

A regular meeting of the City Council of the City of Newburgh was held on Monday, September 10, 2012 at 7:00 P.M. at the Multi-Purpose Activities Center, 401 Washington Street, Newburgh, New York 12550.

A Moment of Silence was observed to remember the 9/11 tragedy. There will be services tomorrow at the monument near the former Perrott's building.

The Pledge of Allegiance was performed in unison.

Present: Councilwoman Angelo (Presiding as Deputy Mayor), Councilman Dillard, Councilwoman Lee-3

Absent: Mayor Kennedy, Councilman Brown-2

[Remarks: Councilman Brown not present for Roll Call, but arrived shortly after start of the meeting]

Councilwoman Lee moved and Councilman Dillard seconded that the minutes of the August 9, 2012 Work Session and the August 13, 2012 City Council Meeting be approved.

Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee-3

CARRIED

PROCLAMATIONS- SEPTEMBER 2012

Deputy Mayor Angelo proclaimed September 15th through October 15th *Hispanic Heritage Month*; September 15th *Boys and Girls Club Day for Kids*; and September 24th *Family Day*- a day to eat dinner with your family.

COMMUNICATIONS

Councilwoman Lee moved and Councilman Dillard seconded that Notices of Claim and the Tax Certiorari matters be referred to Corporation Counsel with power to act.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee-4

CARRIED



City of Newburgh

Proclamation

In Recognition of National Hispanic Heritage Month
September 15- October 15, 2012

During this month, the nation celebrates Hispanic culture,
Achievements, and heritage by commemorating the
Following historical events:

Independence Day for Costa Rica, El Salvador,
Guatemala, Honduras, Nicaragua, Chile and Mexico, and
El Dia de la Raza, October 12.

In the City of Newburgh, the Hispanic community makes up
More than 45% of the population, and
Their traditions and rich culture
Are reflected in the wonderful diversity of our community

Therefore, I, Regina Angelo, Deputy Mayor of the City of
Newburgh, New York, proclaim
September 15- October 15, 2012 as
Hispanic Heritage Month
In the City of Newburgh.

Regina Angelo, Deputy Mayor



City of Newburgh

Proclamation

Boys & Girls Clubs Day for Kids

September 10, 2012

The children of the Boys & Girls Club of Newburgh are the foundation
On which our future success is built; and families and communities
Play vital roles in helping children develop a positive self image, and
Sense of belonging and competence.

Boys & Girls Clubs Day for Kids is a special day set aside each year
To encourage and remind adults that the meaningful time
They share with children on this day and every day
Is important to their development; and

The Boys & Girls Clubs Day for Kids Honor Roll, comprised of Boys & Girls Clubs
Of America, and other youth serving organizations, together
Reach millions of youth and are working to establish
Boys & Girls Clubs Day for Kids on the National calendar;

Now Therefore,
I, Regina Angelo, Deputy Mayor of the City of Newburgh do hereby proclaim
Saturday, Sept.15, 2012
As Boys & Girls Clubs Day for Kids in Newburgh, and call upon all citizens
To join with me in recognizing and commending
The Boys & Girls Clubs Day for Kids Honor Roll organizations in our area

REGINA ANGELO
DEPUTY MAYOR



City of Newburgh

Proclamation

Family Day – A Day to Eat Dinner with Your Children™

The use of illegal and prescription drugs and the abuse of alcohol and nicotine constitute the greatest threats to the well-being of America's children; and

The National Center on Addiction and Substance Abuse (CASA)
At Columbia University has consistently found that
The more often children and teenagers eat dinner with their families
The less likely they are to smoke, drink and use illegal drugs.

Mealtime has routinely served as an opportunity for families
To gather and stay connected; and continues to provide a basic structure
To strengthen and encourage lasting relationships.

Now, therefore, I, Deputy Mayor Regina Angelo do hereby proclaim

September 24, 2012

Family Day – A Day to Eat Dinner with Your Children™

In the City of Newburgh

REGINA ANGELO

DEPUTY MAYOR

PUBLIC HEARING

Deputy Mayor Angelo called a public hearing concerning the proposed local law and ordinance necessary for the streamlining process approved by the council at the June 18, 2012 City Council Meeting.

The City Manager remarked that this public hearing covers Ordinance #5-2012 and Local Law #5-2012. All of these recommendations have come out of the streamlining work that the Pace Land Use Law Center has done to try to help us make our operations more efficient.

Brigidanne Flynn commented. As an ARC commissioner she recommended some modifications to the ordinance after performing some further research on her own and consulting with the staff of the NYS Office of Historic Preservation. [SEE COMMENTS ATTACHED]

There being no one else wishing to speak in favor of or in opposition to, this public hearing was closed.

COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Janet Gianopolous commented about Resolution #156-2012. She would like to hear about the success of the program so far before allocating these taxpayer funds.

Barbara Smith commented about the same resolution. She asked exactly what the \$435K is for, and what are we going to be doing with that money?

Michelle Basch commented. As a commissioner of the ARC she pointed out that we could get the best results if we worked in tandem with the Fire Department on what makes sense. The City of Newburgh is the owner of a very important part of our history and we need to take care of it. With that said, she understands that changes have to be made and people have to be able to live in their homes. It needs to be a cooperative effort on all sides. She stated that the ARC has not been contacted about it. She requests that the council hold off on voting on this tonight.

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

COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

There were no comments at this time.

CITY ENGINEER'S UPDATE

Craig Marti spoke about the low water levels at Washington Lake. He pointed out that there have been odor and taste issues due to the low levels of water, and in conjunction with some aggressive weed growth. We issued a Press Release last week indicating that testing has not revealed any health hazards. City staff workers have modified plant operations to help rectify the situation. We are taking steps to supplement the Washington Lake water supply with water from the Silver Stream Reservoir. In recognition of the inconvenience and considerations to the public, we have delivered water, via tank or truck, which is available here at the Recreation Center and the DPW facility. Water will continue to be available throughout the problem and the resolution of the problem.

RESOLUTION NO.: 153 - 2012

OF

AUGUST 13, 2012

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH
ADOPTING THE ENVIRONMENTAL ASSESSMENT FORM AND
ISSUING A NEGATIVE DECLARATION UNDER STATE ENVIRONMENTAL
QUALITY REVIEW ACT (SEQRA) CONCERNING AN AMENDMENT OF
SECTIONS 300-26 AND 300-80 OF THE ZONING ORDINANCE OF THE CITY
OF NEWBURGH AND SECTION 158-2, “ACTIONS REQUIRING AND NOT
REQUIRING ENVIRONMENTAL IMPACT STATEMENTS” OF THE CODE OF
ORDINANCES**

WHEREAS, by Resolution No. 132-2012 of August 13, 2012, the City Council of the City of Newburgh declared itself as the Lead Agency for the environmental review of “A Local Law Amending Article 158 Entitled ‘Environmental Quality Review’”, Section 158-2, ‘Actions Requiring and Not Requiring Environmental Impact Statements’ of the Code of Ordinances of the City of Newburgh” and “An Ordinance to Amend Chapter 300 entitled “Zoning” of the Code of Ordinances of the City of Newburgh to Exempt Certain Activities from Requiring a Certificate of Appropriateness from the Architectural Review Commission and to Eliminate the Architectural Review Commission Advisory Opinion in Applications for Variances within in the Historic or Architectural Design Districts to the Zoning Board of Appeals” (“the legislation”) pursuant to 6 NYCRR 617.6; classified the adoption of the proposed legislation as an Unlisted Action; proposed to accept as complete the Environmental Assessment Form (“EAF”); referred the proposed legislation to the Orange County Planning Department as required by General Municipal Law Section 239; and schedules a public hearing to receive comments regarding the proposed legislation; and

WHEREAS, in compliance with SEQRA, the City Council of the City of Newburgh now wishes to approve and adopt the EAF; and

WHEREAS, the City of Newburgh has taken a hard look at the environmental impacts of adopting the legislation and has determined that there will be no negative environmental impacts regarding same; and

WHEREAS, the City Council finds that the adoption of the legislation 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 hereby adopts the EAF and issues a Negative Declaration pursuant to the SEQRA.

The City Manager explained that the SEQRA resolution must be passed before any action is taken on the local law and the ordinance.

Councilwoman Lee moved and Councilman Dillard seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee-4

ADOPTED

153-18

617.20
Appendix A
State Environmental Quality Review
FULL ENVIRONMENTAL ASSESSMENT FORM

Purpose: The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may not be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance.

The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible enough to allow introduction of information to fit a project or action.

Full EAF Components: The full EAF is comprised of three parts:

- Part 1:** Provides objective data and information about a given project and its site. By identifying basic project data, it assists a reviewer in the analysis that takes place in Parts 2 and 3.
- Part 2:** Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially-large impact. The form also identifies whether an impact can be mitigated or reduced.
- Part 3:** If any impact in Part 2 is identified as potentially-large, then Part 3 is used to evaluate whether or not the impact is actually important.

THIS AREA FOR LEAD AGENCY USE ONLY

DETERMINATION OF SIGNIFICANCE -- Type 1 and Unlisted Actions

Identify the Portions of EAF completed for this project: Part 1 Part 2 Part 3

Upon review of the information recorded on this EAF (Parts 1 and 2 and 3 if appropriate), and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

- A. The project will not result in any large and important impact(s) and, therefore, is one which **will not** have a significant impact on the environment, therefore a **negative declaration will be prepared.**
- B. Although the project could have a significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required, therefore a **CONDITIONED negative declaration will be prepared.***
- C. The project may result in one or more large and important impacts that may have a significant impact on the environment, therefore a **positive declaration will be prepared.**

*A Conditioned Negative Declaration is only valid for Unlisted Actions

Name of Action

Name of Lead Agency

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from responsible officer)

PART 1--PROJECT INFORMATION
Prepared by Project Sponsor

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

Name of Action Streamlining Newburgh's Land Use Process

Location of Action (include Street Address, Municipality and County)

City Wide - City of Newburgh, New York

Name of Applicant/Sponsor City Council - City of Newburgh

Address 83 Broadway

City / PO Newburgh State NY Zip Code 12550

Business Telephone 845-569-7301

Name of Owner (if different) _____

Address _____

City / PO _____ State _____ Zip Code _____

Business Telephone _____

Description of Action:

Amending sections 300-26 and 300-80 of the zoning ordinance of the City of Newburgh and section 158-2 of the code of ordinances of the City of Newburgh.

- Amendment to section 300-26 will eliminate the requirement of a Certificate of Appropriateness for de minimis activities within the City's historic and Architectural design districts.
- Amendment to section 300-80 will eliminate the Architectural Review Commission's advisory opinion to the Zoning Board of Appeals for applications for variances within the City's historic and architectural design districts, leaving in place requirements for Certificate of Appropriateness for same actions.
- Amendment to 158-2 will eliminate the requirement for an environmental impact statement for actions which do not exceed certain thresholds set forth in New York State regulations.

Please Complete Each Question--Indicate N.A. if not applicable

A. SITE DESCRIPTION

Physical setting of overall project, both developed and undeveloped areas.

1. Present Land Use: Urban Industrial Commercial Residential (suburban) Rural (non-farm)
 Forest Agriculture Other _____

2. Total acreage of project area: N/A acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	_____ acres	_____ acres
Forested	_____ acres	_____ acres
Agricultural (Includes orchards, cropland, pasture, etc.)	_____ acres	_____ acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	_____ acres	_____ acres
Water Surface Area	_____ acres	_____ acres
Unvegetated (Rock, earth or fill)	_____ acres	_____ acres
Roads, buildings and other paved surfaces	_____ acres	_____ acres
Other (Indicate type) _____	_____ acres	_____ acres

3. What is predominant soil type(s) on project site? N/A

- a. Soil drainage: Well drained _____% of site Moderately well drained _____% of site.
 Poorly drained _____% of site

b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? _____ acres (see 1 NYCRR 370).

4. Are there bedrock outcroppings on project site? Yes No

a. What is depth to bedrock _____ (in feet)

5. Approximate percentage of proposed project site with slopes:

- 0-10% N/A% 10- 15% _____% 15% or greater _____%

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or National Registers of Historic Places? Yes No

7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks? Yes No

8. What is the depth of the water table? N/A (in feet)

9. Is site located over a primary, principal, or sole source aquifer? Yes No

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area? Yes No

11. Does project site contain any species of plant or animal life that is identified as threatened or endangered? Yes No

According to:

Identify each species:

12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations?)

Yes No

Describe:

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?

Yes No

If yes, explain:

14. Does the present site include scenic views known to be important to the community? Yes No

15. Streams within or contiguous to project area:

N/A

a. Name of Stream and name of River to which it is tributary

16. Lakes, ponds, wetland areas within or contiguous to project area:

N/A

b. Size (in acres):

17. Is the site served by existing public utilities? Yes No
- a. If YES, does sufficient capacity exist to allow connection? Yes No
- b. If YES, will improvements be necessary to allow connection? Yes No
18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? Yes No
19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617? Yes No
20. Has the site ever been used for the disposal of solid or hazardous wastes? Yes No

B. Project Description

1. Physical dimensions and scale of project (fill in dimensions as appropriate).
- a. Total contiguous acreage owned or controlled by project sponsor: N/A acres.
- b. Project acreage to be developed: N/A acres initially; N/A acres ultimately.
- c. Project acreage to remain undeveloped: N/A acres.
- d. Length of project, in miles: N/A (if appropriate)
- e. If the project is an expansion, indicate percent of expansion proposed. N/A %
- f. Number of off-street parking spaces existing N/A; proposed N/A
- g. Maximum vehicular trips generated per hour: N/A (upon completion of project)?
- h. If residential: Number and type of housing units:
- | | One Family | Two Family | Multiple Family | Condominium |
|------------|------------|------------|-----------------|-------------|
| Initially | _____ | _____ | _____ | _____ |
| Ultimately | _____ | _____ | _____ | _____ |
- i. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; _____ length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is? _____ ft.
2. How much natural material (i.e. rock, earth, etc.) will be removed from the site? N/A tons/cubic yards.
3. Will disturbed areas be reclaimed Yes No N/A
- a. If yes, for what intended purpose is the site being reclaimed?
-
- b. Will topsoil be stockpiled for reclamation? Yes No
- c. Will upper subsoil be stockpiled for reclamation? Yes No
4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? N/A acres.

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?

Yes No

6. If single phase project: Anticipated period of construction: N/A months, (including demolition)

7. If multi-phased:

a. Total number of phases anticipated _____ (number)

b. Anticipated date of commencement phase 1: _____ month _____ year, (including demolition)

c. Approximate completion date of final phase: _____ month _____ year.

d. Is phase 1 functionally dependent on subsequent phases? Yes No

8. Will blasting occur during construction? Yes No

9. Number of jobs generated: during construction N/A ; after project is complete N/A

10. Number of jobs eliminated by this project N/A .

11. Will project require relocation of any projects or facilities? Yes No

If yes, explain:

12. Is surface liquid waste disposal involved? Yes No

a. If yes, indicate type of waste (sewage, industrial, etc) and amount _____

b. Name of water body into which effluent will be discharged _____

13. Is subsurface liquid waste disposal involved? Yes No Type _____

14. Will surface area of an existing water body increase or decrease by proposal? Yes No

If yes, explain:

15. Is project or any portion of project located in a 100 year flood plain? Yes No

16. Will the project generate solid waste? Yes No

a. If yes, what is the amount per month? _____ tons

b. If yes, will an existing solid waste facility be used? Yes No

c. If yes, give name _____ ; location _____

d. Will any wastes not go into a sewage disposal system or into a sanitary landfill? Yes No

e. If yes, explain:

17. Will the project involve the disposal of solid waste? Yes No

a. If yes, what is the anticipated rate of disposal? _____ tons/month.

b. If yes, what is the anticipated site life? _____ years.

18. Will project use herbicides or pesticides? Yes No

19. Will project routinely produce odors (more than one hour per day)? Yes No

20. Will project produce operating noise exceeding the local ambient noise levels? Yes No

21. Will project result in an increase in energy use? Yes No

If yes, indicate type(s)

22. If water supply is from wells, indicate pumping capacity N/A gallons/minute.

23. Total anticipated water usage per day N/A gallons/day.

24. Does project involve Local, State or Federal funding? Yes No

If yes, explain:

25. Approvals Required:

			Type	Submittal Date
City, Town, Village Board	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	_____	_____
City, Town, Village Planning Board	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	_____	_____
City, Town Zoning Board	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	_____	_____
City, County Health Department	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	_____	_____
Other Local Agencies	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	_____	_____
Other Regional Agencies	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Referral review by Orange County Department of Planning	August 3, 2012
State Agencies	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	_____	_____
Federal Agencies	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	_____	_____

C. Zoning and Planning Information

1. Does proposed action involve a planning or zoning decision? Yes No

If Yes, indicate decision required:

- | | | | |
|------------------------------------------------------|---------------------------------------------|------------------------------------------------------|--------------------------------------|
| <input checked="" type="checkbox"/> Zoning amendment | <input type="checkbox"/> Zoning variance | <input type="checkbox"/> New/revision of master plan | <input type="checkbox"/> Subdivision |
| <input type="checkbox"/> Site plan | <input type="checkbox"/> Special use permit | <input type="checkbox"/> Resource management plan | <input type="checkbox"/> Other |

2. What is the zoning classification(s) of the site?

Since streamlining includes the entire city all zoning districts are involved, particularly those in the historic district.

3. What is the maximum potential development of the site if developed as permitted by the present zoning?

N/A

4. What is the proposed zoning of the site?

N/A

5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?

N/A

6. Is the proposed action consistent with the recommended uses in adopted local land use plans? Yes No

7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?

N/A

8. Is the proposed action compatible with adjoining/surrounding land uses with a ¼ mile? Yes No

9. If the proposed action is the subdivision of land, how many lots are proposed? N/A

a. What is the minimum lot size proposed? _____

10. Will proposed action require any authorization(s) for the formation of sewer or water districts? Yes No

11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)?

Yes No

a. If yes, is existing capacity sufficient to handle projected demand? Yes No

12. Will the proposed action result in the generation of traffic significantly above present levels? Yes No

a. If yes, is the existing road network adequate to handle the additional traffic. Yes No

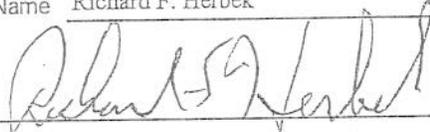
D. Informational Details

Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them.

E. Verification

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name Richard F. Herbek Date 8/24/12

Signature 

Title City Manager

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.

PART 2 - PROJECT IMPACTS AND THEIR MAGNITUDE

Responsibility of Lead Agency

General Information (Read Carefully)

- ! In completing the form the reviewer should be guided by the question: Have my responses and determinations been **reasonable?** The reviewer is not expected to be an expert environmental analyst.
- ! The **Examples** provided are to assist the reviewer by showing types of impacts and wherever possible the threshold of magnitude that would trigger a response in column 2. The examples are generally applicable throughout the State and for most situations. But, for any specific project or site other examples and/or lower thresholds may be appropriate for a Potential Large Impact response, thus requiring evaluation in Part 3.
- ! The impacts of each project, on each site, in each locality, will vary. Therefore, the examples are illustrative and have been offered as guidance. They do not constitute an exhaustive list of impacts and thresholds to answer each question.
- ! The number of examples per question does not indicate the importance of each question.
- ! In identifying impacts, consider long term, short term and cumulative effects.

Instructions (Read carefully)

- a. Answer each of the 20 questions in PART 2. Answer **Yes** if there will be **any** impact.
- b. **Maybe** answers should be considered as **Yes** answers.
- c. If answering **Yes** to a question then check the appropriate box(column 1 or 2)to indicate the potential size of the impact. If impact threshold equals or exceeds any example provided, check column 2. If impact will occur but threshold is lower than example, check column 1.
- d. Identifying that an Impact will be potentially large (column 2) does not mean that it is also necessarily **significant**. Any large impact must be evaluated in PART 3 to determine significance. Identifying an impact in column 2 simply asks that it be looked at further.
- e. If reviewer has doubt about size of the impact then consider the impact as potentially large and proceed to PART 3.
- f. If a potentially large impact checked in column 2 can be mitigated by change(s) in the project to a small to moderate impact, also check the Yes box in column 3. A **No** response indicates that such a reduction is not possible. This must be explained in Part 3.

1	2	3
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

Impact on Land

1. Will the Proposed Action result in a physical change to the project site?

NO YES

Examples that would apply to column 2

- | | | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|------------------------------|----------------------------------------|
| • Any construction on slopes of 15% or greater, (15 foot rise per 100 foot of length), or where the general slopes in the project area exceed 10%. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Construction on land where the depth to the water table is less than 3 feet. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Construction of paved parking area for 1,000 or more vehicles. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Construction that will continue for more than 1 year or involve more than one phase or stage. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Construction or expansion of a sanitary landfill.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Construction in a designated floodway.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.)

NO YES

• Specific land forms:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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Impact on Water

3. Will Proposed Action affect any water body designated as protected? (Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL)

NO YES

Examples that would apply to column 2

• Developable area of site contains a protected water body.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Dredging more than 100 cubic yards of material from channel of a protected stream.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Extension of utility distribution facilities through a protected water body.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Construction in a designated freshwater or tidal wetland.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

4. Will Proposed Action affect any non-protected existing or new body of water?

NO YES

Examples that would apply to column 2

• A 10% increase or decrease in the surface area of any body of water or more than a 10 acre increase or decrease.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Construction of a body of water that exceeds 10 acres of surface area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

1	2	3	
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change	

6. Will Proposed Action alter drainage flow or patterns, or surface water runoff?

NO YES

Examples that would apply to column 2

- | | | | | |
|--------------------------------------------------------------------|--------------------------|--------------------------|------------------------------|----------------------------------------|
| • Proposed Action would change flood water flows | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Proposed Action may cause substantial erosion. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Proposed Action is incompatible with existing drainage patterns. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Proposed Action will allow development in a designated floodway. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

IMPACT ON AIR

7. Will Proposed Action affect air quality?

NO YES

Examples that would apply to column 2

- | | | | | |
|-----------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|------------------------------|----------------------------------------|
| • Proposed Action will induce 1,000 or more vehicle trips in any given hour. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Proposed Action will result in the incineration of more than 1 ton of refuse per hour. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hour. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Proposed Action will allow an increase in the amount of land committed to industrial use. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Proposed Action will allow an increase in the density of industrial development within existing industrial areas. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

IMPACT ON PLANTS AND ANIMALS

8. Will Proposed Action affect any threatened or endangered species?

NO YES

Examples that would apply to column 2

- | | | | | |
|-----------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|------------------------------|----------------------------------------|
| • Reduction of one or more species listed on the New York or Federal list, using the site, over or near the site, or found on the site. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
|-----------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|------------------------------|----------------------------------------|

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Removal of any portion of a critical or significant wildlife habitat.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Application of pesticide or herbicide more than twice a year, other than for agricultural purposes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

9. Will Proposed Action substantially affect non-threatened or non-endangered species?

NO YES

Examples that would apply to column 2

• Proposed Action would substantially interfere with any resident or migratory fish, shellfish or wildlife species.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Proposed Action requires the removal of more than 10 acres of mature forest (over 100 years of age) or other locally important vegetation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

IMPACT ON AGRICULTURAL LAND RESOURCES

10. Will Proposed Action affect agricultural land resources?

NO YES

Examples that would apply to column 2

• The Proposed Action would sever, cross or limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Construction activity would excavate or compact the soil profile of agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• The Proposed Action would irreversibly convert more than 10 acres of agricultural land or, if located in an Agricultural District, more than 2.5 acres of agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• The Proposed Action would disrupt or prevent installation of agricultural land management systems (e.g., subsurface drain lines, outlet ditches, strip cropping); or create a need for such measures (e.g. cause a farm field to drain poorly due to increased runoff).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

IMPACT ON AESTHETIC RESOURCES

11. Will Proposed Action affect aesthetic resources? (If necessary, use the Visual EAF Addendum in Section 617.20, Appendix B.)

NO YES

Examples that would apply to column 2

• Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Proposed land uses, or project components visible to users of aesthetic resources which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Project components that will result in the elimination or significant screening of scenic views known to be important to the area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES

12. Will Proposed Action impact any site or structure of historic, prehistoric or paleontological importance?

NO YES

Examples that would apply to column 2

• Proposed Action occurring wholly or partially within or substantially contiguous to any facility or site listed on the State or National Register of historic places.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Any impact to an archaeological site or fossil bed located within the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Proposed Action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

	1	2	3	
	Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change	

• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

IMPACT ON OPEN SPACE AND RECREATION

13. Will proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities?

NO YES

Examples that would apply to column 2

• The permanent foreclosure of a future recreational opportunity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
• A major reduction of an open space important to the community.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

IMPACT ON CRITICAL ENVIRONMENTAL AREAS

14. Will Proposed Action impact the exceptional or unique characteristics of a critical environmental area (CEA) established pursuant to subdivision 6NYCRR 617.14(g)?

NO YES

List the environmental characteristics that caused the designation of the CEA.

Examples that would apply to column 2

• Proposed Action to locate within the CEA?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
• Proposed Action will result in a reduction in the quantity of the resource?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
• Proposed Action will result in a reduction in the quality of the resource?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
• Proposed Action will impact the use, function or enjoyment of the resource?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

1	2	3	
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change	

IMPACT ON TRANSPORTATION

15. Will there be an effect to existing transportation systems?

NO YES

Examples that would apply to column 2

- | | | | | |
|----------------------------------------------------------------------|--------------------------|--------------------------|------------------------------|----------------------------------------|
| • Alteration of present patterns of movement of people and/or goods. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Proposed Action will result in major traffic problems. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

IMPACT ON ENERGY

16. Will Proposed Action affect the community's sources of fuel or energy supply?

NO YES

Examples that would apply to column 2

- | | | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|------------------------------|----------------------------------------|
| • Proposed Action will cause a greater than 5% increase in the use of any form of energy in the municipality. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Proposed Action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two family residences or to serve a major commercial or industrial use. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

NOISE AND ODOR IMPACT

17. Will there be objectionable odors, noise, or vibration as a result of the Proposed Action?

NO YES

Examples that would apply to column 2

- | | | | | |
|--------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|------------------------------|----------------------------------------|
| • Blasting within 1,500 feet of a hospital, school or other sensitive facility. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Odors will occur routinely (more than one hour per day). | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Proposed Action will produce operating noise exceeding the local ambient noise levels for noise outside of structures. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Proposed Action will remove natural barriers that would act as a noise screen. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

1	2	3
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

IMPACT ON PUBLIC HEALTH

18. Will Proposed Action affect public health and safety?

NO YES

- | | | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|------------------------------|----------------------------------------|
| <ul style="list-style-type: none"> • Proposed Action may cause a risk of explosion or release of hazardous substances (i.e. oil, pesticides, chemicals, radiation, etc.) in the event of accident or upset conditions, or there may be a chronic low level discharge or emission. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| <ul style="list-style-type: none"> • Proposed Action may result in the burial of "hazardous wastes" in any form (i.e. toxic, poisonous, highly reactive, radioactive, irritating, infectious, etc.) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| <ul style="list-style-type: none"> • Storage facilities for one million or more gallons of liquefied natural gas or other flammable liquids. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| <ul style="list-style-type: none"> • Proposed Action may result in the excavation or other disturbance within 2,000 feet of a site used for the disposal of solid or hazardous waste. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| <ul style="list-style-type: none"> • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

**IMPACT ON GROWTH AND CHARACTER
OF COMMUNITY OR NEIGHBORHOOD**

19. Will Proposed Action affect the character of the existing community?

NO YES

Examples that would apply to column 2

- | | | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|------------------------------|----------------------------------------|
| <ul style="list-style-type: none"> • The permanent population of the city, town or village in which the project is located is likely to grow by more than 5%. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| <ul style="list-style-type: none"> • The municipal budget for capital expenditures or operating services will increase by more than 5% per year as a result of this project. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| <ul style="list-style-type: none"> • Proposed Action will conflict with officially adopted plans or goals. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| <ul style="list-style-type: none"> • Proposed Action will cause a change in the density of land use. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| <ul style="list-style-type: none"> • Proposed Action will replace or eliminate existing facilities, structures or areas of historic importance to the community. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| <ul style="list-style-type: none"> • Development will create a demand for additional community services (e.g. schools, police and fire, etc.) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Proposed Action will set an important precedent for future projects.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Proposed Action will create or eliminate employment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

20. Is there, or is there likely to be, public controversy related to potential adverse environment impacts?
 NO YES

If Any Action in Part 2 Is Identified as a Potential Large Impact or If you Cannot Determine the Magnitude of Impact, Proceed to Part 3

Part 3 - EVALUATION OF THE IMPORTANCE OF IMPACTS

Responsibility of Lead Agency

Part 3 must be prepared if one or more impact(s) is considered to be potentially large, even if the impact(s) may be mitigated.

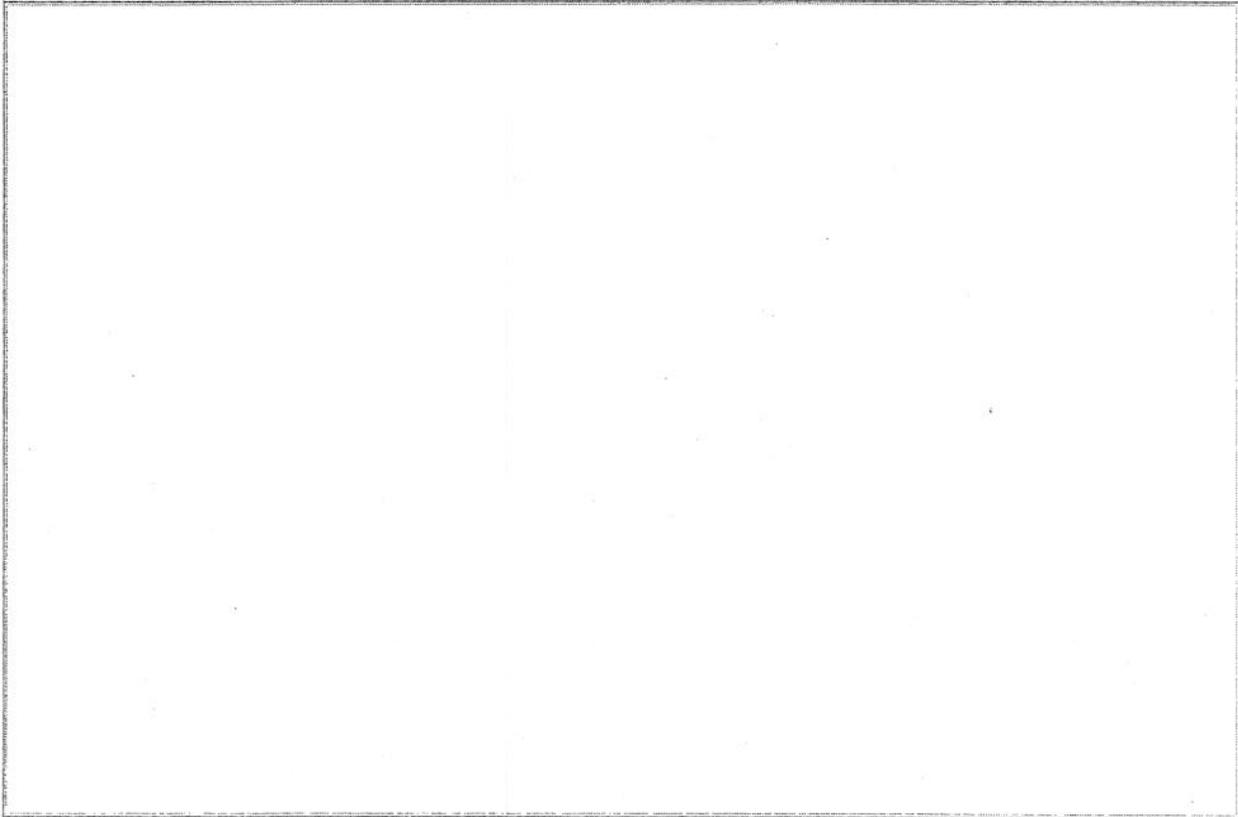
Instructions (If you need more space, attach additional sheets)

Discuss the following for each impact identified in Column 2 of Part 2:

1. Briefly describe the impact.
2. Describe (if applicable) how the impact could be mitigated or reduced to a small to moderate impact by project change(s).
3. Based on the information available, decide if it is reasonable to conclude that this impact is **important**.

To answer the question of importance, consider:

- ! The probability of the impact occurring
- ! The duration of the impact
- ! Its irreversibility, including permanently lost resources of value
- ! Whether the impact can or will be controlled
- ! The regional consequence of the impact
- ! Its potential divergence from local needs and goals
- ! Whether known objections to the project relate to this impact.



LOCAL LAW NO.: 5 - 2012

OF

SEPTEMBER 10, 2012

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

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

SECTION 1 - TITLE

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

SECTION 2 - AMENDMENT

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

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

All actions ~~that may likely to~~ have a significant ~~adverse impact-effect~~ upon the environment within the meaning of Section 617.711 of Title 6 of NYCRR ~~and defined as "Type I" actions in Section 617.4 of Title 6 of NYCRR~~ shall require the preparation of an environmental impact statement, unless they are unlisted actions as to which the relevant local reviewing agency determines that a conditional negative declaration is appropriate. Type II actions, as described in Section 617.5 therein, or determined to be such under local law will not require the preparation of an environmental assessment form impact statement.

SECTION 3 - VALIDITY

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

SECTION 4 - EFFECTIVE DATE

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

Corporation Counsel Michelle Kelson explained that this legislation is part of the City's overall plan to address vacant and distressed properties. It is a multi-faceted plan. One component of the plan is finding ways to make the city more development-friendly and more receptive to business. These ordinances were reviewed by the Pace Land Use Law Center. These pieces of legislation were prepared for the council's review to encourage development in the city.

Councilwoman Lee moved and Councilman Dillard seconded that the local law be enacted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee-4

ENACTED

ORDINANCE NO.: 5 - 2012

OF

SEPTEMBER 10, 2012

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

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

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

A. Certificate required. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark, nor shall any person make any material change in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of a district and its designated properties, without first obtaining a certificate of appropriateness.

1. Exemptions. The following activities do not require a certificate of appropriateness under this Article:

a. Repair, replacement and installation of electrical, plumbing, heating and ventilation systems, provided that such work does not affect the exterior of the structure.

b. Caulking, weather-stripping, glazing and repainting of windows.

c. Repair of porches, cornices, exterior siding, doors balustrades, stairs or other trim when the repair is done in-kind to match existing material and form.

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

Section 2: § 300-80. Procedures.

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

- A. Strict compliance. The Zoning Board of Appeals shall act in strict accordance with the procedures specified by law and by this chapter.
- B. Fees. All appeals made to the Zoning Board of Appeals shall be accompanied by the fee established by the City Council as provided for § 300-83. The Board may, in its discretion, return to the applicant part or all of the fee paid by him in the event that his appeal is under § 300-78 hereof and is partially or wholly successful.

- C. Contents of applications. Each appeal shall fully set forth the circumstances of the case. Every appeal shall refer to the specific provision of the chapter involved and shall exactly set forth, as the case may be, the interpretation that is claimed.
- D. Hearing appeals. The jurisdiction of the Zoning Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the administrative official charged with the enforcement of any ordinance or local law. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the City.
- E. Time of appeal. Such appeal shall be taken within 60 days after the filing in the City Clerk's office of any order, requirement, decision, interpretation, or determination of the administrative official charged with the enforcement of such ordinance or local law by filing with such administrative official and with the Zoning Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The administrative official from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- F. Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such ordinance or local law, from whom the appeal is taken, certified to the Zoning Board of Appeals, after the notice of appeal shall have been filed with the administrative official, that by reasons of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.
- G. Public hearings. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and the applicant shall be notified of such date. At least 10 days prior to such hearing the Secretary of the Board shall mail, by regular mail, at the applicant's expense, a notice of such hearing and of the substance of the appeal to the owners of all properties within 300 feet of the exterior boundaries of the property affected by the appeal, provided that no such mailing or proof of mailing shall be required where the application is for an area variance of less than three feet in regard to any front, rear or side yard setback. At least 10 days prior to such hearing, the Secretary of the Zoning Board of Appeals, at the expense of the applicant to be paid in advance, shall cause to be published in the official newspaper of the City a notice of such hearing and of the substance of the appeal. Prior to said hearing, the applicant shall submit to the Board affidavits of the Secretary of the Board swearing that the required mailings and publication have been performed, which documents shall become part of the application. For the purpose of the mailings required by this section, the term

"owner" shall be construed to mean the owner as indicated on the assessment roll of the City of Newburgh.

H. Planning Board advisory opinion. The Zoning Board of Appeals is not required to but may, in its discretion, refer any requests for appeals or applications for variances to the Planning Board for review and recommendations. The Zoning Board shall defer any decision on these matters pending the receipt of a report from the Planning Board. If no report is received from the Planning Board within 31 days, the Zoning Board of Appeals may render its decision without said report.

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

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

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

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

M.L. Filing of decision or action. The decision of the Zoning Board of Appeals on the appeal shall be filed in the office of the City Clerk or the zoning office, if such office has

been established, within five business days after the day such decision is rendered and a copy thereof mailed to the applicant.

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

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

Section 3. This ordinance shall take effect immediately.

Councilwoman Lee moved and Councilman Dillard seconded that the ordinance be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee-4

ADOPTED

RESOLUTION NO.: 151 - 2012
OF
SEPTEMBER 10, 2012

A RESOLUTION AUTHORIZING AN EXENTION OF TIME TO
COMPLETE THE DUE DILIGENCE AND CLOSING OF TITLE
IN CONNECTION WITH THE SEPARATION AND SETTLEMENT AGREEMENT
WITH LEYLAND ALLIANCE LLC

WHEREAS, by Resolution No. 107-2012 of June 18, 2012, the City Council authorized the City Manger to execute a Settlement and Separation Agreement (“Separation Agreement”) with Leyland Alliance, LLC terminating prior agreements regarding the proposed redevelopment of approximately thirty (30) acres of City-owned lands located on and in close proximity to the Newburgh waterfront on the Hudson River; and

WHEREAS, the Separation Agreement, dated June 28, 2012, provided for a transfer certain real property from the City of Newburgh to Leyland Alliance LLC and afforded Leyland Alliance LLC a 60-day due diligence period and further provided for a closing of title within 90 days of the execution of the Separation Agreement; and

WHEREAS, Leyland Alliance LLC is seeking a sixty (60) day extension of the due diligence period from August 27, 2012 to October 26, 2012 and a corresponding sixty (60) day extension of time to close title from October 26, 2012 to December 24, 2012; and

WHEREAS, this Council has determined that granting the requested extensions of time is in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that Leyland Alliance be and hereby is granted a sixty (60) day extension of the due diligence period from August 27, 2012 to October 26, 2012 and a corresponding sixty (60) day extension of time to close title from October 26, 2012 to December 24, 2012.

Councilman Dillard wanted to know if it would be closed by the end of the year.

Corporation Counsel responded in the affirmative. Michelle Kelson pointed out that it is (60) days from the due diligence period and (60) days from that to close title.

Councilwoman Lee moved and Councilman Dillard seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee-4

ADOPTED

RESOLUTION NO.: 152 - 2012

OF

SEPTEMBER 10, 2012

**A RESOLUTION AUTHORIZING AN AGREEMENT WITH PACE
UNIVERSITY LAND USE LAW CENTER AS A SUB-RECIPIENT OF THE
SMART GROWTH GRANT FUNDS TO DEVELOP A COMMUNITY PROFILE,
DEVELOP A VACANT PROPERTY DATABASE AND DRAFT AN ADAPTIVE
REUSE PLAN**

WHEREAS, by Resolution No. 97-2009 of June 15, 2009 the City of Newburgh authorized its full cooperation with Orange County's application for the Smart Growth Grant Program, Lower Hudson Valley Region; and

WHEREAS, New York State Department of State accepted Orange County's proposal to reallocate the grant funds in the amount of \$34,997.05 for activities in support of the City's land banking efforts; and

WHEREAS, the City of Newburgh has engaged the Pace University Land Use Law Center to manage activities related to the development of a community profile and vacant property database; drafting an adaptive reuse plan; and community related outreach and training programs; and

WHEREAS, the City of Newburgh wishes to enter into a sub-recipient agreement with Pace University Land Use Law Center to undertake such work; and

WHEREAS, this Council has determined that entering into the sub-recipient agreement is in the best interests of the City of Newburgh and its residents;

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 a sub-recipient grant agreement in substantially the same form as annexed hereto with other provisions as Counsel may require with Pace University Land Use Law Center to undertake the scope of work set forth in Schedule "A" of the agreement..

Councilwoman Lee moved and Councilman Dillard seconded that the resolution be adopted.

**Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard,
Councilwoman Lee-4**

ADOPTED

152-12

AGREEMENT

THIS AGREEMENT, entered into this day of September, 2012

BY AND BETWEEN:

NAME: Pace University Land Use Law Center
ADDRESS: 78 North Broadway, White Plains, NY 10603
FEDERAL EMPLOYER ID # 13-5562314

a Not-for-Profit Corporation established in accordance with the laws of the State of New York hereinafter referred to as the SUB-GRANTEE, and the CITY OF NEWBURGH, a municipal corporation duly organized under the laws of the State of New York, having its principal office and place of business at 83 Broadway, City Hall, Newburgh, Orange County, New York, hereinafter referred to as the CITY, a public body corporate established under the laws of the State of New York, having its principal office at 83 Broadway, Newburgh, Orange County, New York, hereinafter referred to as "THE CITY".

WHEREAS, the City is scheduled to receive a grant from the _Orange County Department of Planning in the amount of \$34,997.05 Dollars for the purpose of Smart Growth Grant ("Grant"), as authorized by _____ adopted by the City Council on _____; and

and;

WHEREAS, the Sub-Grantee has submitted a proposal for funding which states the purpose, specific goals and objectives of their program, which is attached hereto and made a part of this Agreement as Schedule A thereto; and

WHEREAS, City wishes to engage the Sub-Grantee to conduct the aforementioned program for the period of such agreement;

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

ARTICLE I. SCOPE OF SERVICES

(1) The Sub-Grantee shall establish and implement a program within the City of Newburgh as set forth on Schedule A attached hereto and assures the City that the Sub-Grantee will employ personnel and/or consultants who are thoroughly familiar with the procedures and requirements of the said Sub-Grantee to execute their program. When required, it may request pertinent assistance from other agencies.

ARTICLE II. TERMS OF CONTRACT

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

(2) This contract may be terminated at any time by either party on ten (10) days notice in writing to the other party for any breach of the agreement

ARTICLE III. SERVICES TO BE PROVIDED BY THE THE CITY

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

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

ARTICLE IV. PROGRAM DOCUMENTATION

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

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

(3) Certified yearly audits of the Sub-Grantee will be provided to the City for review by the City's CPA when requested..

ARTICLE V. COMPENSATION

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

(2) Total payment under this Contract shall not exceed THIRTY FOUR THOUSAND NINE HUNDRED NINTY SEVEN DOLLARS AND FIVE CENTS (\$34,997.05) as full payment for all services rendered by the Sub-Grantee during the period of this agreement. The adopted budget of the Sub-Grantee is annexed hereto as Schedule B.

(3) The City may withhold any payment whenever the Sub-Grantee fails to illustrate proper expenditure of requested funds. Unless otherwise specified, goals are considered the pro rata share for the period of billing, e.g. monthly, quarterly, semi-annually, based on the total goals set forth for the life of the contract.

ARTICLE VI. METHOD OF PAYMENT

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

(b) Payment for services shall cease upon termination of the contract or upon the payment of the amount stated in Article V above, whichever occurs first. All payments for services are to be made from the Grant. The City shall not be obligated by this agreement to make any payments from the General Fund or any other funds.

ARTICLE VII. EQUAL EMPLOYMENT OPPORTUNITY

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

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

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

ARTICLE VIII. ASSIGNMENT BY THE SUB-GRANTEE

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

ARTICLE IX. RECORDS AND REPORTS

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

(2) The Sub-Grantee shall submit semi-annual reports to the City identifying prescribed activities funded under this Agreement, together with a record of expenses incurred by Sub-Grantee during each such semi-annual period.

ARTICLE X. AUDITS

(2) The Sub-Grantee shall maintain records of all details with respect to work and services to be performed under this Agreement and income, expenses, liabilities and assets. These records will be made available for audit purposes in accordance with OMB Circular A-133 to the City, Orange County, State of New York or any authorized representative and will be retained for such periods of time as may be required by State and local statutes, but in any event, not less than six (6) years.

ARTICLE XI. CONFIDENTIALITY

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

ARTICLE XII. FACILITIES AND PERSONNEL

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

ARTICLE XIII. INTEREST OF SUB-GRANTEE, ITS OFFICERS, EMPLOYEES, AGENTS AND SUBCONTRACTORS

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

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

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

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

(1) No member, officer or employee of the City or its designees or agents, no member of the City Council of the City of Newburgh, New York and no other public official of the City, its Departments or of any other public agencies which exercise any functions or responsibilities, during his/her

tenure in office or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed under this Agreement.

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

ARTICLE XV. Reserved.

ARTICLE XVI. SOLICITATION OR PROCUREMENT OF AGREEMENT

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

ARTICLE XVII. CHANGES AND MODIFICATIONS

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

ARTICLE XVIII. EFFECT OF TERMINATION OF AGREEMENT

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

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

ARTICLE XIX. INDEMNIFICATION

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

(2) If any person shall make a claim for any damage or injury (including death resulting therefrom) as described above, the Sub-Grantee hereby agrees to defend, indemnify, and save harmless the City from and against any and all loss, expense, damage or injury whatsoever arising out of this Agreement.

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

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

(A) The Sub-Grantee shall provide Worker's Compensation Insurance in accordance with the statutes of the State of New York.

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

BODILY INJURY LIABILITY

Each Person
\$1,000,000

Each Occurrence
\$2,000,000

PROPERTY DAMAGE LIABILITY

Each Occurrence
\$1,000,000

PERSONAL INJURY LIABILITY

Each Person
\$1,000,000

Occurrence
\$2,000,000

ARTICLE XX. MODIFICATION

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

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

By _____

Title _____

Date: _____

CITY OF NEWBURGH

By _____
Richard F. Herbek
City Manager

Date _____

APPROVED AS TO FORM BY:

Corporation Counsel

APPROVED BY:

Director of Finance/Comptroller

Schedule A
Proposed Scope/Program

Approach and Schedule

The Center will serve as the Project Coordinator on behalf of the City and Land Bank, with the Center's Managing Director, Jessica Bacher acting as the Lead Project Consultant for the

project's term. In this role, Ms. Bacher will manage the day-to-day activities of the project team and will have overall responsibility for ensuring the sufficiency and timeliness of all project deliverables.

Task 1 – Community/Regional Profile (Months 1 through 3)

The Center will prepare the Community/Regional Profile for Newburgh with input from City staff and citizens. As part of this effort, the Center will gather relevant economic and demographic information for the City and region and place the City's current circumstances within the larger regional context.

Task 2 – Searchable Database of Vacant Buildings and Properties (Months 1 – 6)

This task will begin with the Center developing key criteria or characteristics of vacant building and properties to be used in identifying and categorizing such properties. Then Newburgh's Planning Staff, along with personnel from the Land Bank, will have primary responsibility for identifying, characterizing and categorizing vacant buildings and properties located in the City, building off of its initial work in the Newburgh Target Area, discussed below. This information will then be coded and compiled into a searchable database by municipal section, block, and lot number (SBL). Tax parcels are georeferenced which allows queries and analyses to be displayed on digital maps. Parcels can then be queried by SBL, street address, or any other attribute field (for example by property size) using an open source, GIS-based platform. Parcels will also be searchable by selecting them on an interactive map. SBL will be the unique key identifier in the database for the purpose of relating tables of attribute information.

Task 3 – Draft Adaptive Reuse Plan (Months 6 – 9)

The Center will prepare the draft Adaptive Reuse Plan with the assistance of City and Land Bank staff and, where necessary, the Center's resource partner, the Center for Community Progress. The Adaptive Reuse Plan will set forth the short-term use of identified building and properties, such as greening efforts or demolition, and will also establish long-term adaptive reuse strategies for these properties consistent with the City's draft Future Land Use Plan, prepared in January 2011. The Adaptive Reuse Plan will include GIS analyses to determine the best use of the properties. The location of the findings of the analyses will be expressed with maps and graphs generated from GIS.

Task 4 – Newburgh-based Community Meetings (As necessary throughout Project)

Relying on its significant facilitation experience, the Center will conduct all necessary community meetings, including stakeholder sessions for input necessary to prepare the Community/Regional Profile required under Task 1. Information from these meetings will also be used to assist in prioritization efforts under Task 5.

Task 5 – Prioritization of Sites for Specific Adaptive Reuse Projects (Months 10 – 11)

As part of the Final Adaptive Reuse Plan, the document will identify specific buildings and properties for prioritization of adaptive reuse efforts within the Newburgh Target Area (discussed below). For these priority sites, the City will present recommendations regarding site specific reuses and the activities necessary to get these priority projects funded by utilizing matching funds. The City of Newburgh was awarded a planning grant from the U.S. Department of Housing and Urban Development (HUD) with the assistance of Senator Schumer. The City has committed some of this grant funding for revitalization efforts. This funding can be used for the development of architectural renderings that will serve as a component of the submission of other funding proposals for demolition, greening, rehabilitation and redevelopment work for these priority projects. This work will complement the Adaptive Reuse Plan.

Task 6 – Final Adaptive Reuse Plan (Months 11 - 12)

After providing the draft Adaptive Reuse Plan to the City and its citizens, the Center will gather comments and proposed edits and revise the document into the final Adaptive

Reuse Plan for adoption and implementation by the City Council. This plan will include specific recommendations for sites identified as priorities under Task 5 that will be expressed using maps, graphics and text.

Task 7 – Training Sessions for other Orange County Communities (Month 12)

The Center will conduct at least one training session for other Orange County communities regarding the process undertaken by and results of the City of Newburgh's efforts to address its vacant buildings and properties.

Schedule B

	Smart Growth Grant	HUD Grant	City Match	TOTAL
Lead Project Consultant (Rate \$74.02)	\$ 8,882.40			\$ 8,882.40
Land Use Specialist I (\$68.53)	\$ 8,566.25			\$ 8,566.25
Land Use Specialist II (\$72.56)	\$ 7,256.00			\$ 7,256.00
Training and Engagment Director (\$74.02)	\$ 8,882.40			\$ 8,882.40
GIS Specialist			\$4,962	\$ 4,962.00
Planner			\$2,089.60	\$ 2,089.60
City Engineer			\$1,445.50	\$ 1,445.50
Administration			\$692.60	\$ 692.60
Land Bank Staff		\$ 35,000.00		\$ 35,000.00
Professional Services		\$ 45,000.00		\$ 45,000.00
GIS and Web Software/Services	\$ 15,000.00			\$ 15,000.00
Mileage	\$ 660.00			\$ 660.00
Training Materials	\$ 500.00			\$ 500.00
Training Refreshments	\$ 250.00			\$ 250.00
TOTAL	\$ 49,997.05	\$ 80,000.00	\$ 9,189.70	\$ 139,186.75

RESOLUTION NO.: 154 - 2012

OF

SEPTEMBER 10, 2012

**A RESOLUTION AUTHORIZING A PUBLIC AUCTION
OF CITY OWNED PROPERTIES
AND AMENDING THE TERMS AND CONDITIONS**

WHEREAS, this Council has, by Resolutions No.: 121-2012 and 122—2012 and 129-2012, respectively, authorized a public auction of City owned properties and further authorized the City Manager to enter into an agreement with Haroff Auction and Realty, Inc./Absolute Auctions & Realty, Inc. for services in connection with such auction, and approved the Terms and Conditions of the auction for the City of Newburgh 2012 Property Auction; and

WHEREAS, subsequent to the adoption of said resolutions the City of Newburgh acquired title to the following parcels of real property by tax foreclosure *in rem*

- 146 Chambers Street - Section 18, Block 5, Lot 29
- 279 Liberty Street - Section 18, Block 5, Lot 8
- 7-9 Van Ness Street - Section 29, Block 6, Lot 3; and

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

WHEREAS, upon the recommendation of City staff, this Council has determined that auctioning the parcels listed herein above is in the best interests of the City of Newburgh; and

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

WHEREAS, it is necessary and appropriate to amend said Terms and Conditions to provide for the requirement that properties identified as 146 Chambers Street, Section 18, Block 5, Lot 29 and 279 Liberty Street, Section 18, Block 5, Lot 8 shall be sold as a package and that the deed shall contain a provision that the successful bidder shall combine the premises herein, identified as 146 Chambers Street, Section 18, Block 5, Lot 29 and 279 Liberty Street, Section 18, Block 5, Lot 8, as one lot of record within one (1) year of the date of conveyance;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the properties listed herein above are to be sold at public auction to the highest bidder subject with the final approval of each sale by this Council; and

BE IT FURTHER RESOLVED, that the Terms and Conditions of the Auction be and are hereby amended to provide for the requirement that 146 Chambers Street, Section 18, Block 5, Lot 29 and 279 Liberty Street, Section 18, Block 5, Lot 8 shall be sold as a package and that the deed shall contain a provision that the successful bidder shall combine the premises herein, identified as 146 Chambers Street, Section 18, Block 5, Lot 29 and 279 Liberty Street, Section 18, Block 5, Lot 8, as one lot of record within one (1) year of the date of conveyance; and

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

Councilman Dillard asked if this will be sealed bid.

The City Manager pointed out that this is solely auction. If the council wants to approve it as sealed bid then it has to approve alternate resolutions #154(A)-2012 and #154(B)-2012.

Councilwoman Lee asked which property has tenants in it.

Herbek responded that 279 Liberty Street is occupied.

Councilwoman Lee stated she would like to see 279 Liberty Street go to sealed bid.

Herbek remarked that the council should deal with Resolution #154-2012 first. The council could decide to table it, approve it or vote it down. Also he noted that if the council voted down the resolution, then it should approve both alternate resolutions #154(A)-2012 and #154(B)-2012.

Councilwoman Lee moved and Councilman Dillard seconded that the resolution be adopted.

Ayes- Councilman Brown-1

Noes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee-

3

DEFEATED

RESOLUTION NO.: 154A- 2012

OF

SEPTEMBER 10, 2012

**A RESOLUTION AUTHORIZING A PUBLIC AUCTION
OF CITY OWNED PROPERTY**

WHEREAS, this Council has, by Resolutions No.: 121-2012 and 122—2012 and 129-2012, respectively, authorized a public auction of City owned properties and further authorized the City Manager to enter into an agreement with Haroff Auction and Realty, Inc./Absolute Auctions & Realty, Inc. for services in connection with such auction, and approved the Terms and Conditions of the auction for the City of Newburgh 2012 Property Auction; and

WHEREAS, subsequent to the adoption of said resolutions the City of Newburgh acquired title to 7-9 Van Ness Street, Section 29, Block 6, Lot 3 by tax foreclosure *in rem*; and

WHEREAS, the City of Newburgh now desires to dispose of this property; and

WHEREAS, upon the recommendation of City staff, this Council has determined that auctioning this parcel is in the best interests of the City of Newburgh; and

WHEREAS, the property is to be sold to the highest bidder and is subject to the final approval of each sale by this Council;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the property known as 7-9 Van Ness Street, Section 29, Block 6, Lot 3 is to be sold at public auction to the highest bidder subject with the final approval of each sale by this Council; and

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

Councilwoman Lee moved and Councilman Dillard seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee-4

ADOPTED

RESOLUTION NO.: 154B- 2012

OF

SEPTEMBER 10, 2012

**A RESOLUTION AUTHORIZING THE SALE OF
CITY OWNED PROPERTIES THROUGH THE SEALED BID PROCESS
AND AMENDING THE TERMS AND CONDITIONS**

WHEREAS, this Council has, by Resolutions No.: 120-2012 of July 16, 2012 and 129-2012 of August 13, 2012, respectively, authorized the sale of City-owned properties through a sealed bid process and approved the Terms and Conditions for the sealed bid process; and

WHEREAS, subsequent to the adoption of said resolutions the City of Newburgh acquired title to the following parcels of real property by tax foreclosure *in rem*

- 146 Chambers Street - Section 18, Block 5, Lot 29
- 279 Liberty Street - Section 18, Block 5, Lot 8; and

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

WHEREAS, upon the recommendation of City staff, this Council has determined that offering the properties listed herein for sale through a sealed bid process is in the best interests of the City of Newburgh; and

WHEREAS, the properties are to be sold through the sealed bid process are subject to the final approval of each sale by this Council; and

WHEREAS, it is necessary and appropriate to amend said Terms and Conditions to provide for the requirement that properties identified as 146 Chambers Street, Section 18, Block 5, Lot 29 and 279 Liberty Street, Section 18, Block 5, Lot 8 shall be sold as a package and that the deed shall contain a provision that the successful bidder shall combine the premises herein, identified as 146 Chambers Street, Section 18, Block 5, Lot 29 and 279 Liberty Street, Section 18, Block 5, Lot 8, as one lot of record within one (1) year of the date of conveyance;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the properties listed herein are to be sold through a sealed bid process with the final approval of the sale by this Council; and

BE IT FURTHER RESOLVED, that the Terms and Conditions of for the Sealed Bid Sale be and are hereby amended to provide for the requirement that 146 Chambers Street, Section 18, Block 5, Lot 29 and 279 Liberty Street, Section 18, Block 5, Lot 8 shall be sold as a package and that the deed shall contain a provision that the successful bidder shall combine the premises herein, identified as 146 Chambers Street, Section 18, Block 5, Lot 29 and 279 Liberty Street, Section 18, Block 5, Lot 8, as one lot of record within one (1) year of the date of conveyance; and

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

Councilwoman Lee moved and Councilman Dillard seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee-4

ADOPTED

RESOLUTION NO.: 155 - 2012

OF

SEPTEMBER 10, 2012

**A RESOLUTION TO AUTHORIZE THE AWARD OF A BID
AND THE EXECUTION OF A CONTRACT WITH RITTER & PARATORE
CONTRACTING INC. IN CONNECTION WITH THE JOHNES STREET
BUILDING DEMOLITION PROJECT
WITH A BID IN THE AMOUNT OF \$118,470.00**

WHEREAS, the City Council has, by Resolution No. 113-2012 of July 16, 2012, rejected the initial bids which were received as it was determined that all bids received far exceeded the pre-bid estimate; and

WHEREAS, the City of Newburgh has taken the necessary and appropriate measures to advertise for the Johnes Street Building Demolition Project re-bid; and

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

WHEREAS, upon such review of the submitted bids it has been determined that the lowest responsible bidder is Ritter & Paratore Contracting Inc.; and

WHEREAS, as said property is part of the ERP the City will be reimbursed 90% of remedial onsite costs and 50% of building demolition costs by the Department of Environmental Conservation; and

WHEREAS, funding for such project shall be derived from the budget line H1.1440.0215.5403.2010; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the bid for the Johnes Street Building Demolition Project be and is hereby awarded to Ritter & Paratore Contracting Inc. for the bid amount of \$118,470.00 to be provided from budget line H1.1440.0215.5403.2010, and that the City Manager is hereby authorized to enter into a contract for such work in this amount.

Councilwoman Lee asked when did the bid come out.

Acting Director of Planning and Development Ian MacDougall pointed out that the bid came out early August and we continued to accept the bids through the end of August.

The City Manager explained that this was the second time it was bid. They discussed it at the work session. We have had some experience with this contractor in the past and we feel it is appropriate for this demolition project.

Councilwoman Lee moved and Councilman Dillard seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee-4

ADOPTED

RESOLUTION NO.: 156 - 2012

OF

SEPTEMBER 10, 2012

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE VENDOR SERVICE AGREEMENTS WITH
SUNY ORANGE, THE NEWBURGH ENLARGED CITY SCHOOL DISTRICT
AND BEST RESOURCE CENTER AT A COST OF \$435,000.00
IN CONNECTION WITH THE CURRENT REQUIREMENTS OF THE
TWENTY FIRST CENTURY GRANT PROGRAM**

WHEREAS, by Resolution No.: 181-2009 of November 23, 2009, the City Council authorized the City Manager to accept monies from the New York State Department of Education for the 21st Century Community Learning Centers Grant; and

WHEREAS, said grant was awarded in the spring of 2008 for a five (5) year period; and

WHEREAS, the City's 21st Century Community Learning Centers Program partners with Best Resource Center, SUNY Orange and the Newburgh Enlarged City School District for strengthening and expanding opportunities afterschool for children and youth; and

WHEREAS, it is necessary and appropriate to enter into vendor service agreements with the City's 21st Century Community Learning Centers Program partners such as Best Resource Center, SUNY Orange and the Newburgh Enlarged City School District for the final fiscal year of said grant period beginning October 1, 2012 and ending on June 30, 2013 for the following amounts:

- Best Resource Center \$5,000.00
- SUNY Orange \$30,000.00
- Newburgh Enlarged City School District \$400,000.00; and

WHEREAS, the Council has reviewed the attached Agreements and has determined that it is in the best interest of the City of Newburgh and its residents to accept and expend such funds to enhance community partnerships and strengthen afterschool services to Newburgh's children and youth;

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 Vendor Service Agreements with SUNY Orange, the Newburgh Enlarged City School District and Best Resource Center at a cost of \$435,000.00 in connection with the current requirements of the Twenty First Century Grant Program.

Mr. Herbek explained that SUNY Orange will provide 240 hours of in-class instruction on the topic of college and career readiness. The Newburgh Enlarged City School District will provide the facilities for the program, certified teachers, a school nurse, security and administrators for the entirety of the program. In addition, NECSD will provide transportation home for students via the school bus company. The sites include Horizons-on-the-Hudson, Heritage Middle School and Newburgh Free Academy.

This program goes back four years. At one time the program was run by the School District. The City was asked to pick up the program. Without these partners there is no program. Partners are critical. You need the schools and the teachers. This is the last year of the program. The City is in the process of submitting a continuation of the grant.

Councilman Dillard stated he is willing to let this run, yet he has some problems with it. When the next grant becomes available there should be collaboration with the city council and the members of the Board of Education. There are some fresh, young minds on the school board. They are also community-minded people. Dillard is certain that that they can come up with some ways to channel some of that money into this community. He is looking forward for Herbek to call forth that necessary meeting with the School Board members.

Mr. Herbek stated it is an excellent recommendation to sit down with the School Board and other School District personnel. He would like to discuss the program and perform an analysis of what has occurred with the program and where we would like to see the program in the future.

Councilwoman Lee noted that she would like to see an increase in high school graduation. It begs the question that the Board of Education is teaching our kids, yet they are flunking out of school. We need to streamline the education process so that the results are measurable. She feels that this partnership is an ineffective one right now.

[Remarks: The resolution was not properly set into motion. The City Manager explained the resolution after reading it and the council immediately moved to discussion and subsequent vote]

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee-4

ADOPTED

156-12

AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this 29th day of August, 2012, by and between the CITY OF NEWBURGH, a municipal corporation chartered under the authority of the State of New York, hereinafter referred to as the "CITY," with principal offices at 83 Broadway, City Hall, Newburgh, New York 12550; and BEST RESOURCE CENTER, 49 Grand Street, Newburgh, NY 12550, hereinafter referred to as "VENDOR."

ARTICLE 1. SCOPE OF WORK

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

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

property and/or materials which may be applicable which would have the effect of restricting or limiting the exercise of the CITY's rights regarding same. VENDOR agrees to defend, indemnify and hold harmless the CITY for failing to notify CITY of same.

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning October 1, 2012, and ending June 30, 2013.

ARTICLE 3. COMPENSATION

For satisfactory performance of the SERVICES and/or receipt of conforming goods or, as such SERVICES or goods may be modified by mutual written agreement, the CITY agrees to compensate VENDOR in accordance with the fees and expenses as stated in Schedule B, which is attached to and is part of this Agreement. VENDOR SHALL submit to the CITY a monthly itemized invoice for SERVICES rendered during the prior month, or as otherwise set forth in Schedule B, and prepared in such form and supported by such documents as the CITY may reasonably require. The CITY will pay the proper amounts due VENDOR within sixty (60) days after receipt of a CITY Claimant's Certification form, and if the Claimant's Certification form is objectionable, will notify VENDOR, in writing, of the CITY'S reasons for objecting to all or any portion of the invoice submitted by VENDOR.

A not-to-exceed cost of \$5,000.00 has been established for the scope of SERVICES and/or the supply of goods rendered by VENDOR. Costs in excess of such not-to-exceed cost, if any, may not be incurred without prior written authorization of the City Manager of the CITY, evidenced only by a written Change Order or Addendum to this Agreement, after consultation with the Department Head. It is specifically agreed to by VENDOR that the CITY will not be responsible for any additional cost or costs in excess of the above noted not-to-exceed cost if the CITY'S authorization by the City Manager is not given in writing prior to the performance of the SERVICES giving rise to such excess or additional costs.

Any bills or invoices sent by VENDOR to the CITY more than one (1) year after services which are the subject of such billing have been rendered shall not be paid by the CITY and the CITY shall have no liability therefor.

ARTICLE 4. EXECUTORY CLAUSE

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

ARTICLE 5. PROCUREMENT OF AGREEMENT

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

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

ARTICLE 6. CONFLICT OF INTEREST

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

For failure to submit such letter of disclosure, or for a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim for, or be entitled to recover, any sum or sums

otherwise due under this Agreement. This remedy, if elected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment to or to take any other action provided for by law, in equity or pursuant to this Agreement.

ARTICLE 7. FAIR PRACTICES

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

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

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

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

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

ARTICLE 8. INDEPENDENT CONTRACTOR

In performing the SERVICES and/or supplying goods and incurring expenses under this Agreement, VENDOR shall operate as, and have the status of, an independent contractor and shall not act as agent, or be an agent, of the CITY. As an independent contractor, VENDOR shall be solely responsible for determining the means and methods of performing the SERVICES and/or supplying of the goods and shall have complete charge and responsibility for VENDOR'S personnel engaged in the performance of the same.

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

ARTICLE 9. ASSIGNMENT AND SUBCONTRACTING

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

Failure of VENDOR to obtain any required consent to any assignment, shall be grounds

for termination for cause, at the option of the CITY and if so terminated, the CITY shall thereupon be relieved and discharged from any further liability and obligation to VENDOR, its assignees or transferees, and all monies that may become due under this Agreement shall be forfeited to the CITY except so much thereof as may be necessary to pay VENDOR'S employees for past service.

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

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

ARTICLE 10. BOOKS AND RECORDS

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

ARTICLE 11. RETENTION OF RECORDS

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

ARTICLE 12. AUDIT BY THE CITY AND OTHERS

All Claimant Certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said Claimant's Certification forms or invoices are based are

subject to audit by the CITY. VENDOR shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the CITY so that it may evaluate the reasonableness of the charges, and VENDOR shall make its records available to the CITY upon request. All books, Claimant's Certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by the CITY, the State of New York, the federal government, and/or other persons duly authorized by the CITY. Such audits may include examination and review of the source and application of all funds whether from the CITY, State, the federal government, private sources or otherwise. VENDOR shall not be entitled to any interim or final payment under this Agreement if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 13. INDEMNIFICATION

VENDOR agrees to defend, indemnify and hold harmless the CITY, including its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement), whether incurred as a result of a claim by a third party or any other person or entity, arising out of the SERVICES performed and/or goods supplied pursuant to this Agreement which the CITY or its officials, employees or agents, may suffer by reason of any negligence, fault, act or omission of VENDOR, its employees, representatives, subcontractors, assignees, or agents.

In the event that any claim is made or any action is brought against the CITY arising out of the negligence, fault, act, or omission of an employee, representative, subcontractor, assignee, or agent of VENDOR either within or without the scope of his respective employment, representation, subcontract, assignment or agency, or arising out of VENDOR'S negligence, fault, act or omission, then the CITY shall have the right

to withhold further payments hereunder for the purpose of set-off of sufficient sums to cover the said claim or action. The rights and remedies of the CITY provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

ARTICLE 14. PROTECTION OF CITY PROPERTY

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

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

VENDOR agrees to defend, indemnify and hold the CITY harmless from any and all liability or claim for loss, cost, damage or expense (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement) due to any such loss or damage to any such CITY property described in this Article.

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

ARTICLE 15. CONFIDENTIAL INFORMATION

In the course of providing the SERVICES and/or goods hereunder, VENDOR may acquire knowledge or come into possession of confidential, sensitive or proprietary

information belonging to CITY. VENDOR agrees that it will keep and maintain such information securely and confidentially, and not disclose such information to any third parties, including the media, nor use such information in any manner publically or privately, without receiving the prior approval, in writing, of the CITY authorizing such use. VENDORS obligations under this clause to maintain the confidentiality of such information and to refrain from using such information in any manner without the prior written approval of the CITY shall survive the termination or expiration of this Agreement.

ARTICLE 16. TERMINATION

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

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

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

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

In the event the CITY terminates this Agreement in whole or in part, as provided in this Article, the CITY may procure, upon such terms, and in such manner as deemed appropriate, SERVICES similar to those so terminated, and the VENDOR shall continue the performance of this Agreement to the extent not terminated hereby. If this Agreement is terminated in whole or in part

for other than the convenience of the CITY, any SERVICES or goods procured by the CITY to complete the SERVICES herein will be charged to VENDOR and/or set-off against any sums due VENDOR.

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

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

ARTICLE 17. GENERAL RELEASE

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

ARTICLE 18. SET-OFF RIGHTS

The CITY shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, the CITY'S right to withhold for the purposes of set-off any monies otherwise due VENDOR (i) under this Agreement, (ii) under any other agreement or contract with the CITY, including any agreement or contract for a term commencing prior to or after the term of this Agreement, (iii) from the CITY by operation of law, the CITY also has the right to withhold any monies otherwise due under this Agreement for the purposes of set-off as to any amounts due and owing to the CITY for any reason whatsoever including, without limitation, tax

delinquencies, fee delinquencies or monetary penalties or interest relative thereto.

ARTICLE 19. NO ARBITRATION

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

ARTICLE 20. GOVERNING LAW

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

ARTICLE 21. CURRENT OR FORMER CITY EMPLOYEES

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

For a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim for or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if effected, shall not constitute the sole remedy afforded the CITY for such

falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this Agreement.

ARTICLE 22. ENTIRE AGREEMENT

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

ARTICLE 23. MODIFICATION

No changes, amendments or modifications of any of the terms and/or conditions of this Agreement shall be valid unless reduced to writing and signed by the party to be bound. Changes in the scope of SERVICES in this

Agreement shall not be binding, and no payment shall be due in connection therewith, unless prior to the performance of any such SERVICES, the City Manager of the CITY, after consultation with the Department Head and Corporation Counsel, executes an Addendum or Change Order to this Agreement, which Addendum or Change Order shall specifically set forth the scope of such extra or additional SERVICES and the amount of compensation and the extension of the time for performance, if any, for any such SERVICES. Unless otherwise specifically provided for therein, the provisions of this Agreement shall apply with full force and effect to the terms and conditions contained in such Addendum or Change Order.

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

THE CITY OF NEWBURGH

VENDOR

BY: _____
RICHARD F. HERBEK,
ACTING CITY MANAGER

BY: Vera Best
VERA BEST
EXECUTIVE DIRECTOR

DATE: _____

DATE: 8/29/12

SCHEDULE A

SCOPE OF SERVICES

Parent workshops providing professional skill development and college prep. Workforce development, soft skills, etc. As well as skills to assist their children in the educational arena.

SCHEDULE B

FEES AND EXPENSES

Contract Amount: \$5,000.00 **

** This is to include (but not exceed \$5,000): supplies, materials, curriculum and other related expenditures related to college readiness and exposure.

Approved as to form:

MICHELLE KELSON
Corporation Counsel

CHERYL A. GROSS
City Comptroller

AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____, 2012, by and between the CITY OF NEWBURGH, a municipal corporation chartered under the authority of the State of New York, hereinafter referred to as the "CITY," with principal offices at 83 Broadway, City Hall, Newburgh, New York 12550; and SUNY Orange County Community College, 115 South Street, Middletown, NY 10940, hereinafter referred to as "VENDOR."

ARTICLE 1. SCOPE OF WORK

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

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

property and/or materials which may be applicable which would have the effect of restricting or limiting the exercise of the CITY's rights regarding same. VENDOR agrees to defend, indemnify and hold harmless the CITY for failing to notify CITY of same.

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning October 1, 2012, and ending June 30, 2013.

ARTICLE 3. COMPENSATION

For satisfactory performance of the SERVICES and/or receipt of conforming goods or, as such SERVICES or goods may be modified by mutual written agreement, the CITY agrees to compensate VENDOR in accordance with the fees and expenses as stated in Schedule B, which is attached to and is part of this Agreement. VENDOR SHALL submit to the CITY a monthly itemized invoice for SERVICES rendered during the prior month, or as otherwise set forth in Schedule B, and prepared in such form and supported by such documents as the CITY may reasonably require. The CITY will pay the proper amounts due VENDOR within sixty (60) days after receipt of a CITY Claimant's Certification form, and if the Claimant's Certification form is objectionable, will notify VENDOR, in writing, of the CITY'S reasons for objecting to all or any portion of the invoice submitted by VENDOR.

A not-to-exceed cost of \$30,000.00 has been established for the scope of SERVICES and/or the supply of goods rendered by VENDOR. Costs in excess of such not-to-exceed cost, if any, may not be incurred without prior written authorization of the City Manager of the CITY, evidenced only by a written Change Order or Addendum to this Agreement, after consultation with the Department Head. It is specifically agreed to by VENDOR that the CITY will not be responsible for any additional cost or costs in excess of the above noted not-to-exceed cost if the CITY'S authorization by the City Manager is not given in writing prior to the performance of the SERVICES giving rise to such excess or additional costs.

Any bills or invoices sent by VENDOR to the CITY more than one (1) year after services which are the subject of such billing have been rendered shall not be paid by the CITY and the CITY shall have no liability therefor.

ARTICLE 4. EXECUTORY CLAUSE

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

ARTICLE 5. PROCUREMENT OF AGREEMENT

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

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

ARTICLE 6. CONFLICT OF INTEREST

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

For failure to submit such letter of disclosure, or for a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim for, or be entitled to recover, any sum or sums

otherwise due under this Agreement. This remedy, if elected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment to or to take any other action provided for by law, in equity or pursuant to this Agreement.

ARTICLE 7. FAIR PRACTICES

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

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

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

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

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

ARTICLE 8. INDEPENDENT CONTRACTOR

In performing the SERVICES and/or supplying goods and incurring expenses under this Agreement, VENDOR shall operate as, and have the status of, an independent contractor and shall not act as agent, or be an agent, of the CITY. As an independent contractor, VENDOR shall be solely responsible for determining the means and methods of performing the SERVICES and/or supplying of the goods and shall have complete charge and responsibility for VENDOR'S personnel engaged in the performance of the same.

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

ARTICLE 9. ASSIGNMENT AND SUBCONTRACTING

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

Failure of VENDOR to obtain any required consent to any assignment, shall be grounds

for termination for cause, at the option of the CITY and if so terminated, the CITY shall thereupon be relieved and discharged from any further liability and obligation to VENDOR, its assignees or transferees, and all monies that may become due under this Agreement shall be forfeited to the CITY except so much thereof as may be necessary to pay VENDOR'S employees for past service.

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

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

ARTICLE 10. BOOKS AND RECORDS

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

ARTICLE 11. RETENTION OF RECORDS

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

ARTICLE 12. AUDIT BY THE CITY AND OTHERS

All Claimant Certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said Claimant's Certification forms or invoices are based are

subject to audit by the CITY. VENDOR shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the CITY so that it may evaluate the reasonableness of the charges, and VENDOR shall make its records available to the CITY upon request. All books, Claimant's Certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by the CITY, the State of New York, the federal government, and/or other persons duly authorized by the CITY. Such audits may include examination and review of the source and application of all funds whether from the CITY, State, the federal government, private sources or otherwise. VENDOR shall not be entitled to any interim or final payment under this Agreement if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 13. INDEMNIFICATION

VENDOR agrees to defend, indemnify and hold harmless the CITY, including its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement), whether incurred as a result of a claim by a third party or any other person or entity, arising out of the SERVICES performed and/or goods supplied pursuant to this Agreement which the CITY or its officials, employees or agents, may suffer by reason of any negligence, fault, act or omission of VENDOR, its employees, representatives, subcontractors, assignees, or agents.

In the event that any claim is made or any action is brought against the CITY arising out of the negligence, fault, act, or omission of an employee, representative, subcontractor, assignee, or agent of VENDOR either within or without the scope of his respective employment, representation, subcontract, assignment or agency, or arising out of VENDOR'S negligence, fault, act or omission, then the CITY shall have the right

to withhold further payments hereunder for the purpose of set-off of sufficient sums to cover the said claim or action. The rights and remedies of the CITY provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

ARTICLE 14. PROTECTION OF CITY PROPERTY

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

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

VENDOR agrees to defend, indemnify and hold the CITY harmless from any and all liability or claim for loss, cost, damage or expense (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement) due to any such loss or damage to any such CITY property described in this Article.

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

ARTICLE 15. CONFIDENTIAL INFORMATION

In the course of providing the SERVICES and/or goods hereunder, VENDOR may acquire knowledge or come into possession of confidential, sensitive or proprietary

information belonging to CITY. VENDOR agrees that it will keep and maintain such information securely and confidentially, and not disclose such information to any third parties, including the media, nor use such information in any manner publically or privately, without receiving the prior approval, in writing, of the CITY authorizing such use. VENDORS obligations under this clause to maintain the confidentiality of such information and to refrain from using such information in any manner without the prior written approval of the CITY shall survive the termination or expiration of this Agreement.

ARTICLE 16. TERMINATION

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

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

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

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

In the event the CITY terminates this Agreement in whole or in part, as provided in this Article, the CITY may procure, upon such terms and in such manner as deemed appropriate, SERVICES similar to those so terminated, and the VENDOR shall continue the performance of this Agreement to the extent not terminated hereby. If this Agreement is terminated in whole or in part

for other than the convenience of the CITY, any SERVICES or goods procured by the CITY to complete the SERVICES herein will be charged to VENDOR and/or set-off against any sums due VENDOR.

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

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

ARTICLE 17. GENERAL RELEASE

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

ARTICLE 18. SET-OFF RIGHTS

The CITY shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, the CITY'S right to withhold for the purposes of set-off any monies otherwise due VENDOR (i) under this Agreement, (ii) under any other agreement or contract with the CITY, including any agreement or contract for a term commencing prior to or after the term of this Agreement, (iii) from the CITY by operation of law, the CITY also has the right to withhold any monies otherwise due under this Agreement for the purposes of set-off as to any amounts due and owing to the CITY for any reason whatsoever including, without limitation, tax

delinquencies, fee delinquencies or monetary penalties or interest relative thereto.

ARTICLE 19. NO ARBITRATION

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

ARTICLE 20. GOVERNING LAW

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

ARTICLE 21. CURRENT OR FORMER CITY EMPLOYEES

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

For a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim for or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if effected, shall not constitute the sole remedy afforded the CITY for such

falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this Agreement.

ARTICLE 22. ENTIRE AGREEMENT

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

ARTICLE 23. MODIFICATION

No changes, amendments or modifications of any of the terms and/or conditions of this Agreement shall be valid unless reduced to writing and signed by the party to be bound. Changes in the scope of SERVICES in this

Agreement shall not be binding, and no payment shall be due in connection therewith, unless prior to the performance of any such SERVICES, the City Manager of the CITY, after consultation with the Department Head and Corporation Counsel, executes an Addendum or Change Order to this Agreement, which Addendum or Change Order shall specifically set forth the scope of such extra or additional SERVICES and the amount of compensation and the extension of the time for performance, if any, for any such SERVICES. Unless otherwise specifically provided for therein, the provisions of this Agreement shall apply with full force and effect to the terms and conditions contained in such Addendum or Change Order.

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

THE CITY OF NEWBURGH

VENDOR

BY: _____
RICHARD F. HERBEK,
ACTING CITY MANAGER

BY: 
DR. WILLIAM RICHARDS
PRESIDENT

DATE: _____

DATE: 9/7/12

SCHEDULE A

SCOPE OF SERVICES

Schedule B to contract

SUNY Orange, as a major partner will continue based on the current grant requirements/guidelines, to:

Provide 240 hours of in class instruction on the topic of College and Career Readiness

Purchase and maintain curriculum, supplies, technology, and miscellaneous items necessary to fulfill objectives and goals outlined in 21st Century grant and,

Hire and supervise college and career readiness person who will report directly to Madeline Torres-Diaz and maintain an office at the college. This person is not a City of Newburgh employee.

The supervisor will submit status reports as necessary to Project Director of 21st Century.

SCHEDULE B
FEES AND EXPENSES

Contract Amount: \$30,000.00 **

** This is to include (but not exceed \$30,000): supplies, materials, curriculum and other related expenditures related to college readiness and exposure.

Approved as to form:

MICHELLE KELSON
Corporation Counsel

CHERYL A. GROSS
City Comptroller

AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____, 2012, by and between the **CITY OF NEWBURGH**, a municipal corporation chartered under the authority of the State of New York, hereinafter referred to as the "**CITY**," with principal offices at 83 Broadway, City Hall, Newburgh, New York 12550; and Newburgh Enlarged City School District, a firm with principal offices at 124 Grand Street, Newburgh, New York 12550, hereinafter referred to as "**VENDOR**."

ARTICLE 1. SCOPE OF WORK

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

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

property and/or materials which may be applicable which would have the effect of restricting or limiting the exercise of the CITY's rights regarding same. VENDOR agrees to defend, indemnify and hold harmless the CITY for failing to notify CITY of same.

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning October 1, 2012, and ending July 31, 2013.

ARTICLE 3. COMPENSATION

For satisfactory performance of the SERVICES and/or receipt of conforming goods or, as such SERVICES or goods may be modified by mutual written agreement, the CITY agrees to compensate VENDOR in accordance with the fees and expenses as stated in Schedule B, which is attached to and is part of this Agreement. VENDOR SHALL submit to the CITY a monthly itemized invoice for SERVICES rendered during the prior month, or as otherwise set forth in Schedule B, and prepared in such form and supported by such documents as the CITY may reasonably require. The CITY will pay the proper amounts due VENDOR within sixty (60) days after receipt of a CITY Claimant's Certification form, and if the Claimant's Certification form is objectionable, will notify VENDOR, in writing, of the CITY'S reasons for objecting to all or any portion of the invoice submitted by VENDOR.

A not-to-exceed cost of \$400,00.00 has been established for the scope of SERVICES and/or the supply of goods rendered by VENDOR. Costs in excess of such not-to-exceed cost, if any, may not be incurred without prior written authorization of the City Manager of the CITY, evidenced only by a written Change Order or Addendum to this Agreement, after consultation with the Department Head. It is specifically agreed to by VENDOR that the CITY will not be responsible for any additional cost or costs in excess of the above noted not-to-exceed cost if the CITY'S authorization by the City Manager is not given in writing prior to the performance of the SERVICES giving rise to such excess or additional costs.

Any bills or invoices sent by VENDOR to the CITY more than one (1) year after services which are the subject of such billing have been rendered shall not be paid by the CITY and the CITY shall have no liability therefor.

ARTICLE 4. EXECUTORY CLAUSE

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

ARTICLE 5. PROCUREMENT OF AGREEMENT

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

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

ARTICLE 6. CONFLICT OF INTEREST

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

For failure to submit such letter of disclosure, or for a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim for, or be entitled to recover, any sum or sums

otherwise due under this Agreement. This remedy, if elected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment to or to take any other action provided for by law, in equity or pursuant to this Agreement.

ARTICLE 7. FAIR PRACTICES

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

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

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

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

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

ARTICLE 8. INDEPENDENT CONTRACTOR

In performing the SERVICES and/or supplying goods and incurring expenses under this Agreement, VENDOR shall operate as, and have the status of, an independent contractor and shall not act as agent, or be an agent, of the CITY. As an independent contractor, VENDOR shall be solely responsible for determining the means and methods of performing the SERVICES and/or supplying of the goods and shall have complete charge and responsibility for VENDOR'S personnel engaged in the performance of the same.

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

ARTICLE 9. ASSIGNMENT AND SUBCONTRACTING

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

Failure of VENDOR to obtain any required consent to any assignment, shall be grounds

for termination for cause, at the option of the CITY and if so terminated, the CITY shall thereupon be relieved and discharged from any further liability and obligation to VENDOR, its assignees or transferees, and all monies that may become due under this Agreement shall be forfeited to the CITY except so much thereof as may be necessary to pay VENDOR'S employees for past service.

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

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

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ARTICLE 12. AUDIT BY THE CITY AND OTHERS

All Claimant Certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said Claimant's Certification forms or invoices are based are

subject to audit by the CITY. VENDOR shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the CITY so that it may evaluate the reasonableness of the charges, and VENDOR shall make its records available to the CITY upon request. All books, Claimant's Certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by the CITY, the State of New York, the federal government, and/or other persons duly authorized by the CITY. Such audits may include examination and review of the source and application of all funds whether from the CITY, State, the federal government, private sources or otherwise. VENDOR shall not be entitled to any interim or final payment under this Agreement if any audit requirements and/or requests have not been satisfactorily met.

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In the event that any claim is made or any action is brought against the CITY arising out of the negligence, fault, act, or omission of an employee, representative, subcontractor, assignee, or agent of VENDOR either within or without the scope of his respective employment, representation, subcontract, assignment or agency, or arising out of VENDOR'S negligence, fault, act or omission, then the CITY shall have the right

to withhold further payments hereunder for the purpose of set-off of sufficient sums to cover the said claim or action. The rights and remedies of the CITY provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

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

VENDOR agrees to defend, indemnify and hold the CITY harmless from any and all liability or claim for loss, cost, damage or expense (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement) due to any such loss or damage to any such CITY property described in this Article.

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ARTICLE 16. TERMINATION

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

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

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

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delinquencies, fee delinquencies or monetary penalties or interest relative thereto.

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

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

ARTICLE 23. MODIFICATION

No changes, amendments or modifications of any of the terms and/or conditions of this Agreement shall be valid unless reduced to writing and signed by the party to be bound. Changes in the scope of SERVICES in this

Agreement shall not be binding, and no payment shall be due in connection therewith, unless prior to the performance of any such SERVICES, the City Manager of the CITY, after consultation with the Department Head and Corporation Counsel, executes an Addendum or Change Order to this Agreement, which Addendum or Change Order shall specifically set forth the scope of such extra or additional SERVICES and the amount of compensation and the extension of the time for performance, if any, for any such SERVICES. Unless otherwise specifically provided for therein, the provisions of this Agreement shall apply with full force and effect to the terms and conditions contained in such Addendum or Change Order.

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

THE CITY OF NEWBURGH

VENDOR

BY: _____
RICHARD F. HERBEK,
CITY MANAGER

BY: Ralph A. Pizzo
RALPH A. PIZZO,
SUPERINTENDENT OF SCHOOLS

DATE: _____

DATE: 8/28/12

SCHEDULE A

SCOPE OF SERVICES

Scope of Work:

Provide facilities for City of Newburgh 21st Century After school Program

Provide certified teachers for academic hour at each site

Provide School Nurse for the Duration of after school program

Provide School Security, where applicable, for after school Program

Provide School Administrator for the entirety of the program

Provide transportation home via school bus company

The following shall be sites where the after school program shall take place:

Horizons on the Hudson to serve 120 students

Heritage Middle School to serve 120 students

Newburgh Free Academy to serve 120 students

School district also agrees to make reasonable office space accommodations for City of Newburgh 21st Century staff as well as make classroom space available for specialist, including but not limited to Gym Space, Cafeteria Space, Art Room Space and Music Room space.

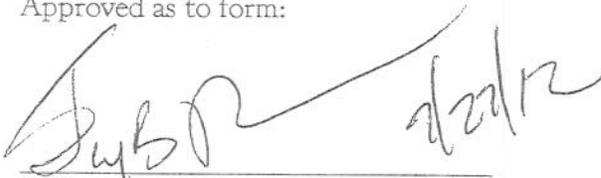
SCHEDULE B

FEES AND EXPENSES

	HOH	NFA	HJH	Total:
Totals:	\$181,000	\$109,500	\$109,500	\$400,000

(See attached breakdown)

Approved as to form:



Joy Pittman
Director

MICHELLE KELSON
Corporation Counsel

CHERYL A. GROSS
City Comptroller

Richard Herbek
City Manager

Newburgh Enlarged City School District
 21 Century Program Budget Projection
 2012-13

	Oct 22-April 26	Oct 22 -May 31	Oct 17 -May 31	
Students	125	75	75	275
Adj Days	111	131	131	
Days	89	104	104	Total
	HOH	NFA	HJH	
Administrators	27306	32226	32226	91758
Teachers(9,5,5)	44456	28860	28860	102176
Nurse(1,0,1)	14819	0	17316	32135
Security (1,1,1)	8010	9360	9360	26730
Support Staff (1,1,1)	3560	4160	4160	11880
Supplies	2000	600	600	3200
FICA	7509	5707	7032	20248
WC	1296	985	1213	3494
TR	13766	9713	12466	35945
ER	1370	1601	1601	4572
				0
Transportation (4,2,2)	26700	20800	20800	68300
				0
				0
Indirect Costs				0
	150792	114012	135634	400438
	181000	109500	109500	400000

RESOLUTION NO.: 157 - 2012

OF

SEPTEMBER 10, 2012

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AN AGREEMENT
WITH THE HUMANE SOCIETY OF WALDEN
TO CARE FOR DOGS IN THE CUSTODY OF THE
CITY OF NEWBURGH**

WHEREAS, as mandated by New York State law, the Animal Control Unit must have caregivers for the dogs taken into the custody of the City of Newburgh; and

WHEREAS, the Humane Society of Walden has been willing to undertake such care in compliance with the Agricultural and Markets Law of the State of New York; and

WHEREAS, this Council has reviewed the attached agreement with the Humane Society of Walden and has determined that entering into the same is in the best interests of the City of Newburgh, its citizens and the animals alike;

NOW, THEREFORE, BE IT RESOLVED, that this Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into an agreement with the Humane Society of Walden to care for the dogs in the custody of the City of Newburgh.

Councilwoman Angelo commented that she received a call today that an owner's dog ran away.

Councilwoman Lee asked if the agreement includes cats.

The City Manager stated it does not include cats.

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

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee-4

ADOPTED

RESOLUTION NO.: 158- 2012

OF

SEPTEMBER 10, 2012

**A RESOLUTION AUTHORIZING THE SALE OF
29 CHAMBERS STREET (SECTION 30, BLOCK 4. LOT 19)
THROUGH A SEALED BID PROCESS**

WHEREAS, this Council has, by Resolutions No.: 120-2012 of July 16, 2012 and 129-2012 of August 13, 2012, respectively, authorized the sale of City-owned properties through a sealed bid process and approved the Terms and Conditions for the sealed bid process; and

WHEREAS, the City of Newburgh wishes to sell additional property through the sealed bid process, identified as 29 Chambers Street, Section 30, Block 4, Lot 19; and

WHEREAS, upon the recommendation of City staff, this Council has determined that offering this property for sale through a sealed bid process is in the best interests of the City of Newburgh; and

WHEREAS, this property is to be sold through the sealed bid process are subject to the final approval of the sale by this Council; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the property identified as 29 Chambers Street, Section 30, Block 4, Lot 19 is to be sold through a sealed bid process with the final approval of the sale by this Council; and

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

Mr. Herbek pointed out that we need (4) votes to pass it.

Councilwoman Lee moved and Councilman Dillard seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee-4

ADOPTED

RESOLUTION NO.: 159- 2012

OF

SEPTEMBER 10, 2012

**A RESOLUTION AUTHORIZING THE SALE OF
55 FARRINGTON STREET (SECTION 18, BLOCK 11, LOT 10)
AND 16 LUTHERAN STREET (SECTION 29, BLOCK 8, LOT 12)
THROUGH A SEALED BID PROCESS**

WHEREAS, this Council has, by Resolutions No.: 120-2012 of July 16, 2012 and 129-2012 of August 13, 2012, respectively, authorized the sale of City-owned properties through a sealed bid process and approved the Terms and Conditions for the sealed bid process; and

WHEREAS, the City of Newburgh wishes to sell additional properties acquired by tax foreclosure *in rem* through the sealed bid process, identified as:

- 55 Farrington Street - Section 18, Block 11, Lot 10
- 16 Lutheran Street - Section 29, Block 8, Lot 12;

WHEREAS, upon the recommendation of City staff, this Council has determined that offering the properties listed herein for sale through a sealed bid process is in the best interests of the City of Newburgh; and

WHEREAS, the properties are to be sold through the sealed bid process are subject to the final approval of each sale by this Council; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the properties listed herein are to be sold through a sealed bid process with the final approval of the sale by this Council; and

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

Councilwoman Lee moved and Councilman Dillard seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee-4

ADOPTED

RESOLUTION NO.: 160- 2012

OF

SEPTEMBER 10, 2012

**A RESOLUTION TO AUTHORIZE THE RE-PURCHASE OF
REAL PROPERTY KNOWN AS 186 DUBOIS STREET
(SECTION 11, BLOCK 1, LOT 26.2) AT PRIVATE SALE TO WILLIAM
POMARICO**

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

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

WHEREAS, William Pomarico, the former owner of 186 Dubois Street, being more accurately described as Section 11, Block 1, Lot 26.2 on the official tax map of the City of Newburgh, has requested to re-purchase the property at private sale; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of the following property to William Pomarico be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon receipt of all past due tax liens, together with all interest and penalties accruing thereon, and all currently due taxes and charges are paid, in full, in the amount of Thirty Thousand Seven Hundred Twenty Eight and 27/100 (\$30,728.27) Dollars no later than September 28, 2012; and

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

Councilwoman Lee moved and Councilman Dillard seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee-4

ADOPTED

ANNOUNCEMENTS:

The City Manager announced that tomorrow the City of Newburgh Fire Department is going to hold a memorial service at the 9/11 Monument on Park Place at 8:30 A.M.

OLD BUSINESS

There was no *old business* to discuss.

NEW BUSINESS

There was no *new business* to discuss.

PUBLIC COMMENTS REGARDING GENERAL MATTERS OF CITY BUSINESS

Natasha Cotton commented that Resolution #154(A)-2012 was discussed in the work session. She recalled that Councilwoman Lee talked about alternative efforts of dealing with already occupied units, instead of them going to auction. In addition to Community Land Trusts, she suggested some other ideas of managing city-owned properties, including a Limited-Equity Cooperative and Deed-Restricted affordable housing. Next, she thanked Councilman Dillard for continuing to speak about community inclusiveness with the 21st Century Grant, because it is necessary.

A. Jane Johnston held up a 99 cent gallon water jug to the audience. She said she has purchased roughly 103 jugs since May 8th, due to the undrinkable water in our city. She handed the council a bill for \$110.21, the calculated cost of having to purchase bottled water. A water technician, who took a water sample, stated that it was probably due to high chlorine levels. As the summer progressed there has been no improvement in the quality of the water. She has even tried attaching a Brita filter. It does not to conceal the offensive taste. (See Comments Attached)

Adrian Coolidge mentioned that he is putting together a proposal for our two City Court judges. Through his non-profit organization, he would like to create a program in which he would volunteer 25 hours per week of his time and work with those individuals who are served with Community Service to clean up our streets. A clean environment is a good environment. Also if there are prior warrants on any of these individuals, perhaps they will look up to him and allow him to walk them down to the Police Department. He will present the council with his proposal at the next council meeting.

Omari Shakur commented that he is involved in a program called S.O.S.- Save Our Streets- which resulted from a rally that they held on August 27, 2012. He stated that some city officials tried to blame the rally for the outbreak of violence that occurred later that night. Accountability and responsibility were topics that were brought up at a Press Conference. Shakur stated why would anyone hold a Press Conference and declare a crisis and emergency in the city and then go away on vacation. Next, he announced that Voices of Glory is going to be in concert. The young singing family is from Newburgh, and they were finalists on *America's Got Talent*. Nu-Voters Movement is going to donate some money to transport some children to see them in concert and support something positive. It seems like the only time we

get recognition in our city is when something bad happens, but there is a lot of good here too.

Yusef Belford commented that he would like our community to come together and unify and heal itself. We have all of our community organizations and activist groups, and we are always pointing our fingers at each other. Let's put all of our differences aside and come together. Second, he recalled a meeting of the CDBG that he attended. He feels that the community should have a say in where funding is placed. He read in the pamphlet that at least 70% of funding should go to low income people of the community. But it is not being presented that way. It is important that we know where those funds are being spent, and the community should be voting on these decisions.

Shatoya L. Meekins commented that many people have moved here from New York City to have a better life. She came here seven years ago. She feels her parents made the biggest mistake in coming here. She has younger siblings and she does not want them to grow up in the negative environment. She had heard that Governor Cuomo had sent funds to Newburgh to help clean it up. She wants to make sure her siblings are protected while they are out here. Also she knows that there are a lot of police officers in the city, who were bullied as kids. She feels that some police officers single out certain individuals. She attends Church to keep some balance in her life. But it is sad when the people at church can not even come out because they do not feel safe. She hopes that we take a closer look at the officers that we are putting out on the streets.

Nelson McAllister thanked the council for the vote it took to make the city more rebuilding-friendly. For years we have been the toughest city in the state to deal with on the topic of architectural review. It is a very positive step in allowing people to fix up their homes. Second, for the past few years the value of his home has significantly decreased. However, his taxes have been increasing significantly. He would like the council to take the initiative to make sure that things balance out. If not, the average homeowner in the city is going to pack up and leave. He realizes the council has a budget to balance and employees to pay. But somewhere along the line we have to put a stop to things that have been occurring. And where there is poverty there is crime and other problems, and low education initiatives amongst other things.

Jesse Blackman remarked that he has spoke before the council on a number of occasions. He spoke about his properties at 213 North Miller Street, 212 Dubois Street and 214 Dubois Street. He feels that he has been shunned from Day One, and it has been a nightmare. He would like for the council to grant him a private meeting to discuss the matter. He would like to put his

cards on the table and discuss what has transpired these last ten years before any action is taken on his properties.

Councilwoman Lee stated that they have not forgotten about him. They have to begin with the Corporation Counsel. She pointed out that she would see to it that his rights to due process are not violated.

Corporation Counsel remarked to the council that she has a lot of documents in her file. The council is welcome to come in and view those documents at anytime. She is trying to put together a timeline that will put those documents in context.

Executive Director of the Boys and Girls Club Kevin White thanked the council for the proclamation. He invited everyone to come to the *Day for Kids* event on Saturday, September 15th. There will be free food and entertainment, but more importantly it is a rally for education to help parents explore the best options for their children in terms of education and after-school programs.

There being no one else wishing to speak, this portion of the meeting was closed.

FURTHER COMMENTS FROM THE COUNCIL

Councilwoman Angelo asked how many of the scheduled auction properties are occupied with tenants.

The City Manager stated that he is preparing a report with that information. He estimated that number to be 6 properties.

Councilwoman Angelo further commented that this morning they attended a Power Breakfast at Billy Joe's. Central Hudson had quite a corporate group there. They presented the Historical Society with a check for \$10K. Also we had a wonderful festival last weekend. A substantial amount of money was made to use for next year. This weekend there is going to be another 3-day festival, a fundraiser to benefit Trestle, Inc.

Councilwoman Lee spoke about the city-owned properties that have tenants. She is working on an emergency plan so that these properties do not have to go to auction. Perhaps they could go through the sealed bid process. She met with the Housing Authority and the Chairperson of the CDBG. She is exploring different avenues so that we are not auctioning off houses and then finding out later that families have been displaced. Second, the cleanup proposal by Mr. Coolidge is a great idea. Third, she mentioned that Civil Service Administrator Michelle Mills is posting jobs in the lobby of City Hall. They are not necessarily City of Newburgh jobs either. She likes that Mills has taken the time to volunteer and to do this.

Next, she is in favor of a Reimbursable grant. She is going to discuss this with Planning and Development. A lot of money goes out from this city to different entities. The appearance is that the funds are not reaching the people who need them the most. In a reimbursable grant, the city would monitor the funds being issued on a monthly basis. This is one way for us to safeguard the funds we are issuing.

Lee commented about the Youth Violence. The greater problem we are having in our city is the Black-on-Black Crime. We have to do something about it. It is very sad and disappointing. In the past three weeks, there have been six people shot- all Black, shot by Blacks. We need to crack down on this in an aggressive way. She is not going to tolerate police brutality, and she is not going to tolerate the public abusing the police. But she is also not going to tolerate us abusing one another. She asked Chief Ferrara about a Gun Amnesty Program, and she stated that he was in favor of the idea.

Last, she mentioned that a family has moved here from another state. Without mentioning too many personal details, she asked if anyone has any furniture they are able donate, then please see her. The family moved here because they had to. She was saddened by the family's story.

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

**PRESENTATION OF THE CITY MANAGER'S TENTATIVE BUDGET FOR
2013**

The City Manager distributed the 2013 Tentative Budget to the council. It is being presented exactly one month in advance of the statutory deadline that is in the City Charter. He read the Budget Message (SEE BUDGET MESSAGE ATTACHED)

City Comptroller Cheryl Gross did a Power Point presentation reviewing a few slides so that we may gain a better understanding of the budget.

ADJOURNMENT

There being no further business to come before the council, the meeting adjourned at 8:40 P.M.

Respectfully Submitted,

**KATRINA COTTEN
DEPUTY CITY CLERK**

