; and
4. All provisions of Federal, State and local laws, rules, regulations and ordinances governing non-discriminatory practices; warranties against collusion; solicitation or procurement; warranties against conflicts of interest and compliance with applicable ethics laws; confidentiality; fair practices and other legally imposed safeguards shall apply; and
5. This **Agreement** shall be subject to such further agreements or amendments, as the parties deem appropriate and necessary. Neither party shall assign or subcontract its duties, practices or responsibilities to a third party without the express written permission of the other. Neither party shall be a subrogee of the other, nor be responsible to defend, indemnify or hold harmless the other as to third parties but for their own errors, acts and omissions which causes the other party to suffer a loss; and
6. The **County** shall have the right to terminate this **Agreement** at any time without recourse and, upon thirty- (30) days written notice to the other. Should the **County** terminate this **Agreement** prior to its expiration date for reasons other than **City's** default, the **County** shall pay unto the **City** the earned portion of the total contract **Agreement**; and
7. The **County** shall have no liability under this **Agreement** to the **City** or, to anyone, beyond funds appropriated and available for this **Agreement**; and
8. The **City** shall provide proof of Workers' Compensation and Disability Coverage's as required by the New York State Worker's Compensation Board and same shall be attached to this **Agreement**; and

9. This **Agreement** shall be governed by the laws of the State of New York. The **City** shall render all services under this **Agreement** in accordance with all applicable provisions of all federal, state and local laws, rules and regulations as are in effect at the time such services are rendered; and
10. The rights and obligations of the parties, and their respective agents, successors and assigns, if any, shall be subject to and governed by this **Agreement** as well as any amendments or attachments thereto; and
11. The acceptance by the **City** or its assignees of the payment under this **Agreement**, whether by invoice, judgement of any court of competent jurisdiction, or administrative means, shall constitute as a general release to the **County** from any and all claims of the **City** out of the performance of this **Agreement**.

**IN WITNESS WHEREOF**, the **COUNTY** has caused this **Agreement** to be signed by its County Executive, and the **City** has caused the same to be executed by its Council, pursuant to Resolution of its **City** Council, adopted \_\_\_\_\_.

**CITY OF NEWBURGH:**

**COUNTY OF ORANGE:**

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

\_\_\_\_\_  
**Edward A. Diana**  
County Executive

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

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

STATE OF NEW YORK WORKERS' COMPENSATION BOARD

**CERTIFICATE OF PARTICIPATION IN WORKERS' COMPENSATION GROUP  
SELF-INSURANCE**

<b>1a. Legal Name and Address of Business Participating in Group Self-Insurance (Use Street Address Only)</b>  City of Newburgh 83 Broadway Newburgh, NY 12550	<b>1d. Business Telephone Number of Business referenced in box "1a"</b>  845-569-7303
<b>1b. Effective Date of Membership in the Group</b> <u>03/01/2008</u>	<b>1e. NYS Unemployment Insurance Employer Registration Number of Business referenced in box "1a"</b>
<b>1c. The Proprietor, Partners or Executive Officers are</b>  <input type="checkbox"/> included (only check box if all partners/officers included) <input type="checkbox"/> all excluded or certain partners/officers excluded	<b>1f. Federal Employer Identification Number of Business referenced in Box "1a"</b>
<b>2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as Certificate Holder)</b>  County of Orange 255-275 Main Street Goshen, NY 10924	<b>3. Name and Address of Group Self-Insurer</b>  NEW YORK STATE MUNICIPAL WORKERS' COMPENSATION ALLIANCE CLAIMS ADMINISTERED BY: WRIGHT RISK MANAGEMENT 333 EARLE OVINGTON BLVD., SUITE 505 UNIONDALE, NY 11553-3524

This certifies that the business referenced above in box "1a" is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law as a participating member of the Group Self-Insurer listed above in box "3" and participation in such group self-insurance is still in force. The Group Self-Insurer's Administrator will send this Certificate of Participation to the entity listed above as the certificate holder in box "2". The Group Self-Insurer's Administrator will notify the above certificate holder within 10 days IF the membership of the participant listed in box "1a" is terminated. (These notices may be sent by regular mail.) Otherwise, this Certificate is valid for a maximum of one year from the date certified by the group self-insurer.

*If this certificate is no longer valid according to the above guidelines and the business referenced in box "1a" continues to be named on a permit, license or contract issued by the certificate holder, the business must provide the certificate holder either with a new certificate or other authorized proof the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.*

**Under penalty of perjury, I certify that I am an authorized representative of the Group Self-Insurer referenced above and that the business referenced in box "1a" has the coverage as depicted on this form.**

Certified by: Douglas J. Hayden 07/01/2011 - 06/30/2012  
 (Print name of authorized representative of the Group Self-Insurer) Date



Certified by: \_\_\_\_\_  
 (Signature)

Title: PROGRAM MANAGER/PRESIDENT

Telephone Number 516-750-9405

## WORKERS' COMPENSATION LAW

### **Section 57 Restriction on issue of permits and the entering into contracts unless compensation is secured.**

1. The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any compensation to any such employee if so employed.

2. The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter.

**Please Note:** This Certificate is valid only through the policy dates indicated above, OR a maximum of one year after this form is approved by the authorized representatives of the Group Self-Insurer. At the expiration of those dates, if the business continues to be named on a permit or contract issued by the above government entity, the business must provide that government entity with a new Certificate. The business must also provide a new Certificate upon notice of cancellation or change in status of the policy.



**Certificate of Attestation of Exemption  
From New York State Workers' Compensation  
and/or Disability Benefits Insurance Coverage**

**\*\*This form cannot be used to waive the workers' compensation rights or obligations of any party.\*\***

The applicant may use this Certificate of Attestation of Exemption ONLY to show a government entity that New York State specific workers' compensation and/or disability benefits insurance is not required. The applicant may NOT use this form to show another business or that business's insurance carrier that such insurance is not required.

Please provide this form to the government entity from which you are requesting a permit, license or contract. This Certificate will not be accepted by government officials one year after the date printed on the form.

<p align="center"><b>In the Application of (Legal Entity Name and Address):</b></p> <p>CITY OF NEWBURGH 83 BROADWAY NEWBURGH, NY 12550 PHONE: 845-569-7319 FEIN: XXXXX2329</p>	<p align="center"><b>Business Applying For:</b> OTHER: EXEMPTION OF DISABILITY INSURANCE</p> <p>From: ORANGE COUNTY</p>
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**Workers' Compensation Exemption Statement:**

The applicant is NOT applying for a workers' compensation certificate of attestation of exemption and will show a separate certificate of NYS workers' compensation insurance coverage.

**Disability Benefits Exemption Statement:**

The above named business is certifying that it is **NOT REQUIRED TO OBTAIN NEW YORK STATE STATUTORY DISABILITY BENEFITS INSURANCE COVERAGE** for the following reason:  
The applicant is a political subdivision that is legally exempt from providing statutory disability benefits coverage.

I, CHERYL A. GROSS, am the CITY COMPTROLLER with the above-named legal entity. I affirm that due to my position with the above-named business I have the knowledge, information and authority to make this Certificate of Attestation of Exemption. I hereby affirm that the statements made herein are true, that I have not made any materially false statements and I make this Certificate of Attestation of Exemption under the penalties of perjury. I further affirm that I understand that any false statement, representation or concealment will subject me to felony criminal prosecution, including jail and civil liability in accordance with the Workers' Compensation Law and all other New York State laws. By submitting this Certificate of Attestation of Exemption to the government entity listed above I also hereby affirm that if circumstances change so that workers' compensation insurance and/or disability benefits coverage is required, the above-named legal entity will immediately acquire appropriate New York State specific workers' compensation insurance and/or disability benefits coverage and also immediately furnish proof of that coverage on forms approved by the Chair of the Workers' Compensation Board to the government entity listed above.

<b>SIGN HERE</b>	Signature:	Date: 6/21/11
<b>Exemption Certificate Number</b> <b>2011-012295</b>		<b>Received</b> <b>March 16, 2011</b> <b>NYS Workers' Compensation Board</b>

**RESOLUTION NO.: 33 - 2012  
OF  
MARCH 12, 2012**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR  
AND ACCEPT A SUB-GRANT FROM THE SOLAR ENERGY CONSORTIUM  
("TSEC") OF \$25,000.00 PER YEAR FOR TWO (2) YEARS  
AND ESTABLISHING A BUDGET**

**WHEREAS**, the City of Newburgh has applied for a grant from the Solar Energy Consortium ("TSEC") for the purposes of developing a database of industrial and commercial properties that would be appropriate for partners in the New York Renewable Energy Cluster Program; and

**WHEREAS**, this Program will provide expedited assistance to manufacturers seeking help with building code and other issues pertaining to starting or expanding renewable energy manufacturing operations within the City of Newburgh; and

**WHEREAS**, the City of Newburgh has been advised that such grant has been awarded in the amount of Twenty-Five Thousand (\$25,000.00) Dollars per year for two (2) years; and

**WHEREAS**, this Council has determined that accepting such grant is in the best interests of the City of Newburgh;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to accept a sub-grant from the Solar Energy Consortium in the amount of \$25,000.00 per year for two (2) years; and

**BE IT FURTHER RESOLVED**, that the budget is hereby established as follows:

**GRANT FUND**

**Revenue:**

CG.3412.4787.4001.2013

New York Renewable Energy Cluster Program \$50,000.00

**Expenditures**

CG.3412.0448.4001.2013

Other Services

\$50,000.00

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**

33-12

## Subaward Agreement

Institution/Organization ("TSEC")		Institution/Organization ("Subrecipient")	
Name: The Solar Energy Consortium, Inc. Address: 434 Old Neighborhood Road Kingston, NY 12401158	Name: City of Newburgh Address: 83 Broadway Newburgh, NY 12550		
Prime Award No.: 01-79-14136		Subaward No.: 12550	
Awarding Agency: US Dept. of Commerce, Economic Development Administration (EDA)		CFDA No.: 11.307	
Invoice Frequency: <input type="checkbox"/> Monthly <input checked="" type="checkbox"/> Quarterly <input type="checkbox"/> Other: Invoices should be sent to TSEC's Administrative Representative.		Cost Sharing Required: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Description and dollar value of contribution:	
Subaward Period of Performance: October 1, 2011-September 30, 2013	Estimated Project Period (If incrementally funded):	Amount Funded this Action: \$50,000	Est. Total (if incrementally funded): N/A
Project Title: New York Renewable Energy Cluster Program			
Reporting Requirements [Check here if applicable <input type="checkbox"/> : See Attachment 4]			

### Terms and Conditions

- 1) TSEC hereby awards a cost reimbursable subaward, as described above, to Subrecipient. The statement of work and budget for this subaward are shown in Attachment 5. In its performance of subaward work, Subrecipient shall be an independent entity and not an employee or agent of TSEC.
- 2) TSEC shall reimburse Subrecipient quarterly for allowable costs. All invoices shall be submitted using Subrecipient's standard invoice, but at a minimum shall include current and cumulative costs (including cost sharing), cost descriptions (including task), subaward number, and certification as to truth and accuracy of invoice. *Invoices that do not reference TSEC's subaward number shall be returned to Subrecipient.* Invoices and questions concerning invoice receipt or payments should be directed to the appropriate party's Financial Contact, as shown in Attachment 3.
- 3) A final statement of cumulative costs incurred, including cost sharing, marked "FINAL," must be submitted to TSEC's Financial Contact, as shown in Attachment 3, NOT LATER THAN sixty (60) days after subaward end date. The final statement of costs shall constitute Subrecipient's final financial report.
- 4) All payments shall be considered provisional and subject to adjustment within the total estimated cost in the event such adjustment is necessary as a result of an adverse audit finding against the Subrecipient.
- 5) Matters concerning the technical performance of this subaward should be directed to the appropriate party's Administrative Contact, as shown in Attachment 3. Technical reports are required as shown above, "Reporting Requirements."
- 6) Matters concerning the request or negotiation of any changes in the terms, conditions, or amounts cited in this subaward agreement, and any changes requiring prior approval, should be directed to the appropriate party's Administrative Contact, as shown in Attachment 3. Any such changes made to this subaward agreement require the written approval of each party's Authorized Official, as shown in Attachment 3.
- 7) Each party shall be responsible for its negligent acts or omissions and the negligent acts or omissions of its employees, officers, or directors, to the extent allowed by law.
- 8) Either party may terminate this agreement with thirty days written notice to the appropriate party's Administrative Contact, as shown in Attachment 3. TSEC shall pay Subrecipient for termination costs as allowable under OMB Circular A-21 or A-122, as applicable.
- 9) No-cost extensions require the approval of the TSEC. Any requests for a no-cost extension should be addressed to and received by the Administrative Contact, as shown in Attachment 3, not less than thirty (30) days prior to the desired effective date of the requested change.
- 10) The Subaward is subject to the terms and conditions of the Prime Award and other special terms and conditions, as identified in Attachment 2.
- 11) By signing below Subrecipient makes the certifications and assurances shown in Attachments 1 and 2.



**Attachment 1  
Subaward Agreement  
Certifications and Assurances**

By signing the Subaward Agreement, the authorized official of Subrecipient certifies, to the best of his/her knowledge and belief, that:

**Certification Regarding Lobbying**

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or intending to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Collaborator shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," to the TSEC.
- 3) The Subrecipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**Debarment, Suspension, and Other Responsibility Matters**

Subrecipient certifies by signing this Subaward Agreement that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

**OMB Circular A-133 Assurance**

Subrecipient assures TSEC that it complies with A-133 and that it will notify TSEC of completion of required audits and of any adverse findings, which impact this subaward.

- Subrecipient is a For-Profit entity, OMB Circular A-133, does not apply. For-Profit entities shall be governed by 45 CFR 74.26(d).

**Attachment 2  
Subaward Agreement  
Prime Award Terms and Conditions**

Standard award terms and conditions, see attachments:

- 1) "ECONOMIC DEVELOPMENT ADMINISTRATION STANDARD TERMS AND CONDITIONS"
- 2) "DEPARTMENT OF COMMERCE FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS"

Award specific terms and conditions:

**PROHIBITED ACTIVITIES:** It is understood the funds included in Section A of Special Award Condition IV may not be used for the procurement of food or beverages.

**Attachment 3  
Subaward Agreement**

TSEC Contacts	Subrecipient Contacts
<p>Administrative Contact</p> <p>Name: Patrice Courtney-Strong</p> <p>Address: TSEC 434 Old Neighborhood Road Kingston, New York 12401</p> <p>Telephone: 845-336-0100 Fax: 834-336-4030 Email: pat.tsec@gmail.com</p>	<p>Administrative Contact</p> <p>Name: Michael Vatter, Esq. Fire Chief/Building Dept. Director City of Newburgh 83 Broadway Newburgh, NY 12550</p> <p>Telephone: 845-542-0984 Fax: Email: firechief@cityofnewburgh-ny.gov</p>
<p>Principal Investigator</p> <p>Name: Carl E. Meyer</p> <p>Address: TSEC 434 Old Neighborhood Road Kingston, New York 12401</p> <p>Telephone: 845-336-0100 Fax: 834-336-4030 Email: carl.tsec@gmail.com</p>	<p>Principal Investigator</p> <p>Name: Same as above.</p> <p>Address:</p> <p>Telephone: Fax: Email:</p>
<p>Financial Contact</p> <p>Name: Edward Januszkiewicz</p> <p>Address: TSEC 434 Old Neighborhood Road Kingston, New York 12401</p> <p>Telephone: 845-336-0100 Fax: 834-336-4030 Email: ed.tsec@gmail.com</p>	<p>Financial Contact</p> <p>Name: Same as above.</p> <p>Address:</p> <p>Telephone: Fax: Email:</p>
<p>Authorized Official</p> <p>Name: Patrice Courtney-Strong</p> <p>Address: TSEC 434 Old Neighborhood Road Kingston, New York 12401</p> <p>Telephone: 845-336-0100 Fax: 834-336-4030 Email: pat.tsec@gmail.com</p>	<p>Authorized Official</p> <p>Name: Richard F. Herbek City Manager, City of Newburgh</p> <p>Address: 83 Broadway Newburgh, NY 12550</p> <p>Telephone: 845-569-7301 Email: citymanager@cityofnewnburgh-ny.gov</p>

**Attachment 4  
Subaward Agreement  
Reporting Requirements**

1. Management Reporting
  - Quarterly Progress Report
  - Final Report
  
2. Financial Reporting
  - SF-425, Federal Financial Report – Quarterly, including cost sharing (if any)

**Attachment 5**  
**Sub-award Agreement**  
**Statement of Work & Budget**

Statement of Work

Expedited assistance to companies

1. seeking to re-locate to the City of Newburgh
2. seeking to expand in the City of Newburgh

Deliverables:

- a. Database development. The City will collaborate with NYREC to develop a database of industrial properties that would be appropriate for cluster partners.  
- Office of Planning to coordinate.
- b. The City will provide expedited assistance to manufacturers seeking help with building code and other issues pertaining to starting or expanding operations in the City.  
- Building Department to coordinate.

Budget

Year 1:

- a. Database development. \$12,500
- a. Expedited assistance to manufacturers \$12,500

Year 2:

- b. Database development. \$12,500
- b. Expedited assistance to manufacturers \$12,500

**RESOLUTION NO.: 34 - 2012**

**OF**

**MARCH 12, 2012**

**RESOLUTION AUTHORIZING THE NEWBURGH COMMUNITY LAND BANK ON BEHALF OF THE CITY OF NEWBURGH TO APPLY FOR LAND BANK DESIGNATION FROM THE NEW YORK STATE URBAN DEVELOPMENT CORPORATION d/b/a EMPIRE STATE DEVELOPMENT CORPORATION UNDER ARTICLE 16 OF THE NEW YORK STATE NOT-FOR-PROFIT CORPORATION LAW**

**WHEREAS**, pursuant to Resolution 255-2010 of November 8, 2010, as amended by Resolution 47-2011 of February 28, 2011, the City of Newburgh created an entity with a Board of Directors consisting of eleven (11) members under the New York State Private Housing Finance Law and the New York State Not-for-Profit Corporation Law, and known as the Newburgh Housing Development Fund Company, Inc. and for the purpose of land banking activities<sup>[MSOffice1]</sup>; and

**WHEREAS**, in July 2011, New York State enacted Article 16 of the New York State Not-for-Profit Corporation Law (the "Land Bank Act") providing for the creation of land banks to be used by communities to facilitate the return of vacant, abandoned, and tax-delinquent properties to productive use; and

**WHEREAS**, the Land Bank Act limits the number of land banks to be created in New York State to 10 and the creation of each land bank requires the approval of the New York State Urban Development Corporation d/b/a Empire Stated Development Corporation (ESD); and

**WHEREAS**, The City of Newburgh is an eligible Foreclosing Government Unit under the Land Bank Act and finds that applying for Land Bank approval under Article 16 of the New York State Not-for-Profit Corporation Law by ESD in the first application round is in the best interests of the City of Newburgh;

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Newburgh that the City Manager be and he hereby is authorized to take all necessary steps to apply for land bank approval from the ESD in the first approval round by submitting the required application on or before 3:00 p.m. on March 30, 2012; and

**BE IT FURTHER RESOLVED**, that the City Manager be and he hereby is authorized to take such steps as necessary to form a not-for-profit corporation that meets the criteria of Article 16 of the New York State Not-for-Profit Corporation Law and to execute the land bank application as the designated municipal official for that purpose; and

**BE IT FURTHER RESOLVED**, by the City Council of the City of Newburgh that the by-laws of the Land Bank require that the Board of Directors create a Resident Advisory Committee composed of representatives of the areas in which the land bank works, to advise and inform the actions of the board in the areas where it is working; and

**BE IT FURTHER RESOLVED**, by the City Council of the City of Newburgh that the by-laws provide for the appointment of non-voting alternate directors who can represent other segments of the community in Board discussions and get experience so that they can be considered to fill vacancies; and

**BE IT FURTHER RESOLVED**, by the City Council of the City of Newburgh that that the current eleven board members of the Newburgh Housing Development Fund Company, Inc. be and they hereby are appointed to serve as the interim Board of Directors of the entity seeking land bank designation from ESD and to act as the interim Board of Directors while all necessary policies and procedures are finalized in accordance with the statutory requirements of the Land Bank Act. The Board shall consist of a member of the Newburgh City Council to be appointed by the Council, the City Manager, the Chairperson of the Newburgh Property Remediation Task Force, and a member of the Newburgh Planning Board to be appointed by the Planning Board. The Board of Directors shall elect the remaining five members. Each Director elected by the Board of Directors shall hold office for a period of two years or until his successor is elected, except as otherwise provided by the By-Laws. Directors may succeed themselves. The directors are:

<b>Curly Dillard</b> Councilman City of Newburgh	<b>Lisa Daily</b> <i>(Secretary)</i> Chairperson City of Newburgh Planning Board
<b>Richard F. Herbek</b> City Manager City of Newburgh	<b>Jenny Loeb</b> Regional Lead Organizer Community Voices Heard
<b>Michael J. Vatter, Esq.</b> <i>(Chairman)</i> Fire Chief	<b>Cathleen Kenny</b> <i>(Treasurer)</i> Vice President for Finance and

City of Newburgh	Administration and Treasurer Mount Saint Mary College
<b>Fred Visconti</b> ( <i>Vice Chair</i> ) Visconti Limousine	<b>Allan Atzrott</b> Chief Executive Officer St. Luke's Cornwall Hospital
<b>Kevin White</b> President Newburgh Performing Arts Academy	<b>David Potack</b> Vice President of Sales and Marketing Unitex
<b>Bishop Jeffrey C. Woody</b> House of Refuge International Ministries, Inc.	

Councilwoman Lee said that she would like the Community Advisory Board to be established within the week with appointments made through the City Council.

Councilwoman Angelo said that people will have to apply.

City Manager, Richard Herbek, said that people could apply or you could reach out to people that would like to serve.

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

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5

**ADOPTED**

**RESOLUTION NO.: 35 - 2012**

**OF**

**MARCH 12, 2012**

**A RESOLUTION RE-APPOINTING CHUCK THOMAS AND  
BRIAN BURKE AS MEMBERS OF  
THE WATERFRONT ADVISORY COMMITTEE**

**BE IT RESOLVED**, by the Council of the City of Newburgh, New York that Chuck Thomas and Brian Burke be and are hereby re-appointed to the Waterfront Advisory Committee for Three (3) year terms commencing on April 1, 2012 and expiring March 31, 2015.

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**

**RESOLUTION NO.: 36 - 2012**

**OF**

**MARCH 12, 2012**

**A RESOLUTION ASKING THE STATE OF NEW YORK  
DEPARTMENT OF TRANSPORTATION TO CONDUCT A  
FORMAL INVESTIGATION AND STUDY IN CONNECTION  
WITH CASE NUMBER 812-3632; THE CITY OF NEWBURGH'S REQUEST  
FOR THE PERMANENT INSTALLATION OF A TRAFFIC SIGNAL ON  
REV. DR. MARTIN LUTHER KING JR. BOULEVARD AT FOURTH STREET  
IN THE CITY OF NEWBURGH, COUNTY OF ORANGE**

**WHEREAS**, the New York State Department of Transportation installed a temporary signal to facilitate the use of Rev. Dr. Martin Luther King Jr. Boulevard at Fourth Street as a detour route in connection with the Robinson Avenue Reconstruction Project; and

**WHEREAS**, placement of the temporary signal proved to be a tremendous asset to the City of Newburgh; and benefited improved access to the Water Street businesses and restaurants along the Hudson River; and

**WHEREAS**, a review of accident records at this intersection indicated no increase in the number of accidents with the temporary signal in place; and

**WHEREAS**, this Council has determined that it is in the best interests of the City of Newburgh and the safety of its residents and visitors alike to request that a permanent signal be installed;

**NOW, THEREFORE, BE IT RESOLVED**, that this Council of the City of Newburgh, New York, does hereby ask the State of New York Department of Transportation to conduct a formal investigation and study in connection with Case Number 812-3632; the City of Newburgh's request for the permanent installation of a traffic signal on Rev. Dr. Martin Luther King Jr. Boulevard at Fourth Street in the City of Newburgh, County of Orange; and

**BE IT FURTHER RESOLVED**, that the City Manager be and he is hereby authorized to convey this Resolution to the appropriate officials in the New York State Department of Transportation.

Councilman Dillard said that he knows this came up last year and it was indicated that the State is responsible for cleaning Martin Luther King, Jr. Blvd. so will this traffic signal put everything back on the City?

Richard Herbek, City Manager, responded with a "no" it is still a State road. He added that there may be some benefit down the road to taking it over but he is not prepared tonight to discuss that. This request for a signal will not have any impact at the moment on its status so it is still a State road.

Mayor Kennedy said that this signal was temporary during the construction of Robinson Avenue so we are petitioning the State to get this traffic signal back before someone gets killed on that road. This is a sincere safety issue with people crossing that road.

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

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5

**ADOPTED**

**RESOLUTION NO.: 37 - 2012**

**OF**

**MARCH 12, 2012**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO  
AN ADDENDUM TO A CONTRACT WITH McVAC ENVIRONMENTAL  
SERVICES, INC.  
AND AMENDING RESOLUTION NO: 238-2011, THE 2012 BUDGET  
FOR THE CITY OF NEWBURGH, NEW YORK  
FOR EMERGENCY SEWER MAIN CLEANING AT THE WATER  
DEPARTMENT**

**WHEREAS**, by Resolution No. 5-2012 of January 9, 2012, the City Council of the City of Newburgh authorized the City Manager to negotiate and enter into a contract with McVAC Environmental Services, Inc. for the North Interceptor Trunk Sewer Cleaning Project in an amount not to exceed Three Hundred Thousand and 00/100 (\$300,000.00) Dollars; and

**WHEREAS**, the Water Department identified a sewer main obstruction at the Water Filtration Plant which if left unresolved would have resulted in contamination of the City's water supply and subject the City to violations of New York State regulations; and

**WHEREAS**, McVAC Environmental Services, Inc. was already engaged by the City, on site, and ready, willing and able to begin cleaning the obstruction in the sewer main at the Water Filtration Plant; and

**WHEREAS**, the cost for the sewer main cleaning services at the Water Filtration Plant is Fifty-Nine Thousand, One Hundred Five and 00/100 (\$59,105.00) Dollars; and

**WHEREAS**, this Council has determined that entering into an addendum to the agreement with McVac Environmental Services, Inc. for the additional sewer main cleaning services is in the best interests of the City of Newburgh and its residents;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Newburgh hereby declares that the sewer main obstruction at the Water Filtration Plant created an emergency condition under Section 103(4) of the New York State General Municipal Law; and

**BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to enter into an amendment to the contract with a McVac Environmental Services, Inc. for the sewer main cleaning at the Water Filtration Plant in the amount of \$59,105.00; and

**BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh, New York, that Resolution No: 238-2011, the 2012 Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
Sewer Fund		
Appropriated Fund Balance		
G.0000.0599.1000	\$59,105.00	
 Sewer Fund		
Maintenance & Supplies		
G.8120.0415		\$59,105.00

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**

37-12

ADDENDUM TO AGREEMENT BY AND BETWEEN

THE CITY OF NEWBURGH, NEW YORK

AND

McVAC ENVIRONMENTAL SERVICES, INC.

This Addendum to the Vendor Services Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2012 by and between and the City of Newburgh, New York, with offices at 83 Broadway, Newburgh, New York 12550 ("CITY") and McVAC Environmental Services, Inc., with principal offices located at 481 Grand Avenue, New Haven, Connecticut 06513 ("VENDOR"), dated February 2, 2012:

1. VENDOR agrees to supply to CITY all necessary equipment, labor and materials in connection with emergency services to remove sewer main obstruction at CITY's Water Filtration Plant, hereinafter "SERVICES" as set forth in the Proposal annexed hereto as Schedule "A".
2. For satisfactory performance of the SERVICES, the CITY agrees to compensate VENDOR on a time and materials basis as stated in Schedule "A", which is attached to and is part of this Addendum.
3. VENDOR and CITY agree that all other terms and conditions set forth in the Agreement for Vendor Services, dated February 2, 2012 shall remain in effect.
4. This Addendum, together with the Vendor Services Agreement, contains the entire agreement between the parties as to subject matter herein and supersedes all prior agreements whether oral or written between the parties hereto. This Agreement may be modified only by a written instrument signed by the parties.

Accepted by:

McVAC ENVIRONMENTAL SERVICES, INC.

CITY OF NEWBURGH, NY

\_\_\_\_\_

\_\_\_\_\_

Name:

Name:

Title:

Title:

Date:

Date:

APPROVED AS TO FORM:

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MICHELLE KELSON,  
CORPORATION COUNSEL

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CHERYL A. GROSS,  
COMPTROLLER

**McVAC**  
**Environmental Services, Inc.**  
An Equal Opportunity Employer

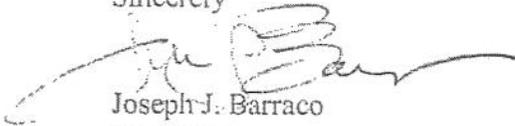
February 24, 2012

City of Newburgh  
Engineering Department  
Craig M. Marti, P.E.  
City Manager  
83 Broadway, First Floor  
Newburgh, NY 12550

Dear Mr. Marti

Enclosed are invoices in connection with emergency services provided to the City of Newburgh for tank pump out at the Water Filtration Plant and Sewer system. Jet and vacuum services were used to remove sewer main obstruction on a time and material basis which are reflected on the enclosed invoices.

Sincerely

  
Joseph J. Barraco  
Controller  
McVac Environmental Services, Inc



**RESOLUTION NO.: 38 - 2012**

**OF**

**MARCH 12, 2012**

**A RESOLUTION TO AUTHORIZE A SETTLEMENT IN THE MATTER OF  
JAMES J. FOLLINI AGAINST THE CITY OF NEWBURGH, THE CITY OF  
NEWBURGH POLICE DEPARTMENT, P.O. JOSEPH PALERMO, P.O.  
PHILLIP MUGNANO,  
P.O. THOMAS REYNOLDS, P.O. WILLIAM HINSPETER AND  
TORCHES ON THE HUDSON, LLC IN THE AMOUNT OF  
FIFTY THOUSAND DOLLARS**

**WHEREAS**, James J. Follini brought an action against the City of Newburgh, the City of Newburgh Police Department, P.O. Joseph Palermo, P.O. Phillip Mugnano, P.O. Thomas Reynolds, P.O. William Hinspeter and Torches on the Hudson, LLC; and

**WHEREAS**, the plaintiff and the City of Newburgh have reached an agreement for the payment of the settlement in the amount of Fifty Thousand (\$50,000.00) Dollars in exchange for a release to resolve all claims among them; and

**WHEREAS**, this Council has determined it to be in the best interests of the City of Newburgh to settle the matter for the amount agreed to by the plaintiff and the City of Newburgh;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the City's attorneys are hereby authorized to settle the claim of James J. Follini against the City of Newburgh, the City of Newburgh Police Department, P.O. Joseph Palermo, P.O. Phillip Mugnano, P.O. Thomas Reynolds, P.O. William Hinspeter and Torches on the Hudson, LLC in the total amount of Fifty Thousand (\$50,000.00) Dollars and that City Manager be and he hereby is authorized to execute documents as the City's attorney may require, to effectuate the settlement as herein described.

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**

**RESOLUTION NO.: 39 - 2012**

**OF**

**MARCH 12, 2012**

**A RESOLUTION AUTHORIZING THE AWARD OF A BID  
AND THE EXECUTION OF A CONTRACT  
WITH STANDARD DEMOLITION SERVICES, INC.  
IN CONNECTION WITH THE DEMOLITION OF 45 CHAMBERS STREET  
AND 47 CHAMBERS STREET RESPECTIVELY AT A COST OF \$65,375.00**

**WHEREAS**, the City of Newburgh has duly advertised for bids in connection with the demolition of structures located at 45 Chambers Street and 47 Chambers Street, respectively; and

**WHEREAS**, bids have been duly received and opened and Standard Demolition Services, Inc. submitted a bid in the amount of \$65,375.00; and

**WHEREAS**, it has been determined that Standard Demolition Services, Inc. is the lowest responsible bidder and is fully qualified and able to perform the work; and

**WHEREAS**, funding for such project shall be derived from Community Development Block Grant Funds; and

**WHEREAS**, this Council has determined that it is in the best interests of the City of Newburgh and its further development to enter into a contract for such demolition services;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the bid for the demolition of structures located at 45 Chambers Street and 47 Chambers Street, respectively, be and it hereby is awarded to Standard Demolition Services, Inc. for the bid amount of \$65,375.00 and that the City Manager is hereby authorized to enter into a contract for such work in this amount.

Mayor Kennedy said that she will vote yes for this and she wants Standard Demolition Services to understand that we will hold their feet to the fire insuring that Section 3 is enforced and that we have local labor hired to do the work here. This has been a tough one and it needs to be passed but they need to understand that we will hold their feet to the fire on this and she will be watching the job.

Councilwoman Angelo said that we had four different contractors come forth and Standard Demolition was the only one that followed through with all of the proper papers so this is why he was chosen.

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

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5

**ADOPTED**

**RESOLUTION NO.: 40 - 2012**

**OF**

**MARCH 12, 2012**

**A RESOLUTION AUTHORIZING THE PURCHASE AND INSTALLATION  
OF A SECONDARY CONTAINMENT PAD AT THE CITY OF NEWBURGH  
WASTEWATER TREATMENT PLANT AT A COST NOT TO EXCEED  
TWENTY THOUSAND DOLLARS**

**WHEREAS**, in 1999 the City constructed chemical bulk storage facilities at the Waste Water Treatment Plant in conjunction with our effluent disinfection program as required by New York State SPDES Permit; and

**WHEREAS**, a New York State Department of Environmental Conservation ("NYS DEC") inspection in November of 2011 identified violations related to the secondary containment features of the City's Chemical Bulk Storage Facilities; and

**WHEREAS**, on January 9, 2012, the NYS DEC served a Notice of Violation pertaining to said deficiencies; and

**WHEREAS**, the majority of the deficiencies have been rectified by Severn Trent Services under their operations contract with the City of Newburgh; and

**WHEREAS**, a remaining element of work pertaining to the secondary containment at the transfer area remains to be completed in order to comply with the NYS DEC regulations; and

**WHEREAS**, the projected cost of completion is \$20,000.00, which includes the purchase of a chemical containment pad referred to in the attachment to this resolution; and installation of the chemical containment pad and an asphalt pavement surface at the transfer location; and

**WHEREAS**, this Council has determined that such purchase and installation is in the best interests of the City of Newburgh and in keeping with compliance with the NYS DEC;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to approve the purchase and installation of a secondary containment pad at the City of Newburgh Wastewater Treatment Plant at a cost not to exceed Twenty Thousand (\$20,000.00) Dollars; and

**BE IT FURTHER RESOLVED**, that the City Comptroller is hereby authorized to transfer funds as indicated below to effectuate such purchase and installation:

	<u>Decrease</u>	<u>Increase</u>
Sewer Fund		
Appropriated Fund Balance: G0000.0599.1000	\$20,000.00	
Sewer fund		
Repairs/Other Equipment G.8130.0443		\$20,000.00

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**

4012

# "CONTAINMENT PAD" QUOTE FOR CJS ENG - NEWBURGH, NY

POC: Joseph Sagnis, Area Mgr., (845) 565-6182, Jsagnis@stes.com

Quote Date: Feb. 22, 2012

Quoted by: John Beaver, (800) 235-7421

Area Rep.: Scott Whittington, (610) 513-8698

System Width (ft.)	System Length (ft.)	End Walls Height (in.)	Capacity* (in gallons)	Price per SQ.FT.
10	16	3 5/8"	305	\$39.00

SQ. Footage	Unit Price
160	\$6,240.00
16	640.00
1	275.00

\$7,155.00
\$812.50
1,400.00
<b>\$9,367.50</b>

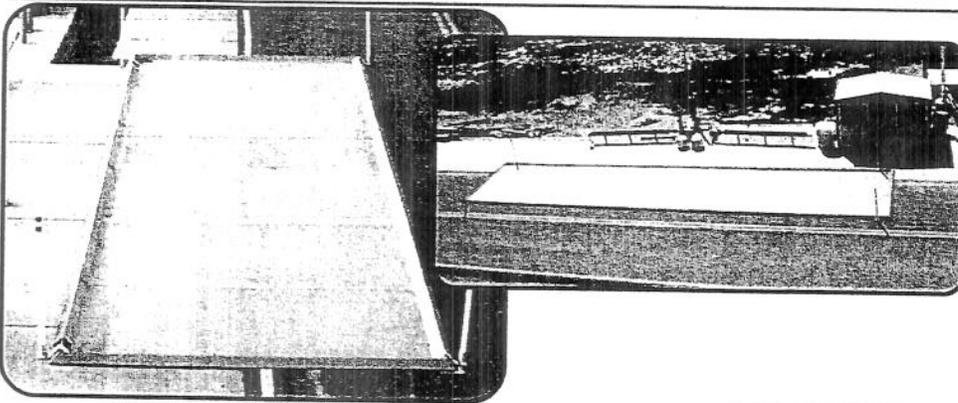
Optional 24" wide Integral ramps 12"up/12"down at \$40 PLF:  
Filter Box \$275 ea. :

**Steel Surcharge due to spike in raw steel pricing:**

Cost of Freight only (assembly by Customer) from Cleveland to Newburgh, NY:

**Total Delivered Price for this System:**

Comprised of (2) panels (approx. 8' W x 10' L) weighing approximately 800lbs. each. Containment pad capacity - 305g. Integral Ramp Walls are incorporated into the 10 foot entry and exit walls. Inc: 4 - Pole Retainers with Line-of-Sight Poles, 4 - anchor clips, resin coated, four 1 1/2" drainports w/ a Filter Berm and brass Ball Valve.



SPILL CAPACITY*		
Length	=	15
Width	=	9
Height	=	0.302083
gal./qb.ft.	=	7.4805195
Capacity	=	305

Provides a "secure" containment surface, free of cracks that compromise similar concrete systems. No ramps required. Ideal for high traffic areas used by cars or trucks.

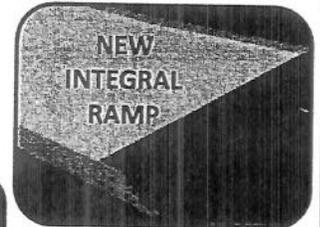
## CONTAINMENT PAD:

-- Product Description --

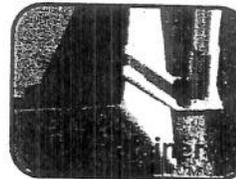
Surface mounted, relocatable, semi-permanent secondary containment. Constructed from heavy plate steel panels, encapsulated in a rugged fiberglass protective coating. Employs time proven joint sealing technology. Performs like concrete without the cracking and expansion joints!



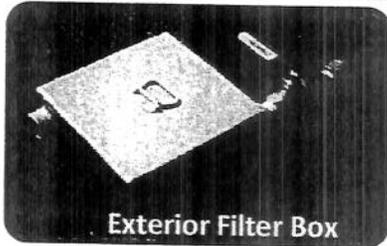
Add new "integral ramps walls" in place of any standard speed bump wall to smooth entry and exit from systems.



**Rainwater Mgt.**  
Add drain(s) as needed. Choose inside or outside filter berms with brass ball valve.



Add a passive release Bazooka drain blocker.  
**Line-of-Sight Poles** for visual assistance



**RESOLUTION NO.: 41 - 2012**

**OF**

**MARCH 12, 2012**

**RESOLUTION AUTHORIZING A STANDARD WORK DAY FOR ELECTED  
AND APPOINTED OFFICIALS WHICH WILL BE REPORTED TO THE NEW  
YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM**

BE IT RESOLVED, that the City of Newburgh hereby establishes the following as standard work days for elected and appointed officials and will report the following days worked on the attached Schedule A to the New York State and Local Employees' Retirement System based on the record of activities maintained and submitted by these officials to the clerk of this body.

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

**Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5**

**ADOPTED**

## PUBLIC COMMENTS

Jennifer Murchison, 7 S. Johnston Street, wants to acknowledge the youth of the City of Newburgh and say that she is proud of them because they showed a lot of restraint. She said that there was an injustice done and for them to have held their heads the way they have everyone is proud of them. She told Mayor Kennedy that she showed a lot of braveness today and she has a new found respect for her because it was a brave thing that she did by attending the funeral of this young man today. She said that she is a little disappointed that she didn't see some other faces but that's how it goes sometimes. To the mother of the young man that passed away she said that they tried to make her son out to be a monster and the lid blew off of a lot of things that have been in the dark that are about to come to light. She told her that her son is a champion and when we are done he is going to be a hero.

Juanita King, 96 Johnston Street, said that she laid her Cousin to rest today and she asked the Council what they are going to do to prevent this from happening again. That is what she wants to know because she is not going to another funeral. What are they going to do to prevent another mother from going through what her Aunt went through today?

Omari Shakur, City of Newburgh, said that they heard about the resolution that was taken to the Governor and they will be waiting for a for an answer but in the meantime what is the City Council going to do? He noted that there are three people of color on the Council and they should empathize sympathize with our community because they know what is going on. He agrees that the Land Bank comes here to steal land but he doesn't want to get into that tonight. Getting back to the family the community wants to know if a Civilian Review Board has been talked about because this is not the first incident. This is like the last straw that broke the camel's back. He noted that they shut down Broadway today because they were going to move the City Council meeting but we wanted it here in our community because we wanted to be heard. If we have to shut it down again, we will because we will not let this go. He added that we can't blame the City Council or the Police Department for a lot of what is happening because a lot of what is happening isn't what they are doing but what we are *not* doing. So our first question should be what are *we* going to do? Are we going to follow this up? He said that this was not police work it was murder and that is the first thing that this community needs to understand. The family would like to know who the other two Officers are that were involved because we heard tonight that they settled a lawsuit for four other Officers so they would like to know what other Officers have lawsuits and why are they working. If they have lawsuits against them and they have been involved in other deaths and beatings, why

are they still working? He asked the City Council what they are going to do because they are the leaders.

Regina Lewis, City of Newburgh, told the Council that she is sorry that they think so little of them that they continue to say that they don't understand. She said that Michael Lembhard's short life shed a light on this community in a way that no Pastor in this community ever has. He was at the frontline of a war that had nothing to do with crime it had to do with classism and disparity; the two leading causes of crime in the City of Newburgh. The reason Michael Lembhard and all of us are on the front line is because our leaders are either corrupt or cowards or both. Any shot would have stopped Michael Lembhard if he actually lunged at the Officers. Based on the amount of bullets that were flying through that house those Police Officers intended to kill him and anyone in that house. The family is going to try to forget this over the next few weeks but the rest of us can't forget this so we demand a resignation right now and those cops should be charged criminally and never come back to this community again.

Kameisha Locklary, City of Newburgh, said that the City of Newburgh police officers harass people and they think that just because they have a badge they can treat us any way that they want to but that is not the case. Other people have been killed and we still don't know who killed them. She asked the Council how they will fee when these cops start to drop.

A member of the Coolidge family and resident of Lander Street said that the letter was taken to Albany but when are we going to get an answer on this. We want an answer right away. He said that he respects the Mayor for coming to the funeral and she said some very kind words but he told her that he will be in her face every day because he wants answers for his Nephew. He is not pointing his finger at the Chief of Police because he didn't pull the trigger; it was two Officers that they want to be held accountable. They want justice for his Nephew, Michael Lembhard, and they are going to get it.

Ann Marie Mahoney, member of the Coolidge family, said that the officers here need to go to charm school and learn courtesy, professionalism and respect. She also believes in unity under oppression and we are all the voice of Michael Lembhard now. She has family members here in the City of Newburgh and we all stick together. When she was here years ago she spoke to Councilwoman Angelo at the Library and she asked her what they are giving the youth here because they have nothing to look forward to. They go out and find trouble so they need to implement services here and programs so that they can work. This was a beautiful city at one time and you can not have people oppressed for this long. Help them and then your community will come together.

Mr. Harris, City of Newburgh, said that we need to slow down. We all know what happened but we need to have patience. Everyone wants something for the community and we need to get the kids off the streets but there is nothing here for them. He thinks that we have to do things a little different.

Keisha Burks, City of Newburgh, said that she represents the youth here in the City and in the Church. Her hearts desire is to not to see the youth here in this city fail, die or not succeed. She want so see them move forward. She told the City Council that they need to give them something to do. Everyone does not work or go to school but they need something to do. Give us something to do. If you say you want change and you want to keep us off of the streets then give us something to do. They need the Council to help them so that they can start to see their prayers being manifested.

Charles Kimbrough, City of Newburgh, said that there are some things that the Council can do right now. There is a pamphlet somewhere in the archives that was compiled with the Department of Justice and they can compel the Police Department to start working on diversity. We have a Police Department that is quick to react by throwing their hand on their hip and one of the problems they have here is that they don't know who is friend of foe. Three weeks ago he watched officers grab some kids by their collars telling them to get out and they weren't trying to arrest. They were willing to send a kid out bleeding and the Officer's words were that it doesn't matter because no one cares anyway. We have a serious insensitivity issue. There is a young man here that would be more than willing to help facilitate these things with the Department of Justice. He doesn't want to wait on a letter from the Governor before we start putting things in place. He believes that if we start putting these Officers into the communities then they will be less likely to hurry to pull their gun. There have been a few officers that have gained respect because they were known by name and face. Officers like Sheldon Heil, Lt. Rose, and Charlie Broe. They would take kids home instead of slamming them into the back of a police car and taking them down to the Station. This is just common sense of the people. He would like to see the Council get these police officers into some training and if they are willing to meet with some people in the community along with the individuals from the Department of Justice they can start putting a plan together in which we can make sure that these Officers understand what they are dealing with.

Mary McLymore, Town of Newburgh, said that we know that the furniture was destroyed so she is asking where they can get some help for this family to get some decent furniture and everything that they need for their new apartment.

Councilwoman Lee noted that she told the family that she would see them tomorrow concerning some other issues but she has made a call to see if they can get some furniture. She told Ms. McLymore that she will contact her tomorrow.

Mr. R., Newburgh School District, said that this is his community and he is proud of every single person here tonight. It takes a level of strength to conduct yourself in a fashion that you want to get things done and to withstand the things that are going on here. He has worked with many people here for the gang and drug issues and his kids don't ask him for handouts; they ask him for jobs. A young lady spoke earlier and asked the Council to give them something to do because a lot of them want to work. We don't have an economy that is being built here the way that it needs to for the people. One of the other major issues that he sees is, and he is not condoning any illicit activity or gangs, but if we do not protect our citizens then we make them protect themselves to survive. People are going to find a way to eat and if we don't find a way to take care of the next generation then we will be burying them at a much higher rate. We have to make sure that the community continues to come together so that we are never sitting here again watching a family mourn. There is only so much that we can do but the reality is that we are losing way too many so we have to keep our ears open because at the end of day the School District and the City Council both work for the people; not the other way around.

Michael Sussman, from Chester and Goshen, said that when he went to the house yesterday, what struck him more than anything were the number of children under the age of eight years old that are in this family. Anyone at the funeral today saw all of these beautiful children. He has been a Civil Rights Lawyer for thirty-five years and he has seen many generations outraged for a minute and then quiet for most of the rest of the time. When outrage lasts a minute, we don't make change in our culture or society. He was here with the Cobb family, the Whitfield family and the McNeil family four years ago and after that set of events we held public hearings in the City of Newburgh where over two hundred people came to testify. These are the recommendations of those people: 1) Civilian Complaint Review Board. 2) Dash cams in each police car which are activated automatically as soon as the lights of the vehicle go on and must be maintained through any incident. 3) Diversity in the police department. This can be achieved by taking people transferring from other agencies. You don't have to go by the Civil Service list when you hire. You can take transferring Officers. The fact that there are few people of color on the list does not preclude their hire. 4) An attitude in the police agency which is very different. Truthfully he thinks that we have a Police Chief who does have some understanding. The Police Chief we had here before had very

little. The key challenge in this community is jobs. The Mayor said something today that he thinks is very important. She said that we need to do things in a radically different way. A radically different way is that the City of Newburgh decides that anybody in this City who wants a job it's going to put to work. That is what they did in the 1930's when we had the Great Depression in the United States. The Government was the employer of last resort because the private sector failed to create jobs. How will the City do that? It may have to bond money in the future but however it does it they have to get money to be able to put people to work. There is plenty to do in this City and you don't have to look very far. There are people on this Council who may very well understand this but remember that many of them just took Office and this was a tragedy on their watch that we can't personally condemn them for. Everyone in this room in memory to this young man needs to register and needs to vote. Take this anger and this outrage and place it somewhere that will remake the future.

Pastor Brock, 85 Carpenter Avenue, commended the Coolidge family because tonight we are champions. The young man that they saw in the casket today was trying to do his community work at her Church and the family knew that he was there. She wants everyone to know that she works for the highest God who gives her instructions every day to love people she used to not be able to love. She thanks Him tonight because she can love everyone in the room. She is from the South where they put police dogs and water hoses on people because of the color of their skin. They would drag people down the road with chains and do whatever they could to get rid of a person of color. She came here and assumed that things had changed but somewhere down the line we have allowed the enemy to come into our camp. There is some ugly stuff in our camps and she doesn't believe that our Chief of Police knows about it. If you can take a tranquilizer and get a bear out of a tree or stop an animal from roaming up and down the street, what happens to her people? We might need to change some of the rules as to who goes to the Police Academy. We need to sit down and change the rules at our meetings because she has seen too many of her people gunned down. Her son was killed in 1979 on Farrington Street so we need to change some rules or as it says in the Bible *Let us reason together*. Sit down at the table and see what we can change but God will be the justifier when it is all said and done.

Sheila Monk, City of Newburgh, said that her Prayers go out the family. She told the Mayor and the City Council that this is an excellent opportunity to introduce to the Action Teams to the community. We would like to know what Action Teams are and who are the individuals? Who are the leaders of each Team? Where does each team leader live and what areas are these teams focused on? As the leader of Adopt-a-Black, she announced that there will be meeting on March 17<sup>th</sup> at 11:00 at Best Temple. The Action Teams deal with

safety, transportation, landlords & tenants, jobs and youth. Adopt-a-Block is a group of community residents who are helping the neighborhood to improve the quality of life. The Community Action Team was established by Mayor Kennedy to address community concerns. They want to hear their ideas together with the neighborhood and they hope to create a safe, livable and beautiful block. They hope to prove that each of them can make a positive real difference in our community. She added that if anyone needs someone to go with them to the Police Station or the Courthouse they can give her a call.

Clarence Robinson, Contractor, said that there was mention of the bid and that Standard Demolition was awarded this contract tonight. He said that he has a package prepared for community workers in this area that is Section 3 approved and ready to go. As soon as they get their contract, they are ready to go to work.

Bishop Woody, House of Refuge, noted that on Saturday, March 31<sup>st</sup> the Christian Community Fellowship along with community members will hold a Voter Registration Drive throughout the City of Newburgh and if anyone is interested in helping they should be at the Church at 10:30.

Lillie Howard, City of Newburgh, said that they say that these properties the Land Bank is going to be given are properties that the City owns. We are talking about the conditions in the community as being deplorable but the City is the landlord and they could have created a program whereby people in the community could have been hired to go in and fix up the properties that they own. They had the perfect opportunity to create on the job training. They could have had a partnership with the Unions and had local people being trained. They could have fixed up the properties and then put something in place where they would have been able to buy the properties. She heard them say that there is going to be an Advisory Board created but they have a deadline by the end of March which is only two and a half weeks away. Why have they waited so long to put this Advisory Board together? You won't be able to get much accomplished in two and a half weeks. She added that we shouldn't get too excited about an Advisory Board because it boils down to who they are going to appoint to that Board. She herself worked for the Newburgh Housing Authority and offered herself several times but was turned down and she wonders why.

Yolanda Burks, City of Newburgh, said that she believes that the citizens of this City would like a sincere apology for the swindling that may have been in the government for a long time. She apologized to the family for waiting this long to actually do something and say something because this has gone on for years. She would like a sincere apology from our leaders and a

promise to make a change. Re-election is coming around and they don't want to appoint the next swindler to get money.

Janet Gianopoulos, City of Newburgh, said that she is concerned about the younger children because we need to pay attention to them now. This has to be through a multi pronged effort. It is not only what happens at this business table that will encourage our children to grow up, do well and to thrive in school and find a sense of purpose. It is important for the Council to know their relationship to the other entities that are involved in that type of thing be it the parents, schools or Churches. She told the Council that they are the legislative branch. There is the enforcement branch and then there is the judicial branch. We all need to monitor the cases in which our people are employed to enforce the laws that they uphold and then what happens in the justice system. It can't be a revolving door. There has to be solutions. We are facing ten and fourteen year olds who are committing crimes so it is not like it was fifty years ago. The point is to nurture children so that they grow up with a sense of purpose and a sense of worth. We need to work together. It is not just up to the people at the table and they need to know how to delegate.

Sheila Burnett, City of Newburgh, said in reference to the children and to this family that she heard there were children in that house when this happened and those children are never going to be the same. Nobody can tell her that these police officers are not trained to do this. The media is being blocked and we are not being shown everything that is going on in this Country. She saw some police officers with four young black men at a train station and one police officer pulled a young black man out and put him on the ground and then fired a shot into his back. This is what is going on all over the Country and you won't see it in the media because they are controlled. She is very concerned about this family and she can't imagine what they are feeling. These police officers are being trained by someone that thinks this is alright. There is no way that you are going to bust into a house and shoot up a young man unless you feel that somebody somewhere says it's alright. All over the Country young black men are being picked up and put into Federal Prison and those that they are not putting in Prison they are killing. She is tired of everyone acting like they don't know what is going on with people of color.

Mr. Pomarico, Powell Ave., said that he thinks that all the way around there needs to be a fundamental respect for everyone's rights no matter what their skin color is, their race or where they come from. Everyone has a right to life, liberty and their property and that is it. The police and officials are sworn to protect that so everyone has to keep that in mind if you are in a position of enforcement. In regard to the Land Bank, people have asked why they can't buy property for a \$1.00. He thinks that you can if you form a not-for-profit

Corporation like these guys did. There are people in this room who are looking for something to do to fix things so they should ban together and form a DBA and come up with your own not-for-profit Corporation and create some competition for this Land Bank. This is only one sliver of the City. There are more sections to be taken over. If people are losing their homes, then this might be a way to keep them and buy them back for next to nothing. We need to come up with a campaign to get some money donors. Why not have multiple corporations and spread this idea out and try it in different spots and ways and make the best of it? Learn the rules, play the game and use it to your advantage.

Robert, City of Newburgh, said that he knows that there was a lot said tonight and the Council has a lot on their plate but one thing he would like to know is when and in what manner are the names of the Officers going to be divulged to the public. In every aspect of what these Officers are going through, is it going to me as magnified as this is because he would like to know if they are going to be back out on the streets pulling him over.

Barbara Smith, Powell Avenue, said that to apologize you have to know what you are apologizing for. Your apology must come from the heart and you must mean it and not go there again. An empty apology means absolutely nothing. For the people who are new to the Council and new to coming here and who didn't know what it was like six or seven years ago they think that they are inventing something brand new. She held up a book called the Sustainable Master Plan and noted that on page 41 under Boards and Commissions it has the Police Community Relation Committee which states *The police Community Relations Advisory Board provides a forum for the exchange of ideas between members of the public through their representatives and the Police Department. The Board is a way to encourage open discussion of crime related public safety or other quality of life issues of the City including the relationship and daily interface between the community and the City Police Department and a mechanism for the public to request particular services and recommend regulations or other means to deal with the concern.* We have already sat and done this and we have already said that this is what we are going to do in order to improve our community. On Page 43 it even notes by what date we intend to get this done. We have a Council of people here and we are to know what is going on and we are to come in a peaceable manner to tell them what we want done and it is up to them to get it done for us. We spend too much time putting out fires and wailing and moaning about the losses in our community from all over. It is time to put this aside and realize what we have and spend more productive time telling the City what we want done. It can be done peaceably and she said that penny for penny, pound for pound we have the best police force in this area and you can not judge without a trial.

Pebbles, City of Newburgh, said that she is glad that Barbara Smith mentioned the Master Plan and the Committees. At previous meetings we have talked about doing something with the Boards. We talked about absentee members and Boards that have not met in years so she would like to know when the Council and City Manager will start making some headway on depleting and then adding in. Maybe we could start with two or three at a time but we have to get that going because the Committees interact with the Council and help to govern and keep the City going. Let's not forget that.

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

## COMMENTS FROM THE COUNCIL

Councilwoman Angelo said that she wants to spend her time grieving with the family. She has known the people of this community for many, many years. They played Bingo together at the YMCA and her son knew them well so she feels like she wants to grieve with them. She said that there is nothing they can do to bring their son back but they are going to pray for him because they know that he is in Heaven. It has been an emotional night tonight and she doesn't feel like talking about the Memorial Day Parade. She did note that on Wednesday at 10:30 a.m. four young men will celebrate the completion of the course at Drug Court and she thinks that we should have a proclamation for them.

Mayor Kennedy said that she is going to attend Drug Court tomorrow to give certificates to each of them.

Councilwoman Angelo noted that anyone can attend and show some support. She said that the Police Advisory Board has not been functioning at all so we need people on that and we will be having our Parade on May 28<sup>th</sup> so they are working on that.

Councilman Brown expressed his condolences to the Coolidge family and apologized for not being present but his work schedule did not allow him to attend. He noted that he wants a clear and fair process and whatever the outcome is he wants to try to get this City back to healing again. He told the family that he is on their side and he understands their grief. He and his brothers grew up with the family and attended school together so he expressed his deepest condolences. He noted that the Land Bank is similar to any Bank that we walk into on a Friday to cash a check. You don't necessarily have to be careful about the money going in but you really have to be careful when the money comes out. It is the job of this Council to make sure that when properties come out of the Land Bank that they go in the right direction. It is also important to know that when you use partnerships like Habitat and so forth, they have a list of people who they use to put in those houses and he thinks that we need to be careful about those lists also because we want to make sure that it is a diverse process. This City is made up of diversity and that is important to him so for anyone who has a concern about the outcome of the Land Bank and properties coming out he said that his eye is on that part of it and he will be sure to put some kind of stipulations in place so that the properties go to the right people in the City.

Councilman Dillard, thanked everyone for coming tonight and expressed his sincerest condolences to the Coolidge family. He said that when

he got the call the other day he knew that he had to go to their home and he called the Attorney who he knew would give them correct and proper answers in terms of the process and so forth. It appears as though things are taking place now and the City is making a commitment in terms of trying to get the Governor to come in and their Attorney is making great strides. As he told them earlier today, if there is anything that he can do he is here for them. He expressed his deepest and sincerest apologies and said that they will definitely get to the bottom of what has happened to their son because it is happening too often in our Country particularly in Orange, Westchester and New York Counties. He will be suggesting that we merge with those Counties to gather information and partnership with them because we are all going through the same thing where people of color, young men in particular, are being gunned down. He again expressed his deepest and sincerest apologies on behalf of the City.

Councilwoman Lee said that situations like this are not new to her. She grew up in the 60's where people were dragged through the streets and beat which was a common every day practice done by the police. She is very proud to be part of an initiative and she can only thank Michael for that because he brought us together in a way that we wouldn't have. He put the community, the Council, the Police Department and the Chief all on the same page. She would like to know where else in this Country a Chief and a Council have agreed that they need a special prosecutor. She has never seen it so we have set some kind of precedence. She thanked Michael for helping them with that. She also pointed out that when she ran for City Council she really promised that there would be no business as usual but throughout the past week she saw usual business and we need to figure out what that means. We need to understand how it is defined and we need to change it. There is nothing that she can say that will bring Michael back but if there was, she would say it and he would be back. She noticed today how loved he was. She watched a family embrace each other, love each other and experience pain with each other. She saw children embracing adults and adults embracing children, which was a wonderful thing to watch. She overheard a conversation where Michael's son asked Michael Sussman "Can he answer me"? Michael Sussman responded "I don't think so". So the child then asked if he could hear him and Michael Sussman said I think he can. The child then looked toward the casket and said, "Daddy, don't worry, you have an Attorney now and he played basketball with me". That was precious. She added that she recently came across a package that belonged to her father which were letters that he had sent to the Mayor and the Governor speaking out about issues. If she had to ask who inspired her, she would have to say it was him because he taught her how to stay in the fight. A lot of questions were asked tonight and she noted that they are all invested in finding out what happened. The Council doesn't want to have situations like this and the Police Department certainly doesn't

want it so if we are working together then we can resolve the issues but if we are fighting and we are not participating then we will drown. This was by far the most horrific experience. Attending the funeral was painful and in her face. She told a story about a problem that her son had with the police and they put a gun to his head. She didn't go and bash the Nassau County Police Department because she wanted to find out what happened with that one Officer. There are police who are working to make changes and they don't want this hanging over them either. She doesn't want to bash every police officer because they are also the men who help us when we are having trouble. Her idea is that we pull together and do it peacefully and the residents need to tell the Council what is going on. She just heard all of these stories that she has never heard before. Where did they dredge this information up from and how come it hasn't come to the attention of the City Council? The residents should talk to the Council and come to the meetings and be more active with them because they are the eyes and ears of this City not the City Council. She thanked everyone for coming and for allowing her to be part of their family today and spend time with them through this most difficult time. She expressed here condolences to all of them.

Mayor Kennedy said that this has been a very hard time for her personally and for the City. Her heart goes out to the family and she has compassion for a mom who has lost a son. There are so many questions that they all have and they have a right to those questions. Many people in this City have questions and they want to know why so many things have gone wrong for so long. She, as well as other members, ran for this Council position because of that. She can't apologize for them because she is not the one who was in that position but what she can say is that she is deeply sorry that we find ourselves here today. She can also say that she would never have decided to do with what she has done with her life if she didn't believe in the people of this City. She is reinventing who she is because who she was last year has disappeared and someone else is emerging. Her goal is to figure out how to use all of the skill she has gained over the years of her life to help a situation that doesn't have easy answers. Everyone wants to know when the Governor is going to grant a special prosecutor but she can't answer that. If she could, she would answer it this minute. All she can say is that she and Chief Ferrara left the Press Conference and went straight to the meeting room downstairs with the City Manager and said that we need to do this. Do you know how unusual it is for a Chief of Police to support this action? This is not a common thing. We all want the truth and when that truth gets revealed then we can take appropriate action. We can't take action until we have facts because it wouldn't be right. We have to get to the bottom of this and the whole Council is committed to that. She said that as soon as information becomes available they will let the public know. She was on the phone with the Governor's Office on Friday to inform them that we were going to pass a resolution and

that they would be hearing from us. We followed through with the City Manager going to Albany today to hand deliver that resolution and our letter straight to the Governor's Office. We have taken immediate action and we have done what we can. We will keep on it until we get an answer. As for the Land Bank, she said that they are committed to making sure that the properties are handled properly and to having a City that works again. She has also been trying to bring new jobs into this City but these things don't happen overnight. They are working on jobs as well as cleaning up the City and many other things. There is no magic wand or dust so she needs assistance from everyone that wants to help in the reinvention because she can't do it by herself. She never said that she had all of the answers and she expects input from everyone here. That is what the Community Action Teams and the City Advisory Teams are about. The Community Action Teams will be meeting on April 14<sup>th</sup> at the Armory and they will be reporting to the community about what they are all doing and what they are about. She invited the entire community to attend. She heard a comment about furniture and she heard that Councilwoman Lee will be assisting with that. She added that there is a group up on the Heights of about five or six people who bought an old house and managed the reconstruction of it and then sold it to someone to get a new neighbor in. There are a lot of ideas out there and we have to examine them. The City Council is committed to doing something for the youth in this city and they have a Youth Action Team that they are trying to put together because we need something for them. They do have to work on the Ethics Board and they have to make sure that the Police Advisory Committee is back together. She added that they are doing things as fast as they can but to remember that everyone has jobs and things to do.

There being no further business to come before the Council, the meeting was adjourned at 9:30 p.m.

LORENE VITEK  
CITY CLERK

