

A regular meeting of the City Council of the City of Newburgh was held on Monday, November 24, 2014 at 7:00 P.M. in the third floor Council Chambers at City Hall, 83 Broadway, Newburgh, NY.

The Prayer was led by Rabbi Larry Freedman of Temple Beth Jacob, followed by the Pledge of Allegiance.

Present: Mayor Kennedy, presiding; Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia - 7

### COMMUNICATIONS

Councilwoman Abrams moved and Councilwoman Angelo seconded that the minutes of the meeting of November 10, 2014 be approved.

Ayes-Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy-7

CARRIED

## PUBLIC HEARING

Mayor Kennedy called a public hearing to receive comments concerning the local law amending City Charter Article III entitled "Municipal Officers" to add section C3.12 entitled "Residency Requirements" of the Code of the City of Newburgh.

Janet Gianopolous commented that this already applies to the city council. How do we address the issue if there is a deviation from the rule?

Rosemary Smith feels that it is ridiculous to have a residency requirement when we can just let people move here at the time they are hired. It defeats the whole purpose, and it is supposed to benefit the residents of the City of Newburgh. She is tired of the residents getting shafted. There are a lot of people who work here, and then you see them driving out of the city at the end of the workday. Smith feels that people need to live in the city from the start.

Jonathan Jacobsen remarked that it is a good idea. He feels it is long overdue. He has not seen the details, but it is a good concept.

There being no further comments, the public hearing was closed.

## COMMENTS FROM THE CITY COUNCIL REGARDING THE PUBLIC HEARING

Councilwoman Abrams pointed out that it is a good idea. It is important for our city officials to live here. The whole idea of this is to make sure that people in top-paying positions actually live here.

Councilman Brown understood Smith's point, but it is important that we try to hire within the city before we go into the outskirts. The council is doing its due diligence to make sure that we hire residents. If someone is hired, he would need to move into the city and contribute to our economy, as opposed to an outside economy.

Councilwoman Holmes agreed that it is a great idea. All department heads should live in the city. When you live and work in the city, then you are vested in it.

Corporation Counsel Michelle Kelson pointed out that that if it is determined that essential staff does not reside in the city, then the position is deemed vacant and it becomes an automatic resignation.

Councilwoman Lee remarked that we have to make sure that the city manager, who is the hiring authority, does a diligent search for a prospective employee. She agrees with Smith. Even with the legislation there are ways to bypass the system. We have to ensure that people who live here are considered first, even if that means that we have to establish a committee to review the resumes. The council has to stick to what it asks for, make certain that city residents have first priority and hold the city manager accountable with an explanation when necessary. Overall it is good idea and an opportunity for people who live here to get jobs, which really hasn't happened except when we hire persons for DPW.

Councilwoman Mejia stated that it is step in the right direction. The commitment of this administration has always put an emphasis on the hiring of Newburgh residents who are willing, able and ready to work. This just takes things to the next level. This says to our professional department heads that we would like them to become part of the movement 24/7 by living, working and playing in the City of Newburgh.

Councilwoman Angelo stated for years Civil Service applications indicated that a person must be a resident of the City of Newburgh. But then the Civil Liberties Union challenged the stipulation and adjusted the language to state that a person could reside within a 29-mile radius. There is hardly anybody working in the city, who actually resides here, and it is sad. We could try to do this, but she does not know if we are going to be able to pull it off.

Mayor Kennedy commented that Michelle had found similar legislation in the City of Troy. Kennedy really wants city officials to live in Newburgh. They need to be vested here, help share the tax expense and they need to know the conditions we are dealing with in Newburgh. We need to remember that we live in 3.8 square miles. We have people here who are very qualified. One thing we do not want is for it to turn into a little incestuous pool of people that circle around this 3.8 square miles. You need new ideas and new thoughts to make this city flourish. And just because somebody lives here does not mean that he is the best candidate for the job. We want the brightest and we want the best. We hope and pray that they live here, but if they do not live here already, then we want them to make that commitment.

Kelson explained that both the City of Albany and City of Troy have residency requirements. Albany requires that a person become a resident within 180 days of employment. Troy's requirement is 90 days.

Mayor Kennedy stated that our local law includes Sections D and F, which require waivers. If we put them together then we could cover these conditions in one section. It simplifies things in that either you live in the city when you are hired *or* you move here within a prescribed number of days. We should still have a 60-day extension, because sometimes it takes more time to close on a home.

Councilwoman Lee stated that this is the legal loophole. The language outlined in Troy's legislation is clearer. Lee feels that the loophole lies in the granting of the extension. She pointed out that not everybody who moves here is going to buy a house either. This is what seems to get us into trouble. Either a person is going to live here, or he is not going to be able to work here. Ninety days is not an unreasonable amount of time to find an apartment.

Councilwoman Holmes feels that 90-days is sufficient.

Councilman Brown stated that the argument is whether it is 90-days, and 90-days period. Can this council intervene to give an extension to a person without that condition being stated in the legislation?

Kelson feels that if it is not expressly stated then we expose ourselves to the argument that the decision may be arbitrarily based. If you are going to have that contingency set for a person, then it ought to be stated in the legislation upfront so that everybody is aware of it. It can be structured in a number of different ways, though the framework should be clear and objective.

Mayor Kennedy suggested that they leave the Waiver, as already defined in Section D, include wording that reads *be a resident or become a resident*. This allows flexibility, and it clarifies that it is one or the other. Everyone has to keep in mind

that Newburgh is not going to remain the way it is. We are on our way up and outward.

Councilwoman Lee stated that the point is these opportunities need to remain here. If a person is becoming a resident of the City of Newburgh, then he or she needs to show us that. We can't continue to just go along with the *feel-good* legislation.

#### VOTE

Councilwoman Abrams moved and Councilwoman Lee seconded that the council amend the legislation, as proposed by Mayor Kennedy, leaving the waiver in place and setting the prescribed time limit for taking residency in the City of Newburgh at *Ninety-days*.

Ayes- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy-7

CARRIED

## COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Jonathan Jacobsen noticed that the council is going to vote on the budget tonight. Yet the website displays the original budget which was proposed in October. He knows the council has been working on it very hard. It is nearly impossible for the public to make intelligent comments about it when no one knows exactly what the final budget looks like. There should be another time when the final budget is made public. Second, he mentioned that there are various resolutions for expenditures on the agenda, but there are no explanations to accompany them. In the past the City Manager would give short explanations of each item, so that people know what is going on.

Janet Gianopolous stated that she read online that there is a document that contains the budget amount, the levy amount and the tax rate. She asked the council if the listed amounts are correct.

**This portion of the meeting was closed.**

## COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

Councilwoman Abrams did not comment at this time.

Councilman Brown stated that the budgetary process has significant flaws. He has some concerns about the budget, but we probably can't fix them now. Tonight is the final date to approve it. Next year we are going to look at a different process so that our backs aren't against the wall.

Councilman Lee agreed with Brown. She stated that it wasn't the full council that worked on the budget since July. She does not understand why the council didn't have it in September so that they could work on it. At that point they could have made adjustments. Next, she agreed with Mr. Jacobsen that an explanation should accompany each resolution.

Councilwoman Angelo pointed out that in the past the council made appointments with each department. We went over their budgets line-by-line to see where we could make adjustments. This is the way the council made all of their cuts to reduce the budget. The good thing is that the budget is balanced.

Councilwoman Mejia remarked that budgets reflect the commitment and priorities of the municipality to its taxpayers. We have an administration, including board members and city staff that are willing to look at the process very differently for next year. At the end of the day we have to sink or swim together.

Mayor Kennedy stated that everyone on the council is committed. There are three new council members, and we have just gone into the ward system. It has been a learning experience. We have had some pretty big messes in the past, and we have to reinvent. Kennedy felt that the process started early, but perhaps the council could be engaged in it even sooner the next time. There is no such thing as perfection. You have to keep improving, evaluating and continuing with the process. She thanked everyone for working as hard as they could on it.

City Comptroller John Aber explained that tonight the council is going to vote on the 2015 tax levy of \$19,462,564. The amount is \$400,000.00 less than the levy that was approved in the 2014 adopted budget. The Homestead Rate stands at \$19.22 per \$1000 of assessment. The Non-Homestead Rate is \$25.39 per \$1000 of assessment. Overall tonight's budget, if approved, is \$1.2 Million less than the 2014 adopted budget.

This portion of the meeting was closed.

RESOLUTION NO.: 284- 2014

OF

NOVEMBER 24, 2014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH, NEW YORK  
SUPPORTING THE 2014 UNITED FUNDING APPLICATION OF RUPCO  
TO NEW YORK STATE OFFICE OF HOMES AND COMMUNITY RENEWAL  
DIVISION OF HOUSING AND COMMUNITY RENEWAL AND TO  
UNITED STATES DEPARTMENT OF THE INTERIOR AND TO NEW YORK STATE  
OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

WHEREAS, The Newburgh Community Land Bank in collaboration with community stakeholders, developers and other governmental agencies has undertaken an aggressive Neighborhood Revitalization Plan (NRP) to plan for the redevelopment of distressed properties so that they may be returned to productive use to improve the quality of life in Newburgh, NY; and

WHEREAS, RUPCO is the region's leading not-for-profit provider of and advocate for quality, affordable housing and community development programs aimed to provide opportunity and revitalize communities creating and maintaining quality, sustainable housing and rental opportunities, inspiring understanding and acceptance of affordable housing initiatives, fostering community development and revitalization, and providing opportunity to people to improve their living standards. RUPCO is a proficient developer of real estate for affordable housing and has responsibly worked to preserve and restore historic properties; and

WHEREAS, Safe Harbors of the Hudson is dedicated to transforming lives and building communities through housing and the arts in the City of Newburgh and has demonstrated a commitment and expertise in property management at The Cornerstone Residence, a supportive housing project established in 2002 inside the former Hotel Newburgh; and

WHEREAS, The Newburgh Community Land Bank, RUPCO, and Safe Harbors of the Hudson have established a framework to collaborate on the rehabilitation of vacant, distressed residential properties to create between 40 - 60 units of quality, affordable family housing in the neighborhood bordered by First Street, Broadway, Chambers Street and Dubois Street ("The Project"); and

WHEREAS, The Project will require an application to the Low Income Housing Tax Credit Program, the purpose of which is to provide needed reinvestment funds for the preservation and/or the creation of high quality affordable housing throughout the State of New York; and

WHEREAS, The Historic Tax credit programs support the preservation efforts of the Land Bank and RUPCO in the established historic district of the City of Newburgh and stabilizing housing in these distressed neighborhoods will eliminate neighborhood blight and have a positive impact on job creation, public safety, health and the economy in the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, that the City of Newburgh fully supports the 2014 United Funding Application of RUPCO to New York State Office of Homes and Community Renewal, Division of Housing and Community Renewal to secure state and federal Low Income Housing Tax Credit funding and the Part 1 and 2 Applications to the United States Department of the Interior and to the NYS Office of Parks, Recreation and Historic Preservation for federal and state Historic Tax Credit funding.

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

Ayes- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy-7

ADOPTED

RESOLUTION NO.: 285 - 2014

OF

NOVEMBER 24, 2014

A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO ACCEPT DONATIONS IN SUPPORT OF THE  
SKATEBOARD PARK PROJECT AT DELANO HITCH RECREATION PARK

WHEREAS, the City Council, by Resolution No.: 42-2014 of February 24, 2014, expressed support of the construction of a Skateboard Park ("Project") at Delano Hitch Recreation Park; and

WHEREAS, various businesses, firms and individuals have made and are willing to make contributions of money and in-kind assistance to support this Project; and

WHEREAS, this Council deems it to be in the best interests of the City of Newburgh, its residents and youth alike, to accept such donations;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept said donations with the appreciation and thanks of the City of Newburgh on behalf of its children, families and citizens, for their support and sponsorship of the Skateboard Park Project at Delano Hitch Recreation Park.

**Mayor Kennedy pointed out that this is a great project for our children. Donations should be made payable to City of Newburgh, and noted *Skateboard Park*. The checks should be remitted to the Comptroller's Office.**

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

Ayes- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy-7

ADOPTED

RESOLUTION NO.: 286 - 2014

OF

NOVEMBER 24, 2014

A RESOLUTION TO AUTHORIZE THE AWARD OF A BID  
AND THE EXECUTION OF A CONTRACT  
WITH ENTERPRISE NETWORK RESOLUTIONS CONTRACTING, LLC  
IN CONNECTION WITH SITE COVER INSTALLATION AT THE FORMER PROVAN  
FORD SITE LOCATED AT 210 MILL STREET  
WITH A BID IN THE AMOUNT OF \$148,962.50

WHEREAS, the City of Newburgh has duly advertised for bids for the site cover installation at the former Provan Ford Site at City owned property located at 210 Mill Street; and

WHEREAS, bids have been duly received and opened and Enterprise Network Resolutions Contracting, LLC is the low bidder; and

WHEREAS, funding for such project shall be derived from the budget line H1.1440.0215.5400.2010; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the bid for the site cover installation at the Former Provan Ford Site located at 210 Mill Street be and is hereby awarded to Enterprise Network Resolutions Contracting, LLC for the bid amount (plus 10% contingency) of \$148,962.50; and

BE IT FURTHER RESOLVED, that the City Manager be and he is hereby authorized to enter into a contract, including terms and conditions as may be required by the Corporation Counsel and City Engineer, for such work in this amount.

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

Ayes- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy-7

ADOPTED

RESOLUTION NO.: 287 - 2014

OF

NOVEMBER 24, 2014

A RESOLUTION AUTHORIZING THE AWARD OF A BID  
AND THE EXECUTION OF A CONTRACT WITH RAY S. PANTEL, INC.  
IN CONNECTION WITH THE INSTALLATION OF A TRAFFIC SIGNAL FOR THE  
INTERSECTION OF COLDEN STREET/FOURTH STREET  
AND REV. DR. MARTIN LUTHER KING JR. BOULEVARD  
IN THE CITY OF NEWBURGH AT A COST OF \$298,500.00

WHEREAS, the City of Newburgh has duly advertised for bids for the installation of a traffic signal for the intersection of Colden Street/Fourth Street and Rev. Dr. Martin Luther King Jr. Boulevard in the City of Newburgh; and

WHEREAS, bids have been duly received and opened and Ray S. Pantel, Inc. is the low bidder; and

WHEREAS, the total project cost will be \$298,500.00 and funding shall be derived from budget line A:5112.0200;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the bid for the installation of a traffic signal for the intersection of Colden Street/Fourth Street and Rev. Dr. Martin Luther King Jr. Boulevard in the City of Newburgh be and it hereby is awarded to Ray S. Pantel, Inc., for the base bid amount of \$298,500.00; and

BE IT FURTHER RESOLVED, that the City Manager be and he is hereby authorized to enter into a contract, including terms and conditions as may be required by the Corporation Counsel and City Engineer, for such work in this amount.

Councilwoman Holmes stated that we have been trying to get this light installed since 2010. It is located in Ward 1. She is happy to know that this light is going back on River Road for a better quality of life, and for the safety of our constituents and citizens of Newburgh.

Councilwoman Lee pointed out that this has been Kippy Boyle's fight for the last several years.

Councilwoman Abrams asked whether every traffic light costs the city \$298,000.

Councilwoman Holmes moved and Councilwoman Abrams seconded that the resolution be adopted.

Ayes Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy-7

ADOPTED

RESOLUTION NO.: 288 - 2014

OF

NOVEMBER 24, 2014

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A PROPOSAL AND EXECUTE AN EXTRA WORK AUTHORIZATION WITH CLOUGH HARBOR ASSOCIATES IN CONNECTION WITH THE INSTALLATION OF A TRAFFIC SIGNAL FOR THE INTERSECTION OF COLDEN STREET/FOURTH STREET AND REV. DR. MARTIN LUTHER KING JR. BOULEVARD IN THE CITY OF NEWBURGH AT A COST OF \$32,000.00

**WHEREAS**, by Resolution No. 48-2013 of February 25, 2013, the City Council of the City of Newburgh authorized the City Manager to accept a proposal and execute an agreement with Clough Harbor Associates for professional engineering services for the design of a traffic signal to be installed at the intersection of Colden Street/Fourth Street and Rev. Dr. Martin Luther King, Jr. Boulevard in the City of Newburgh; and

**WHEREAS**, Clough Harbor Associates has submitted a proposal for the bid administration, construction support, and construction inspection services in connection the installation of a traffic signal for the intersection of Fourth Street and Rev. Dr. Martin Luther King Jr. Boulevard in the City of Newburgh; and

**WHEREAS**, the cost for these services will be \$32,000.00 and funding shall be derived from budget line A.5112.0200; and

**WHEREAS**, the City Council has reviewed the annexed proposal and has determined that such work would be in the best interests of the City of Newburgh;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept a proposal and execute an Extra Work Authorization with Clough Harbor Associates for the bid administration, construction support, and construction inspection services in connection with the installation of a traffic signal for the intersection of Colden Street/Fourth Street and Rev. Dr. Martin Luther King Jr. Boulevard in the City of Newburgh at a cost of \$32,000.00.

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

Ayes- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy-7

ADOPTED

Councilwoman  
resolution be adopted

Ayes- Councilman Abrams, Councilwoman  
Councilwoman Holmes, Councilwoman Lee, Councilman Brown, Mayor Kennedy-7

ADOPTED

Councilwoman  
resolution be adopted

Ayes- Councilman Abrams, Councilwoman  
Councilwoman Holmes, Councilwoman Lee, Councilman Brown, Mayor Kennedy-7

ADOPTED



RECEIVED  
11/16/14

November 6, 2014

Mr. Jason Morris, PE  
City of Newburgh  
City Engineer  
City Hall  
83 Broadway  
Newburgh, NY 12550

**RE: Professional Engineering Services, Traffic Signal Design; Rev. Dr. Martin Luther King Boulevard & Colden Street/4<sup>th</sup> Street, City of Newburgh, NY  
CHA File No.: 26876**

Dear Mr. Morris:

Attached for your review and processing is our proposal for the bid administration, construction support, and construction inspection services for the subject project. Should you find the proposal acceptable, please have both copies of the Extra Work Authorization signed by the appropriate authority within the City of Newburgh and return one to us for our files.

Please call me at (518) 453-3984 should you have any questions regarding this proposal.

Sincerely,

Lee Ecker, PE  
Project Manager

Enclosures  
WSE/cal  
V:\Projects\ANYR3\26876\Corres\268761.03.doc



Date: 11/6/2014

PROJECT No. 26876

Extra Work No. 2

**EXTRA WORK AUTHORIZATION**

In accordance with the written Contract dated March 14, 2013 between the parties designated below for:

**THE PROJECT:** Rev. Dr. Martin Luther King Jr. Blvd. & Colden Street/4<sup>th</sup> Street Traffic Signal

**THE CLIENT:** City of Newburgh

hereby authorizes the Engineer to proceed with additional services as follows:

**SCOPE OF SERVICES:**

See attached Exhibit A - Scope of Services

**SCHEDULE:**

It is anticipated that the construction contract will begin on December 1, 2014 and will be complete by July 31, 2015.

Construction is not anticipated to begin until April 2015.

**FEE**

Our fee for the scope included in this proposal will not exceed \$32,000. We will bill the City on an hourly rate basis plus expenses.

Upon return of a fully-executed authorization, this Supplement shall become a part of the Agreement identified above.

APPROVED BY: ENGINEER	APPROVED BY: CLIENT
NAME: Lee Ecker	NAME:
SIGNATURE: <i>Lee Ecker</i>	SIGNATURE:
TITLE: Vice President	TITLE:
DATE: 11/6/2014	DATE:

**EXHIBIT A**  
**Scope of Services**

**SCOPE OF WORK**

**Project Description and Location**

The attached scope of work provides for construction administration services for the installation of a new traffic signal at the intersection of Fourth Street and Rev. Dr. Martin Luther King Jr. Boulevard in the City of Newburgh, Orange County, New York.

**Task 1: Advertisement, Bid Opening and Award**

**Advertisement**

The **Consultant** will prepare the advertisement for bids to be placed on the Empire State Bid System and any other newspaper or publication identified by the **Municipality**. The **Consultant** will submit the ad(s) to the **Municipality** for review and will revise the ad(s) to reflect comments generated by that review. The **Municipality** will place the advertisements.

**Bid Administration**

The **Consultant** will accept and answer all questions received by bidders. The **Consultant** will issue any information or addenda necessary and provide to the **Municipality** for distribution to bidders.

The **Consultant** will attend and run a pre-bid meeting on a date identified in the contract documents. The **Consultant** will prepare and distribute a meeting summary from the pre-bid meeting.

**Bid Opening**

The **Municipality** will arrange a location for the public bid opening. The **Consultant** will conduct the public bid opening.

**Award**

The **Consultant** will analyze the bid results. The analysis will include:

- verifying the low bidder.
- ensuring receipt of all required bid documents (non-collusive bid certification, Iran Divestment, etc.).
- determining whether the low bid is unbalanced.
- determining whether the low bidder is qualified to perform the work.

The **Consultant** will provide a recommendation for award to the **Municipality**.

## Task 2: Construction Support

The **Consultant** will provide design response to unanticipated or changed field conditions, analyze and participate in proposed design changes, and interpret design plans.

Work under this section will always be in response to a specific request from the **Municipality** or Contractor under one of the tasks below:

- In response to unanticipated and/or varying field conditions or changes in construction procedures, the **Consultant** will conduct on-site field reconnaissance and, where required, prepare Field Change Sheets modifying pertinent contract plan sheets.
- The **Consultant** will analyze and make recommendations on the implementation of changes proposed by the **Municipality** or the construction contractor. This includes the Traffic Control Plan.
- The **Consultant** will interpret and clarify design concepts, plans and specifications.
- The **Consultant** will review and approve structural shop drawings for construction.

Not reimbursable under this Section are:

- Corrections of design errors and omissions
- Straightforward interpretations of plans and designer intentions

## Task 3: Construction Administration and Observation

### Equipment – Intentionally Left Blank

### Administration

The **Consultant** will provide, to the satisfaction of the **Municipality**, contract administration services from such time as directed to proceed until the completion of the final agreement and issuance of final payment for the contract. The **Consultant** will assume responsibility, as appropriate, for the administration of the contract including processing payments consistent with the specifications and plans applicable to the project.

### Municipal Project Engineer

The **Municipality** will assign a Project Engineer to the contract covered by this agreement. This Project Engineer will be the **Municipal's** official representative on the contract and the **Consultant** will report to and be directly responsible to said Project Engineer.

### Scope of Services/Performance Requirements

#### 1. Quality

The **Consultant** will monitor the Contractor's and the Subcontractor's performance of the contract for general conformance with the project plans and specifications and will identify in a timely manner the local conditions, construction methods and other

observations customarily reported on construction projects of this type.

2. Record Keeping & Payments to the Contractor

- a. All records must be kept in accordance with the directions of the **Municipality**. The **Consultant** must take all measurements and collect all other pertinent information necessary to prepare daily inspection reports, monthly and final estimates, survey notes, record plans showing all changes from contract plans, photographs of various phases of construction, and other pertinent data, records and reports for proper completion of records of the contract.
- b. Any record plans, engineering data, survey notes or other data provided by the **Municipality** should be returned to the **Municipality** at the completion of the contract. Original tracings of record plans, maps, engineering data, the final estimate and any other engineering data produced by the **Consultant** will bear the endorsement of the **Consultant**. Any documents that require an appropriate review and approval of a Professional Engineer (P.E.) licensed and registered to practice in New York State must be signed by the P.E.
- c. Unless otherwise modified by this agreement, the **Consultant** will check, and when acceptable, approve all structural shop drawings.
- d. The **Consultant** will submit the final estimate of the contract to the **Municipality** within four (4) weeks after the date of acceptance of the contract.

3. Health & Safety/Maintenance and Protection of Traffic

- a. **Consultant's** inspection staff assigned to the project will be knowledgeable concerning those health and safety requirements applicable per **Municipality** policy, procedures and specifications to protect their personal safety. Jobsite health and safety shall be the sole responsibility of Contractor and its subcontractor(s).
- b. Maintenance and protection of traffic are the sole responsibility of Contractor and its subcontractor(s).

4. Monitoring Equal Opportunity/Labor Requirements

The **Consultant** will request documentation from Contractor demonstrating its adherence to the Equal Opportunity and Labor requirements contained in the contract and, upon receipt, **Consultant** will forward such to the appropriate representative of the **Municipality**.

**Assumptions**

The following assumptions have been made for estimating purposes:

- Estimate no more than three (3) requests that each require ten (10) hours of effort will be made during the construction phase of the project.

- Assume that the **Consultant** will attend a preconstruction meeting. Assume that **Consultant** attendance at other meetings held during construction will coincide with days on which the Consultant is providing regular inspection services.
- Estimate that the field construction will begin in April 2015 and construction will be completed by June 30, 2015.
- Assume the **Consultant** will schedule material testing and process subcontractor payments, as necessary.
- Assume the **Consultant** will provide construction inspection services on a part time basis. This agreement contains provisions for 14 days of inspection services in the field.

**EXHIBIT B**  
**Schedule**

**SCHEDULE**

It is anticipated that construction will begin on August 1, 2014 and will be completed by November 30, 2014.

**EXHIBIT C**  
**Compensation**

**FEE**

Our estimated fee for the scope included in this extra work agreement is \$11,000. We will bill the City on an hourly rate basis plus expenses. We will not exceed \$11,000. without prior approval from the Client.

RESOLUTION NO.: 289-2014

OF

NOVEMBER 24, 2014

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH BARTON & LOGUIDICE, D.P.C. FOR PROFESSIONAL ENGINEERING SERVICES IN AN AMOUNT NOT TO EXCEED \$256,600.00 FOR THE DESIGN AND CONSTRUCTION INSPECTION SERVICES OF NEW SEWER AND STORMSEWERS FOR LIBERTY, GRAND, CLINTON AND MONTGOMERY STREETS UNDER THE LIBERTY STREET AND GRAND STREET COMBINED SANITARY SEWER IMPROVEMENTS PROJECT

WHEREAS, the City of Newburgh has experienced failures in the combined sanitary sewer system in the vicinity of Liberty Street and Grand Streets which has resulted in repeated sewer backups to residences, and deteriorated sewer mains on Liberty and Grand Streets; and

WHEREAS, Liberty Street and Grand Street Sanitary Sewer Improvements Project ("the Project") was listed on the New York State Environmental Facilities Corporation ("EFC") multi-year intended use plan as Project No. C3-7332-09-00 with a score sufficient to qualify for Project financing through EFC's traditional loan programs; and

WHEREAS, the EFC's Storm Mitigation Loan Program ("SMLP") offers a financing option for the Project consisting of a combination of 25% grant funding and 75% zero-interest loans which provide a potential Project savings to the City of 25% of the total project cost of approximately \$300,000.00; and

WHEREAS, by Resolution No.: 28-2014 of February 10, 2014, this Council authorized the Interim City Manager to execute a contract with Barton & Loguidice, D.P.C. for professional engineering services necessary to complete the application for the grant funding at a cost not to exceed \$19,900.00; and

WHEREAS, by Resolution No.: 29-2014 of February 10, 2014, this Council authorized the Interim City Manager to apply for and accept if awarded a grant and zero interest loan financing from the New York State Environmental Facilities Corporation Storm Mitigation Loan Program in an estimated Project cost of \$1,150,800.00, and upon the award of such funding to enter into and execute a documents and contracts with the New York State Environmental Facilities Corporation for said purposes and further, to carry out and comply with the terms of such project agreement(s); and

WHEREAS, EFC has determined that the Project is eligible for funding in an amount up to \$2,401,500.00, and Barton & Loguidice, D.P.C. has submitted a proposal for professional engineering services for the design and construction inspection services of new sewer and stormsewers for Liberty, Grand, Clinton and Montgomery Streets and to assist the City of Newburgh securing the available EFC funding; and

WHEREAS, funding for such professional engineering services shall be derived from the EFC funding award; and

WHEREAS, this Council has determined that entering into such contract under the terms of the proposal as attached hereto is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute an agreement for professional engineering services with Barton & Loguidice, D.P.C. for the scope of work outlined in the proposal dated October 7, 2014 and revised on October 31, 2014 in an amount not to exceed \$256,600.00, with other provisions as Corporation Counsel may require, for the design and construction inspection services of new sewer and stormsewers for Liberty, Grand, Clinton and Montgomery Streets and assistance to secure funding awarded under the New York State Environmental Facilities Corporation Storm Mitigation Loan Program for the Liberty Street and Grand Street Sanitary Sewer Improvements Project.

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

Ayes- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy-7

ADOPTED



October 7, 2014  
Revised October 31, 2014

Mr. Jason Morris, P.E., City Engineer  
City of Newburgh  
83 Broadway  
Newburgh, New York 12550

Re: Proposal for Professional Services  
Liberty & Grand Street Sewer Improvement Project  
City of Newburgh, Orange County, New York

File: P702.2518

Dear Mr. Morris:

During the City Council meeting on February 12, 2014, the City Council authorized an Agreement with Barton & Loguidice, D.P.C. (B&L) to perform a preliminary engineering analysis of the Liberty & Grand Street Sewer Improvements Project and prepare an application and an Engineering Report for the Storm Mitigation Loan Program (SMLP) administered through New York State Environmental Facilities Corporation (NYSEFC). The impetus of the project was damage to the sewer system caused by storms. SMLP projects are eligible for 75% zero percent interest loan funds and 25% grant to complete the project. The Application scored well and the Project was awarded funding.

B&L is pleased to have been asked to continue working with the City on this project. This project includes 1) separation of Sanitary & Storm Sewers upstream of CSO#008 through the construction of a separate sanitary sewer, and 2) the potential to reduce wet-weather sanitary sewer overflows, which is a goal of the City's Long Term Control Plan.

#### **BACKGROUND**

To date, B&L's services for the Liberty & Grand Street Improvements Project include field investigation of damage; smoke testing, examination and interpretation of CCTV video inspection of portions of the City's sewer system, and preparation of a Preliminary Engineering Report. B&L also assisted the City with the submission of a project listing for the SMLP Program. The report was submitted to NYSEFC in compliance with the request from EFC for SMLP projects due April 1, 2014.

NYSEFC then scored the project among the other projects and published a Draft Amendment #2 to the Intended Use Plan (IUP) on July 17, 2014 that showed the Liberty & Grand Street Sewer Improvements Project scored 54 points which placed it above the funding line (eligible for funding) and in August published the Final Amendment #2 to the 2014 Clean Water State Revolving Fund (CWSRF) IUP confirming that \$2,401,500 is available to the City for this project. The projects submitted for funding exceeded the funds available in this program, and NYSEFC will make funds available on a first come first serve basis.





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## **FUNDING REQUIREMENTS**

In order to continue moving forward with the project, NYSEFC requires:

1. That the project be listed in the 2014 Amendment – **COMPLETED**
2. State Environmental Review (SEQRA) be completed – **COMPLETED**
3. State Historic Preservation Office (SHPO) issue a statement of No Impact– **COMPLETED**
4. A sewer district has been established or expanded – **COMPLETED**
5. New York State Office of the State Comptroller (OSC) Approval Obtained – **NECESSARY**
6. A Bond Resolution has been adopted establishing the legal authority  
of the applicant to issue debt for the project costs. – **NECESSARY**
7. An Executed Engineering Agreement for Planning Services – **COMPLETED**
8. An Executed Engineering Agreement for Design & Construction Services – **NECESSARY**
9. A Completed Financing Application by December 1, 2014 – **AS SOON AS POSSIBLE**
10. Close on Project Financing – **Estimated June 1, 2015**
11. The City completes the project and expends the funds prior to **July 31, 2019**.

The repairs to be implemented as part of this project are noted in the Proposed Project (Section 6) of our report entitled "Liberty and Grand Street Improvements, Preliminary Engineering Report dated March 2014. The anticipated improvements include the following:

- Installation of new precast concrete sanitary manholes.
- Installation of new precast concrete catch basins.
- Installation of approximately 680 feet of new 18-inch PVC separate sanitary sewer and approximately 750 feet of 24-inch HDPE separate storm sewer for the replacement of existing 15-inch x 12-inch and 18-inch x 12-inch egg shaped teardrop concrete combined sewer pipe along Liberty Street.
- Installation of approximately 670 feet of new 8-inch PVC separate sanitary sewer and approximately 700 feet of 18-inch HDPE separate storm sewer for the replacement of the existing 18-inch Polyvinyl chloride (PVC) combined sewer pipe along Grand Street
- Installation of approximately 420 feet of new 8-inch PVC separate sanitary sewer and approximately 500 feet of 18-inch HDPE separate storm sewer for the replacement of the existing 12-inch iron combined sewer pipe along Montgomery Street
- Installation of approximately 850 feet of new separate 18-inch PVC separate sanitary sewer and approximately 870 feet of 30-inch HDPE separate storm sewer for the replacement of the existing 27-inch x 21-inch egg shaped teardrop brick combined sewer pipe along Clinton Street.
- Reconnection of building service laterals, typically 4 and 6-inch pipes, from the edge of the right of way to the new sewer main or extension of existing sewer laterals. Reconnection of laterals to be completed with new SDR35 PVC pipe and include a cleanout located at the edge of the right-of-way.



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- Replacement of approximately 14 catch basins/curb inlets with new precast concrete structures frames and grates.
- Roadway restoration of trenches, following replacement of all utilities.
- Replacement of concrete sidewalks and concrete curbing disturbed during utility main and service installation.
- Replacement of concrete sidewalks along Liberty Street along the utility reconstruction corridor.

B&L proposes the following scope of services to advance the project:

**Scope of Services:**

1. A project kickoff meeting will be held with representatives of the City and B&L to review project goals, scope, access, schedule and coordination issues. We expect to walk the project corridor after the kick off meeting.
2. SEQR - As part of our earlier services for the Preliminary Engineering Report, SEQRA was completed for the sewer rehabilitation. The project fell under the categorical exclusion in accordance with 6 NYCRR Part 617 and is a Type II action as defined by 6.15(c) (1) maintenance or repair involving no substantial changes in an existing structure or facility. It is anticipated at this time that SEQR, as completed, is adequate. Therefore, additional services associated with the SEQR process are not included in this agreement.
3. Wetland Delineation – This project is wholly contained within improved public rights-of-way and is not anticipated to impact regulated wetlands. A preliminary search through the NYSDEC Environmental Review Mapper did not indicate wetlands within the project corridor. No impacts to wetlands are anticipated, no further services are needed for this item.
4. SHPO – As part of our earlier services for the Preliminary Engineering Report, coordination with the State Historic Preservation office was completed. NYSOPR&HP indicated their opinion is that the project will have “No Adverse Impact” upon cultural resources. Therefore, no further services are anticipated to be needed for this item.
5. Survey Services = B&L will retain the subcontracted services of a qualified surveyor (Brooks & Brooks Land Surveying, P.C. a certified M/WBE) for planimetric and topographic survey of the approximate 4000 linear foot project corridor. Mapping is proposed to be at 1” = 20-feet with one-foot contour interval. Limits to be building face to building face including first floor elevations, landscaping, walls, trees, driveways, pavement edges, top and bottom of curbs, and sidewalks, all evident planimetric and topographic features will be located. Underground utilities to be located and shown based on existing utility mapping to be supplied to us, and Dig Safely New York mark-outs. Approximate property lines and road right of way lines will be shown based on tax maps and available highway mapping. Mapping will be supplied in NAD 83 NYS East Horizontal datum, NAVD 88 Vertical datum. Survey Services will be completed with applicable NYS prevailing wage rates.

Easements – It is likely that temporary construction easements will be required. It is proposed that temporary construction easements will be simply described as along the frontage of the property



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and that detailed mapping or descriptions will not be necessary. B&L will prepare a template for use by the City to obtain temporary easements. Permanent easements are not expected to be required, and are not included in this agreement.

6. Subsurface Investigations - B&L will retain the subcontracted services of a qualified subsurface investigations subcontractor (Atlantic Testing Laboratories, LTD, a certified M/WBE) to conduct subsurface investigations. It is anticipated that the proposed sewer main will be constructed within the same alignment as the existing sewer. Subsurface investigation will include 10 geoprobes to a depth of 11-13 feet, or to equipment refusal. Geoprobe data will be recorded to identify thickness of pavement, soil type, depth to groundwater and depth to rock. Field work will be completed with applicable NYS prevailing wage rates.

7. B&L will assist the City with the appropriate NYSEFC paperwork including:

- Provide engineering assistance related to preparation of the EFC Financing Application
- Provide engineering assistance related to submission of initial documents required in order to secure EFC Financing
- Assist the City with Completion of the Smart Growth Assessment
- Complete and submit EPA DBE Form 6100-3 for each M/WBE subcontractor/subconsultant contacted for work under our Engineering Agreement;
- Complete and submit the M/WBE Utilization Plan for our Engineering Agreement;
- Complete and submit EPA DBE Form 6100-4 along with M/WBE Utilization Plan;
- Complete and submit the EEO Staffing Plan for our Engineering Agreement
- Coordinate and submit to NYSEFC Contractors/Subcontractors M/WBE Utilization plans and act as the Municipal Appointed Official for compliance with the M/WBE Program Requirements.

8. Preliminary Engineering Services

A Basis of Design report will be prepared for submission to regulatory agencies. This report will include the design criteria and a section for compliance with recommended standards. This report will be submitted to all involved parties, City and NYSEFC for concurrence and acceptance.

9. Final Design Services

**A. Sanitary Sewer**

B&L will prepare design plans, technical specifications, and an itemized opinion of probable construction cost for the proposed improvements. The plans and specifications will include total replacement of the existing infrastructure. The design will be in general conformance with the New York State Department of Environmental Conservation (NYSDEC) design standards as defined in "Recommended Standards for Wastewater Works", except any variations approved by NYSDEC. Plan and profile of the sewer improvements, sewer system details, soil erosion and sediment control details and restoration details will be provided. Plans will be in AutoCAD format.



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Design and Contract Drawings for sanitary sewer construction will show pipe material, size and location, profile, slope, connecting the new sewer with existing sewer, laterals, cleanouts, depth of cover, backfill material, plans for maintenance and protection of traffic, highway/road crossing details, and restoration of surface features such as sidewalks, pavements, and curbs.

B&L will prepare Contract Documents that will include Contract Drawings, technical specifications, and contractual/administrative requirements. B&L's standard bidding documents, construction contract, general conditions, and general requirements will be included. It is assumed that one (1) set of documents will be prepared for one (1) contract.

Three (3) meetings are included during the design phase of the project at approximately 30%, 65% and 95% completion of design. We will also attend the kick-off meeting as noted earlier in this proposal.

Permits and Approvals - B&L will prepare and submit the appropriate permit applications along with the Contract Documents to the following agencies for review and approval:

- New York State Environmental Facilities Corporation (NYSEFC) - Contract Document Approval
- New York State Department of Environmental Conservation (NYSDEC) - SPDES Construction Permit including a preparation of a Basic Stormwater Pollution Prevention Plan (SWPPP) not including any post construction measures and a Notice of Intent (NOI).

### **B. Drainage Design**

Develop plans to include the replacement of the existing asphalt pavement along the project area of Liberty, Clinton, Grand & Montgomery Streets (the Project Area) as reasonably and practically possible in accordance with City standards. This Scope of Services is to include:

- Determine impacts and relocation needs (if any) with private utilities. Assume 1 coordination meeting to discuss impacts and work agreements, We assume no private utility relocations or work agreements are necessary. The City shall follow up on agreements if necessary.
- Existing low points along the project area will be coordinated with existing drainage structures. The design and inclusion in the construction plans of additional drainage structures, if necessary, will be included.

### **C. Potable Water Mains**

This project includes the replacement of sewer and drainage utilities in the project corridor with trench repairs. The City may want to consider replacement of the aged water mains within the project corridor. If desired, B&L can design and include these in the contract documents under a separate authorization.

10. Bidding Services - B&L will assist the City in bidding the project. Bid assistance will include preparation of Advertisement for Bid(s) for publication by the City in its official newspapers, circulation of the documents on Empire State Bidding, notifying potential bidders of



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advertisement publication, assisting with Contract Document distribution, addressing contractor questions during the bid phase and preparing responses as appropriate, preparing addenda as required and issuing the same to contractors, and attendance at the bid opening.

Upon receipt of the bids by the City, B&L will tabulate the bids, review the qualifications of the low bidder and prepare a recommendation of award to the City.

For the purposes of bidding, we assume four hard copies and two CD's of documents total for City staff use as well as regulatory approvals.

11. Construction Administration Services:

- A. B&L will issue a Notice of Award to the successful contractor upon the City's direction. B&L will prepare conformed copies for contract execution.
- B. Conduct a pre-construction conference with the Contractor, the City Engineer and appropriate City officials.
- C. Review shop drawings and submittals for the material and equipment to be incorporated into the project for conformance with the Contract Documents.
- D. Attend project meetings with the contractor's representatives, the City Engineer, and make periodic site visits to the project site during construction of the project, and advise the City regarding construction related issues. Fifteen (15) project meetings are assumed (pre-construction meeting, twelve (12) progress meetings, a substantial completion meeting and a final completion field meeting).
- E. Review contractor's payment applications and submit same to the City for processing and prepare change orders, if necessary.
- F. Attend a final meeting with the Contractor and complete final review of the completed construction, and prepare a report on any deficiencies, corrective actions required etc. as determined at said review.
- G. Following construction of the project, we will conduct a final on-site project review, issue a Notice of Substantial Completion, provide construction certification to the approval agencies for work completed in accordance with the approved plans and specifications, and provide a final document package including reports, records, record plans developed by the contractor and other pertinent information. We will deliver two hard copy sets and one electronic copy (PDF, latest version) of the drawings to the City.

12. Construction Observation Services:

- A. Conduct full-time on-site construction observation (CO) of the work in progress during the installation of the proposed work. The CO will not advise on, issue directions regarding, or assume control over safety precautions and programs in connection with the work. It is anticipated that construction of the proposed improvements will require four and a half (4.5) months to complete. As such, B&L will provide up full time construction observation, 8 hours a day for a total of 800 hours of observation services, which will include development of a final punch list. Additional hours beyond the assumed amount would be billed at our standard billing rate at the time of service.

1. The CO would prepare a daily report that would record the contractor's hours at the job site, daily activities and progress of work.



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2. The CO will be present during connections to existing sewer mains, and borings to verify that is in accordance with the Plans, Contract Documents and intended function.
  3. The CO will be present during testing of the installed works, i.e. new sewer and sanitary manholes.
  4. The CO will have identifiable markings (hard hat, safety vest, photo ID) on them on-site so as to be known.
- C. The amount of time required for construction administration and observation is dependent on the contractor's progress and final scope of the construction project. Based on our experience, we have estimated what we feel is a reasonable time frame for completion of the work, and have estimated the time required for construction administration and observation accordingly. If construction observation hours exceed the allocation above, or if the construction period extends beyond four and a half months, further construction observation and administration would be provided as an additional service.

The services Barton & Loguidice proposes to provide DO NOT INCLUDE advice or recommendations with respect to the issuance, structure, timing, terms or any other aspect of municipal securities, municipal derivatives, guaranteed investment contracts or investment strategies. Any opinions, advice, information or recommendations provided by Barton & Loguidice is understood by the parties to be strictly *engineering* opinions, advice, information or recommendations. Barton & Loguidice is not a "municipal advisor" as defined by 15 U.S.C. 78o-4 or the related rules of the Securities and Exchange Commission. The parties to whom this proposal is being provided should determine independently whether they require the services of an municipal advisor.

**FEE FOR SERVICES**

The proposed fee for engineering services outlined above would be as follows:

Preliminary Design Services	\$ 33,500 Lump Sum
Topographic Surveying & Mapping	\$ 15,000 Lump Sum
Subsurface Investigation	\$ 20,500 Lump Sum
Final Design Services	\$ 57,500 Lump Sum
M/WBE Representative	\$ 5,000 Lump Sum
Bidding Services	\$ 5,000 Lump Sum
Construction Administration Services	\$ 55,000 Lump Sum
Construction Observation Services	<u>\$ 85,000 Time &amp; Expense</u>
<b>SUB TOTAL</b>	<b>\$ 276,500</b>
 Preliminary Engineering Report (credit)	 <u>\$(19,900) Lump Sum</u>
<b>GRAND TOTAL</b>	<b>\$256,600</b>

For the Scope of Services presented above, Barton & Loguidice, D.P.C (B&L) proposes to be compensated, as identified above, on either a Lump Sum or a Time and Expense basis in accordance with our standard billing rate schedule in effect at the time services are rendered. If additional services are required, B&L will request the City's authorization under a separate supplement to proceed forward. We will not bill beyond this amount without a change in scope and prior approval of the City Council.



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We will provide a contract for execution similar to our other projects with the City if the City agrees with our approach and scope of services.

We appreciate this opportunity to continue to provide further professional services to the City. Should you have any questions or if you would like to discuss the project, please do not hesitate to contact Anthony Eagan or me.

Very truly yours,  
BARTON & LOGUIDICE, D.P.C.

A handwritten signature in cursive script that reads "Anthony Eagan".

Anthony T. Eagan, P.E.  
Managing Engineer

ATE/ojf

BARTON & LOGUIDICE, D.P.C.

A handwritten signature in cursive script that reads "Richard A. Straut".

Richard A. Straut, P.E.  
Principal

**RESOLUTION NO. 290 -2014**

**OF**

**NOVEMBER 24, 2014**

**BOND RESOLUTION OF THE CITY OF NEWBURGH,  
NEW YORK, ADOPTED NOVEMBER 24, 2014,  
AUTHORIZING THE LIBERTY AND GRAND STREET  
SEWER IMPROVEMENTS PROJECT IN THE CITY,  
STATING THE ESTIMATED TOTAL COST THEREOF IS  
\$2,500,000, APPROPRIATING SAID AMOUNT  
THEREFOR, AND AUTHORIZING THE ISSUANCE OF  
NOT TO EXCEED \$2,500,000 BONDS OF SAID CITY TO  
FINANCE SAID APPROPRIATION.**

THE CITY COUNCIL OF THE CITY OF NEWBURGH, IN THE COUNTY OF ORANGE, NEW YORK, HEREBY RESOLVES (by the favorable vote of not less than two-thirds of all the members of said City Council) AS FOLLOWS:

Section 1. Based upon the review of this action by the City Engineer of the City of Newburgh, in the County of Orange, New York (herein called the "City"), the City Council hereby determines that the specific object or purpose authorized to be financed pursuant to this resolution constitutes a Type II Action pursuant to the State Environmental Quality Review Act

(Article 8 of the Environmental Conservation Law) (“SEQRA”) and requires no further proceedings under SEQRA.

Section 2. The City of Newburgh, in the County of Orange, New York (herein called the “City”), is hereby authorized to finance the cost of the Liberty and Grand Street Sewer Improvements Project, comprised of repairs, reconstruction, replacement and separation of the sewers tributary to Combined Sewer Overflow Regulator # 008 and located along Liberty Street, Grand Street, Montgomery Street and Clinton Street in between Broad Street and South Street, all as more particularly described in the engineering report dated March 2014 and prepared by Barton & Loguidice, D.P.C. The estimated maximum cost of said specific object or purpose, including preliminary costs and costs incidental thereto and to the financing thereof, is \$2,500,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of not to exceed \$2,500,000 bonds of the City to finance said appropriation and the levy and collection of taxes on all the taxable real property in the City to pay the principal of said bonds and the interest thereon as the same shall become due and payable, with the expectation that any grant funds received by the City from the New York State Environmental Facilities Corporation shall be used to pay a part of the cost of the project or to pay debt service on bonds or notes issued to finance the project or shall be budgeted as an offset to such taxes to be levied and collected.

Section 2. Bonds of the City in the aggregate principal amount of \$2,500,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called “Law”), to finance the appropriation referred to herein.

Section 3. The period of probable usefulness of the specific object or purpose for which said \$2,500,000 bonds herein authorized are to be issued, within the limitations of Section 11.00 a. 4 of the Law, is forty (40) years.

Section 4. The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the City for expenditures made after the effective date of this resolution for the purpose or purposes for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

Section 5. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the City, payable as to both principal and interest by general tax upon all the taxable real property within the City. The faith and credit of the City are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the City by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 6. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the City Council relative to authorizing

bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and relative to executing agreements for credit enhancement, are hereby delegated to the Comptroller/Director of Finance, the chief fiscal officer of the City.

Section 7. Pursuant to the provisions of section 16 of Chapter 223 of the New York Laws of 2010, the City is authorized to include in this resolution the following pledge and agreement of the State of New York (herein called the "State") contained in said Section 16:

“The state does hereby pledge to and agree with the holders of any bonds, notes or other obligations issued by the city during the effective period of this act and secured by such a pledge that the state will not limit, alter or impair the rights hereby vested in the city to fulfill the terms of any agreements made with such holders pursuant to this act, or in any way impair the rights and remedies of such holders or the security for such bonds, notes or other obligations until such bonds, notes or other obligations together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged.”

Section 8. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such resolution or a summary hereof, are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- (c) such obligations are authorized in violation of the provisions of the constitution.

Section 9. This Bond Resolution shall take effect immediately, and the City Clerk is hereby authorized and directed to publish the foregoing resolution, in summary, together with a Notice attached in substantially the form prescribed by §81.00 of the Law in "*The Sentinel*," "*The Mid Hudson Times*," and "*The Hudson Valley Press*," three newspapers each having a general circulation in the City and hereby designated the official newspapers of said City for such publication.

**City Engineer Jason Morris explained that this project involves the reconstruction of the combined sewer into separate sanitary and storm water sewers along sections of Liberty, Grand, Clinton and Montgomery Streets. The project will allow the removal of Regulator 8, which is a combined sewer overflow regulator. Also the project will reconstruct the current failed sewers on Grand and Liberty Streets.**

**Councilman Brown asked Morris how is this going to affect the flow into our wastewater treatment plant. He stated that there was a proposal sometime this year to increase the capture rate, which was going to end up costing the city an astronomical amount of money.**

**Morris replied that this will reduce the storm water flow at the wastewater treatment plant. Yet how much it will move the needle is currently being studied by the consultants doing our long term control plan.**

**Councilwoman Abrams asked Morris if this project is going to have any effect on the sewer pipe located on Mill Street.**

**Morris responded in the negative. This sewer discharge is to the north interceptor, which is located along Marine Drive. The West Trunk Interceptor, the one along Mill Street, is separate from this one.**

Mayor Kennedy remarked that we had talked about the pond at the bottom of Clinton Street. She remarked that the separation is temporary because it has to go somewhere until we are finished with the long term control plan. She asked Morris if this has been figured into the plan.

Morris pointed out that earlier this year we applied for a grant to fund the construction of a storm water pond at the end of Clinton Street. The grant has yet to be awarded. If it is awarded, then we will certainly proceed with it.

Councilwoman Mejia pointed out that the council previously discussed that some Hinchey money was supposed to be earmarked for the construction. She asked Morris the status of these funds. How does that money impact this \$2.5 Million?

Morris explained that the \$2.5 Million is being utilized for sewer, drainage and storm water construction. We are proposing to use the earmarked funds, designated at \$1.4 Million and administered through the *Transportation and Improvement Program*, for reconstructing the streetscapes on sections of Grand, Liberty, Clinton and Montgomery Streets. We are trying to do all of the work simultaneously.

Councilwoman Angelo moved and Councilwoman Abrams seconded that the bond resolution be adopted.

Ayes- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy-7  
ADOPTED

RESOLUTION NO.: 291 - 2014

OF

NOVEMBER 24, 2014

A RESOLUTION AUTHORIZING THE EXTENSION OF TIME  
TO CLOSE TITLE ON THE PROPERTY LOCATED AT  
288 GRAND STREET (SECTION 10, BLOCK 2, LOT 26)  
SOLD AT PRIVATE SALE TO GREGORY NATO

WHEREAS, this Council, by Resolution No.: 114-2014 of April 28, 2014, approved the sale of 288 Grand Street, being more accurately described as Section 10, Block 2, Lot 26 on the official tax map of the City of Newburgh, to Gregory Nato, and further authorized the execution of a deed to the purchaser at Private Sale; and

WHEREAS, the City Manager has granted the sixty (60) day allotted extension to close title on said premises on or before August 31, 2014; and

WHEREAS, this Council, by Resolution No.: 216-2014 of September 8, 2014 authorized an extension of time to close until September 30, 2014 due to outstanding title issues which were resolved; and

WHEREAS, the purchaser has requested further extension of time to close until December 31, 2014 in order to remove and remediate petroleum storage tanks located in the basement of the property; and

WHEREAS, this Council has determined that granting the requested extension to complete the tank removal and remediation would be in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that an extension of time to close title on 288 Grand Street (Section 10, Block 2, Lot 26) be and is hereby granted until December 31, 2014.

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

Ayes- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy-7

ADOPTED

RESOLUTION NO.: 292 - 2014

OF

NOVEMBER 24, 2014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH, NEW YORK  
SUPPORTING THE FILING OF A GRANT APPLICATION  
WITH THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
FOR THE SECOND ROUND OF PROMISE ZONES DESIGNATION

WHEREAS, the Promise Zones initiative seeks to revitalize high-poverty communities across the country by creating jobs, increasing economic activity, improving educational opportunities, reducing serious and violent crime, leveraging private capital, and assisting local leaders in navigating federal programs; and

WHEREAS, President Obama, in his 2013 State of the Union address, announced that he would designate 20 Promise Zones nationwide: urban, rural, and tribal communities where the Administration would partner with local leaders to create jobs, increase economic activity, improve educational opportunities, and reduce violent crime; and

WHEREAS, Five AmeriCorps VISTA members will be deployed to each of the Promise Zones to build the capacity of the Promise Zones designees to work with federal agencies, coordinate key stakeholders, and create programs that address the community's needs; and

WHEREAS, the Obama Administration has invited a new round of eligible applicants to apply for a Promise Zone Designation; and

WHEREAS, the City Council of the City of Newburgh believes that supporting the grant application is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, New York does hereby support the filing of a grant application to the U.S. Department of Housing and Urban Development for the Second Round of Promise Zones Designation.

Mayor Kennedy pointed out if we could get this federal designation, then it would be such a boon for our city.

Interim Director Diedre Glenn commented that this is an application to HUD. It is not a grant per se. It is a designation of the city as a Promise Zone. HUD is looking for mid-size cities with populations exceeding 10,000, and with particular poverty rates. She pointed out that the City of Newburgh meets all of the criteria. We

have put this together with census tracks 4, 5 and 6. Census Track 6 includes the three housing tracks, Quassaick Creek, the Armory and Delano-Hitch. If we are lucky enough to receive the federal designation, then it would make other people eligible for grants that they would not receive otherwise. Glenn remarked that we have a good chance for it.

Councilwoman Holmes moved and Councilwoman Abrams seconded that the resolution be adopted.

Ayes- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Mayor Kennedy-6\*

ADOPTED

*\*Councilwoman Mejia was absent for the roll call for this resolution*

RESOLUTION NO.: 293 - 2014

OF

NOVEMBER 24, 2014

RESOLUTION TO ACCEPT GRANT FUNDS AWARDED TO THE  
TOWN OF WOODBURY UNDER THE FY2014 TACTICAL TEAM GRANT PROGRAM  
AND TO ENTER INTO AN INTER-MUNICIPAL AGREEMENT WITH  
THE TOWN OF WOODBURY, THE TOWN OF NEWBURGH AND  
THE CITY OF NEWBURGH FOR A REGIONAL PARTNERSHIP  
FOR POLICE TACTICAL TEAM COOPERATION

**WHEREAS**, the Town of Woodbury has been awarded \$100,000.00 in federal funding under the FY2014 Tactical Team Grant Program through the U.S. Department of Homeland Security's State Homeland Security Grant Program for the period of October 16, 2014 through August 31, 2016; and

**WHEREAS**, the funding is provided to improve and develop tactical team capabilities through equipment, training, exercise, and planning projects that support counter terrorism missions as well as attainment of the New York State Division of Criminal Justice Services SWAT Team Standards; and

**WHEREAS**, the City of Newburgh wishes to enter into an Inter-Municipal Agreement, a copy of which is attached hereto and made a part hereof, with the Town of Woodbury and the Town of Newburgh for a Regional Partnership for Police Tactical Team Cooperation; and

**WHEREAS**, this Council has determined that the City's participation in such program is in the best interests of the City of Newburgh and will enhance law enforcement in the City of Newburgh and in surrounding local municipalities;

**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 accept grant funds awarded to the Town of Woodbury under the FY 2014 Tactical Team Grant Program and to enter into an Inter-Municipal Agreement with the Town of Woodbury, The Town of Newburgh and the City of Newburgh for a Regional Partnership for Police Tactical Team Cooperation; and to execute all necessary documents to receive and comply with the terms of such grant and to carry out the program funded thereby.

Chief Ferrara explained that this is a cooperation between the City of Newburgh and the Town of Newburgh and Town of Woodbury for the purchase of equipment that we just wouldn't be able to afford otherwise. If there was ever a need

for it, then we could count on their support to help us. A lot of municipalities are going this route.

Councilwoman Abrams asked Ferrara why we skipped over Town of Cornwall.

Ferrara explained that Town of Cornwall does not have a SWAT unit. Town of Woodbury does.

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

Ayes- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy-7

ADOPTED



NEW YORK STATE  
DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES

Andrew M. Cuomo, Governor

Jerome M. Hauer, Ph.D., MHS, Commissioner

October 16, 2014

The Honorable Frank Palermo  
Deputy Supervisor, Woodbury  
511 Route 32  
P.O. Box 1004  
Highland Mills, NY 10930

Dear Mr. Palermo:

I am pleased to announce that the Town of Woodbury has been awarded \$100,000 in federal funding under the FY2014 Tactical Team Grant Program. Funding for this initiative is provided through the U.S. Department of Homeland Security's (DHS) State Homeland Security Grant Program (SHSP). The performance period for this award is October 16, 2014 through August 31, 2016.

As outlined in your application, this funding is provided to improve and develop tactical team capabilities through equipment, training, exercise, and planning projects that support counter terrorism missions in your jurisdiction as well as your team's attainment of the New York State Division of Criminal Justice Services (DCJS) SWAT Team Standards.

Additionally, your application indicated that you were applying as a Regional Partnership with the Town of Newburgh Police Department and the City of Newburgh Police Department for funding. As a condition of that partnership, you must provide an executed Inter-Municipal Agreement to DHSSES within 6 months of this letter (if you have not done so already) or funding through this program may be rescinded. Templates for the Inter-Municipal Agreements can be retained by contacting Mark Fettingner of DCJS at [mark.fettingner@dcjs.ny.gov](mailto:mark.fettingner@dcjs.ny.gov).

As a reminder, all capabilities developed through federal FY2014 SHSP funding are required to be deployable regionally and nationally per the Federal Funding Opportunity Announcement. In addition, funding through this grant program is subject to both New York State and federal guidelines and regulations.

A representative from DHSSES's Grant Program Administration Unit will be reaching out to your grant point of contact shortly. If you have any questions about this program, please contact Tammy Bernard at (518) 242-5098.

Congratulations on your award and I look forward to working with you to administer this program.

Sincerely,

Jerome M. Hauer, Ph.D., MHS  
Commissioner

cc: Sergeant Kevin Phillips, Town of Woodbury Police Department

1220 Washington Avenue, State Office Building Campus  
Building 7A, Suite 710  
Albany, NY 12242

**INTERMUNICIPAL AGREEMENT  
POLICE TACTICAL TEAM COOPERATION**

This agreement is made this 1<sup>st</sup> day of January, 2015, between the Town of Woodbury, a municipal corporation with its principal place of business at the Town Hall, 511 RT 32 Highland Mills, New York, Town of Newburgh, a municipal corporation with its principle place of business at the Town Hall, 1496 RT 300, Newburgh, New York, and the City of Newburgh, a municipal corporation with its principal place of business at 83 Broadway, Newburgh, New York.

**RECITALS**

**WHEREAS**, Section 119-o of the General Municipal Law permits municipal corporations to enter into agreements for the performance amongst themselves or one for the other of their respective functions, powers and duties on a cooperative or contract basis or for the provision of a joint service; and

**WHEREAS**, the parties hereto have experienced within their jurisdictions a potential need for the joint response of both participants' police tactical teams to deal with certain criminal acts or threats including but not limited to barricaded suspects, hostage takers, or other persons committing violent acts that may be more effectively dealt with through the use of a specially trained tactical team rather than standard police operations.

**NOW THEREFORE**, the parties do mutually agree pursuant to the terms and provisions of this Tactical Team Cooperation Agreement as follows:

**ARTICLE ONE  
Purpose of the Agreement**

The purpose of this Agreement is to:

1. Formalize the relationship between the Town of Woodbury Police Department and its TACTICAL RESPONSE UNIT, The Town of Newburgh Police Department and its SWAT TEAM and the City of Newburgh and its SWAT Team, herin referred to as ("Tactical Teams") and the use of the combined tactical team resources;
2. Eliminate the need to follow the formal procedure set forth in GML §209-m to request assistance from the other party in the form of personnel and or equipment;
3. Provide for more efficient utilization of law enforcement resources and services; and
4. Make available to each participating entity, the tactical team resources of the other participating entity in the event of an emergency in accordance with the provisions of this Agreement.

**ARTICLE TWO**  
**Personnel and Equipment**

Each party agrees that their police department may supply tactical team personnel, equipment and other available resources to the other upon request in the event of an emergency, if their respective police chief, or his designee, deems it appropriate. The number of personnel, if any, and the amount or type of equipment to be dispatched by the responding party shall be determined by that agency's police chief, or his designee.

In furtherance of this Agreement, the parties agree to conduct joint training for all employees participating in tactical team operations, subject to the terms of this Agreement. Such training shall take place at a time and place mutually agreed upon between the parties.

**ARTICLE THREE**  
**Retained Personnel and Equipment**

Each party agrees that the responding party may hold back sufficient personnel and equipment to provide adequate protection within the territory of the responding party. Should a need for the loaned personnel and equipment arise within the territory of the responding party, then the responding party may recall such personnel and equipment or any part thereof. The responding party shall inform the requesting party of its intent to withdraw from the situation.

**ARTICLE FOUR**  
**Compensation**

Neither participant, as a requesting party, shall be obligated to compensate the responding party for services rendered by or injuries to the responding party's personnel, or for the use or damage to the responding tactical team's equipment. Specifically, and without limiting the foregoing, the requesting party shall have no obligation for payment of wages or withholding for unemployment, workers compensation, or for the payment of any other benefits to the personnel of the responding party. Each participant hereto hereby expressly waives all claims of whatever type or nature, except for gross negligence, against the other and its personnel, which may arise out of the performance of this Agreement.

**ARTICLE FIVE**  
**Control of Personnel and Equipment**

The Incident Commander of the requesting party shall be in command of the operation(s) under which the equipment and personnel sent by the responding party shall serve; provided that the responding personnel and equipment shall be under the immediate supervision of the Team Commander in charge of the responding team. Command, however, may be relinquished to a ranking or senior officer of the party rendering assistance under the terms of this Agreement.

**ARTICLE SIX**  
**Privileges and Immunities**

To the extent permitted by law, all the powers, duties, rights, privileges and immunities from liability which surround the activities of any participating tactical team or agency when performing its functions within the public agency's territorial limits shall apply to the activities of that agency's tactical team while furnishing tactical assistance outside its territorial limits under the terms of this Agreement.

Specifically, pursuant to sections §119-n(c) and § 119-o GML, police officers assisting another local government outside their normal geographical area of employment shall have all powers and authority of law enforcement officers in such other jurisdiction as provided by law, including the power of arrest.

**ARTICLE SEVEN**  
**Line of Duty Death or Injury**

The effect of the death, injury or disability of any officer who is killed, injured or disabled outside the territorial limits of either participating entity while in the performance of this agreement, shall be the same as if they were killed, injured or were to become disabled while that officer was functioning within its own territorial limits, and such injury or death shall be considered to be in the line of duty.

**ARTICLE EIGHT**  
**Liability and Indemnification**

Neither party shall incur any liability or responsibility for the failure to respond to any request for assistance made pursuant to this Agreement. This Agreement shall not be construed as or deemed to be an Agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action whatsoever hereunder for any cause whatsoever.

Neither party shall be required to indemnify the other for any claim arising out of participating under this Agreement. Each party shall be responsible for defending its own respective entity in any action or dispute that arises in connection with or as a result of this Agreement and that each party will be responsible for bearing their own costs, damages, losses, expenses and attorney fees. Each party shall be obligated to notify the other of any claims or lawsuits received arising out of tactical team operations.

**ARTICLE NINE**  
**Administration**

It is the intention of the participants that no separate legal entity is created by this Agreement to carry out its provisions. To the extent this Agreement requires administration other than as set forth herein, it shall be administered by the governing bodies or an appointee of the governing bodies hereto acting as a joint board. No real or personal property shall be acquired by the participants because of this Agreement.

Each party shall have equal access to the records created by the other party related to incidents responded to under this Agreement.

**ARTICLE TEN**  
**Compliance with Laws**

Each participant agrees that each will comply with all applicable, federal, state and local laws, rules and regulations applicable to the respective entities and employees in connection with the performance of this Agreement.

**ARTICLE ELEVEN**  
**Approval, Duration and Termination**

1. This Agreement shall not be effective until approved by a majority vote, as required by section 119-o of the General Municipal Law, of the governing body of each party.
2. This agreement may be changed, modified or amended by written agreement of the participants, subject to the requirements of paragraph 1 of this Article.
3. This agreement shall terminate on January 1, 2020. The terms herein shall continue, however, until both legislative bodies have held their annual organizational meetings. At such meetings, this agreement shall be considered for renewal, and if approved by each legislative body, such renewal shall be made effective October 1, 2019. Either party may terminate any rights and obligations under this Agreement at any time by giving thirty days written notice of its intent to withdraw from this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement the date and year above written.

**TOWN OF WOODBURY**

**TOWN OF NEWBURGH**

By: \_\_\_\_\_  
Frank Palermo- Supervisor

By: \_\_\_\_\_

**CITY OF NEWBURGH**

By: \_\_\_\_\_

RESOLUTION NO.: 294 - 2014

OF

NOVEMBER 24, 2014

A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO ACCEPT A GRANT AND ENTER INTO A CONTRACT WITH THE  
NEW YORK STATE DIVISION OF CRIMINAL JUSTICE SERVICES  
IN CONNECTION WITH THE 2014 BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT  
PROGRAM

WHEREAS, the Justice Assistance Grant ("JAG") Program provides funds for various law enforcement agencies throughout the State of New York; and

WHEREAS, the City of Newburgh wishes to apply for the 2014 Byrne Memorial JAG, which provides funds for various important law enforcement functions as provided by the terms of the award including but not limited to street surveillance cameras, undercover vehicle availability, unmarked patrol vehicles, acquisition of an evidence management system, upgrade to the Live Scan fingerprinting system and related database compilation and access, technology and equipment, record-keeping, training and the enhancement of other important police functions; and

WHEREAS, funding in the amount of \$17,500.00 has been set aside from the 2014 Local JAG Award for the City of Newburgh; and the Police Department wishes to utilize the funds as follows:

- Network cameras and camera licenses;
- Equipment Rack and Power Distribution; and
- Installation, termination and testing of network cabling; and

WHEREAS, no City match of dollars or in-kind services is required; and

WHEREAS, this Council has determined that such grant 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 accept a grant and enter into a contract with the New York State Division of Criminal Justice Services in connection with the 2014 Byrne Memorial Justice Assistance Grant Program Award to receive funds through the County of Orange under the terms of the grant program.

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

Ayes- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy-7

ADOPTED

RESOLUTION NO.: 295- 2014

OF

NOVEMBER 24, 2014

RESOLUTION SCHEDULING A PUBLIC HEARING  
FOR DECEMBER 15, 2014 TO HEAR PUBLIC COMMENT  
CONCERNING A LOCAL LAW ADDING CHAPTER 276 ENTITLED  
"TOBACCO" TO THE CODE OF ORDINANCES  
OF THE CITY OF NEWBURGH

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning "A Local Law Adding Chapter 276 entitled 'Tobacco' and Enacting Article I entitled 'Tobacco Retail License' and Article II entitled 'Sale to Persons under Age 19' to the Code of Ordinances of the City of Newburgh"; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 15<sup>th</sup> day of December, 2014, in the 3<sup>rd</sup> Floor Council Chambers, 83 Broadway, City Hall, Newburgh, New York.

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

Ayes- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy-7

ADOPTED

295-14.

LOCAL LAW NO.: \_\_\_\_\_ - 2014

OF

\_\_\_\_\_

**A LOCAL LAW ADDING CHAPTER 276 OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH ENTITLED "TOBACCO" AND ENACTING ARTICLE I ENTITLED "TOBACCO RETAIL LICENSE" AND ARTICLE II ENTITLED "SALE TO PERSONS UNDER AGE 19"**

BE IT ENACTED, by the Council of the City of Newburgh, New York that Chapter 276 "Tobacco" be and is hereby added as follows:

**SECTION 1 - TITLE**

This Local Law shall be referred to as "A Local Law Adding Chapter 276 entitled 'Tobacco' and Enacting Article I entitled 'Tobacco Retail License' and Article II entitled 'Sale to Persons under Age 19' to the Code of Ordinances of the City of Newburgh".

**SECTION 2 - PURPOSE AND INTENT**

WHEREAS, tobacco use is the foremost preventable cause of premature death in the United States, and according to the 2014 Surgeon General Report, causes over 480,000 deaths in the United States each year; and

WHEREAS, tobacco companies sell products that are addictive and inherently dangerous, causing cancer, heart disease, and other serious illnesses; and

WHEREAS, the City of Newburgh has a substantial interest in reducing the number of individuals of all ages who use cigarettes and other tobacco products, and a particular interest in protecting adolescents from tobacco dependence and the illnesses and premature death associated with tobacco use; and

WHEREAS, an overwhelming majority of Americans who use tobacco products begin using such products while they are adolescents and become addicted to those products before reaching the age of 18 and the 2014 Surgeon General Report states that more than 3,200 young people under the age of 19 smoke their first cigarette each day in the United States; and

WHEREAS, the prevention of adolescent tobacco product use is detailed in Article 13-F of the New York State Public Health Law, known as the Adolescent Tobacco Use Prevention Act (ATUPA) which expressly prohibits the sale of tobacco products to minors; and

WHEREAS, although it is unlawful to sell tobacco products to minors, New York State Department of Health, The New York Youth Tobacco Survey 2008 finds that 8.4% middle school and 28% of high school students in the Hudson Valley Area who use cigarettes report that they usually purchase their cigarettes from a retail store; and

WHEREAS, research has found that higher tobacco retail outlet density is significantly associated with higher rates of youth smoking initiation and experimentation; and

WHEREAS, The New York State Tobacco Control Evaluation Program Tobacco Retail Outlet Density by Proximity to Schools and in Low Income Areas Orange County, New York Findings, a report by the Department of Health Behavior, Division of Cancer Prevention and Population Sciences, at Roswell Park Cancer Institute found that in 2012 of the 319 validated tobacco retail outlets located in Orange County, 110 or 34.5% are located in the Newburgh area and in Orange County, 16.3% (n=52 of 319) are located within a distance of 1,000 feet of a school; and

WHEREAS, research shows that a high concentration of tobacco outlets near schools provides our most vulnerable populations with ready access to tobacco and increases their exposure to tobacco retail marketing, which may increase their uptake of tobacco usage and creates an environment that promotes the social acceptability of tobacco use; and

WHEREAS, City of Newburgh has a substantial and important interest in reducing the illegal sale of tobacco products to minors; and

WHEREAS, studies have found a higher prevalence of current smoking at schools with more tobacco outlets within walking distance, and researchers suggest that limiting the proximity of tobacco outlets to schools may be an effective strategy to reduce youth smoking rates; and

WHEREAS, licensing laws in other communities have been effective in reducing the number of illegal tobacco sales to minors; and

WHEREAS, restricting the number and the location of tobacco retailers and the associated marketing of tobacco products within those retail stores in the City is necessary to protect the public health, safety, and welfare of our youth; and

WHEREAS, a local licensing system for tobacco retailers is necessary and appropriate to protect the public health, safety, and welfare of our residents, particularly children, and will help ensure that retailers comply with the ATUPA, other tobacco control laws, and the business standards of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED THAT, it is the intent of the City of Newburgh to implement effective measures through this Chapter to reduce the number of its tobacco retail outlets, regulate the location of its tobacco retail outlets, stop the sale of tobacco products to its youth, prevent the sale or distribution of contraband tobacco products in Newburgh, and facilitate the enforcement of tax laws and other applicable laws relating to tobacco products.

### SECTION 3 - AMENDMENT

The Code of Ordinances of the City of Newburgh is hereby amended to add new Chapter 276 entitled "Tobacco", Article I entitled "Tobacco License" and Article II entitled "Sale to Persons under Age 19" to read as follows:

#### ARTICLE I. TOBACCO LICENSE

##### § 276-1 Definitions.

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

ADMINISTRATIVE HEARING means a hearing by the City Manager or his designee.

ADULT-ONLY ESTABLISHMENT means a facility where the operator ensures or has a reasonable basis to believe (such as checking identification of any person appearing to be under the age of 26) that no person under the age of 21 is permitted entrance.

AGE-VERIFIED CUSTOMER means any individual who has presented a driver's license or other photographic identification card issued by a government entity or educational institution indicating that the individual is of Legal Age. Such identification need not be required of any individual who reasonably appears to be at least twenty-five years of age, provided however that such appearance shall not constitute a defense in any proceeding alleging a violation of this Chapter. It shall be an affirmative defense to a violation of this Chapter that the Tobacco Retailer successfully performed a Transaction Scan of an individual's identification as defined by New York Public Health Law Section 1399-cc and that a Tobacco Product or Tobacco-Related Product was provided to such individual in reasonable reliance upon such identification and transaction scan.

APPLICANT means an individual, partnership, limited liability company, corporation, or other business entity seeking a Tobacco Retail License.

CITY CLERK means the City Clerk or Deputy City Clerk.

FIRE DEPARTMENT means the City of Newburgh Fire Department including the Bureau of Fire Prevention and the Bureau of Code Compliance

LEGAL AGE means the minimum age at which individuals are permitted to legally purchase tobacco products or tobacco-related products in the City of Newburgh.

NEW TOBACCO RETAIL LICENSE means any Tobacco Retail License that is not a Renewed Tobacco Retail License.

PERSON means any natural person, company, corporation, firm, partnership, business, organization, or other legal entity.

POLICE DEPARTMENT means the City of Newburgh Police Department.

RENEWED TOBACCO RETAIL LICENSE means a Tobacco Retail License issued to an Applicant for the same location at which the Applicant possessed a valid Tobacco Retail License during the previous year.

SCHOOL means a public or private pre-kindergarten, kindergarten, elementary, middle, junior high or high school or alternative school.

TOBACCO PRODUCT or TOBACCO-RELATED PRODUCT means any manufactured product containing tobacco or nicotine, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, snus, shisha, powdered and/or dissolvable tobacco products, liquid nicotine and electronic cigarette cartridges, whether packaged or not; any packaging that indicates it might contain any substance containing tobacco or nicotine; or any object utilized for the purpose of smoking or inhaling tobacco or nicotine products. However, "Tobacco Product" or "Tobacco-Related Product" does not include any product that has been approved by the U.S. Food and Drug Administration, pursuant to its authority over drugs and devices, for sale as a tobacco use cessation product or for other medical purposes and is being marketed and sold solely for that approved purpose.

TOBACCO RETAILER means any Person who sells or offers for sale any Tobacco Product or Tobacco-Related Product or any employee of such a Person.

TOBACCO RETAIL LICENSE means a license issued by the City Clerk to a Person to engage in the retail sale of Tobacco Products or Tobacco-Related Products in the City of Newburgh.

§ 276-2 Tobacco Retail License

A. Starting March 1, 2015, no Person shall sell, offer for sale, or permit the sale of Tobacco Products or Tobacco-Related Products to consumers in the City of Newburgh, without a valid Tobacco Retail License issued by the City Clerk. A Tobacco Retail License is not required for a wholesale dealer who sells Tobacco Products or Tobacco-Related Products to retail dealers for the purpose of resale only and does not sell any Tobacco Products or Tobacco-Related Products directly to consumers.

B. All Tobacco Retail Licenses issued pursuant to this section are nontransferable and non-assignable and are valid only for the Applicant and the specific address indicated on the Tobacco Retail License. A separate Tobacco Retail License is required for each address at which Tobacco and Tobacco-Related Products are sold or offered for sale. Any change in business ownership or business address requires a new Tobacco Retail License.

C. All Tobacco Retail Licenses issued pursuant to this section are valid for no more than one year and expire on February 28 following the effective date of the Tobacco Retail License. As set forth in Section 276-8, a Tobacco Retail License may be revoked by the Police Department prior to its expiration date for cause.

D. Applications for a New Tobacco Retail License shall be made on a form specified by the City Clerk, at least 30 days prior to March 1, 2015. The City Clerk may require such forms to be signed and verified by the Applicant or an authorized agent thereof.

E. Applications for a Renewed Tobacco Retail License shall be made on a form specified by the City Clerk at least 30 days prior to the expiration of the current license. The City Clerk may require such forms to be signed and verified by the Applicant or an authorized agent thereof.

F. Applications for a new or renewed Tobacco Retail License shall be accompanied by the fee set forth in Section 276-7.

G. The issuance of any Tobacco Retail License pursuant to this Chapter is done in the discretion of the City of Newburgh and shall not confer upon licensee any property rights in the continued possession of such a license.

#### § 276-3 Issuance of Licenses

A. Upon the receipt of a completed application for a New or Renewed Tobacco Retail License and the fee required by Section 276-7, the Police Department and the Fire Department upon the showing of proper credentials and in the discharge of his duties, may enter to inspect the location at which tobacco sales are to be permitted. The Police Department also may ask the Applicant to provide additional information that is reasonably related to the determination of whether a license may issue.

B. At the request of the Fire Department, the Corporation Counsel is authorized to make application to the City Court of the City of Newburgh or any other court of competent jurisdiction for the issuance of a search warrant to be executed by a police officer in order to conduct an inspection of any premises believed to be subject to this chapter. The municipal officer may seek a search warrant whenever the owner, managing agent, or occupant fails to allow inspections of any dwelling unit contained in the rental property where there is a reasonable cause to believe that there is a violation of this chapter, the New York Uniformed Fire Prevention Building Code Act, or of any code of the City of Newburgh or any applicable fire code.

C. No Tobacco Retail License shall be issued by the City Clerk to an Applicant if one or more of the following bases for denial exists:

- (1) The information presented in the application is incomplete, inaccurate, false, or misleading;
- (2) The fee for the application has not been paid as required;

- (3) The Applicant does not possess a valid certificate of registration as a tobacco retail dealer from the New York State Department of Taxation and Finance at the location for which an application is requested;
- (4) The Applicant seeks a New Tobacco Retail License at a location for which this Chapter prohibits the issuance of a New Tobacco Retail License;
- (5) The Applicant has previously had a Tobacco Retail License issued under this Chapter revoked;
- (6) A Tobacco Retail License issued under this Chapter for the same address or location previously has been revoked;
- (7) The Applicant has been found by a court of law or administrative body to have violated any federal, state or local laws pertaining to (a) trafficking in contraband Tobacco Products or illegal drugs; (b) the payment or collection of taxes on Tobacco Products; (c) the display of Tobacco Products or of health warnings pertaining to Tobacco Products; or (d) the sale of Tobacco Products;
- (8) The Applicant is not in compliance with all applicable New York State Uniform Building Code, Fire Prevention Code, Property Maintenance Code, Electrical Code and Plumbing Code and the Code of Ordinances of the City of Newburgh; and
- (9) The Applicant has not paid to the City of Newburgh outstanding fees, fines, penalties, or other charges owed to the City of Newburgh.

**§ 276-4      Limitation on Number of Licenses Issued**

A. In the first year subsequent to the effective date of this Chapter, a Tobacco Retail License shall only be issued to an Applicant for the same location at which the Applicant possessed a valid certificate of registration as a tobacco retail dealer from the New York State Department of Taxation and Finance 180 days prior to the effective date of this Chapter.

B. Except for the first year subsequent to the effective date of this Chapter, the total number of New and Renewed Tobacco Retail Licenses issued by the City Clerk in a given year shall not exceed the number of Tobacco Retail Licenses that were issued in the previous year.

C. Starting on March 1, 2016, the City Clerk shall issue only one New Tobacco Retail License for every two Tobacco Retail Licenses that were revoked during the previous year or for which no renewal application was submitted.

D. Whenever the number of valid applications for a New Tobacco Retail License exceeds the number of New Tobacco Retail Licenses that may be issued under this Section, licenses shall be granted using the following priorities:

- (1) New Tobacco Retail Licenses shall be granted, first, to any Applicant who will sell Tobacco Products or Tobacco-Related Products at an Adult-Only Facility.
- (2) New Tobacco Retail Licenses shall be granted, second, to any Applicant that held a valid Tobacco Retail License in the prior year for an establishment within 1,000 feet of the nearest property line of a school and who is not seeking renewal of that license. If there are more valid applications from such Applicants for New Tobacco Retail Licenses than the number of available New Tobacco Retail Licenses, the New Tobacco Retail Licenses shall be granted to those Applicants by lottery.
- (3) Any remaining available New Tobacco Retail Licenses shall be granted to eligible Applicants by lottery.

**§ 276-5          Certain Locations**

- A. No Tobacco Retail License shall be issued to any seller of tobacco products or tobacco-related products that is not in a fixed, permanent location.
- B. With the exception of the first year subsequent to effective date of this Local Law, no New Tobacco Retail License shall be issued to any establishment within 1,000 feet of the nearest point of the property line of a School.

**§ 276-6          Required License Display**

- A. Any Tobacco Retail License issued pursuant to this Local Law shall be displayed prominently at the location where the Tobacco Products or Tobacco-Related Products are sold so that it is readily visible to customers.
- B. Selling, offering for sale, or permitting the sale of any Tobacco Product or Tobacco-Related Product without a valid Tobacco Retail License displayed in accordance with Section 276-6(A) constitutes a violation of this Local Law.

**§ 276-7          Required Fee**

- A. Each application for a New or Renewed Tobacco Retail License shall be accompanied by a fee as set forth in Chapter 163 "Fees" of the Code of Ordinances of the City of Newburgh.
- B. Starting two years after the effective date of this Chapter, the City Council may, on an annual basis, modify the fee required pursuant to Section 276-7(A). The fee shall be calculated so as to recover the cost of administration and enforcement of this Chapter, including, for example, issuing a license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this Chapter. All fees and interest upon proceeds of fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law.

§ 276-8 Revocation or Suspension of Licenses

Any Person who is found to be in violation of the terms and conditions of this Local Law or for violation of any federal, state, or local law or regulation pertaining to (a) the display of Tobacco Products or Tobacco-Related Products or of health warnings pertaining to Tobacco Products or Tobacco-Related Products, or (b) the sale of Tobacco Products or Tobacco-Related Products shall have their City of Newburgh License suspended for up to 3 months for a first offense, 6 months for a second offense, or revoked for a third offense, after notice and an opportunity to be heard at an administrative hearing before the City Manager or his designee.

§ 276-9 Violations and Enforcement

A. The Police Department shall enforce the provisions of this Chapter. The Police Department and the Fire Department may conduct periodic inspections in order to ensure compliance with this Chapter. Nothing in this Chapter shall preclude the Fire Department and its Bureau of Fire Prevention and Bureau of Code Compliance from enforcing the New York State Uniform Fire Prevention and Building Code in accordance with all other New York State and local laws, rules and regulations.

B. In addition to the penalties provided for in Section 276-8, any Person found to be in violation of this Chapter shall be guilty, upon conviction, of an offense punishable by a fine of not less than \$500.00 for the first violation; not more than \$1,000 for a second violation; and not more than \$2,000.00 for the third and each subsequent violation within a two-year period or by imprisonment for a period not exceeding 1 year, or by both such fine and imprisonment. Each day on which a violation occurs shall be considered a separate and distinct violation.

ARTICLE II. SALE TO PERSONS UNDER AGE 19

§ 276-10 Prohibitions and proof of age

A. Any person operating a place of business wherein tobacco or tobacco-related products are sold or offered for sale is prohibited from selling such tobacco or tobacco-related products to individuals under nineteen (19) years of age.

B. Sale of such tobacco or tobacco-related products in such places shall be made only to an individual who demonstrates, through a driver's license or other photographic identification card issued by a government entity or educational institution that the individual is at least nineteen (19) years of age. Such identification need not be required of any individual who reasonably appears to be at least twenty (26) years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of tobacco or tobacco-related products to an individual under nineteen (19) years of age.

§ 276-11 Posting of sign

Any person operating a place of business wherein tobacco or tobacco products are sold or offered for sale shall post in a conspicuous place, a sign upon which there shall be imprinted the following statement:

SALE OF CIGARETTES, CIGARS, PIPE TOBACCO, SNUFF, CHEWING TOBACCO, DIPPING TOBACCO, BIDIS, SNUS, SHISHA, POWDERED AND/OR DISSOLVABLE TOBACCO PRODUCTS, LIQUID NICOTINE AND ELECTRONIC CIGARETTE CARTRIDGES TO PERSONS UNDER 19 YEARS OF AGE IS PROHIBITED UNDER PENALTY OF LAW.

Such sign shall be printed on a white card in red capital letters at least ¾ inch in height.

§ 276-12 Enforcement; penalties for offenses

- A. Any person who shall violate any of the provisions of this Article or fail to comply therewith or who shall violate or fail to comply with any order made thereunder shall be punished as provided in § 276-9 for violation of this Chapter of the Code of Ordinances of the City of Newburgh.
- B. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects. Each day that prohibited conditions exist shall constitute a separate offense.
- C. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

§ 276-13 Severability

The provisions of this Local Law are declared to be severable, and if any section or subsection of this Chapter is held to be invalid, such invalidity shall not affect the other provisions of this Chapter that can be given effect without the invalidated provision.

SECTION 4 - VALIDITY

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

SECTION 5 - EFFECTIVE DATE

This Local Law and shall be effective on March 1, 2015 and upon the filing in the Office of the New York State Secretary of State in accordance with the provisions of New York State Municipal Home Rule Law.

DRAFT

RESOLUTION NO.: 296 - 2014

OF

NOVEMBER 24, 2014

A RESOLUTION ADOPTING THE BUDGET  
FOR THE FISCAL YEAR 2015

**WHEREAS**, the City Manager, on October 14, 2014, submitted to the City Council of the City of Newburgh, New York, a detailed estimate, including the "Manager's Proposed Fiscal Year 2015 Budget" and the "Manager's Proposed Personnel Analysis Book" of same date, of revenues and expenditures necessary and proper for all municipal activities accounted for in the General, Water, Sewer, Sanitation and Self-Insurance Funds during the fiscal year of 2015; and

**WHEREAS**, such detailed estimates has been filed in the City Clerk's Office as required by the Charter of the City of Newburgh so that said estimates may be inspected by anyone interested, and a public hearing was held on November 10, 2014 in reference to said estimates for any item thereof; and

**WHEREAS**, the Council has made such changes, alteration, corrections and amendments to the said budget as it appears to said Council to be proper, including incorporating such changes as deemed necessary in response to the New York State Office of the State Comptroller's budget review report #B6-14-25 dated November 14, 2014.i

**NOW, THEREFORE, BE IT RESOLVED**, that the Council of the City of Newburgh, New York does hereby approve, determine and adopts the budget for the year 2015 as appears in the annexed "City Council Adopted Fiscal Year 2015 Budget" on November 24, 2014; and

**BE IT FURTHER RESOLVED**, that the sum of \$19,462,564 be levied and raised on account of City taxes for the year 2015 on all the taxable property in the City of Newburgh according to the valuation of the last assessment roll of said City for State, County and City purposes, being \$527,764,479 for Homestead Properties and \$366,786,367 for Non-Homestead Properties, including special franchise assessments, in accordance with the Real Property Tax Law of the State of New York; and

**BE IT FURTHER RESOLVED**, that the City Collector is authorized and directed to cause said amount of \$19,462,564 to be extended and apportioned on said assessment roll at \$19.228 for Homestead properties and \$25.394 for Non-Homestead Properties on every \$1,000 of taxable real property, including special franchise assessments; and

**BE IT FURTHER RESOLVED**, that the required sewer, water and sanitation fees for the taxable and non-taxable properties for the year 2015 is as set forth in Section 163-1 of the City Code of Ordinances; and

**BE IT FURTHER RESOLVED**, that the City Collector is authorized and directed to cause any and all amounts reported as omitted taxes to be levied against the real property subject to said omitted taxes and to cause the amounts reported by the City Collector as overdue and unpaid water rents, sewer rents and sanitation user fees, and unpaid charges of property abatement, with the interest and penalties thereon, to be added to the tax levied against the real property for which or in connection with which such water, sewer and sanitation was provided; and

**BE IT FURTHER RESOLVED**, that said City tax roll shall be delivered to the City Collector on the 2nd day of January 2015, signed by the City Manager and under the seal of the City, directing and commanding said City Collector to receive and collect in the manner provided by the law for the levying and collecting of County taxes by City Collectors, these several amounts in the roll specified as against the persons or property therein mentioned and described, and that said warrant shall direct the City Collector to collect said assessments in four equal installments as follows:

The first installment commencing on the 2nd day of January 2015, and collect up to and including the 6th day of February 2015, without fees, and to add 5% from the 7th day of February 2015, up to and including the 1st day of April 2015.

The second installment commencing on the 1st day of March 2015, and collect up to and including the 6th day of April 2015, without fees, and to add 5% from the 7th day of April 2015, up to and including the 1st day of June 2015.

The third installment commencing on the 1st day of May 2015, and collect up to and including the 5th day of June 2015, without fees, and to add 5% from the 6th day of June 2015, up to and including the 30th day of July, 2015.

The fourth installment commencing on the 1st day of July 2015, and collect up to and including the 7th day of August 2015, without fees, and to add 5% from the 8th day of August 2015, up to and including the 1st day of October, 2015.

In addition thereto, for all late payments remaining unpaid for ninety (90) days after the first date designated for the collection of same, there shall be added an additional penalty in the amount of 10% per annum computed from said first date of collection; and

**BE IT FURTHER RESOLVED**, that the amounts, when collected, be deposited daily with the Key Bank of NY, N.A., Chase, TD Bank, Sterling National Bank, or in any of the said

banks in compliance with the requirements set forth in the Newburgh Fiscal Recovery Act by said City Comptroller and credited and applied to the several respective funds and accounts as stated in the Adopted Budget for taxes now confirmed and approved by said City Council, including credit balances heretofore appropriated.

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

Ayes- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy-7

ADOPTED

RESOLUTION NO.: 297 - 2014

OF

NOVEMBER 24, 2014

A RESOLUTION AUTHORIZING THE TRANSFER OF REAL PROPERTY  
KNOWN AS 36 DUBOIS STREET (SECTION 30, BLOCK 1, LOT 43)  
TO THE NEWBURGH COMMUNITY LANDBANK AT PRIVATE SALE

WHEREAS, the Newburgh Community Land Bank was incorporated pursuant to Article 16 and Section 402 of the Not-for-Profit Corporation Law and is a Type C Not-For-Profit corporation as defined in Section 201 of the Not-For-Profit Corporation Law; and

WHEREAS, the mission of the Newburgh Community Land Bank is to stimulate planning, economic development and neighborhood revitalization by acquiring, managing and disposing of vacant, abandoned and underutilized properties in a responsible manner in collaboration with community stakeholders, developers and other governmental agencies in order to improve the quality of life in Newburgh; and

WHEREAS, the Newburgh Community Land Bank is ready to acquire City-owned properties consistent with its mission to stimulate planning, economic development and neighborhood revitalization by acquiring, managing and disposing of vacant, abandoned and underutilized properties in a responsible manner in collaboration with community stakeholders, developers and other governmental agencies in order to improve the quality of life in Newburgh; and

WHEREAS, the Newburgh Community Land Bank has requested real property known as 36 Dubois Street, more accurately described as Section 30, Block 1, Lot 43 on the official Tax Map of the City of Newburgh; and

WHEREAS, this Council has determined that transferring title to 36 Dubois Street (Section 30, Block 1, Lot 43) is in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh, New York that the sale of the following property to the indicated purchaser be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser; and

<u>Property address</u>	<u>Section, Block, Lot</u>	<u>Purchaser</u>
36 Dubois Street	30 - 1 - 43	Newburgh Community Land Bank

BE IT FURTHER RESOLVED, that the City Council of the City of Newburgh the properties are to be transferred to the Newburgh Community Land Bank subject to the Disposition Policies of the Newburgh Community Land Bank annexed hereto and made part hereof as Schedule "A"; 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 Angelo moved and Councilwoman Abrams seconded that the resolution be adopted.

Ayes- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy-7

ADOPTED

RESOLUTION NO.: 298-2014

OF

NOVEMBER 24, 2014

A RESOLUTION APPOINTING DEBORAH DRESSER AND  
REAPPOINTING PHILIP PRINZIVALLI AND GAIL FULTON TO THE  
CONSERVATION ADVISORY COUNCIL FOR TWO YEAR TERMS

WHEREAS, the City Council of the City of Newburgh adopted Local Law No. 1-2013 of August 19, 2013 which added new Chapter 159 of the City Code of Ordinances entitled "Conservation Advisory Council"; and

WHEREAS, Chapter 159 provides for a seven-member Conservation Advisory Council, the members of which, when first appointed, three shall hold office for a term of one year and four for terms of two years; and

WHEREAS, the one-year terms of the initial appointees will expire on November 30, 2014 and it is necessary to appoint individuals to a new two-year term;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the following individuals be and are hereby appointed to the Conservation Advisory Council for a two (2) year term commencing on December 1, 2014 and ending on November 30, 2016; and

Gail Fulton  
Philip Prinzivalli  
Deborah Dresser

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

Ayes- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy-7

ADOPTED

RESOLUTION NO.: 299 - 2014

OF

NOVEMBER 24, 2014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) FOR THE LIBERTY STREET AND GRAND STREET COMBINED SANITARY SEWER IMPROVEMENTS PROJECT, DECLARING THE PROJECT TO BE A TYPE II ACTION AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL SEQRA DOCUMENTS

WHEREAS, the City of Newburgh has experienced failures in the combined sanitary sewer system in the vicinity of Liberty Street and Grand Streets which has resulted in repeated sewer backups to residences and deteriorated sewer mains on Liberty and Grand Streets; and

WHEREAS, the City of Newburgh proposes to separate the combined sewer system and install new sewer and stormsewers for Liberty, Grand, Clinton and Montgomery Streets by removing approximately 2,600 feet of existing combined sewer and installing approximately 2,600 feet of new sanitary sewer and 3,000 feet of new stormsewers, along with new catchbasin structures and sanitary sewer manholes, in previously disturbed surfaces (the "Project"); and

WHEREAS, the City of Newburgh intends to prepare documents necessary to complete a funding award through the Environmental Facilities Corporation; and

WHEREAS, the City desires to comply with the New York State Environmental Quality Review Act ("SEQRA") and the regulations contained within 6 NYCRR Part 617 (the "Regulations") with respect to the Project; and

WHEREAS, under Sections 6.15(c)(1) and 6.15(c)(5) of the SEQRA Regulations, the rehabilitation or replacement of existing gravity sewer in the form of maintenance and repair involving no substantial changes in an existing structure or facility and street and right-of-way openings for the purpose of repair or maintenance of existing utility facilities is defined as a Type II Action, and therefore, the Project is classified as a categorical exclusion to SEQRA;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York the Project constitutes a "Type II" Action, as the quoted term is defined in the SEQRA Regulations and that no further review for SEQRA purposes is required; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and hereby is authorized to sign and file any/and all other documents that may be necessary in connection with this SEQRA classification for the Project.

Michelle Kelson explained that this pertains to the sewer improvements project that is underway. The actual installation, repair and maintenance of existing public utilities falls under DEC's State Environmental Quality Review Act (SEQRA) regulations. A Type II Action automatically deems that there is no significant impact on the environment. When you type the action as *Type II*, then there is generally no further work that needs to be done for the purpose of environmental review. She pointed out that your funding agencies will want you to have a document in place though. So we have added this resolution to the file for purposes of our grant and zero-interest loan.

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

Ayes- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy-7  
ADOPTED

**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

Ben Weiss urged the council to take action on the case involving the Newburgh Four, as depicted in the televised documentary *The Newburgh Sting*. He realizes that the council's primary goal is taking care of governmental services for our city. But you took an oath to uphold the Constitution of the United States. Weiss feels that this is clearly a case in which the Constitution has been trampled on. There are many issues and concerns with the case. He pointed out the damaging effects the case has on our city. A similar thing happened in Albany, in which two individuals were entrapped by the federal government. Perhaps we could pass a resolution similar to the one in the City of Albany, to essentially "review the convictions of Muslims who are preemptively prosecuted."

Humberto Romero-González spoke on behalf of Community Voices Heard. He mentioned that Newburgh Mental Health Clinic is at risk of being closed. He presented a petition for signatures to keep the clinic open. Closing the clinic would really impact the community, and he would like our support.

Leonard Lee, head coach and director of Hook Elite Boxing Club, stated that there is no heat in the building. He has complained several times. Children as young as six years old participate at the gym.

City Manager Michael Ciaravino explained that they are in the process of obtaining the three (3) required bids so that they are able to proceed on the work as quick as possible. He spoke to Lee over the past weekend, and he hopes to have some action taken within the next seven (7) days, even though the holiday may delay us. The entire HVAC system needs to be replaced. We are not asking Lee to move the boxing club until the work is completed. The work entails a replacement of the unit only.

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

## FURTHER COMMENTS FROM THE COUNCIL

Councilwoman Abrams stated that the budget process was a great learning experience for her. She is looking forward to doing it in a more efficient and transparent manner. She wished everyone a Happy Thanksgiving.

Councilwoman Angelo wished everyone a Happy Thanksgiving. She brought in a large box of chocolates for everyone's enjoyment.

Councilman Brown reminded the taxpaying citizens that there will be an increase in taxes this year, even if their assessment remains the same. A person will see a slight increase on the tax bill. If the assessment is increased, then you will see a larger increase in taxes. If the assessment is reduced, then you will not see any increase. He wanted everyone to be aware of this so that there are no secrets when they receive their bills. He wished everyone a happy and healthy holiday, and thanked everyone for coming out tonight.

Councilwoman Holmes thanked everyone for coming out. She thanked everyone for their patience with the budget process. She would like to see some policy changes implemented, so that the council receives the budget as early as September. Transparency is also very important to Holmes. As a newbie, she feels that they did very well scrambling and ultimately saving the city \$400K. She thanked the department heads for all of their sacrifices. Second, she hopes the council supports the resolution that Mr. Weiss mentioned. We have a commitment to prevent things from happening if we can help it. Also she supports the Newburgh Mental Health Clinic. There are a lot of people in our community that deal with mental health concerns. We do not need to close *any* mental health facility located in our community. We need them here to help us. She wished everyone a Happy Thanksgiving.

Councilwoman Lee wished everyone a happy and healthy holiday. Next on the agenda she would like to discuss black economic development and infrastructure, which she has affectionately termed BECKY. Lee stated that we need to talk about how we are going to fix the problems in our city, and how we plan to get the money to do it. Hopefully with some suggestions we can sponsor the legislation to move forward on it.

Councilwoman Mejia thanked everyone for coming out. In the spirit of thanksgiving, she is thankful for city staff, department heads and the rest of the council board. The budget season has been a learning experience. She was very pleased to see how department heads came together at the Ninth Hour to work collaboratively. Mejia hopes that the feeling of spirit and stress exhibited in that Ninth Hour can translate into a work plan for 2015. Next she updated us on

Chambers Street repair work. The street is still closed. We really appreciate the continued patience of the residents and businesses on that block, but she realizes that their patience is running thin. She asked whether we could open up a lane in the area. She understands that there is a safety issue involved, but we really need to move on it quickly. She does not want to start 2015 with the road still closed. Last, she commented about the parks and recreation, and the quality of life issues for our children and families. Rubber mats were replaced at Audrey Carey Park, thus improving the safety of our children. Also Tyrone Crabb Park continues in its construction phase. She encouraged everyone to drive by the area. It is looking great. This is a testament to the commitment of city staff and the things we can accomplish when we all work together. Mejia stated that she has a lot to be thankful.

Mayor Kennedy thanked city staff, the council and everyone for working as hard as they did on the budget. It has been an arduous process. The fact that city staff reduced the budget by \$800K before the council received it, was a tremendous feat. Plus we kept the budget level for three years prior to that. We really do have to work on economic development in our city, which is the other side of the equation. Second, she mentioned the mental health clinic. She has been in touch with the director. They would like to set up a community meeting with CVH. Kennedy pointed out that it is the State run mental health facility. There are other mental health organizations in our community. We can't lose mental health services for the people of this city, because there is such a need for it. She will let everyone know the date of the anticipated meeting. Next, she pointed out that she helped sponsor *The Newburgh Sting* at the library. This was an atrocious travesty of justice that happened, and we have to make sure our people in Newburgh are not caught up in something like that again. Kennedy commented that the documentary was very hard to watch. Next, she agreed that something needs to be done with Chambers Street. Shapiro's Furniture Store has been in Newburgh for decades. The owner can't get his trucks in and out for deliveries. This has been going on since September. We need to sit down with him to discuss alternate street options, because his business is suffering. From what she understands, it has something to do with a loose wall.

Chief Vatter explained to the council that the connections were not made correctly between the brick portion that was originally there and the finished portion of the wall. The collapse potential is all the way across the street. The building owner has been in, but he hasn't started the work. We want to tread carefully on the matter as far as how much we want to commit the City of Newburgh to it. If we do a certain amount of work, then we could end up getting all of the work. If it becomes a nuisance issue that affects business operations then it could have legal implications.

Mayor Kennedy stated that we need to bring in the owner and do some problem solving and partner with him. Leaving the street blocked off is not an option. She suggested that they set up a meeting between the owner, the business owner and various city departments and see if we can come up with a solution.

**There were no further comments.**

## EXECUTIVE SESSION

Councilwoman Abrams moved and Councilwoman Lee seconded that the council enter into an executive session at 8:30 P.M. to discuss matters pertaining to the financial and credit history of a corporation.

Ayes- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy-7  
CARRIED

Councilwoman Abrams moved and Councilwoman Angelo seconded that the council exit the executive session at 9:50 P.M.

Ayes- Councilwoman Abrams, Councilwoman Angelo, Councilman Brown, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy-7  
CARRIED

## ADJOURNMENT

There being no further business to come before the council, the meeting adjourned at 9:50 P.M.

Respectfully Submitted,  
KATRINA COTTEN  
DEPUTY CITY CLERK