



City of Newburgh Council Work Session

6:00 pm

January 20, 2011

AGENDA

1. Procedural Items related to the City Council meeting on January 24, 2011:
 - a. Minutes of the meeting of January 10, 2011
 - b. Notices of Claim:
 - Trevor Caine v. City of Newburgh
 - Valerie Jenkins v. City of Newburgh
 - c. Black History Month is proclaimed
2. Planning and Development/Real Estate:
 - a. Presentation by Safe Harbors on the Hudson requesting a PILOT for the project located on the westerly side of Liberty at Broadway
 - b. Presentation by Andy Cavaluzzi requesting a PILOT for the project on the easterly side of Liberty Street at Broadway
 - c. (Res. 17-2011) CDBG Advisory Board member appointments
3. Grants/Contracts/Agreements/Settlements:
 - a. (Res. 18-2011) Renewal of an agreement with Hudson Valley Datanet (D/B/A Lighttower Fiber Network) to provide internet and wide area network computer services for all City departments at a cost of \$3,700 per month; \$800 savings per month than previous contract
 - b. (Res. 19-2011) Amendment to the 2010 budget to reflect the revenues and expenditures associated with the implementation of the Operation Impact VII Grant
 - c. (Res. 20-2011) Authorization to apply for a grant of up to \$1,000,000 from the United States Department of Homeland Security.
 - d. Memo regarding the amendment to agreement with Stantec for the improvements to First Street fishing pier – Craig Marti
 - e. Memo regarding the Newburgh Water Quality Improvement Grant from the Department of State for the conduct of a combined sewer overflow study – Craig Marti
4. Discussion Items:
 - a. February Council meeting schedule
 - b. Rules of Conduct and council meeting procedures/Rules of Order and Procedures
 - c. Goals and Objectives 2011

5. Finance Department:

- a. Statement of monthly cash report
- b. (Res. 21) Acceptance of donations for the July 4, 2011 fireworks

6. Executive Session:

- a. Settlement of Litigation

RESOLUTION NO.: 17 - 2011

OF

JANUARY 24, 2011

A RESOLUTION APPOINTING MEMBERS
TO THE COMMUNITY DEVELOPMENT BLOCK GRANT ADVISORY COMMITTEE

WHEREAS, the City of Newburgh is awarded Community Development Block Grant ("CDBG") funds by the Department of Housing and Urban Development ("HUD") to support community development projects; and

WHEREAS, it is appropriate in keeping with the rules and regulations of HUD to appoint a committee to give guidance and advice with respect to the expenditure of CDBG funds for community development projects; and

WHEREAS, pursuant to Resolution No. 278-2010 of December 13, 2010 the membership of the CDBG Advisory Committee shall consist of the following nine (9) members:

- Four (4) members, at least two (2) of whom represent the low income community, on the basis of their knowledge and interest in housing, homeless needs, disability rights, youth services, seniors and social services.
- Three (3) professional practitioners on the basis of their expertise in the areas of housing, homeless needs, disability rights, youth services, seniors and social services.
- One (1) Member of the City Council.
- One (1) City employee who is a staff member of the Department of Planning and Development.

WHEREAS, it is appropriate to appoint members to such CDBG Advisory Committee;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the following individuals be and are hereby appointed as new members to the CDBG Advisory Committee, effective immediately:

_____ - City Council Member
_____ - Community Member

BE IT FURTHER RESOLVED, the following members hereby remain to serve as members to the Community Block Grant Advisory Committee

Cari Bailey - Professional Practitioner
Mario Cipollone - Professional Practitioner
Torrance Harvey - Community Member
Timothy Hayes - Community Member
Jenny Loeb - Professional Practitioner
Ian MacDougall - Employee staff member of Department of Planning
and Development
Brenda McPhail - Community Member

3a

Evans, Elizabeth

From: Kurcon, Glenn A.
Sent: Friday, January 14, 2011 1:40 PM
To: Evans, Elizabeth
Subject: RE: Lightower Fiber Networks renewal

I've been advised that there won't be any staff added at the Armory so we've deleted that site from the contract. Here's a revised summary:

I would like to request that the attached contract renewal be added to the agenda for the work session that will be held Jan. 20.

This renewal is for our internet and wide area network services and is for a term of 36 months-the original agreement expired last March. The renewal agreement includes an upgrade in service to double our internet capacity and relocating our services from City Hall to the Police Department. There is also a clause written into the renewal that states the City is able to drop services at 123 Grand Street should the City decide to vacate that location without incurring any penalties or additional fees. All of this is being provided at a total monthly cost of \$3700/mo, which is \$800 less per month than our current rate of \$4500/mo. Total annual savings is projected to be \$8600, after a one time no-recurring installation charge of \$1000. After the first year savings would be \$9600. This service has been budgeted for under the A.1680.448 budget.

I have attached the service order which includes change details in the comments sections, as well as a copy of the original master agreement between the City and Lightower (formerly Hudson Valley DataNet).

Please let me know if you need any additional information

RESOLUTION NO. 18-2011

OF

JANUARY 24, 2011

A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE AN AGREEMENT ON BEHALF OF THE CITY OF NEWBURGH
WITH HUDSON VALLEY DATANET D/B/A LIGHTTOWER FIBER NETWORK
TO PROVIDE WIDE AREA NETWORK ("WAN") COMPUTER NETWORKING
AND INTERNET SERVICES FOR ALL CITY DEPARTMENTS
AT A COST OF \$3,700.00 PER MONTH FOR A TERM OF THIRTY SIX (36) MONTHS

WHEREAS, by Resolution No. 250 - 2006 of December 18, 2006, the City of Newburgh entered in to an agreement with Hudson Valley Datanet Services to provide Wide Area Network ("WAN") and internet services including related equipment at all locations required by the City, scalable bandwidth for all WAN and internet connections and with built-in redundancies to protect against WAN outages, network monitoring and help desk services and on-site support, all to enhance the capacity of the City to employ advanced computer and telecommunications technology to meet its current and future operational demands; and

WHEREAS, such enhanced functioning will require, among other things, an increased available bandwidth, increased network capacity, significantly decreased user downtime, a guaranteed level of service, and the ability to combine voice and data networks which will reduce telephone system costs and reduce the cost of maintenance of telephone infrastructure; and

WHEREAS, such agreement will be expiring and the City of Newburgh wishes to renew such agreement for a term of thirty six (36) months; and

WHEREAS, the renewal agreement includes an upgrade in service to double the City's internet capacity and will relocate the services from City hall to the Police Department; and

WHEREAS, said renewal agreement is being provided at a total monthly cost of \$3,700.00; and

WHEREAS, by renewing said lease the City will be paying \$3,700.00 per month, which is \$800.00 less per month than the current rate of \$4,500.00 projecting an annual savings of \$8,600.00 for the first year, and after a one-time non-recurring installation charge of \$1,000.00 after the first year the savings is projected to be \$9,600.00 yearly; and

WHEREAS, such funding for this service will be derived from the A.1680.0448 budget;

WHEREAS, the City Council has determined that renewing such contract is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, that the City Manager be and he is hereby authorized to enter into an agreement with Hudson Valley Datanet DBA Lightower Fiber Networks to provide Wide Area Network ("WAN") and internet services for all City departments in substantially the form attached hereto with such other provisions as the Information Services Manager and/or the Corporation Counsel may require, at a cost of \$3,700 per month for a term of thirty six (36) months.



Hudson Valley DataNet Customer Service Agreement

This Agreement (Agreement) is entered into by and between Hudson Valley DataNet, LLC ("DataNet"), a Delaware limited liability company located at 900 Corporate Blvd, Newburgh, NY 12550 and _____, with its principal place of business located at _____ ("Customer"), for the purpose of DataNet providing Customer with the Telecommunications Services (Services) set forth and outlined in one or more Service Order(s) attached as Appendix A, which is made a part hereof by this reference as fully as though set forth herein at length. DataNet and the Customer are each referred to as a party ("Party") and together as parties ("Parties") to this Agreement.

- 1. Period of Agreement:** This Agreement is effective as of the date signed by the Customer ("Effective Date") and shall remain in full force and effect for a period of ___ months ("Initial Term") from the Service Commencement Date as defined in Section 7 and shall thereafter be automatically renewed for a period of one (1) year ("Renewal Term"), unless written notice is received by DataNet a minimum of thirty (30) days prior to the expiration date of the Agreement. The term ("Term") of this Agreement shall include the Initial Term, the Renewal Term and any period after the end of the Initial Term or Renewal Term as per the following sentence. In the event the Service Commitment Period of an additional Service Order(s) extends beyond the period of the Initial Term or the Renewal Term of the Agreement or Service continues to be provided after the Initial Term or Renewal Term without a Service Order extending the term, the Services for such Service Order(s) will remain in effect for the agreed upon Service Commitment Period, subject to all the terms and conditions of this Agreement as if it were still in effect with respect to the Services.
- 2. Privacy:** The terms of this Agreement are the proprietary information of both DataNet and the Customer, and are not to be disclosed under any circumstances without the written permission of *both* Parties, unless so required by law.
- 3. Assignment:** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns. Upon written notice, DataNet may assign this Agreement to any subsidiary, parent or to an entity affiliated with DataNet, or to DataNet's successor pursuant to any reorganization or merger of its business, or pursuant to any sale or transfer of all or substantially all of its assets. No other assignment by DataNet will be permitted without the prior written consent of the Customer, which consent shall not be unreasonably withheld or denied.
- 4. Service:** DataNet will provide to Customer the use of the Services as ordered by Customer on a DataNet Service Order shown in Appendix A (Service Order). Services will be established in accordance with the Provisioning and Installation process set forth in Appendix B (Provisioning and Installation). Customer may use the Services for all

lawful telecommunications purposes, but Customer shall in no event be deemed to have a greater right to use the Services than that which DataNet may legally provide under applicable Federal and State laws and regulations. In the event that Service includes Internet access service, Customer will execute and abide by the Accepted Use Policy (AUP), as shown in Appendix E.

- 5. Service Charges:** Customer agrees to pay all monthly recurring charges (MRC), non-recurring charges (NRC), taxes, fees and other similar charges legally entitled to be collected by DataNet as a direct result of DataNet's provision and/or arrangement for Service to Customer under a Service Order that arise out of Customer's use of the Services and any Third Party Services secured by DataNet for the Customer. These monthly recurring and non-recurring charges are set forth in each Service Order as listed in Pricing Terms and Length of Agreement section of Appendix A. Unless notified by the other Party at least 30 days prior to the end of the term of a Service Order that the Service will be disconnected, DataNet will automatically renew the Service Order for a term of twelve (12) months.

Charges listed in Pricing Terms and Length of Agreement section of Appendix A do not include applicable fees and charges such as access or egress (or related) charges imposed by third parties; taxes, tax-related or tax-like surcharges; or other similar charges. Customer agrees to pay all additional charges, to the extent applicable, in addition to the charges set forth in this Agreement.

- 6. Invoice:** The MRC for an initial partial month of Service (if applicable) shall be pro-rated for that portion of said partial month of Service in which Service is actually provided, and may be invoiced upon initiation of such Service. On an ongoing basis, DataNet will invoice Customer for Service charges each month for that month, at the beginning of the month's Service. Any NRC shall be invoiced upon receipt by DataNet of each Service Order. Customer shall pay all invoices (MRC, NRC) within 25 days of the date of the invoice (Due Date) without reduction, set-off or adjustment and send its payments to the address specified on the invoice. DataNet may impose a late payment charge ("Late Payment Charge(s)"), if payment is not received by the Due Date, of the lower of one and one-half percent (1 ½%) per month or the maximum rate allowed by law on the non-disputed amounts due under any invoice not paid by the Due Date. Any Customer dispute of charges must be made in writing to the Finance Department, Hudson Valley DataNet, LLC, 900 Corporate Blvd., Newburgh, NY 12550 before the Due Date. DataNet will review any disputed charges and reply to the Customer within 10 working days of receipt with a decision regarding such dispute.
- 7. Service Commencement:** The Service Commencement Date shall be determined using the earlier of the following criteria:

- a) Completion of testing by DataNet and Acceptance by Customer/or
- b) If after two (2) Business Days after completion and turn over, Customer does not attach equipment or reject service, service will be deemed accepted/ or
- c) In a multiple node network, Service Commencement will begin upon completion of a minimum of two nodes. Both Parties, in writing, prior to contract signing, shall agree upon any exceptions.

All Service Charges will begin on the Service Commencement Date of each Service Order. This date will be used to calculate Service Start date and Service End date.

- 8. **Suspension of Service:** DataNet may, at its sole discretion, but with at least 10 days written notification to the Customer, suspend Service if payment of all non-disputed amounts has not been received by the Due Date. DataNet will restore Service if DataNet receives payment of all current and overdue charges of all non-disputed amounts. Service will only be restored after payment is received, and within 72 hours of said receipt. DataNet will assess a Service restoration fee ("Service Restoration Fee") of up to \$750 to restore Service after suspension of Service for nonpayment. Failure to make payment for all non-disputed Service Charges, Late Payment Charges and Service Restoration Fees within ten (10) calendar days following the suspension of service, shall be considered an Early Termination election by the Customer.
- 9. **Early Termination:** If Customer cancels or terminates this Agreement prior to the end of the Term, or terminates a Service Order prior to the end of its term (refer also to Appendix B for Cancellation by Customer), except if early termination is due to DataNet's inability to deliver Services as per Appendix B, Customer agrees to pay DataNet a termination charge ("Termination Charge"), as liquidated damages and not as a penalty or forfeiture as follows: (i) all applicable unpaid non-recurring charges (NRC) specified in a Service Order, plus (ii) all disconnection, early cancellation or termination charges payable to any third parties incurred by DataNet on Customer's behalf relating to the Service in that Service Order, plus (iii) 100% of the balance of the value of the MRC for the remaining term of the Service Order cancelled by the Customer. All termination charges shall be due and payable within thirty (30) days of the effective date of termination. Customer shall be liable for any penalty incurred by DataNet with respect to any third party including any third party provider of Off-Net Service(s) as defined herein and any special construction and unrecoverable costs that DataNet has incurred in efforts to establish and provide Services pursuant to the Service Order and this Agreement. Notwithstanding any provision or inference to the contrary contained herein, any monetary sums deemed to be due and payable under this Agreement or Service Order shall survive its termination indefinitely.
- 10. **Rights of Access:** It is the Customer's sole responsibility to provide a fully executed Access Agreement(s), included as

Appendix D, prior to Service being installed at Customer's designated location(s). This Access Agreement(s) shall guarantee, at no cost to DataNet, DataNet's rights to ingress and egress, access to install, maintain, or replace any and all equipment, cables or other devices DataNet deems necessary to provide Services contained in Appendix A. In the event that the Customer's designated location(s) are not along public rights-of-way, and private property must be crossed, either aerially or underground, it is the Customer's sole responsibility to ensure that DataNet's standard utility easement is fully executed and approved by either the property owner(s) or the owner's authorized agents.

- 11. **Guarantee of Service:** Hudson Valley DataNet provides standard service as defined as Level A in Appendix C ("Level-of-Service Classifications"). Level A guarantees that its Service will be online and available 99.9% of the time as measured over any 30-day period. In the event that 0.1% downtime is exceeded in any given month, DataNet will credit Customer with one full days usage (1/30th of MRC). This guarantee applies to normal operating conditions, and does not cover Service outages due to a Force Majeure Event as defined in Section 22. DataNet is not responsible for business losses, loss of revenue, or other damages as a result of Service outages, regardless of the cause. The Customer may elect to receive a higher level of availability as provided in Appendix C. If elected, DataNet provides Service guaranteed to the higher level by establishing physically redundant network loops and/or networks with guaranteed backup protection links. DataNet may use third party providers for Off-Net Services to provide the Service(s).
- 12. **Third Party Services:** DataNet does interconnect with major local and long distance telephone service companies and other CLECs and will assist Customer in obtaining access to additional services from these companies ("Third Party Services"). The provision of and billing for these Third Party Services may be by these other service companies, and not by DataNet. DataNet is not responsible for the quality and reliability of Third Party Services. DataNet's sole responsibility is in the provision of Service to a point of demarcation designated as DataNet's, at the Third Party's physical location. Customer is responsible for obtaining and maintaining any and all necessary approvals for interconnection between DataNet and the Third Party's network.
- 13. **Liability and Warranties:** Except as otherwise set forth in this Agreement, DataNet makes no warranties, representations, or other Agreements, express or implied with respect to the Service, including, without limitation, the implied warranties of merchantability or fitness for a particular purpose. In no event shall either Party be liable for special, incidental, consequential, indirect or punitive damages, loss of revenue or profit, loss of goodwill, loss or use of any property, cost of substitute performance, equipment or Services, downtime costs and claims of either Party for damages, even if such Party is advised of the possibility of such damages. DataNet is not responsible for any warranty offered by the Customer to any third party or

any warranty offered by any third party to the Customer. DataNet's entire liability for any claim, loss expense or damage under this Agreement or any Service Order shall in no event exceed the sum actually paid by Customer to DataNet for the Service, which gives rise to the claim. DataNet shall use all commercially reasonable efforts to maintain the Service to Customer as specified herein.

14. **Indemnification:** Subject to the limitations set forth in Section 13, above, DataNet (including its affiliates, subsidiaries, members, stockholders, directors, officers, employees and its agents), and the Customer shall indemnify and hold the other harmless from and against all liabilities, claims, damages, losses, costs, expenses and judgments (including reasonable attorney's fees) and causes of action arising out of or in connection with this Agreement or any Service Order.
15. **Third Party Beneficiary:** The provisions of this Agreement are for the sole benefit of the Parties to this Agreement and no third party may seek to enforce or benefit from these provisions.
16. **Choice of Law:** The Parties agree that this Agreement shall be governed by and construed in accordance with the laws of the State of New York. Parties agree that any action or suit commenced pursuant to or in respect of this Agreement shall be brought in the State or Federal courts situated in Orange or Westchester Counties, New York.
17. **Material Change in Law:** If any Regulatory Requirement has the effect of canceling, changing or superseding any material term or provision of this Agreement, then this Agreement will be deemed modified in such a way as the Parties mutually agree is consistent with the form, intent and purpose of this Agreement and is necessary to comply with the Regulatory Requirement. If the Parties cannot agree to modifications necessary to comply with a Regulatory Requirement within thirty (30) days after the Regulatory Requirement is effective, then either Party may terminate this Agreement and/or any Service Order impacted by the Regulatory Requirement effective as of the date of notice by providing written notice to the other Party.
18. **Notices:** All notices, demands, requests, or other communications which may be, or are required to be, given or served, or sent by any Party to any other Party pursuant to this Agreement shall be in writing and will be deemed to have been duly delivered or given when: (i) delivered by hand (with written confirmation of receipt) before 5:00 p.m. local time on a business day (or otherwise on the next succeeding business day); (ii) sent by facsimile before 5:00 p.m. local time on a business day (or otherwise on the next succeeding business day) and a written confirmation of the transmission is received by the sender; or (iii) the next business day after being deposited for delivery with a nationally recognized overnight delivery service, such as Federal Express, and addressed or sent, as the case may be, to the appropriate addresses or facsimile numbers set forth on the Cover Sheet. Each Party may designate by notice in writing a new address, to which any notice, demand, request or communication may thereafter be so given, served or sent.
19. **Severability:** Except for Sections 1, 5, 7, 8, 9 and 11 of this Agreement which are the essence of this Agreement and reflect the vital and central Agreement of the Parties with respect to the subject matter hereof and without which their bargain would not have been consummated, each provision of this Agreement is severable from the whole, and if one provision is declared invalid, the other provisions shall remain in full force and effect.
20. **Credit Application:** DataNet may require Customer to submit a fully executed Credit Application prior to accepting a Service Order. The credit check may result in a requirement for a Security Deposit equal to two (2) months Service charge. This deposit, and/or the requirement to submit a credit application, may be waived solely at the discretion of DataNet. In the event Customer does not maintain a timely payment history, DataNet may require additional deposits and/or require the submission of a new credit application. Provided Customer has satisfied all payments, DataNet will return any deposit obtained at the end of the term of the Agreement.
21. **Regulatory Costs:** DataNet and Customer recognize that from time to time, Local, State and Federal Government agencies may impose additional taxes, assessments, franchise fees, and other forms of regulatory fees beyond the control of, or the scope of this Agreement. DataNet will pass on these additional costs in the form of a line item on Customer invoice entitled Regulatory fees.
22. **Force Majeure:** Neither Party shall have any liability to the other solely by virtue of the occurrence of a Force Majeure Event, whether such Force Majeure Event occasions a default or otherwise engenders a potential liability. A Force Majeure Event shall include, but not be limited to, events such as vandalism, acts of God, fire, flood, storms and storm damage, acts of war, terrorism, sabotage, riot or other civil disorders, actions of civil or military authorities, accidents of all types, and any and all other acts which are out of the control of DataNet. Lack of funds to make any required payment by Customer shall not be construed to be a Force Majeure Event.
23. **Default:** If a Party breaches any material term of this Agreement and the breach continues without remedy for forty-five (45) days after written notice of default, the other Party may terminate for cause any Service Order materially affected by the breach. However, if Customer is in breach of its payment obligations (including failure to pay a required deposit), then the provisions of Section 8, Suspension of Service shall apply to such Default. A Service Order may be terminated by either Party immediately upon written notice if the other Party has become insolvent or involved in a liquidation or termination of its business, or adjudicated bankrupt, or been involved in an assignment for the benefit of its creditors.

This Agreement is the complete agreement between the Parties hereto concerning the subject matter of this Agreement and replaces any prior oral or written communications between the Parties. There are no conditions, understandings, agreements, representations, or warranties, expressed or implied, which are not specified herein.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed. Each Party warrants and represents that its respective signatories whose signatures appear below have been and are on the date of signature duly authorized to execute this Agreement.

Accepted by:

HUDSON VALLEY DATANET, LLC	CUSTOMER
By: _____ (Signature)	By: _____ (Signature)
Name: <u>John Galanti</u> (Print Name)	Name: _____ (Print Name)
Title: <u>President</u> Date: _____	Title: _____ Effective Date: _____

List of Attachments

- | | |
|-------------------|---|
| Appendix A | Service Order with Pricing |
| Appendix B | Provisioning & Installation |
| Appendix C | Level-of-Service Classifications |
| Appendix D | Access Agreement |
| Appendix E | Acceptable Use Policy |

Appendix A - Hudson Valley DataNet Service Order

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DataNet's Service is defined as DataNet establishing physical connectivity to the DataNet network at the data rate (bandwidth) and in the digital or telephonic protocol specified by the Customer in this Agreement. The physical connection may be fiber optic, coaxial, wireless, or twisted pair copper, depending on the Customer's needs and DataNet's choice, based on DataNet's engineering judgment.

For multiple locations, the Customer will specify the addresses and/or location(s), the physical position(s) within that location(s), the service required at each location, the data format(s) required, and the interconnection requirements to other networks, e.g. Internet portal access, or connectivity to another telephone service provider.

Standard Service, as defined by Level A in Appendix C, does not provide for physical, electrical, or optical redundancy or diversity.

For this Agreement, the Customer requests Level of Service Classification _____ as defined in Appendix C.

For this Agreement, the Customer requests connectivity at the listed location(s) defined below:

The bandwidth and data format/protocol for this/these location(s) are defined as follows:

Appendix A - Hudson Valley DataNet Service Order

Page 2 of 3

Order Number:	Sales Representative:
Tracking Number	

Customer Information

Customer:	
Billing Contact:	Email:
Phone Number:	Fax Number:
Billing Address:	
Technical Contact:	Email:
Phone Number:	Fax Number:
Mobile Number:	Other Number:
Comments:	

Service Information

Requested Due Date:	Term (months):
Service(s):	Protected: <input type="checkbox"/> Yes <input type="checkbox"/> No Diverse: <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> SONET / TDM	<input type="checkbox"/> Private Network <input type="checkbox"/> Point-to-Point
	<input type="checkbox"/> DS-1 Framing: <input type="checkbox"/> SF/D4 <input type="checkbox"/> ESF <input type="checkbox"/> Unframed
	Termination: <input type="checkbox"/> RJ48X <input type="checkbox"/> RJ21 <input type="checkbox"/> RJ48 <input type="checkbox"/>
	RJ48C <input type="checkbox"/> Other
	Line Code: <input type="checkbox"/> B8ZS <input type="checkbox"/> AMI
<input type="checkbox"/> DS-3	Framing: <input type="checkbox"/> C-Bit <input type="checkbox"/> M13 <input type="checkbox"/> Unframed
	Termination:
	<input type="checkbox"/> OC-3 Termination: <input type="checkbox"/> SC <input type="checkbox"/> LC <input type="checkbox"/> Other _____
	<input type="checkbox"/> OC-3C Termination: <input type="checkbox"/> SC <input type="checkbox"/> LC <input type="checkbox"/> Other _____
	<input type="checkbox"/> OC-12 Termination: <input type="checkbox"/> SC <input type="checkbox"/> LC <input type="checkbox"/> Other _____
	<input type="checkbox"/> OC-12C Termination: <input type="checkbox"/> SC <input type="checkbox"/> LC <input type="checkbox"/> Other _____
	<input type="checkbox"/> OC-48 Termination: <input type="checkbox"/> SC <input type="checkbox"/> LC <input type="checkbox"/> Other _____
	<input type="checkbox"/> OC-48C Termination: <input type="checkbox"/> SC <input type="checkbox"/> LC <input type="checkbox"/> Other _____
	<input type="checkbox"/> OC-192 Termination: <input type="checkbox"/> SC <input type="checkbox"/> LC <input type="checkbox"/> Other _____
	<input type="checkbox"/> OC-192C Termination: <input type="checkbox"/> SC <input type="checkbox"/> LC <input type="checkbox"/> Other _____
<input type="checkbox"/> ETHERNET	Interface: <input type="checkbox"/> 10/100T <input type="checkbox"/> 1000T <input type="checkbox"/> 1000SX <input type="checkbox"/> 1000LX
	Ring Bandwidth: _____ Mbps
<input type="checkbox"/> INTERNET	Indicate Drop Bandwidth at each Location below
	IP Addresses: _____ <input type="checkbox"/> DNS (add'l forms required)
	Bandwidth: _____
Notes:	
Location(s): (Indicate NPA/NXX at each site)	
Comments:	

Appendix A - Hudson Valley DataNet Service Order

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Pricing Terms and Length of Agreement

DataNet agrees to provide the communications Services to the Customer, at the locations and in the data formats specified in Appendix A, for a period of ___ months from Service Commencement Date. Upon signing, Customer agrees to arrange with building owner to have fully executed an Access Agreement substantially in the form of Appendix D to this Agreement, which provides DataNet access to install, maintain or replace any and all equipment, cables, or other devices DataNet deems necessary to provide Services contained in Appendix A.

In return for these Services, Customer agrees to pay DataNet invoice, within 25 days of invoice date (Due Date), the sum of \$_____ as a one-time Non-Recurring Charge and \$_____ as a Recurring Charge per month plus any applicable taxes or fees, for a period of _____ months under the payment terms described herein, beginning with the date DataNet delivers, and Service is accepted, to the point of demarcation referenced in Appendix A. In the event of partial activation of the total number of nodes, partial billing will result for those completed nodes.

The period of the Agreement may be extended or modified, and the service levels also be amended or modified at any time as requested by the Customer, and as agreed to by DataNet in a written quotation.

Service Commencement shall be determined using the following criteria:

- a) Completion of testing by DataNet and Acceptance by Customer/or
- b) If after two (2) Business Days from completion and turn over to Customer as specified Section 7, Customer does not attach equipment or reject service, service will be deemed accepted/ or
- c) In a multiple node network, Service Commencement will begin upon completion of a minimum of two nodes. Both Parties, in writing, prior to contract signing, shall agree upon any exceptions.

All Service Charges will begin on the Service Commencement Date. This date will be used to calculate Service Start date and Service End date.

Accepted by:

<p>HUDSON VALLEY DATANET, LLC</p> <p>By: _____ (Signature)</p> <p>Name: _____ (Print Name)</p> <p>Title: _____ Date: _____</p>	<p>CUSTOMER</p> <p>By: _____ (Signature)</p> <p>Name: _____ (Print Name)</p> <p>Title: _____ Date: _____</p>
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Appendix B Provisioning and Installation

1. **Provisioning:** Provisioning will be provided as set forth in the Service Order.
2. **On-Net Services:** Service provided by DataNet on the DataNet Network.
3. **Off-Net Services:** Service provided through DataNet, on a network other than the DataNet Network.
4. **Ordering Service**
 - a) **Service Order Issuance:** Upon receipt of a Service Order from Customer, DataNet will provide a unique order identifier and confirmation to the e-mail address or fax number provided on the Service Order to Customer ("Acknowledgement") in approximately one (1) business day following the receipt of the Service Order.
 - b) **On-Net Service Firm Order Commitment ("FOC"):** If DataNet is able to provide the On-Net Service set forth in the Service Order and accepts the Service Order then DataNet shall provide an On-Net FOC to the e-mail address or fax number provided on the Service Order to Customer as soon as any corrections, clarifications or provisioning required for the processing of the Service Order are made and understood by the Parties. Such FOC will contain a statement stating an "on or before" date on which Customer will receive the design layout record ("DLR") and circuit ID for the Service ordered.
 - c) **Off-Net Service Firm Order Commitment ("FOC"):** If DataNet is able to provide the Off-Net Service set forth in the Service Order and accepts the Service Order after receipt of the Off-Net Service provider's FOC, then DataNet shall provide an Off-Net FOC to the e-mail address or fax number provided on the Service Order to Customer as soon as any corrections, clarifications or provisioning required for the processing of the Service Order are made and understood by the Parties. Such FOC will contain a statement stating an "on or before" date on which Customer will receive the design layout record ("DLR") and circuit ID for the Service ordered.
5. **Service:** DataNet will provide Service to the DataNet "Point of Demarcation" contained in the Service Order. Equipment and Service on the Customer-side of the demarcation are the responsibility of Customer. Equipment and Service on the DataNet-side of the demarcation are the responsibility of DataNet, and DataNet will maintain all such equipment. DataNet will test the Service and at the completion thereof, shall notify Customer that the Service is available for use. DataNet shall install its equipment in the Customer's designated location, provided the location has adequate space, is secure and has acceptable environmental conditions for temperature, humidity and air quality for the requested Level-of-Service (refer to Appendix C). In a multi-tenant building, the Customer shall secure space for the DataNet equipment from the landlord in a common area of the building that satisfies the same space, security and environmental conditions as stated in the prior sentence.
6. **Notice of Completion:** DataNet will provide a notice of completion including DataNet's Trouble Reporting and Escalation Procedure to the e-mail address or fax number provided on the Service Order to the Customer of the service completion Date. Customer has two business days to verify completion and proper operation of the Service. Unless DataNet is notified of problems with the Service, billing will commence two days after the notice of completion

DataNet shall not be liable for any damages due to late Service Dates including, but not be limited to, delays (i) obtaining regulatory approvals and right-of-ways, (ii) concerning material deliveries and (iii) labor related matters beyond its control.
7. **Off-Net Service Installation:** The installation interval for Off-Net Dedicated Transport is on an ICB (Individual Case Basis).
8. **Cancellation By Customer:** Customer may cancel a Service Order if DataNet receives written notice of cancellation before the FOC has been issued without termination liability for that Service Order. If Customer cancels a Service Order after the FOC has been issued, the Early Termination provisions as set forth in this Agreement shall apply.

Appendix C

Hudson Valley DataNet Level-of-Service Classifications

Overview

DataNet's business philosophy is to provide high speed, high reliability network communications capabilities to its Customers at a reasonable price. DataNet expects its basic Service offering (Level A) to experience downtime of less than 0.1% (uptime of over 99.9% as measured on a monthly basis), and includes performance guarantees in its Service offering to this effect. However, some Customers will require online performance greater than the standard offering. To this end, DataNet has defined and developed Service offerings (Levels AA and AAA) that provide increasing levels of network reliability and uptime to meet Customer's needs. The reliability levels projected for these Service offerings are defined below.

It should be noted that the actual reliability of any circuit is dependant on both the network performance and the Customer premise facilities. Accordingly, DataNet service level commitments are contingent on the Customer providing the minimum level of facilities as described below. DataNet is not responsible for degradation of Service or outages caused by power failure and/or failure due to environmental conditions outside of the tolerances specified below that affect the normal operation of equipment at the Customer's site.

Level A: (>99.9% Uptime)

This level of Service is DataNet's standard offering, and is suitable for most commercial users. With this Service, the Customer is provided access through a fiber optic or copper cable connection to DataNet's network. There is no physical, electrical, or optical redundancy or diversity in this standard class of service. Minimum Customer premise facility requirements for 99.9% circuit reliability are:

Secure, dust-free equipment location in a dedicated utilities room.

- Dedicated 20-Amp electrical circuit
- Temperature control (40 to 80-deg F)
- Battery backup

Level AA: (>99.99% Uptime)

DataNet provides this level of Service to commercial users who place a very high priority in maintaining continuity of Service. Examples of these users are e-businesses, surveillance and alarm Services, emergency medical systems, etc. With AA-level Service, the user is provided two circuits for network redundancy. Minimum Customer premise facility requirements for 99.99% circuit reliability are:

- Secure, DataNet-controlled equipment location with 24x7x365 access.
- NEBS-1 compliant equipment (all Customer equipment connecting to the DataNet terminal).
- Dedicated 20-Amp electrical circuit.
- Battery backup (four hour minimum).
- Environmental control – HVAC, dust-free, 72-deg F with less than 10% variance, and controlled humidity.

Level AAA: (>99.999% Uptime)

AAA Service is provided to users that require extremely high levels of system reliability. These users may be telephone companies, ISP's, local radio and TV stations, emergency medical systems, etc. Level-AAA Service must be defined in a dialog between the Customer and DataNet's technical staff based on the Customer's specific needs. The users of this Service receive divergent path redundant circuits for the greatest network reliability. Minimum Customer premise facility requirements for 99.999% circuit reliability are:

- Secure, DataNet controlled equipment location with 24x7x365 access.
- NEBS-3 compliant equipment (all Customer equipment connecting to the DataNet terminal).
- Dual Dedicated 20-Amp AC electrical circuits.
- Battery Backup with emergency power generation.
- Customer equipment has dual-card redundancy for copper interfaces (DS1, DS3 etc.) to the DataNet network.
- Customer equipment has dual-card and drop redundancy for optical interfaces to the DataNet network.
- Environmental control – HVAC, dust-free, 72-deg F with less than 2% variance, and controlled humidity.

These Level AAA networks, by definition, are custom designed circuits that require close interaction between the Customer and DataNet. If DataNet is to provide these circuits, a Non-Recurring Engineering (NRE) charge for design may be required of the Customer. Special construction charges may also apply. DataNet will define all such charges in a written quotation in response to a Customer request.

APPENDIX D
ACCESS AGREEMENT

This Agreement between Hudson Valley DataNet, LLC, a Delaware limited liability company, with its principal place of business at 900 Corporate Blvd, Newburgh NY 12550, hereinafter known as DataNet, and _____, hereinafter known as "Landlord/Building Owner", with a principal place of business at:

(Address)

grants DataNet the right of ingress and egress to both the building(s) and grounds (installation address), along with an easement to install, upgrade, maintain, or remove conduit, manholes, cables and equipment for the purpose of providing any and all Services DataNet is legally able to deliver & requested by business entities or tenants located at:

(Installation Address)

DataNet agrees to install any required conduit, manholes, cable and equipment in a businesslike and professional manner, in a location mutually agreed upon by both Parties. DataNet also agrees that any damage done to other facilities during the course of installation or removal of its facilities will be effectively restored to "as before" condition, less normal wear and tear, at DataNet's expense. Any conduit and manholes installed by DataNet will become the property of the Landlord/Building Owner once installed by DataNet. Spare conduit shall not be considered abandoned unless DataNet is no longer serving Customers at this location or complex.

Landlord/Building Owner agrees to provide access to utility rooms and all other common areas required to install and service equipment. It is further agreed that DataNet may have, if required, a separate, dedicated 20 Amp electrical circuit for its equipment, and a secure area accessible only to DataNet employees or representatives.

This Agreement shall be binding upon and be for the benefit of Parties, their respective successors and assigns. Upon written notice, either Party may assign this Agreement to any subsidiary, parent or affiliated company, or pursuant to any reorganization or merger of its business, or pursuant to any sale or transfer of all or substantially all of its assets. No other assignment by either Party will be permitted without the prior written consent of the other Party, which consent shall not be unreasonably withheld or denied. The Landlord/Building Owner consents to any and all recordation of the Agreement, which DataNet may deem advisable to protect the access and easement granted to it hereunder.

Hudson Valley DataNet, LLC

Landlord/Building Owner

By: _____
(Signature)

By: _____
(Signature)

Name: _____
(Print)

Name: _____
(Print)

Title: _____

Title: _____

Date: _____

Date: _____

APPENDIX E

ACCEPTABLE USE POLICY (AUP) Hudson Valley DataNet Internet Service

INTRODUCTION AND SCOPE

General:

The Internet is a semi-public network, the effectiveness of which is dependent upon both the good will and voluntary good behavior of its users. To define expected good behavior, most Internet Service Providers (ISP's) have developed Acceptable Use Policies (AUP). Internet users are expected to comply with these AUPs as a condition to their being granted use of the ISP's network. AUP-compliant behavior helps assure that Internet service will remain a reliable and useful communications medium. Accordingly, DataNet's Acceptable Use Policy sets forth user guidelines defining acceptable use of the Hudson Valley DataNet, LLC Internet Network. All users of the Hudson Valley DataNet, LLC Internet Network are expected to comply with this policy. Users must also comply with all terms and conditions of the applicable service agreements, and with any additional policies that may be applicable to a specific service offered by Hudson Valley DataNet, LLC.

Definitions:

As used in this Acceptable Use Policy, the following terms shall have the respective meanings set forth below:

"Client" or "Clients" shall mean any person or entity executing an agreement with DataNet pursuant to which such person or entity subscribes for DataNet Internet Network services from DataNet and any user permitted by such person or entity to utilize the DataNet Internet Network to access the Internet. "DataNet" includes, without limitation, Hudson Valley DataNet, LLC and any division, subsidiary, affiliate, or parent corporation of any of the foregoing. "DataNet Internet Network" includes, without limitation, Hudson Valley DataNet, LLC networks that provide access to the Internet, and all systems, services, and products that utilize, or are utilized in connection with the Internet access portion of Hudson Valley DataNet, LLC networks.

Conformance With Policies of Other ISPs:

In situations where data communications are carried across networks of other Internet Service Providers (ISPs), users of the DataNet Internet Network must also conform to the applicable acceptable use policies of such other ISPs.

Responsibilities of Hudson Valley DataNet, LLC (DataNet):

DataNet is responsible for designing and providing an Internet access network that will support the needs of DataNet's Clients. This network will be designed for reliability (uptime) in excess of 99.9%, and will have sufficient Internet access bandwidth, including reasonable oversubscription, to meet the normal business bandwidth needs of all DataNet clients. DataNet may make changes in its AUP from time to time, and will post all such changes on its website. Use of the DataNet Internet Network services after changes to the AUP are posted on the DataNet's web site, www.hvdata.net, shall be deemed to constitute Client's acceptance of such new or additional terms of the AUP.

DataNet does not monitor, verify, warrant, or vouch for the accuracy and quality of the information that Clients may acquire over the Internet. For this reason, the Client must exercise his or her best judgment in relying on information obtained from the Internet. Clients also should be aware that some material posted to the Internet is sexually explicit or otherwise potentially offensive to some or all Clients. Because DataNet does not monitor or censor the Internet, and will not attempt to do so, DataNet cannot accept any responsibility for injury to its Clients that results from inaccurate, unsuitable, offensive, or illegal Internet communications.

DataNet does not review, edit, censor, or take responsibility for any information its Clients may create on the Internet.

DataNet is not responsible for the privacy or security of the websites or on-line communications of its Clients, or for the security of information transmitted over DataNet facilities. Accordingly, DataNet urges its Clients to take appropriate measures to safeguard their Internet communications.

DataNet will not intentionally monitor private electronic mail messages sent or received by its subscribers unless required to do so by law, governmental authority, or when public safety is at stake. DataNet may, however, monitor its service electronically to determine that its facilities are operating satisfactorily. Use of the DataNet Internet Network by Client constitutes Client's authorization to DataNet to monitor its services consistent with the foregoing sentence.

DataNet may disclose information, including but not limited to, information concerning a Client, a transmission made using our network, or a web site, in order to comply with a court order, subpoena, summons, discovery request, warrant, statute, regulation, or governmental request. DataNet assumes no obligation to inform the Client that Client-specific information has been

provided to any person or entity. DataNet will continuously operate its DataNet Internet Network in conformity with applicable laws.

DataNet may disclose Client information or information transmitted over its network where necessary to protect DataNet and others from harm, or where such disclosure is necessary to the proper operation of the system.

Responsibilities of Users – Prohibited Uses of DataNet's Internet Access:

When Clients place information on the Internet, they have the same liability as other authors for copyright infringement, defamation, and other harmful speech. Also, because the information they create is carried over DataNet's Internet Network and may reach a large number of people, including both subscribers and non-subscribers of DataNet, Clients' postings to the Internet may affect other subscribers and may harm DataNet's goodwill, business reputation, and operations. For these reasons Clients violate DataNet policy and the Service Agreement when they, engage in the following prohibited activities:

Spamming: -- Sending unsolicited bulk and/or commercial messages over the Internet (known as "spamming"). This practice is not only harmful because of its negative impact on consumer attitudes toward Hudson Valley DataNet, LLC, but also because it can potentially overload the DataNet's network and disrupt service to DataNet subscribers. Also, maintaining an open SMTP relay is prohibited. When a complaint is received, DataNet will determine, based upon all available evidence, whether the email recipients were from an "opt-in" email list.

Intellectual Property Violations -- Engaging in any activity that infringes or misappropriates the intellectual property rights of others, including copyrights, trademarks, service marks, trade secrets, software piracy, and patents held by individuals, corporations, or other entities. Also, engaging in activity that violates privacy, publicity, or other personal rights of others. DataNet is required by law to remove or block access to Customer content upon receipt of a proper notice of copyright infringement. It is also DataNet policy to terminate the privileges of Clients who commit repeat violations of copyright laws.

Obscene Speech or Materials -- Transmission, distribution or storage of any material in violation of any applicable law or regulation is prohibited. Using DataNet's network to advertise, transmit, store, post, display, or otherwise make available child pornography or obscene speech or material. DataNet does not prohibit any material allowed by law or protected by the First Amendment to the United States Constitution. DataNet is required by law to notify law enforcement agencies when it becomes aware of the presence of child pornography on or being transmitted through the DataNet's Internet Network.

Defamatory or Abusive Language -- Using DataNet's network as a means to transmit or post defamatory, harassing, abusive, or threatening language.

Forging of Headers or Content -- Forging or misrepresenting message headers, whether in whole or in part, to mask the originator of the message. Forging or misrepresenting any data with false or misleading content.

Illegal or Unauthorized Access to Other Computers or Networks -- Accessing illegally or without authorization computers, accounts, or networks belonging to another party, or attempting to penetrate security measures of another individual's system (often known as "hacking"). Also, any activity that might be used as a precursor to an attempted system penetration (i.e. port scan, stealth scan, or other information gathering activity).

Exploitation of Vulnerabilities in Hardware or Software for Malignous purposes -- Exploitation of scripts presented on web pages (i.e. forms for answering questions or entering data.). Also, activities that disrupt the use of or interfere with the ability of others to effectively use the network or any

connected network, system, service, or equipment by utilizing programs, scripts, or commands to abuse a website (i.e. DDOS, SYN Floods or similar attacks.)

Distribution of Internet Viruses, Worms, Trojan Horses, or Other Destructive Activities -- Distributing information regarding the creation of and sending Internet viruses, worms, Trojan horses, flooding, mail bombing, or denial of service attacks. Also, activities that disrupt the use of or interfere with the ability of others to effectively use the network or any connected network, system, service, or equipment.

Facilitating a Violation of this AUP -- Advertising, transmitting, or otherwise making available any software, program, product, or service that is designed to violate this AUP, which includes the facilitation of the means to SPAM, initiation of ping, flooding, mail bombing, denial of service attacks, and piracy of software.

Export Control Violations -- Exporting encryption software over the Internet or otherwise, to points outside the United States.

Other Illegal Activities -- Engaging in activities that are determined to be illegal, including advertising, transmitting, pyramid schemes, fraudulently charging credit cards, and pirating software.

Other Activities -- Engaging in activities, whether lawful or unlawful, that DataNet determines to be harmful to its subscribers, operations, reputation, goodwill, or Customer relations.

CONSEQUENCES OF NON-COMPLIANCE:

Violation of this Acceptable Use Policy is strictly prohibited. DataNet maintains the right to terminate a Customer service that violates this acceptable use policy. Upon such a termination of service pursuant to this AUP, Clients will still be financially responsible for any early termination fees that apply.

In the event of any actual or potential violation, DataNet reserves the right to suspend or terminate, either temporarily or permanently, any or all services provided by DataNet, to block any abusive activity, or to take any other actions as deemed appropriate by DataNet in its sole discretion. Clients who violate this Acceptance Use Policy may incur criminal or civil liability. DataNet may refer violators to civil or criminal authorities for prosecution, and will cooperate fully with applicable government authorities in connection with the civil or criminal investigations of violations.

DataNet expects that its subscribers who provide Internet services to others will comply fully with all applicable laws concerning the privacy of on-line communications. A Client's failure to comply with those laws will violate DataNet policy. Finally, DataNet wishes to emphasize that by using the DataNet Internet Network, Clients agree to indemnify DataNet for any violation of this AUP, law, or DataNet policy that results in loss to DataNet or the bringing of any claim against DataNet by any third-party. That is, if DataNet is sued because of a Client's activity, the Client will pay any damages awarded against DataNet, plus costs and reasonable attorneys' fees.

Responsibilities of Resellers and Downstream Service Providers:

Some users may be Customers of Internet Service Providers (ISPs) that receive Internet connectivity through DataNet. Such ISPs (also known as resellers or downstream service providers) are responsible for informing their Customers of this Acceptable Use Policy and for enforcing its restrictions with regard to their

Customers' actions. Complaints about Customers of any such reseller or downstream service provider shall be forwarded to such reseller or downstream service provider for resolution. If at any time DataNet determines that such reseller or downstream service provider is not taking appropriate action in accordance with this Acceptable Use Policy, DataNet shall work with such reseller or downstream service provider to review their policies and enforcement procedures. If the reseller or downstream service provider continues to fail to take appropriate action, DataNet will take any action, as it deems appropriate, up to and including termination proceedings.

Additional Terms and Conditions:
The use of the DataNet Network by a Client is subject to the terms and conditions of any agreements entered into by such Client with DataNet. This Acceptable Use Policy is incorporated into such agreements by reference.

Limitation of Liability:
DATANET SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF BUSINESS OR BUSINESS OPPORTUNITY, LOSS OF USE, ETC., EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES BY VIRTUE OF OR AS A RESULT OF TAKING ANY ACTION PURSUANT TO THIS AUP. DATANET SHALL NOT BE LIABLE FOR ANY DIRECT OR ACTUAL DAMAGES, EXCEPT TO THE EXTENT SPECIFIED IN A WRITTEN OR ELECTRONIC AGREEMENT ENTERED INTO BETWEEN DATANET AND CLIENT. DATANET MAKES NO WARRANTIES OR REPRESENTATIONS HEREIN, EITHER EXPRESS OR IMPLIED, CONCERNING THE DATANET NETWORK, AND EXPRESSLY DISCLAIMS WARRANTIES OF FITNESS FOR A PARTICULAR USE OR PURPOSE, THE WARRANTY OF MERCHANTABILITY AND ANY OTHER WARRANTY IMPLIED BY LAW.

Questions, Comments, or Complaints
We hope this Acceptable Use Policy is helpful in clarifying the obligations of Internet users, including DataNet and its Clients, as responsible members of the Internet.

If you are unsure whether any contemplated use or action is permitted, please send questions or comments to DataNet at:
admin@hvdata.net

Any complaints regarding prohibited use or other abuse of the DataNet Network, including violations of this Acceptable Use Policy, should be sent to DataNet at:
abuse@hvdata.net

Sites experiencing live attacks from DataNet Customers should call 845-567-6367 to submit a complaint as quickly as possible.

For further information about this Acceptable Use Policy, please contact:

Network Administrator
Hudson Valley DataNet
900 Corporate Blvd.
Newburgh, NY 12550

The DataNet Internet Network may be used only for lawful purposes. As a provider of Internet access, and other Internet-related services, DataNet offers its subscribers and their Customers and users, the means to acquire and disseminate a wealth of public, private, commercial, and non-commercial information. DataNet respects the fact that the Internet provides a forum for free and open discussion and dissemination of information. However, when there are competing interests at issue, DataNet reserves the right to take certain preventative or corrective actions for the benefit of the majority of the users of DataNet's network.

Acknowledged and Agreed: _____ Date: _____
(Signature)

Name _____ Title: _____
(Print Name)

Customer Name and Organization: _____

RESOLUTION NO.: 19 - 2011

OF

JANUARY 24, 2011

RESOLUTION AMENDING RESOLUTION NO: 185-2009,
THE 2010 BUDGET OF THE CITY OF NEWBURGH,
TO REFLECT THE REVENUES AND EXPENDITURES
IN THE GRANT FUND (CG) AND THE GENERAL FUND
FOR THE IMPLEMENTATION OF THE OPERATION IMPACT VII GRANT

WHEREAS, the City Council by Resolution No. 135-2010 dated June 14, 2010 authorized the City Manager to apply for and if awarded accept a \$950,050.00 grant from the NYS Department of Criminal Justice Services ("NYSDCJS"), with no City Match required, to be used to enhance law enforcement crime reduction efforts within the City; and

WHEREAS, the NYSDCJS has awarded the City \$319,058.00 with a local match of \$122,544.00 required for use to enhance law enforcement crime reduction efforts during the fiscal period July 1, 2010 through June 30, 2011; and

BE IT RESOLVED, that Resolution No: 185-2009, the 2010 Budget of the City of Newburgh, is hereby amended to reflect the Revenues and Expenditures in the Grant Fund (CG) and the 2010 General Fund Budget which is required to implement the Grant as awarded as set forth on the attached Schedule "A".

IMPACT VII = 7-1-10 to 6-30-11

<u>Grant Fund</u>	<u>Expenditures</u>	<u>Revenues</u>	<u>Fund</u>	<u>Dept</u>	<u>Item</u>	<u>Proj</u>	<u>Location</u>
Salaries - 4 Officers	\$ 277,205		CG	3120	0101	3303	2010
Holidays	10,877		CG	3120	0105	3303	2010
Longevity	3,775		CG	3120	0107	3303	2010
CSEA Retirement	12,101		CG	3120	0810	3303	2010
Police Retirement	44,991		CG	3120	0815	3303	2010
Social Security	22,327		CG	3120	0830	3303	2010
MTA	992		CG	3120	0835	3303	2010
Health Insurance	63,933		CG	3120	0860	3303	2010
Life DBL	266		CG	3120	0870	3303	2010
Employee Benefits	2,614		CG	3120	0880	3303	2010
Life Insurance	421		CG	3120	0890	3303	2010
EAP	100		CG	3120	0891	3303	2010
Travel-Training	2,000		CG	3120	0463	3303	2010
NYS-DJCS		\$ 319,058	CG	3120	3323	3303	2010
Transfer from General Fund		122,544	CG	3120	5031	3303	2010
	<u>441,602</u>	<u>441,602</u>					

General Fund

Transfer to Grant Fund	\$ 122,544	-	A	9901	0009	3303	2010
Contingency	-	\$ 122,544	A	1900	1990	3303	2010
	<u>\$ 122,544</u>	<u>\$ 122,544</u>					

Details Supporting Transfer

<u>Account</u>	<u>Title</u>	<u>Personnal Budget</u>	<u>Impact Grant</u>	<u>General Fund Transfer</u>
Salary:				
101	Salary (4)	\$ 277,205	\$ 253,645	\$ 23,560
105	Holiday	10,877	-	10,877
107	Longevity	3,775	-	3,775
	Total 100s	<u>291,857</u>	<u>253,645</u>	<u>38,212</u>
Benefits:				
810	CSEA Ret.	12,101	6,347	5,754
815	P/F Ret.	44,991	18,046	26,945
830	Social Security	22,327	17,316	5,011
835	MTA	992	-	992
860	Health Ins.	63,933	21,704	42,229
870	Life DBL	266	-	266
880	Empl Benefits	2,614	-	2,614
890	Life Insurence	421	-	421
891	EAP	100	-	100
	Total 800s	<u>147,745</u>	<u>63,413</u>	<u>84,332</u>
Contractual:				
461	Travel - Trng	-	2,000	(2,000)
TOTAL		<u>\$ 439,602</u>	<u>\$ 319,058</u>	<u>\$ 120,544</u>

RESOLUTION NO.: 20 - 2011

OF

JANUARY 24, 2011

RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A GRANT
FROM THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY
FOR A SECURITY FIRE PREVENTION AND SAFETY GRANT
IN AN AMOUNT UP TO ONE MILLION (\$1,000,000.00) DOLLARS
WITH NO MATCHING FUNDS

WHEREAS, , the City of Newburgh Fire Department wishes to apply for a grant from the United States Department of Homeland Security in an amount up to One Million (\$1,000,000.00) Dollars with no matching funds; and

WHEREAS, the grant seeks to address innovative strategies or unique proposals that reach for a higher level of safety for the public with respect to fire and fire related hazards which include public education campaigns, risk assessments, improved code enforcement and arson prevention; and

WHEREAS, this Council has determined that making such application 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 submit an application to the United States Department of Homeland Security for a Security Fire Prevention and Safety Grant in an amount of up to One Million (\$1,000,000.00) Dollars with no matching funds.

3d



CITY OF NEWBURGH

Office of the Engineer
123 Grand Street, Newburgh, New York 12550
(845) 569-7446/Fax (845) 569-0188
www.cityofnewburgh-ny.gov

Craig M. Marti, PE
City Engineer
cmarti@cityofnewburgh-ny.gov

MEMORANDUM

Date January 14, 2011
To: City Council
Cc: Richard Herbek, City Manager
From: Craig M. Marti, City Engineer
Re: First Street Reconstruction

Attached hereto, is a proposal from Stantec Consulting Services, Inc. for professional services related to the Damage Assessment and Repair Design to repair the damage to the 1st Street Fishing Pier. These services will be performed as an "Additional Service" to the existing Professional Services Agreement for the First Street Improvement Project.

Project funding for these repairs is included in the DOS Waterfront Public Access Improvements Grant which was accepted by City Council at the meeting of January 10, 2011. The project budget will be reviewed based on projected construction costs and revised through City Council Resolution if necessary.

It is requested that the City Manager be authorized to accept the attached proposal from Stantec Consulting Services, Inc.



Stantec

Stantec Consulting Services Inc.
5020 Rt. 9W, Suite 103
PO Box 3228
Newburgh, NY 12550
Tel: (845) 562-3430

January 13, 2011

Mr. Craig M. Marti, PE
City Engineer
City of Newburgh
123 Grand Street
Newburgh, New York 12550

**Reference: First Street Improvements – Pier Damage Assessment
City of Newburgh, Orange County, New York**

Dear Mr. Marti:

Stantec Consulting Services, Inc. appreciates the opportunity to submit this proposal to render professional engineering services in connection with the assessment and design of repairs associated with the ice damage to the First Street Fishing Pier. These services would be performed as an 'additional service' to the First Street Improvement project currently under design. Our Services consist of the items as outlined below.

PROJECT UNDERSTANDING

The First Street Fishing Pier was designed and permitted by Stantec (Dufresne-Henry at the time) and subsequently constructed. Following construction, the pier, along with many other shore facilities on both sides of the river, was damaged by reportedly unusually strong ice flows. For continuity, Stantec proposed to utilize Bourne Engineering, our sub-consultant from the original design, to assist with this work.

ASSUMPTIONS

The following assumptions have been anticipated by Stantec in preparing this proposal:

- Since it's our understanding that punch list work remains to be completed on the pier construction project, we have assumed that the existing permits obtained for the original construction are still in effect and that no additional permitting services will be required.
- We have assumed the construction of the repairs would be executed by the original contractor by processing of a construction change order to the original construction contract.

DESCRIPTION OF PROFESSIONAL SERVICES:

The professional services to be provided by are as follows:

Stantec

January 13, 2011
Craig M. Marti
Page 2 of 3

Reference: First Street Improvements – First Street Pier Damage Assessment

Task 100 – Damage Assessment

- Perform and above and below water assessment of the pier by engineer-divers by visual and tactile methods to review and document the extent and nature of the damage.
- Prepare a letter report describing the nature of the damage and the recommended repairs and estimated construction cost.

Task 200 – Design Repairs

- Perform design of necessary repairs.
- Prepare construction drawing(s) of proposed repairs to include material specifications and construction details.

Task 300 – Prepare Construction Contract Change Order

- Stantec will assist the City with review of and preparation of the construction change order for the repairs.

Not Included

The following work is not included, but could be provided as an additional service if or when necessary.

- Permitting of any work associated with pier repairs
- Construction phase services (e.g. shop drawing review, construction observation, payment application review, etc.)

This Scope of Services will be completed on a Lump Sum basis for \$ 11,500. The client will be billed monthly based upon percent of work completed. Extra Work beyond the Scope of Services will be billed on a time and material bases using Stantec's Standard Hourly Billing Rates. It is agreed that compensation for services provided is not contingent upon any approvals.

We expect to start our services after your acceptance of this proposal and subject to suitable conditions on the river for underwater inspection. If there are any protracted project delays, for reasons beyond our control, we would expect to negotiate with you an equitable adjustment of our compensation taking into consideration the impact of such delays, including, but not limited to, changes in price indices and pay scales applicable to the period when services are in fact being rendered.

This proposal, including the attached Authorization for Additional Services, and our existing agreement for the First Street Improvement project (executed by the city 8/10/2010) contract represents the entire understanding between City of Newburgh and Stantec Consulting Inc. in respect to the project and may only be modified in writing and signed by both parties. If it satisfactorily sets forth your understanding of our agreement, we would appreciate execution of the Authorization for Additional Services attached. This proposal will be open for acceptance until May 30, 2011 unless changed by us in writing.

Stantec

January 13, 2011
Craig M. Marli
Page 3 of 3

Reference: First Street Improvements – First Street Pier Damage Assessment

Sincerely,

STANTEC CONSULTING SERVICES INC.



R. Mark Dempf, PE
Senior Principal
Tel: (518) 452-4358
Fax: (518) 452-9234
mark.dempf@stantec.com



James H. Fitzsimmons, PE
Senior Project Manager
Ph: (845) 562-3430
Fx: (518) 452-9234
jim.fitzsimmons@stantec.com

Attachment: Authorization for Additional Services

AUTHORIZATION FOR ADDITIONAL SERVICES



Consultant:	STANTEC CONSULTING SERVICES INC. 5020 Rt 9W, Suite 103 Newburgh, NY 12550 Ph: (845) 562-3430 Fx: (518) 452-9234 email: jim.fitzsimmons@frontiernet.net	Date:	1 January 2009
		Stantec Project #	190710417
		Stantec Opportunity Pipeline #	347122
Client:	CITY OF NEWBURGH 123 Grand Street Newburgh, NY 12550 Ph: (845) 569-7446 Fx: (845) 569-0188 email: CMarti@cityofnewburgh-ny.gov	Client Project #	NA
		Change Order #	NA
Project Name and Location:	First Street Improvements, City of Newburgh		

This is authorization for STANTEC to perform additional services on the project as noted above.

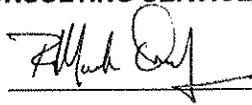
- A. STANTEC agrees to perform the following additional service(s):
First Street Pier Damage Assessment as outlined January 13, 2011 proposal.
- B. CLIENT agrees to compensate STANTEC for such additional services in accordance with the terms of the initial agreement for additional amount(s) stated below:
\$11,500 as outlined in January 13, 2011 proposal.
- C. All other terms and conditions of the original Agreement shall remain in full force and effect.

By signing below, the parties agree and affirm that each has reviewed and understands the provisions set out above and that each party shall be bound by each and all of said provisions. A copy of this agreement shall serve and may be relied upon as an original.

CITY OF NEWBURGH

Per: _____
Name: Richard F. Herbek
Title: Acting City Manager
Date Signed: _____

STANTEC CONSULTING SERVICES INC.

Per: 
Name: R. Mark Dempf, P.E.
Title: Senior Principal
Date Signed: January 13, 2011



CITY OF NEWBURGH

Office of the Engineer
123 Grand Street, Newburgh, New York 12550
(845) 569-7446/Fax (845) 569-0188
www.cityofnewburgh-ny.gov

Craig M. Marti, PE
City Engineer
cmarti@cityofnewburgh-ny.gov

MEMORANDUM

Date January 14, 2011
To: City Council
Cc: Richard Herbek, City Manager
From: Craig M. Marti, City Engineer
Re: Newburgh Water Quality Improvement Grant

Attached hereto, is a DRAFT Contract for the Disbursement of funds from the DOS Water Quality Improvement Grant in the amount of \$500,000.00.

These funds will be applied to the CSO LTCP and North Interceptor Sewer Study which is required under our NYS SPDES Permit.

Project funding for local share of this project is provided by the 2009 Bond Authorization.

It is requested that the City Manager be authorized to enter into this contract with the DOS. The resolution of approval will also contain the approval of the necessary project budget.

WORK PROGRAM COVER SHEET

Name and Address of Contractor: City of Newburgh
City Hall, 83 Broadway
Newburgh, NY 12550

Federal Tax ID#: 14-6002329

Title of project: **Newburgh Water Quality Improvements**

Grant application number: DOS054

Contract number: C006848

Department liaison: Tracey O'Malley

Community contact: Craig M. Marti, PE
City Engineer

Community contact address (if different above):

Telephone number: 845-569-9400 ext. 203

Fax number: 845-569-9700

Department Reviewer: Kenneth Smith

APPENDIX B
BUDGET SUMMARY

A. Salaries & Wages (including Fringe Benefits)	\$ 53,000.00
B. Travel	\$0.00
C. Supplies/Materials	\$0.00
D. Equipment	\$0.00
E. Contractual Services	\$ 972,000.00
F. Other	\$0.00

TOTAL PROJECT COST	\$1,525,000.00
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Total State Funds	\$ 500,000.00
Total Local Share	\$ 1,025,000.00

Appendix B (Budget Detail Sheet)

A. SALARIES & WAGES		
<u>TITLE</u>	<u>ANNUAL SALARY</u>	<u>AMOUNT CHARGED TO THIS PROJECT</u>
City Engineer	\$ 126,367	\$ 15,000.00
GIS Analyst	\$ 59,943	\$ 20,000.00
Secretary to the Engineer	\$ 40,608	\$ 8,000.00
Sewer Treatment Plant Operator	\$ 93,204	\$ 10,000.00
	SUBTOTAL	\$ 53,000.00

B. TRAVEL		
	SUBTOTAL	\$0.00

C. SUPPLIES/MATERIALS		
	SUBTOTAL	\$0.00

D. EQUIPMENT

SUBTOTAL \$0.00

E. CONTRACTUAL SERVICES
Contractual services for preparing Hudson River Impact Assessment and Sewer Interceptor Planning Study

\$972,000

SUBTOTAL \$972,000

F. OTHER

SUBTOTAL \$0.00

APPENDIX D

PROGRAM WORK PLAN

Contractor: City of Newburgh
Contract Number: C006848
Program Contact Person: Craig M. Marti, PE
Phone: 845-569-7446
Fax: 845-569-0188

Newburgh Water Quality Improvements

1. Project Description:

The City of Newburgh (Contractor) will plan for the modification and relocation of the existing combined storm and sanitary infrastructure necessary to reduce point source pollution into the Hudson River, and to plan for the redevelopment of a 30-acre urban renewal site on the Newburgh waterfront. This project builds upon the Newburgh Waterfront Strategic Development Plan, and will advance the City's fully approved Local Waterfront Revitalization Program (LWRP).

Elements of the project include:

- \$ review of the City's records and historical monitoring data of the CSO's;
- \$ continued monitoring of CSO events;
- \$ develop alternative solutions to the current CSO's;
- \$ develop a conceptual design and calibrated transient computer model to model potential solutions;
- \$ determine a preferred alternative and develop cost estimates

2. Project Attribution and Number of Copies

The Contractor must ensure that all materials printed, constructed, and/or produced acknowledge the contributions of the Department of State (Department) to the project. The materials must include the following acknowledgment:

"This (document, report, map, etc.) was prepared for the New York State Department of State with funds provided under Title 11 of the Environmental Protection Fund."

The Contractor must submit to the Department all required products, clearly labeled with the NYS Comptroller's Contract # as indicated on the Face Page of this Agreement and where applicable, the related Task # from this Work Plan. The Contractor shall submit:

- Draft products: two paper copies of each product.

- Final products: two paper copies of each product. In addition, all final products (including reports, designs, maps, drawings, and plans) must be submitted as an electronic copy (in Adobe® Acrobat® Portable Document Format - PDF), created using 300 dpi scanning resolution, and be submitted on a labeled CD-R type CD. The CD must be labeled with the contractor name, contract #, and project title.
- Pictures and photographs must be dated and captioned with the location and a brief description of the activity being documented.

The contributions of the Department must also be acknowledged in community press releases issued for the project. Project press releases shall be submitted to the Department for review and approval prior to release to ensure appropriate attribution.

3. Compliance with Procurement Requirements

The municipal attorney, chief legal officer or financial administrator of the municipality shall certify in writing to the Department that applicable provisions of General Municipal Law were fully complied with (Appendix A1-XXI).

4. Project Components

Task 1: Initial Project Scoping Meeting

The Contractor, the Department, project partners and any other appropriate entities shall hold an initial meeting to review the project scope, project requirements, roles and responsibilities of project partners, the selection process for procuring consultants, State Environmental Quality Review Act (SEQRA) compliance requirements, the number of public meetings and techniques for public involvement proposed for the project, and any other information which would assist in project completion. In addition, the composition of a project advisory committee shall be discussed during initial project scoping. The Contractor, or a designated project partner, shall prepare and distribute to all project partners a brief meeting summary clearly indicating the agreements/understandings reached at the meeting. Work on subsequent tasks shall not proceed prior to Department approval of the proposed approach as outlined in the meeting summary.

Products: Scoping meeting with appropriate parties. Written meeting summary outlining agreements/understandings reached.

Task 2: Project Advisory Committee

The Contractor shall establish a project advisory committee to oversee all aspects of the project in cooperation with municipal officials and the project consultant(s), if applicable. The committee shall be representative of project stakeholders, including representatives of State and municipal agencies with jurisdiction over project activities or the project area, and non-governmental and community based organizations. A draft list of proposed members shall be circulated to the Department for review and approval prior to establishment of the committee.

Products: Draft and final list of proposed members of project advisory committee. Project

advisory committee established.

Task 3: Request for Proposals

The Contractor shall draft a Request for Proposals (RFP) including a complete project description with site conditions, expected final results, a schedule for completion, and criteria for selecting a preferred proposal. The Contractor shall submit the RFP to the Department for review and approval prior to release for solicitation of proposals.

Products: Approved RFP released through advisement in local papers, the New York State Contract Reporter, and other appropriate means.

Task 4: Consultant Selection and Compliance with Procurement Requirements

In consultation with the Department, the Contractor and an appropriate review committee shall review all proposals received as a result of the RFP. At a minimum, the following criteria are suggested for use in evaluating consultant responses:

- Quality and completeness of the response.
- Understanding of the proposed scope of work.
- Applicability of proposed alternatives or enhancements to information requested.
- Qualifications and relevant experience with respect to the tasks to be performed.
- Reputation among previous clients.
- Ability to complete all project tasks within the allotted time and budget.

Incomplete proposals that do not address all of the requested components should not be accepted for review and consideration.

For preparation/certification of final designs and construction documents, and for supervision of construction, a licensed professional engineer or licensed architect/landscape architect is required.

The municipal attorney, chief legal officer or financial administrator of the municipality shall certify in writing to the Department that applicable provisions of General Municipal Law were fully complied with.

The Contractor's procurement record and consultant selection is subject to approval by the Department.

Products: Consultant(s) selected and approved by the Department. Written certification of procurement procedures.

Task 5: Subcontract Preparation and Execution

The Contractor shall prepare a draft subcontract or subcontracts to conduct project work with the consultant(s) selected. The subcontract(s) shall contain a detailed work plan with adequate opportunity for review at appropriate stages of project completion, a payment schedule (payments should be tied to receipt of products), and a project cost. The subcontract(s) shall specify the

composition of the entire consultant team, including firm name and area of responsibility/expertise, and those professionals from the consultant team or consulting firm that will be directly involved in specific project tasks. The Contractor shall submit the draft subcontract(s) to the Department for review and approval, and shall incorporate the Department's comments in the final subcontract(s). A copy of the final, executed subcontract shall be submitted to the Department.

Products: Draft and final, executed consultant subcontracts.

Task 6: Second Project Scoping Meeting

In consultation with the Department, the Contractor shall hold a second project scoping meeting with the consultant(s), and other project partners as appropriate, to review project requirements, site conditions, and roles and responsibilities; identify new information needs and next steps; and transfer any information to the consultant(s) which would assist in completion of the project. The consultant(s) shall prepare and distribute a brief meeting summary clearly indicating the agreements/understandings reached at the meeting. Work on subsequent tasks shall not proceed prior to Department approval of the proposed approach as outlined in the meeting summary.

Products: Scoping meeting with appropriate parties. Written meeting summary outlining agreements/understandings reached.

Component 1: Hudson River Impact Assessment

Task 7: Data collection and database creation

- A. The Contractor or its consultant(s) shall collect and compile historical CSO monitoring and testing data. A database shall be created to store historical data and newly collected data. In addition, the CSO's will be continually be tested and monitored, and the newly collected data will be entered into the database.
- B. The Contractor or its consultant(s) shall review the records of previous models that have been prepared for the City.

Products: Historical CSO data collected and compiled into a database. Previous models will be reviewed. Continued monitoring of the CSO's; database will be updated with newly collected data. CSO data shall be submitted in electronic format to the Department for review and approval.

Task 8: Computer Model

The Contractor or its consultant(s) shall develop a calibrated computer model representing existing conditions under the current infrastructure.

- A. A series of simulations will be run to model velocities and volumes during a series of flow and rainfall events.

B. Given the current infrastructure, the Contractor or its consultant(s) shall develop alternatives for impact mitigation available for the current system.

Product: Calibrated existing conditions model, alternatives developed based on event rainfall simulations. Model development methodologies used to develop the model and simulations shall be sent to the Department for review and approval.

Task 9: Existing Conditions Final Report

The Contractor or its consultant(s) shall prepare a final report outlining the methods used to develop the model, discuss the results of the model simulations under various rainfall events and the identified mitigation alternatives. Discussions will include mitigation alternatives that would eliminate the need for three or four of the CSO's in the primary recreational waterfront.

Product: Draft and final Existing Conditions Final Report, sent to the Department for review and comment. The final Existing Conditions Final Report shall incorporate the Department's comments, and shall be submitted for approval.

Component 2: Sewer Interceptor Planning Study

Task 10: Bid Process and Selection of Consulting Engineer and Consulting Planner

After the preferred location and scale of the proposed project has been determined and approved by the Department, the Contractor or its consultant(s) shall prepare and distribute a bid invitation to select an engineering subcontractor or subcontractors, for the excavation of the proposed site and upgrades determined in component one. Prior to distributing the bid invitation, the Contractor or its consultant(s) shall submit the bid invitation to the Department for review and comment.

The Contractor or its consultant(s) shall select the engineering subcontractor(s) from the bid respondents and shall prepare a draft contract or contract(s) to conduct the work with the selected engineering subcontractor(s). The contract(s) shall contain a detailed work plan with adequate opportunity for review at appropriate stages of project completion, a payment schedule (payments should be tied to project milestones), and a project cost. The Contractor must certify to the Department that applicable public bidding procedures of General Municipal Law were followed for the selection of all construction or other subcontractors.

The Contractor shall submit the draft subcontract(s) to the Department for review and approval, and shall incorporate the Department's comments in the final subcontract(s). A copy of the final, executed subcontract(s) shall be submitted to the Department.

Products: Executed construction subcontract(s). Written certification of procurement procedures, submitted to the Department for review and approval.

Task 11: Site Reconnaissance

The Contractor or its consultant(s) shall conduct site-specific reconnaissance, in preparation for design. Work shall include, at a minimum, identification and mapping of the following:

In consultation with the Department and the project advisory committee, the Contractor shall select one of the alternative schematic designs as the basis for final design and engineering/construction plans and specifications, or shall work with the consultant(s) to develop a final schematic design incorporating elements of or building upon the alternative schematic designs.

Products: Alternative schematic designs. Schematic design alternative selected.

Task 14: Public Meeting

In consultation with the Department, a public information meeting shall be conducted to solicit public input on the interceptor line relocation to assist in selecting a preferred alternative. A written summary of public input obtained at this meeting shall be prepared and provided to the Department for review and comment.

Products: Public information meeting held. Minutes/Summary of meeting prepared and submitted to the Department.

Task 15: Design Report

The Contractor or its consultant(s) shall create a design report detailing model simulations and provides all of the necessary information to the engineer producing the contract documents. Information in this report can include, but not be limited to, existing condition volumes, simulated volume and flows, infrastructure capacities and sizes, and site characteristics determined by the site reconnaissance.

Products: Draft and final design report, submitted to the Department for review and approval.

Task 16: Recommendation Report

The Contractor or its consultant(s) shall write a recommendation report which shall document how the final determination was reach.

Product: Draft and final recommendation report, submitted to the Department for review and approval.

Task 17: Semi-annual Reporting

The Contractor or its consultant(s) shall submit to the Department semi-annual reports (every six months) on the form provided, including a description of the work accomplished, any problems encountered, and any assistance needed.

Products: Semi-annual reports during the life of the contract.

Task 18: Final Project Summary Report and Measurable Results forms

The Contractor or its consultant(s) shall work with the Department project manager to complete the

Final Project Summary Report and Measurable Results forms. Final payment shall not be authorized until these forms have been completed and filed with project deliverables.

Products: Completed Final Project Summary Report and Measurable Results forms.

5. Project Management Responsibilities

The Contractor shall administer the grant, execute a contract with the Department, and ensure the completion of work in accordance with the approved Work Plan. Unless otherwise specified in the Project Description or under Project Components, the Contractor and/or its approved consultant(s) or subcontractor(s) shall conduct all work as described in the component tasks.

The Contractor:

- will be responsible for conducting all project work in conformance with the Work Plan included in the executed contract with the Department.
- will be responsible for all project activities including drafting request for proposals and managing subcontracts with consultants and sub-consultants.
- will certify to the Department that the procurement record for project consultants and subcontractors complies with the applicable provisions of General Municipal Law.
- will receive approval from the Department for any and all consultant subcontracts before beginning project work.
- will be responsible for submission of all products and payment requests.
- will be responsible for coordinating participation and soliciting comments from local government personnel, project volunteers, and the public.
- will keep the Department informed of all important meetings for the duration of this contract.
- will receive approval from the Department before purchase of any equipment.
- will secure all necessary permits and perform all required environmental reviews.
- will ensure that all materials printed, constructed, and/or produced reflect the Division of Coastal Resources logo, feature the Secretary of State and the Governor, and acknowledge the contributions of the Division to the project.
- will ensure that all products prepared as a part of this agreement shall include the NYS Comptroller's Contract # as indicated on the Face Page of this Agreement.
- will ensure the project objectives are being achieved.
- will ensure that comments received from the Department and the project advisory committee, or other advisory group, are satisfactorily responded to and reflected in subsequent work.
- will recognize that payments made to consultants or subcontractors covering work carried out or products produced prior to receiving approval from the Department will not be reimbursed unless and until the Department finds the work or products to be acceptable.
- will participate, if requested by the Department, in a training session or sessions focused on developing and implementing revitalization strategies. The purpose of the training session(s) is to build knowledge and provide support to community leaders to advance revitalization efforts and complete priority projects.

The Department:

- will review and approve or disapprove of subcontracts between the Contractor and consultant(s) and any other subcontractor(s).
- will participate in initial project scoping and attend meetings that are important to the project.
- will review all draft and final products and provide comments as necessary to meet the objectives.
- must approve any and all design, site plan, and preconstruction documents before construction may begin.

CITY OF NEWBURGH
CASH FLOW STATEMENT
December 31 2010

	A	CD	CG	DR	H	M	F	G	S	T	KNEC	TOTAL
OPENING CASH BALANCE	12,690,990.26	1,418,280.44	658,427.49	151,727.86	7,160,535.49	30,081.73	2,005,628.33	6,888,822.71	96,598.64	445,382.96	458,705.31	32,005,181.22
RECEIPTS:												
Civil Service	85.00	-	-	-	-	-	-	-	-	-	-	85.00
Clerk	7,351.52	-	-	-	-	-	-	-	-	-	-	7,351.52
DPW	820.75	-	-	-	-	-	-	-	-	-	-	820.75
Federal & State Aid	-	-	-	-	-	-	1,981,732.94	-	-	-	-	1,981,732.94
Fire	14,852.50	-	-	-	-	-	-	-	-	-	-	14,852.50
Insurance Recoveries	23.81	-	-	-	560.38	-	-	20,172.17	-	-	-	20,756.36
Interest and Penalties	-	-	-	-	3,206.60	2,737.45	-	-	3,013.00	-	-	8,957.05
License and Permits	17,443.18	-	-	-	-	-	-	-	-	-	-	17,443.18
Miscellaneous	3,775.41	-	-	-	-	-	-	101.43	376,954.00	-	-	380,830.84
Monthly Interest	1,237.45	423.14	130.52	-	341.88	1,076.87	1,328.56	-	121.19	-	-	4,859.61
NECSD	66,666.68	-	-	-	-	-	-	-	-	-	-	66,666.68
Police	18,798.61	-	-	-	-	-	-	-	-	-	-	18,798.61
Proceeds from Loan Paymt	-	937.99	-	207.13	-	-	-	-	-	-	-	1,145.12
Recreation	125.00	-	-	-	-	-	-	-	-	-	-	125.00
Rental Income	14,100.00	-	-	-	800.00	8,333.33	-	-	2,700.75	-	-	23,233.33
Sanitation	-	-	-	-	-	-	-	-	-	-	-	2,700.75
State & Federal Aid	4,364,815.27	148,055.50	61,288.26	-	-	-	-	-	-	-	-	4,574,159.03
Tax Collector	28,227.83	-	-	-	-	-	-	-	-	-	-	28,227.83
Tickets & Fines	42,003.50	-	-	-	-	-	-	-	-	-	-	42,003.50
Traffic	2,358.20	-	-	-	-	-	-	-	-	-	-	2,358.20
Utility Taxes	130,040.92	-	-	-	-	-	-	-	-	-	-	130,040.92
Zoning	3,813.00	-	-	-	-	-	-	-	-	-	-	3,813.00
Sewer	-	-	-	-	-	540,492.78	-	-	-	-	-	540,492.78
TOTAL RECEIPTS	4,716,538.63	149,416.63	61,418.78	207.13	4,908.86	552,640.43	1,983,061.50	20,273.60	382,788.94	-	-	7,871,254.50
TOTAL FUNDS AVAILABLE	17,407,528.89	1,567,697.07	719,846.27	151,934.99	7,165,444.35	582,722.16	3,988,689.83	6,909,096.31	479,387.58	445,382.96	458,705.31	36,972,347.45
DISBURSEMENTS:												
Summary Bills	4,284,478.21	77,874.25	83,279.07	-	1,413,507.66	205,296.25	401,519.52	670,578.54	299,754.25	-	-	7,436,287.75
Payroll	1,334,790.21	18,468.80	58,764.35	-	-	-	132,639.53	36,937.59	97,380.92	-	-	1,978,981.39
TOTAL DISBURSEMENTS	5,619,268.42	96,343.05	142,043.42	-	1,413,507.66	205,296.25	534,159.05	707,516.13	397,135.17	-	-	9,715,269.14
TOTAL CASH BALANCE	11,788,260.47	1,471,354.02	577,802.85	151,934.99	5,751,936.69	377,425.91	3,454,530.78	6,201,580.18	82,252.41	445,382.96	458,705.31	29,857,078.31
END OF MONTH												

Cheyl A. Glass 1/14/11

Comptroller

RESOLUTION NO.: 21 - 2011

OF

JANUARY 24, 2011

A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ACCEPT DONATIONS IN SUPPORT OF THE
CITY OF NEWBURGH'S JULY 4th 2011 CELEBRATION

WHEREAS, various businesses, firms and individuals are making contributions of money and in-kind assistance to support the City of Newburgh's July 4th 2011 Celebration; and

WHEREAS, this Council deems it to be in the best interests of the City of Newburgh 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 this event.