

A regular meeting of the City Council of the City of Newburgh was held on Monday, September 28, 2015 at 7:00 P.M. in the third floor Council Chambers at City Hall, 83 Broadway, Newburgh, NY.

The Prayer was led by Rev. Milton Best from Best Temple Church, followed by the Pledge of Allegiance.

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

PRESENTATIONS

A presentation was given by Corporal Jack F. Marziliano, Single Marine Program President on different ways that they can assist the community through volunteer work.

COMMUNICATIONS

Councilwoman Holmes moved and Councilwoman Angelo seconded that the Minutes of the September 14, 2015 Council Meeting be approved.

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

CARRIED

CITY MANAGER UPDATE

City Manager, Michael Ciaravino gave an update on some key highlights and progress in City departments.

MONTHLY COMPTROLLER REPORT

City Comptroller, John Aber submitted and read the attached report.



City of Newburgh City Comptroller's Office

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John J. Aber
City Comptroller
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TO: Michael Ciaravino, City Manager
Mayor - Judy Kennedy
Councilman – Cedric Brown
Councilwoman – Regina Angelo
Councilwoman – Gay Lee
Councilwoman – Genie Abrams
Councilwoman – Cindy Holmes
Councilwoman – Karen Mejia

FROM: John J. Aber, City Comptroller

DATE: September 28, 2015

SUBJECT: City of Newburgh Financials – August

Below are the highlights of the City of Newburgh Revenue and Expenses through August 31, 2015.

General Fund Revenue

Year to date the City of Newburgh collected \$28.5 million which is 66% of the revenue budget. Revenue collected includes:

\$18.7m - Real Property Taxes
\$5.8m - Sales and Use of Tax
\$1.5m - Enterprise Fund
\$736k - Fund Balance
\$559k - Miscellaneous Income (Mortgage Tax, Employee Contributions)
\$582k - Departmental Income
\$529k – State Funding
\$121k - License and Permits

General Fund Expense

Through August the City of Newburgh expended \$27 million which equates to 62.7% of the 2015 Budget.

Departmental expenses continue to remain in-line with the approved budgets with the exception of the Police and Fire Overtime.

Based upon increased overtime expenses my office is now projecting the Police Department will exceed their FY2015 overtime budget by \$520k.

In regards to the Fire Department, there has also been a steady increase in their overtime. My office is now projecting an overtime deficit of \$200k.

To ensure, the City does not exceed the FY2015 budget, a spending freeze was put in place effective 9/16/15.

For FY2015, the City has utilized \$72k in General Fund Contingency, there is \$228k remaining.

Enterprise Fund Revenue

Through August 2015, the Enterprise Funds (Water, Sewer and Sanitation) generated \$8.9 million in revenue.

The Water Department has billed/collected \$3.7 million which represents 58.8% of the FY2015 Water revenue budget.

The Sewer Fund has billed/collected \$2.9 million which represents 55% of the Sewer revenue budget.

The Sanitation Fund billed/collected \$2.5 million which represents 76.8% percent of the Sanitation revenue budget.

Enterprise Fund Expense

Through August 2015, Enterprise Funds expended \$7.3 million. All three Enterprise Funds are projected to spend within their FY2015 Adopted Budget.

In regards to Contingency for the Enterprise Funds:

The Water fund has utilized \$95k and has \$80k remaining.

The Sewer fund has utilized \$220k and has \$80k remaining.

The Sanitation fund has utilized \$0 and has \$222k remaining.

Capital

There have been no major changes in capital expenses since my last report.

Trust and Agency Accounts

- **Misc Donations**
 - CAC (former Shade Tree) - \$845
 - National Night Out - \$0
 - Gun Buyback - \$1,535
 - Misc Fire Dept - \$1,847

- **Police**
 - Police Evidence - \$97,038
 - Federal Seizure - \$3,698
 - State Seizure - \$10,571
 - Police Bicycle - \$552
 - Police Donations - \$187

- **Codes**
 - Rental Registry - \$82,570

- **Celebrations**
 - Puerto Rican Day - \$80
 - International Festival -\$8,102
 - Quadricentennial - \$0
 - Fireworks - \$2,634
 - Memorial Day - \$91
 - Trunk or Treat - \$0

Other Highlights

In 2013, Comptroller DiNapoli implemented a statewide fiscal monitoring system to identify local governments experiencing financial strain. On September 21, 2015 the City received its fiscal stress reporting from the State for FY2014. Our reporting level was 18.8%. The State designates fiscal stress for any municipality with a stress level of 45% or higher.

My Office has completed a review of the Departments 2016 budget submissions with the City Manager. We are finalizing the Managers Proposed Budget and will be presenting to Council at the first Council meeting in October.

Today, my office in conjunction with IT completed another milestone in moving towards a paperless environment. KVS our integrated financial system now provides paperless purchase orders.

COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Valerie Farrell, Townsend Avenue, spoke about Resolution #243-15 regarding the Youth Empowerment Center. She believed that it was a six day a week program on Monday through Saturday but on this agreement it says it's only for three days.

Mayor Kennedy noted that it has always been three days.

Ms. Farrell asked if they have use of more than just the first floor.

Mayor Kennedy responded with "no".

Ms. Farrell said that they are trying to start something up in the Heights that she thinks would be viable and the Heights needs a lot of help right now. She believes that these children deserve a chance and an opportunity so she hopes that the Council will consider giving them more room to use and renew the lease for another year so that they can prove they can do something to help heal. We all have to take an initiative to help.

Jannelli has lived in the Heights for two years and has enjoyed being part of the Youth Empowerment Center. She has learned a lot there such as how to be part of a community family and how to be respectful in School. She likes the Staff because they care about the kids and they are always available to help them. They do Arts and Crafts and learn how to get along with each other so she thanked the Council for keeping the Center open six days a week.

A City of Newburgh resident also wished to speak about Resolution #243-15 saying that last September the building was given to them for six days a week and the use of the upstairs. Has that changed? They have been there for two years now successfully dealing with the children in that community.

Mayor Kennedy said that she thought the Contract has always been for three days a week; Thursday, Friday and Saturday.

Nyla has lived in the Heights for the past two months and attends the Youth Empowerment Center. They have gone fishing, boating and on College tours so Pastor Austin has taken them to places that they never thought they would go. She thanked the Council for keeping the Center open six days a week.

A youth from the Center who lives in the Heights said that being a kid is not easy but the Youth Empowerment Center makes it easier so he thanked the Council for keeping it open six days a week.

Pastor Austin said that these are the children in the Heights who have been forgotten and for the past two years they have taken care of them. One year ago they met with the City Manager, Derrick Stanton and their Board President and were given permission to use

the building six days a week which is how they have operated when they could afford to do so. In spite of the sabotage, which there has been a lot of, they have operated very successfully. They help children who are challenged with reading, math and their behavior and they have made a difference so they would like to continue with that. She asked the Council not to forget about the children that have been forgotten.

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

COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

Councilwoman Abrams said in regard to Resolution #243-15 that this Contract has been for three days from the moment it was signed. She hasn't seen or heard anything stating that it was being changed and asked Corporation Counsel, Michelle Kelson, if she knew of a change.

Corporation Counsel, Michelle Kelson said that nobody has come to her to modify the agreement for any reason so she doesn't know where the disconnect is.

Councilwoman Abrams said the problem is that this building is in such bad shape with no heat in the winter or cooling in the summer and it was really dirty upstairs. They couldn't afford to have the bathrooms in working order or maintain cleanliness.

Mayor Kennedy is not sure who is in charge of cleaning that building and she knows that they have had trouble with not having the money to maintain buildings but they have done pretty good at getting some of them under control. She is unaware of changes in this Contract and she thinks that the current Contract is the same one that they have renewed over the past two years. They need to have a meeting about this and at least pass this for tonight and then modify it.

Councilman Brown said that they can make that adjustment right now and he is sort of ashamed to know that they have a building that is supporting our youth that has no heat so with the winter season coming up they need to get on that ASAP. As far as the cleanliness of the building he is sure that Pastor Austin could have some of the kids over there clean and empty the wastebaskets. As far as he knows Pastor Austin has been operating her Program out of that building six days a week and he doesn't know where the miscommunication has come from. He asked Michelle Kelson if they could change the resolution tonight to have it open six days a week.

Corporation Counsel, Michelle Kelson said that the resolution is going to authorize the Council to approve an agreement which is attached so we certainly can modify the use and occupancy to provide access to the premises by the time and days of the week. She requested that they identify each day of the week and the time frames within which the Licensee would be able to occupy the premises so that she can make the adjustments in the License Agreement itself.

Councilman Brown asked Pastor Austin what her hours were.

Pastor Austin said 1:30 P.M. to 12:00 Midnight on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday.

Councilman Brown asked the other Council members if anyone was opposed to those hours of operation.

Councilwoman Holmes questioned whose children are out at Midnight. Is this on school nights too?

Pastor Austin said that on school nights the children go home between 8:00 P.M and 8:30 P.M. but on Friday and Saturday they stay open later. They do have an older group of teenagers and some go to School but some don't. Originally the Program was started to get at risk children off the streets whether they were in or out of School. During the winter they do have a group of children ages 16 to 20 years that will come in and play games or watch TV because they are in a safe place but the younger children are home by 8:30 P.M.

Corporation Counsel, Michelle Kelson proposed that the current License Agreement will state that there is access on Thursday, Friday and Saturday from 1:00 P.M. to 1:00 A.M. with a condition that the teenage programs don't start until 5:00 P.M. so that they are not mixing the older children with the younger, more impressionable children. She asked if they could then carve out Monday through Thursday for 1:30 P.M. to 8:30 P.M.

Councilwoman Lee questioned that most of our kids are still in school at 1:30 in the afternoon and asked if that is their preparation time.

Pastor Austin replied that it was the time they clean and prepare the building from top to bottom.

Corporation Counsel, Michelle Kelson noted that the Middle School and High School students are dismissed sometime around 2:00 P.M. in the afternoon.

Councilwoman Holmes what the condition of the building is.

Pastor Austin feels that it is in really good condition, however, they plan to paint the entire downstairs and the first floor. She told the Council that they could come see the condition of the building at any time.

Councilwoman Holmes said that she did see it last year and the condition then was not good at all. They had the Engineer go over to see about the septic tanks and toilets so at that time it wasn't good for the children.

Jason Morris, City Engineer explained that there was a floor drain without water in the trap which was leaking sewer gases. The Plumbing Inspector looked at it and there was a toilet that was not flushing correctly but he believes that everything was corrected.

Councilwoman Mejia said that we had this conversation last year and she doesn't want people to think that they would allow programs with children in a building that is not adequate. All of the outstanding issues were fixed otherwise they would not have been able to conduct their program there.

Pastor Austin said that the downstairs bathrooms and water work properly so the only thing they need to do is paint and get the graffiti removed from the back windows. She noted that they will foot the bill and they are doing this at no cost to the City.

George Garrison, Public Works Superintendent said that the only other issue he believes was the heat and they obtained quotes to get that fixed which came in around \$6,000.00. This has not been fixed yet and we are heading into the winter months.

City Manager, Michael Ciaravino noted that the \$6,000.00 quote is only a patch for a decision we are still working through on our Budget. Do we replace those units completely at a much higher cost or do we do it piece meal and try to live within our budgetary means.

Councilwoman Abrams said that there is no heat there then?

Pastor Austin said that right now there is heat because they brought in portable units. They would not be in that building with children without heat.

Councilman Brown said that we need to get the heat fixed. We have spent more money on garbage around here so we can spend \$6,000.00 to get those units fixed being that winter is coming.

Councilwoman Holmes said that it might not be just the \$6,000.00. It may be more.

George Garrison, Public Works Superintendent said that they had four people give estimates on what was wrong and both roof top units have bad heat exchangers. They are probably over twenty years old so once you get them fixed something else could go wrong since they are old.

Mayor Kennedy said that they need to sit down and figure this out.

City Manager, Michael Ciaravino said that \$6,000.00 will adjust the immediate problem. They just need to be mindful that with the age of the units there may be additional costs coming.

Mayor Kennedy said that Pastor Austin had a solution last year by using portable units.

Pastor Austin said that there are kids running around expending a lot of energy and they monitor the heat every day so any time that the temperature dropped below the acceptable state temperature they would supplement it with small heaters which was more than adequate.

Councilwoman Holmes said that she has no problem spending the money for this but asked if this building was inspected. Is it safe for the kids?

Pastor Austin said that they requested a fire inspection last year which they passed with flying colors. All of the fire extinguishers are in place and the fire exits are properly highlighted so they did a phenomenal inspection and the building is considered safe.

Councilman Brown said that ultimately the building is our responsibility so whatever the cost is they need to put that up and fix that building. It is a community center and at the end of the day he dares anyone to go there and see how busy that corner is in that general area. The best thing for our kids at any time is to be in a safe place so whatever the cost is they need to figure it out.

Councilwoman Angelo told Pastor Austin to keep up the good work.

Councilwoman Holmes asked if anyone resides in that building.

Pastor Austin said that there was some bad weather last year and a State of Emergency was declared so the streets in Newburgh were closed. Under those circumstances she did spend one or two nights there.

Mayor Kennedy said they will adjust the License Agreement and when they vote it will be with the corrections as noted.

Councilwoman Abrams asked that this particular resolution be tabled so it can be studied and they can get more information. She needs to digest the changes so for her she thinks they should put this off for now.

Councilman Brown doesn't feel that this resolution should be tabled. It is clear to him what needs to be done and they are servicing the youth in that community so that's what is important. If they need to be open six days a week then we should support that.

Councilwoman Lee noted that she was looking for the resolution for JR Real Estate.

Corporation Counsel, Michelle Kelson said that she sent the Council an e-mail on Friday regarding the status of that matter so they can discuss that further if they like.

Councilwoman Lee thought it was going to be on the Agenda for tonight.

Corporation Counsel, Michelle Kelson said that it can't be on the Agenda if it's not accepted by the other side. There is no meeting of the minds.

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

RESOLUTION NO.: 237- 2015

OF

SEPTEMBER 28, 2015

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH
TO DECLARE ITSELF LEAD AGENCY UNDER THE STATE ENVIRONMENTAL
QUALITY REVIEW ACT (SEQRA) WITH RESPECT TO THE NORTHEAST
ORANGE COUNTY INTERMUNICIPAL WATER SUPPLY PROJECT**

WHEREAS, the City of Newburgh, the Town of Newburgh, and the Town of New Windsor (the "Municipalities") share a particular interest in water supply and the prospects of constructing interconnections for drinking water supply and upgrading the City of Newburgh's water treatment facility (the "Northeast Orange County Intermunicipal Water Supply Project" or the "Project") which would serve the Municipalities and their customers including the Town of Cornwall and the Town of Marlboro and would provide a sustainable return on investment for all involved parties; and

WHEREAS, by Resolution No. 98-2015 of April 27, 2015, the City Council of the City of Newburgh declared its intent to serve as lead agency for the environmental review of the proposed Project pursuant to 6 NYCRR 617.6, classified the action as Unlisted for which a coordinated review is necessary, proposed to accept the environmental assessment form ("EAF") annexed thereto, and authorized the City Manager to circulate the proposed EAF and letter of intent to the Involved and Interested Agencies; and

WHEREAS, on or about May 26, 2015, letters declaring the intent of the City Council of the City of Newburgh to serve as lead agency in the SEQRA review of the proposed Project were sent to all involved and interested agencies giving them thirty (30) days to respond as provided by the SEQRA regulations; and

WHEREAS, the only involved or interested agency to respond within said thirty (30) days was the Town of New Windsor, which objected by letter dated June 24, 2015, to the City Council of the City of Newburgh serving as lead agency in the SEQRA review of the proposed Project; and

WHEREAS, by letter dated August 26, 2015, the Town of New Windsor withdrew its objection to the City Council of the City of Newburgh serving as lead agency in the SEQRA review of the proposed Project, after the City of Newburgh agreed to make certain modifications in the EAF; and

WHEREAS, the New York City Department of Environmental Protection ("NYCDEP") intends to provide funding for environmental and engineering studies and design and,

subsequently, construction of the Northeast Orange County Intermunicipal Water Supply Project in the form of two consecutive Intergovernmental Agreements (IGA's); and

WHEREAS, the first proposed IGA between NYCDEP and the City of Newburgh will be for funding the environmental review and design of the Project, which review and design is exempt from SEQRA under 6 NYCRR 617.5(c)(21), which exempts from review concurrent environmental, engineering and feasibility studies and preliminary planning and budgetary processes that do not commit the City to engage in or approve construction; and

WHEREAS, based upon the results of the overall environmental, engineering and design studies work, DEP has indicated it would be prepared to enter into a second IGA to fund the construction of the Project if approved by the Municipalities, which IGA will require environmental assessment under SEQRA;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh as follows:

1. That the City Council of the City of Newburgh declares that it will serve as the Lead Agency in the environmental review under SEQRA for the construction phase of the Project; and

2. That the City Manager is instructed to utilize the funds to be received from NYCDEP under the first IGA, in part, to research and develop the information necessary to provide a complete environmental review of the proposed Project, including the long-term safety and security of the City's water supply.

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

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

ADOPTED

RESOLUTION NO.: 238 - 2015

OF

SEPTEMBER 28, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
A LICENSE AGREEMENT WITH PRECISION PIPELINE SOLUTIONS, LLC TO
ALLOW ACCESS TO CITY-OWNED PROPERTY LOCATED AT 360 LIBERTY
STREET DURING A GAS MAIN REPLACEMENT PROJECT ON LIBERTY STREET
PERFORMED ON BEHALF OF CENTRAL HUDSON ELECTRIC AND GAS**

WHEREAS, the Precision Pipeline Solutions has requested access to City-owned property located at 360 Liberty Street and identified as Section 12, Block 1, Lot 26, on the tax map of the City of Newburgh for the purpose of temporary storage of pipe, equipment and related material for a gas main replacement project for Liberty Street performed on behalf of Central Hudson Electric and Gas; and

WHEREAS, such access to the subject property is requested through November 1, 2015 and requires the parties to execute a license agreement, a copy of which is attached hereto and made a part of hereof; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached license agreement with Precision Pipeline Solutions to allow access to City-owned property located at 360 Liberty Street for the purpose of temporary storage of equipment and materials as a staging area for a gas main replacement project for Liberty Street performed on behalf of Central Hudson Electric and Gas.

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

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

ADOPTED

LICENSE AGREEMENT

This Agreement, made this _____ day of _____, two thousand and fifteen by and between the CITY OF NEWBURGH, a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 as "LICENSOR," and PRECISION PIPELINE SOLUTIONS, LLC, a private business organization having an address at 617 Little Britain Road, Suite 200, New Windsor, New York 12553 and its consultants and sub-contractors, as "LICENSEE";

WITNESSETH THAT:

WHEREAS, Licensee desires the license or privilege of gaining access to the premises of Licensor on behalf of itself and its employees, agents and contractors in substantially the location and position shown as set forth on the map or plan hereto attached and made a part hereof and bearing the following address:

Property identified as lands of the City of Newburgh, 360 Liberty Street, Section 12, Block 1, Lot 26 on the tax map of the City of Newburgh;

AND WHEREAS, Licensor is willing to give said license or privilege on the following terms and conditions:

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and conditions hereinafter contained, it is hereby agreed as follows:

First: Licensor hereby gives to Licensee and Licensee's employees, agents and contractors, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor's property identified as 360 Liberty Street, Section 12, Block 1, Lot 26, and taking thereupon such vehicles, equipment, tools, machinery and other materials as may be necessary and for the use of said property for the storage, parking, operation and management of vehicles, equipment and materials as a staging area for a gas main replacement project for Liberty Street performed on behalf of Central Hudson Electric and Gas.

Second: Licensee agrees to do such work and perform such tasks in such manner as will comply fully with the provisions of any laws, ordinances or other lawful authority, obtaining any and all permits required thereby.

Third: Licensee hereby agrees to defend, indemnify and hold Licensor harmless against any claims, actions and proceedings brought against Licensor arising out of, in connection with and/or relating to Licensee's use of the premises. Licensee has posted evidence of and shall maintain throughout the term of this License public liability insurance naming the Licensor as additional insured in a minimum coverage amount of One Million (\$1,000,000.00) Dollars.

Fourth: Licensee may retain certain employees, agents, contractors and consultants to perform the subject work. In the contract by which Licensee retains such agents, contractors and/or consultants, Licensee and such agents, contractors and/or consultants shall name and/or treat and hold Licensor as additional insured under insurance coverage concerning Licensee's performance of the tasks referenced herein.

Fifth: This Agreement and the license or privilege hereby given shall expire and terminate upon the later of November 1, 2015 or the completion of the project by Licensee and its agents, employees and contractors, and the restoration of the property to a clean and orderly state and in the same condition as existed prior to the granting of this license, normal wear and tear excepted.

Sixth: It is understood and agreed that no vested right in said premises is hereby granted or conveyed from either party to the other, and that the privileges hereby given are subject to any and all encumbrances, conditions, restrictions and reservations upon or under which the parties held said premises prior to the granting of this license.

Seventh: Without limitation to the general provisions of this Agreement, it is understood and agreed that said staging work shall be performed in substantially the location of 360 Liberty Street, Section 12, Block 1, Lot 26, and in accordance with details and specifications as set forth on map or plan hereto attached and hereby made a part hereof.

Eighth: Licensee agrees to give Licensor no less than twenty-four (24) hours advance notice of its intention to enter upon the subject property and to perform the subject work.

WITNESSETH:

THE CITY OF NEWBURGH

LICENSOR

By: _____
Michael G. Ciaravino, City Manager
Per Resolution No.

PRECISION PIPELINE SOLUTIONS, LLC

LICENSEE

By: _____
Name:
Title:

RESOLUTION NO.: 239 - 2015

OF

SEPTEMBER 28, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ACCEPT A PROPOSAL AND EXECUTE AN AGREEMENT WITH
MCINTOSH CONTROLS CORP. D/B/A SMART COVER SYSTEMS FOR
A REMOTE RESERVOIR LEVEL MONITORING SYSTEM
AT A COST OF \$12,583.00**

WHEREAS, the City of Newburgh wishes to accept a proposal and execute an agreement with McIntosh Controls Corp. d/b/a Smart Cover Systems to purchase and install a remote reservoir level monitoring system for the City's reservoirs known as Washington Lake and Brown's Pond; and

WHEREAS, Smart Cover Systems will provide the City with real-time continuous remote sensing, alarming devices, an easy-to-use web based interface, and long and short term data collection and analysis to improve the City's water and wastewater management; and

WHEREAS, the proposal includes the equipment, installation, monitoring and training at a cost of \$12,583.00 with such funding to be derived from F.8320.0208; and

WHEREAS, this Council has reviewed the same and has determined that accepting the proposal and entering into an agreement is in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized accept the proposal and to execute an agreement with McIntosh Controls Corp. d/b/a Smart Cover Systems for the purchase and installation of a remote reservoir level monitoring system at a cost of \$12,583.00.

Mayor Kennedy said that they did have some discussion on this earlier and asked if there is any issue with funds or overspending.

Councilman Brown said that they have been monitoring that reservoir for years just by eyeing it but will there be any additional cost with this?

City Engineer, Jason Morris, said that there is an annual fee once the system is installed. We have two sites; Brown's Pond and Washington Lake and the annual fee is about \$1000.00 per year which includes maintenance and battery replacement.

Councilwoman Lee asked how we monitored it in the past.

City Engineer, Jason Morris said that there is a scribe line on each gate house and someone goes out every single day with tape measure and measures the water level from the scribe line and records the measurement. This is a savings of manpower and there are alarms on these monitoring devices so in the event we have a high water condition where the spillway is activated and hopefully water doesn't go over top of the damn we would be notified of the levels as they approach those elevations.

Councilman Brown said they just heard that they need to fix a heating system for \$6,000.00.

City Engineer, Jason Morris noted that this is coming from a separate fund.

Councilman Brown said that he knows that but maybe they should wait and include this in the next Budget because to him it is unnecessary spending at this point.

City Manager, Michael Ciaravino pointed out that in the event of a pending catastrophic situation at the damn such as a leak, a breach or some kind of tunneling underneath with a washout situation this would give us an early warning so that we could notify the appropriate emergency services and the community that is at risk.

Councilwoman Brown noted that you will have an early warning when there is water all over the street and phone calls will be made. At this point he doesn't see it as being that important and the damn at Brown's Pond was just recently refurbished which cost a ton of money so there will be no breach at least for that damn. For him personally he doesn't think that this is the best way to spend money right now. He thinks it could be put into our next Budget and that they should table this resolution until then.

Mayor Kennedy said that she agreed with Councilman Brown. We have a spending freeze right now and although she thinks that this would be nice to have we have gotten along without it for a long time so we can get along without it a while longer.

Councilwoman Lee said that she doesn't know if she agrees with that.

Councilwoman Holmes said that she disagrees also. Our water and our sewage is our greatest asset and she thinks that this should be passed.

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

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilwoman Holmes, Councilwoman Lee, Councilwoman Mejia – 5

Nays – Councilman Brown, Mayor Kennedy – 2

ADOPTED

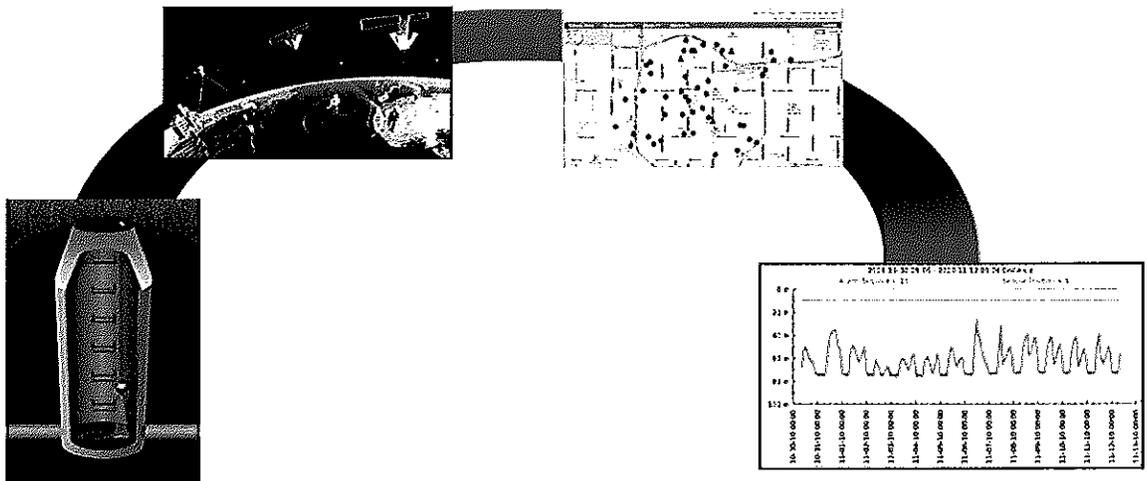
QUOTATION

For

CITY OF NEWBURGH NY
JASON MORRIS

Offered by McIntosh Controls Corp.

SmartCover[®]



Quotation Date: September 4, 2015
Quote Validity: 60 days.
By: Rich Mattesky

Section I: Pricing

SmartCover[®] Systems[™] (SCS) is pleased to provide the following Proposal for SmartCover[®] level monitoring system. Please find in this document: Pricing Summary as shown in Section 1, a complete System Description in Sections 2-5, Warranty statement in Section 6, and Acceptance in Section 7.

Pricing Summary: SmartCover[®]

Part Number	Description	Unit Qty.	Unit Price (Each)	Extended
SC-Q-L-25-ENCLN4SS	SmartCover[®] System Components E-Box System Control with onboard computer, modem, digital radio; fully potted and IP-68 rated. Distance Sensing Module (DSM) with 11" to 240" sensor range, with 25' cable. PowerPack [®] - lithium thionyl chloride battery with high power density. E-Square [™] antenna, including antenna and installation kit. Mounting bracket kit- three-part amounting bracket set made of heavy gauge, hard-anodized aluminum; includes all mounting hardware. Enclosure- Ebox, PowerPack will be prewired and mounted in Nema 4 stainless steel enclosure	2	\$4,998	\$9,996.00
Parts Warranty	One (1) Year, Parts-Only Warranty Limited Parts-Only Warranty on all system SmartCover [®] hardware. See Warranty Statement for complete details.	2	Included	Included
ASM-SC1	Active Site Management (ASM), One-Year. Comprehensive support services including: <ul style="list-style-type: none"> • Software subscription with <i>unlimited number of users</i> accessed with secure user name and password • Complete maintenance of all cloud based software • Regular feature updates and upgrades including the all new <i>SmartTrend[™]</i>. • Hosting of data storage – unlimited data storage • Iridium Satellite connectivity service with bi-directional communication. • Advisories, Maintenance Alerts and Alarms issued to customer defined personnel via email and/or text message • Ongoing technical support via phone or online. 	2	\$364	\$728.00
IST-1	Dedicated Customer Website: Initial Set-up & Training (IST) <ul style="list-style-type: none"> • Dedicated Customer Website set-up and training • Browser-based, secure user access • Includes map view, site-specific data and information • Alarm and Advisories set-up • Comprehensive training for login, website features and website functions <i>Note: this is a one-time charge for new customers and does not apply to follow-on orders.</i>	1	\$899	\$899.00
Installation	Onsite installation labor by an SCS technician, including travel and expenses	1	\$895	\$895.00
Shipping	Shipping and Handling, UPS Ground	1	\$65.00	\$65.00
TOTAL	All items above			\$12,583.00

SmartCover [®] SERVICE OPTIONS				
EW-SC1	Extended Parts Warranty The 1 st Year Parts Warranty is included with purchase. This adds an additional year of parts-only warranty coverage for: • E-Box System Control • Distance Sensing Module (DSM) • Antenna • Mounting bracket. NOTE: this a PARTS-ONLY Warranty. It does not include PowerPack Warranty which is separate, see below	1	\$399	\$399
PW-LTC1	PowerPack[™] Warranty Extension The 1 st Year Warranty is included with purchase. This adds an additional year of PowerPack [™] Warranty covering the 2 nd Year	1	\$225	\$225
ASM-SC1	Active Site Management (ASM), 1 year additional coverage for 2 years total service.	1	\$364	\$364

Delivery

- **Standard: Four (4) weeks** upon receipt of a Purchase Order and with receipt of complete engineering and site information from the customer as requested.
- All customers will be notified of the shipment date upon Order Acknowledgement.
- Actual availability may vary depending on total demand. The "Standard six weeks" is not a guarantee but a good faith estimate. It is strongly recommended that order be placed as early as possible. Reasonable efforts will be made to provide earlier delivery if requested.

Terms and Conditions

- **Payment:** Net 30 days
- **Late charges:** A service charge of 1.5% per month will be added to all balances unpaid 30 days after invoice date. Failure to pay in accordance with these terms may void all warranties.
- **Cancellations:** for all orders of less than \$10,000, cancellation is accepted prior to shipment. For orders equal to or greater than \$10,000, a 15% restocking charge is applied for cancellation.
- **Returns:** returns are accepted with a valid Return Material Authorization (RMA) number only.

Ongoing Annual Costs

After the first year of operation, the following fees will provide *continued comprehensive services* including *software support, data storage, upgrades, added features, and satellite connectivity and PowerPack[™] Warranty.*

These are *annual charges* paid prior to the start of the year.

Active Site Management (ASM)

ASM-SC1 **\$364**
One-Year software subscription, satellite connectivity, online maintenance, online S/C monitoring per unit per year.

ASM-SC2 **\$679**
Two-Year software subscription, satellite connectivity, online maintenance, online S/C monitoring per unit per year for two years. This is a discounted two-year price and is paid in-full at the beginning of the services period.

PowerPack Warranty

PowerPack[™] Warranty (PW-LTC1): **\$225**
One-Year PARTS-ONLY PowerPack Warranty for each installation site, part-only warranty on the PowerPack[™] offering unlimited replacements during the Warranty term.

PowerPack[™] Warranty (PW-LTC2): **\$437**
Two-Year PARTS-ONLY PowerPack Warranty for each installation site, part-only warranty on the PowerPack[™] offering unlimited replacements during the Warranty term.
 NOTE: This is a discounted two-year price and is paid in-full at the beginning of the services period.

Extended Part Warranty

Extended Parts Warranty (EW-SC1, Optional): **\$ 399**
One-Year PARTS-ONLY covers: E-Box System Control, Distance Sensing Module (DSM), antenna, and mounting bracket.
 This is a PARTS ONLY warranty extension after the first year.
 NOTE: Warranty extensions must be for consecutive years. Should a warranty be purchased after any initial year where the warranty was not purchased then the previous year(s) must be additionally purchased.

Extended Parts Warranty (EW-SC2) (Optional): **\$ 742**
Two-Year PARTS-ONLY covers: E-Box System Control, Distance Sensing Module (DSM), antenna, and mounting bracket.
 NOTE: Warranty extensions must be for consecutive years. Should a warranty be purchased after any initial year where it was not purchased then the previous year(s) must be additionally purchased.
 NOTE: This is a discounted two-year price and is paid in-full at the beginning of the services period.

End Section 1, proceed to Section 2, next page.

SECTION 2: PRODUCT DESCRIPTION

Overview

Each SmartCover® and SmartFLOE™ System includes the following components which comprise the hardware delivered with each system:

- One (1) E-Box system control
- One (1) Ultrasonic Distance Sensing Module (DSM) with connecting cable.
- One (1) communications antenna for direct connection to the Iridium Satellite System.
- One (1) PowerPack™, a proprietary high power density lithium thionyl chloride battery
- One (1) bracket kit for either mounting flat to the underside of the manhole cover or for mounting to the manhole cover vein.
- One installation kit containing all hardware and accessories necessary to mount a single system.

NOTE: All references to SmartCover® below also include SmartFLOE™ unless otherwise noted.

Item Descriptions:

E-Box System Control

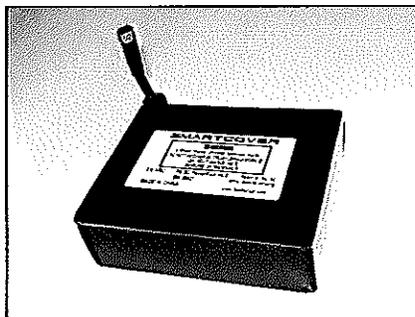
The E-Box is the system control containing the digital satellite radio, computer and signal processing components. It is fully potted and can be completely submerged in water (IP-68 rated) It is housed in an, ABS enclosure and shock tested to 10 G's.



SmartCover® E Box Control

PowerPack™

The PowerPack™ is a high power-density battery system designed for reliable, consistent delivery of power in the harsh wastewater environment. It is housed in a urethane coated pack containing Lithium Thionyl Chloride primary batteries. Typically the PowerPack™ provides at least one year of life and generally longer under normal operating conditions. PowerPacks™ have a 10 year shelf life prior to use.



SmartCover® PowerPack™

Distance Sensing Module (DSM)

The distance sensing module is an ultrasonic distance sensor. It is enclosed and sealed in an ABS housing. It is fully potted and completely water-proof, meeting IP-68 standards. The crystal controlled oscillator sensor is self-calibrating.

There are two [distance] ranges available.

- The standard range senses between 3" and 81"
- The long-range sensor's range is 11" to 240".

The DSM has two standard cable lengths of 15' and 25'. Custom lengths are available, application dependent, up to 300'. SCS Application Engineers are available to assist users to determine the correct DSM range and cable lengths.



SmartCover[®] DSM

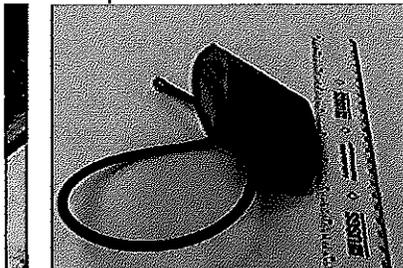
E-Series[™] Antennae

The E-Series[™] antennae include the "E-Square" and the "E-Dot" types. Both are traffic rated and designed to mount directly to the manhole cover or vault lid. They communicate directly to the Iridium Satellite System and do not require any intermediary devices for boosting signals. The antennae are secured to the top of the manhole cover using a high strength, two-part acrylic adhesive specifically designed for high stress, structural applications.

The E-Square antenna is a road-reflector type used in areas where there is no opportunity for dislocation from such hazards as snow plows.

The E-Dot antenna is for cold-weather climates where snow plow operation occurs and are designed to be mounted below the manhole profile.

E-Square[™] Antenna

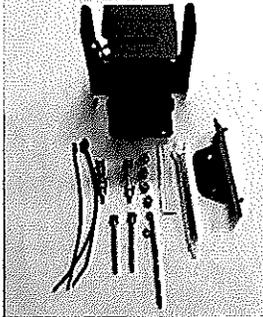


E-Dot[™] Antenna

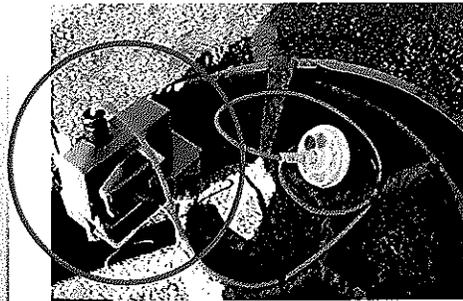
Mounting Bracket Kit

The mounting bracket is a ruggedized, corrosion resistant assembly designed to protect and secure system components. The bracket is secured with two stainless steel bolts whereby the installer drills two ¼" holes into the cover. The bracket is designed in such a manner such that **NO CONFINED SPACE ENTRY IS REQUIRED FOR INSTALLATION**. Its hard-anodized aluminum housing encloses the PowerPack and the E-Box control. The DSM (distance sensing module) is connected to the E-Box and suspended via a cable, typically over the invert.

The bracket is supplied as a three-piece kit for mounting directly to the underside "flat" of the manhole or, alternately, to the manhole cover vein.



Bracket with kit



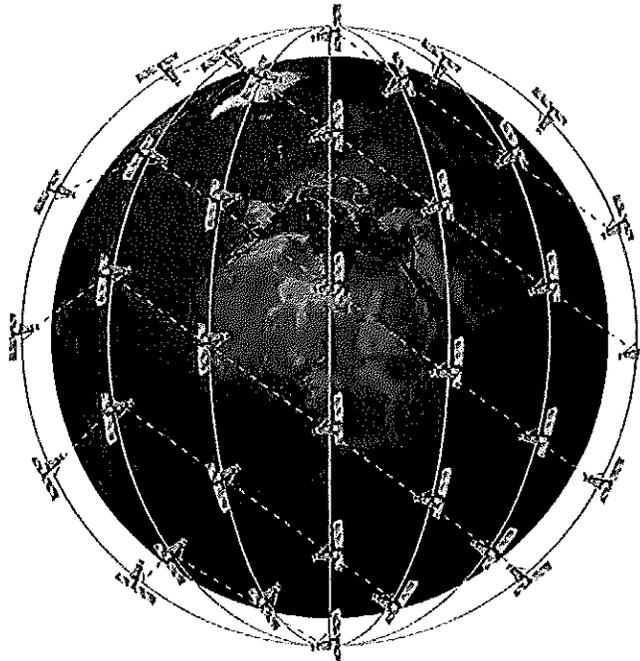
Mounted Bracket

SECTION 3. DESCRIPTION OF THE SATELLITE COMMUNICATION SYSTEM

The SmartCover[®] system uses the high reliability, highly secure *Iridium Satellite System* as its communications backbone. Iridium is a state-of-the-art communications system consisting of 66 Low Earth Orbiting (LEO) satellites. It has global, redundant coverage and is known to provide highly superior connectivity to that of terrestrial systems such as GSM, GPRS and other cell phone based systems. Iridium has a very strong record of performance and reliability. It is used by the US DOD for its reliability.

Iridium Satellites are in orbit across the globe and assured connectivity is achieved requiring but a small fraction of the available horizon. SmartCover[®] systems are able to communicate in challenging locations with such impediments as tree canopies, overpasses or buildings.

SmartCover[®] data is highly secure with servers using 2048 bit encryption. These are redundant servers located in a climate controlled, secure facility with emergency power to prevent any interruptions. Servers store Historical Communication, Data, and Data Access information. Being a web or "cloud" based system; data is available at all times through a browser from a computer, tablet or phone. Users can access data through any web browser to the server via encrypted data and send notifications directly to the user.



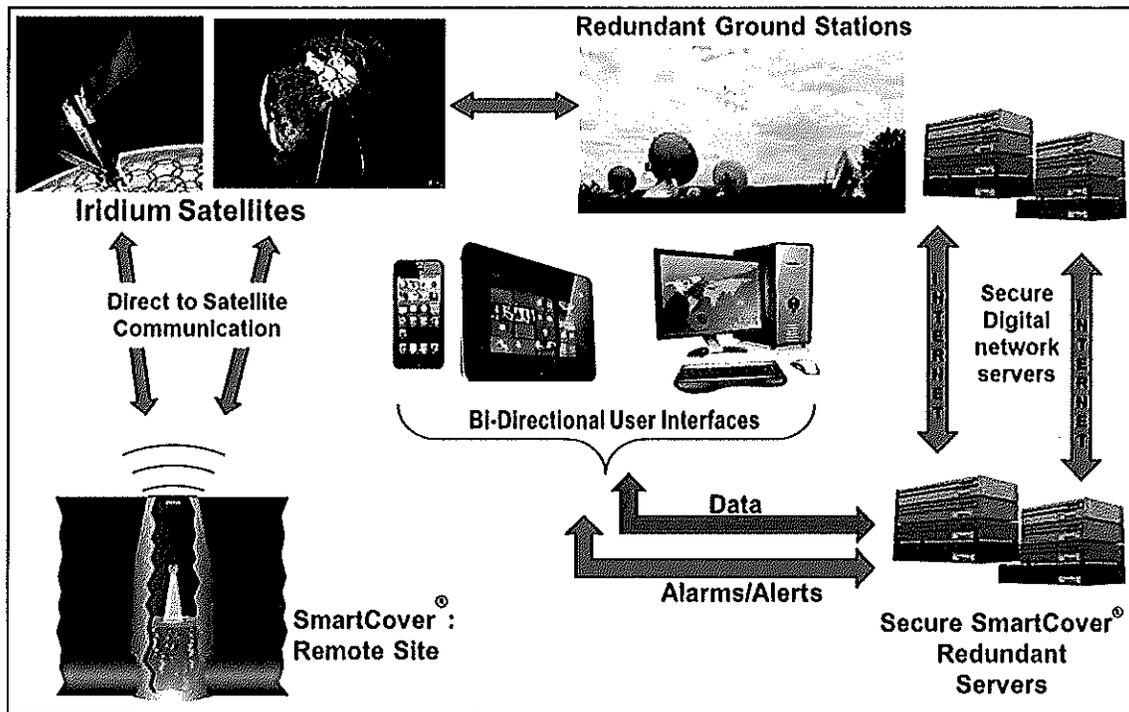
Iridium Satellite Constellation

The Communication Process

As per the diagram below, the SmartCover[®] system communicates directly to an orbiting satellite. The communication signal is then sent to Iridium earth link stations and then to SCS secure servers.

For alarm signals, they are subsequently sent to the Customer via cell phone, Smart Phone, digital pager and/or to computers via the internet. It is possible to have alarms sent to a central control room as well.

SmartCover[®] communication is *bi-directional and the user has control over the remote sites*. A major benefit of the SCS system is that data acquisition, alarms and system setting changes are enabled *remote from the installation site* saving time and resources. For example, the alarm level [distance] setting can be accessed via the Dedicated User Website to be changed or disabled. Changes to these settings are communicated from the SCS servers through the Iridium system and to the SmartCover[®] system at the designated site.



SmartCover[®] communications system diagram

SmartCover[®]: Measurement, Data Acquisition, Transmission and Process Overview

The SmartCover[®] system monitors continuously 24 hours per day, seven (7) days per week. SCS has cumulatively acquired thousands of years of data and experience with this basic measurement protocol to assure users that this methodology is extremely sound and reliable for ongoing data acquisition and alarming functions.

Measurement Frequency

The SmartCover[®] system takes a measurement every six (6) minutes. If the measured level is below the pre-set alarm level then the cycle begins again.

Data Acquisition Frequency

The SmartCover[®] logs alternate readings of the six (6) minute measurement cycle. In other words it log a measurement every 12 minutes, five (5) times per hour. These readings are "batched" and sent once per hour via satellite to the server and stored for user access such as trending and analysis.

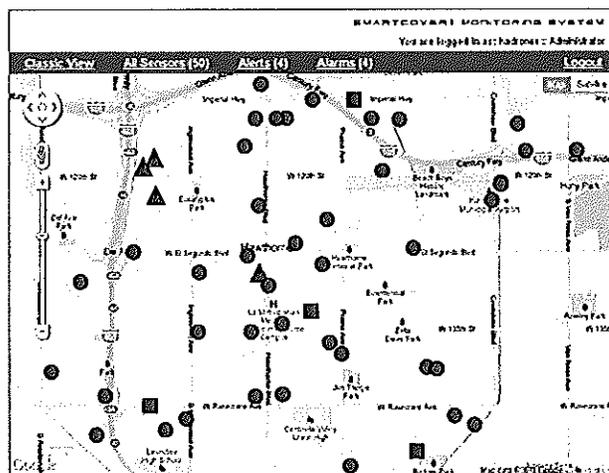
Alarming

If the SmartCover[®] system measures and senses that the water it is *above* the alarm level, an alarm notification is sent to the designated users and by a pre-established communication protocol i.e., text message to a mobile device or an email message to a computer. Alarms through cell phones or pagers are via Short Message Service (SMS), or Smart Phones and emails via email messaging. Alarms will continue to be sent until acknowledged. The system will continue to monitor, even though the alarm has been acknowledged. Note: a dedicated direct-from-satellite handheld system is available option for highly critical communications. Contact SCS for more information.

A LEVEL MEASUREMENT IS TAKEN EVERY 6 MINUTES AND DATA IS UPDATED ON THE SERVER EVERY HOUR. IN THE EVENT OF A HIGH WATER EVENT, THE ALARM IS SENT THE NEXT TIME A LEVEL MEASUREMENT IS MADE. THE LONGEST TIME BETWEEN THE TIME THE WATER REACHES THE ALARM LEVEL AND WHEN THE ALARM SOUNDS IS 5 MINUTES AND 59 SECONDS.

Graphical Data

The website is accessed by designated users through a secure portal and using a user name and password. Upon login a map of the system appears as shown below.



System Map

System Map

The system map has five, colored-coded symbols for ease of viewing and management where:

GREEN (circle) – Indicates that the SmartCover® system is functioning properly and that the site does not have any alarms or maintenance alerts.

GRAY (circle) – Indicates that the SmartCover® system was previously located at this site but has been moved. The data for this site is archived and accessible.

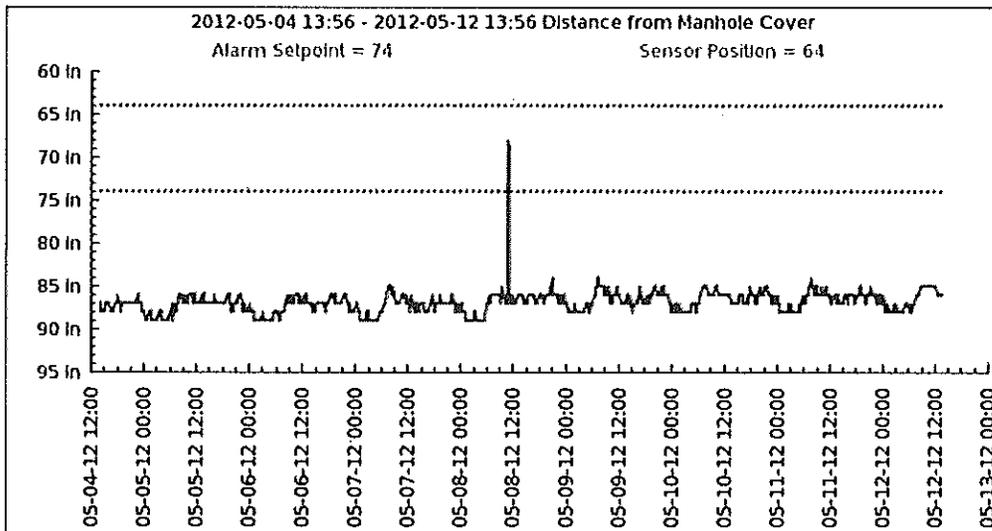
ORANGE (circle) – Indicates that the SmartCover® system, while not in an Alert or Alert state, has issued an “Advisory”. The Advisory is an email message has been sent because the site data trend indicates that an anomaly is occurring. It advises users to view this site’s data and determine what, if any, remedial action should be taken.

BLUE (square) – Indicates an “alert” and that a SmartCover® maintenance action is required. For example, it could mean the battery has low voltage and needs to be replaced or that a unit has not communicated within the expected interval.

RED (triangle) – Indicates that an “alarm” condition exists at this location. It could be high water event (surcharge) or an intrusion. Action is required.

Site Graph

A user may access any remote site by clicking on the map or on the address location. As an example, the graph below illustrates level in inches (y-axis), date/time (x-axis), flow levels (blue line), and the alarm setting (red line). We see in this case flow levels are below the alarm and then followed by a surcharge. The surcharge would have triggered an alarm. Note that the alarm is set well below the level where a spill may occur (green line) and allows for sufficient time to respond. In this case the bottom of the sensor is 64 inches from the manhole cover and the alarm is set for 74 inches below the manhole cover.



SECTION 4. INSTALLATION AND ACTIVATION

Installation

It is most important to note that the SmartCover installation never requires confined space entry. With this, a typical installation is inexpensive and takes much less than one hour for physically attaching of the SmartCover[®] system. The antenna is mounted to the top of the cover or lid and the mounting bracket, housing the PowerPack and E-Box with the DSM connected to the E-Box, to the bottom.

The antenna is mounted and secured with a high strength, MIL-Spec grade, two part adhesive and a hole is drilled to feed the antenna wire to the underside where the E-Box control is located.

The bracket is mounted to the underside by drilling to two holes into the cover or lid. Two stainless steel screws secure the bracket. The DSM is connected to the E-Box control and it is suspended and aligned to the flow target area i.e., the invert.

On-site testing of the communication link is performed to ensure that the unit is operational.

- **Standard Installation:** The SmartCover[®] system (hardware) is installed in the field at the designated site.
- **Offsite Installation:** The SmartCover[®] system is installed on the selected cover at an offsite facility and transported to the designated location. This method can minimize onsite time to a few minutes reducing the need for traffic control and disruption.
- Typically, the Customer will provide personnel and equipment, as appropriate for traffic control as required by local regulations and safety of field personnel.

Activation

After the physical installation of the SmartCover[®] system(s), the following actions are taken to bring full functionality to the SmartCover[®] system. SCS technicians will assist with all installation activation as part of our standard service protocol.

- ***SmartCover[®] Activation: Customer Actions***
 - Upon receipt of a Purchase Order, SCS the user will receive a questionnaire to obtain the information necessary to perform the SmartCover[®] service Set-Up. Proper system operation is dependent upon receipt of required information.
 - This information is used as part of installation where communication will be tested to verify functionality.
- ***SmartCover[®] Activation: SCS Actions***
 - At the SCS technical Support offices, the secure Customer Web Site is set up including a private account and database on the SCS secure server.
 - Web site is configured for the Customer Web Site with SmartCover[®] system locations and users.
 - Initial population of the Customer SmartCover[®] database.
 - Registration of the SmartCover[®] system wireless radios with the network and setting the Customer default system operational parameters.

Training

Training is provided after completion of the installation process. Once on-site personnel are trained, SCS will be available to provide additional web site training remotely after the SmartCover[®] system has been installed and operational.

SECTION 5. ACTIVE SITE MANAGEMENT

Active Site Management (ASM) is a *compressive support service* for the SmartCover[®] system. It includes software support, satellite connectivity and ongoing technical support with these three elements described below.

It is an annual, per site service provided by SCS. ASM includes but is not limited to:

- **Website hosting-** initial set-up and ongoing hosting of all software and customer data. Note that all data is owned by the customer.
- **Website / Software Upgrades-** from time to time SCS provides new features and tools at no charge including such features supporting improved analytical tools, improved graphical tools and new reports.
- **Website maintenance** – maintaining the secure servers on which your web site resides, and providing free upgrades to the web sites as they become available.
- **Standard Reports** - SCS will support Customer in the preparation of these reports for management or regulators **Technical Telephone Support** - This service is offered by the SCS Technical Services team from 7am to 5 pm Pacific time and with additional support from local representatives.
- **Management Oversight**
 - SCS Technical Services team monitors the proper operation of all installed systems including battery voltage, the radio signal strength and the communication to/from the systems.
 - SCS coordinates the appropriate service to repair any components in the field with you or the local dealer
- **Alarm Processing** – maintaining the infrastructure of the alarm contact system.
- **After Hours Support** – on an as-needed basis. Contact SCS for details
- **Wireless Communications Connectivity** – Access to the two-way, wireless satellite network.

Product Improvements

The SmartCover[®] is continuously improving, adding new features and functions. SCS often uses customer input to add new features. Product improvements are backwards compatible to existing satellite systems with 0.10" resolution. There is no charge for these improvements as they are part of the annual ASM.

SmartTrend[™]

SmartTrend[™] is an all-new addition to **SmartCover[®]** that enables notifies and enable users to anticipate events at remote monitoring sites. **SmartTrend[™]** automatically scans each remote site to assess data trends. Should it see an "anomaly", it provides users an Advisory email message. This important addition to the **SmartCover[®]** system means that users now have the most advanced predictive method available identifying future issues such as SSO days or even weeks *before they occur*.

**SECTION 6. ADDITIONAL TERMS & CONDITIONS,
LIMITED WARRANTY**

Mutual Hold Harmless

SCS hereby holds Customer harmless from any and all claims that may arise, or damages that may result, to SCS or SCS staff during the performance of this contract. Customer hereby holds harmless SCS/McIntosh, its founders, owners and staff, from any and all claims that may arise, of any kind or from any cause whatsoever, due to or as a result of the installation, operation, or use of the SmartCover[®] system.

Loss of Communications

Customer acknowledges that SCS/McIntosh is not responsible for the loss of wireless communication or internet communications or any communications used in the operation of this system.

Advisory Only

The SmartCover[®] System is an advisory service only. As such, SCS/McIntosh and its founders, owners, or staff are not responsible for any damage of any kind or from any cause whatsoever that may result from, in relation to, in connection with, due to, or as a result of the installation or operation of the system, including without limitation, equipment failure, or any consequential damages caused by, or resulting from, the use or installation of the SmartCover[®] system.

Limited Warranty

The equipment components of the SmartCover[®] system are warranted free from material defects of material and workmanship for a period of one year from the date of installation. Unless otherwise stated, the SCS warranty herein is a parts-only warranty.

Should the Customer discover any condition that might invoke a warranty claim, they are to expeditiously and without delay notify the SCS Technical Services group.

Upon notification, SCS will assess and instruct the user on follow-on actions.

Should a component fail as a result of a defect in material or workmanship, SCS will replace the component or repair it at the SCS location.

For all valid warranty claims, as determined by SCS, reasonable freight charges to and from Customer shall be paid by SCS. In all cases, SCS shall determine the shipping method and/or carrier unless otherwise agreed to in writing by Customer and SCS.

Upon approval of a warranty failure by SCS, SCS will either repair or replace the defective component at SCS' sole discretion.

THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED (INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE). REPAIR OR REPLACEMENT IN THE MANNER PROVIDED ABOVE SHALL BE THE SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY AND SHALL CONSTITUTE FULFILLMENT OF ALL LIABILITIES OF SCS WITH RESPECT TO THE QUALITY AND PERFORMANCE OF THE PRODUCTS.

THIS WARRANTY DOES NOT COVER DAMAGE OR REPAIRS OR REPLACEMENTS BY ANY CAUSE BEYOND THE CONTROL OF SCS, INCLUDING ACTS OF NATURE, IMPROPER USE, LACK OF PROPER MAINTENANCE OR UNAUTHORIZED REPAIR.

REPLACEMENT AS PROVIDED UNDER THIS WARRANTY IS THE EXCLUSIVE REMEDY. SCS SHALL NOT BE LIABLE FOR ANY ACTUAL, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING DAMAGES FOR LOSS OF GOODWILL OR PROFITS AND/OR LOSSES FROM ANY CAUSE WHATSOEVER, EVEN IF SCS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

In no event shall SCS's liability, whether in contract or in tort (including negligence and strict liability), exceed the price of the Product from which such liability arises.

SECTION 7: Acceptance

The undersigned have read and acknowledge their understanding of this offer.

Signatures

McIntosh Controls Corp

City of Newburgh NY

Signature
Richard Mattesky
9/4/15]

Signature

Date

RESOLUTION NO.: 240 - 2015

OF

SEPTEMBER 28, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ACCEPT A PROPOSAL AND EXECUTE AN AGREEMENT WITH
QUALITY ENVIRONMENTAL SOLUTIONS & TECHNOLOGIES, INC. (QUES&T)
FOR PROFESSIONAL SERVICES RELATED TO ASBESTOS, LEAD PAINT AND
MICROBIAL SAMPLING AND SURVEYS IN CONNECTION WITH
A LOCKER ROOM RENOVATION PROJECT IN THE PUBLIC SAFETY BUILDING**

WHEREAS, the City of Newburgh wishes to accept a proposal and execute an agreement with Quality Environmental Solutions & Technologies, Inc. (QUES&T) to perform limited bulk sampling of suspect Asbestos-containing Materials (ACM) and lead-paint and microbial surveys in connection with the conversion of a former closet area to a locker room shower located in the Public Safety Building; and

WHEREAS, the cost for these services will be \$1,646.00 which shall be derived from the 2013 BAN; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept a proposal and execute an agreement with Quality Environmental Solutions & Technologies, Inc. for professional services related to asbestos, lead paint and microbial sampling and surveys in connection with this locker room renovation project located within the Public Safety Building.

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

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

ADOPTED

QuES&T

Quality Environmental Solutions & Technologies, Inc.

September 16, 2015

City of Newburgh
83 Broadway
Newburgh, NY 12550

ATTN: Jason C. Morris

Via E-mail: JMorris@cityofnewburgh-ny.gov

Re: Public Safety Building, 55 Grand Street, Newburgh, NY 12550 – Closet Conversion Project
Request for Proposal – Limited Pre-Renovation Asbestos, Lead-Based Paint & Mold Surveys

Dear Mr. Morris,

Quality Environmental Solutions & Technologies, Inc. (QuES&T) is pleased to submit the attached proposal to perform limited Asbestos, Lead-Based Paint and Mold Surveys to support the above-referenced project.

QuES&T is a NYS Certified Minority Business Enterprise committed to remaining a leader in the environmental training and technical consulting industry. QuES&T's extensive Nuclear Power Industry experience makes us uniquely qualified to provide technical support in state-of-the-art techniques for engineering and contamination control. Additionally, this experience enables us to integrate the essential concepts of "critical path" schedules and minimizing personnel exposures while maintaining a high level of attention to the specific details of each project. QuES&T personnel satisfy numerous ANSI and NUREG experience requirements of the Nuclear Regulatory Commission. Our staff has served in various capacities in the Health Physics and Nuclear Engineering disciplines in operational power reactors, nuclear powered vessels, radio-pharmaceuticals and government prototypes.

We are confident you recognize that selection of a qualified technical consultant for professional services, such as pre-construction inspection, project design, project management and air monitoring, represents a step as critical as selecting a reputable environmental remediation contractor. QuES&T feels strongly that the success of any remediation project is defined primarily in the planning and design phase. A technically sound project design combined with proper oversight provides the most cost-effective solution and ensures the gains recognized are not at the expense of future liability to the City of Newburgh.

In this regard, QuES&T has successfully completed remediation projects, for our client companies, in support of Nuclear and Fossil commercial power plant maintenance outages, facility renovation and demolition, cGMP facility upgrades, recovery from contamination following catastrophic events (e.g. steam line explosions, fires), school building renovations, Corporate asbestos management programs, facility Operations & Maintenance (O&M) programs, UST removals, sub-surface investigations, contaminated soil remediation, LBP stabilization and commercial/residential asbestos & lead abatements.

Technical consulting services are available in the area of regulatory compliance audits, OSHA safety, air monitoring, respiratory protection, laboratory services, building hazard assessments (EPA, HUD, commercial), LBP Risk Assessments, management plans, NYS/NESHAP pre-demolition inspections and full scope project management; including development of remediation response actions and management of all required project and personnel records. Our staff of experienced environmental professionals can prepare all required specifications and procedures to ensure your programs comply with federal, state and municipal regulatory requirements.

QuES&T offers a wide range of OSHA and environmental safety training. Our full range of asbestos safety certification training ensures that our client's employees receive the appropriate training to maximize their safety and minimize your liability. **QuES&T** offers accredited initial and refresher training programs for Operations & Maintenance (O&M), Asbestos Abatement Workers and Supervisors, Project Monitors, Asbestos Project Sampling Technicians (RH-II), Asbestos Project Designers, Asbestos Inspectors (RH-III) and Management Planners. Our accredited training facility (EPA, NYS) contains the most modern equipment to support the hands-on portion of each training program. On-site training services are available for groups of at least twenty-five students and can be tailored to meet the specific needs of the City of Newburgh.

QuES&T provides a full range of services in the area of Respiratory Protection. Our technical staff has extensive experience in the development of regulatory compliance programs for NUREG 0041 and OSHA 1910.134 Respiratory Protection Programs. Quantitative or qualitative respirator fit services can be provided at **QuES&T's** facility or yours.

For additional information concerning this submittal, please contact us at (845) 298-6031. We look forward to working with the City of Newburgh in the environmental consulting and remediation services area.

Sincerely,



Paul A. Rodriguez
Director, Field & Technical Services
NYS/AHERA Inspector/Project Designer
Cert. #AH 02-04344
EPA Lead Inspector/Lead Risk Assessor

Cc: QuES&T File

LIMITED ASBESTOS SURVEY
for
CITY OF NEWBURGH
83 Broadway
Newburgh, NY 12550
at
PUBLIC SAFETY BUILDING – CLOSET CONVERSION PROJECT
55 Grand Street
Newburgh, New York 12550

QuES&T agrees to provide the following services:

➤ **LIMITED PRE-RENOVATION SURVEYS**

■ **Item #1 – Limited Asbestos Survey**

- Provide certified NYS/AHERA Asbestos Inspector(s) to perform limited bulk sampling of suspect Asbestos-containing Materials (ACM) potentially affected by the anticipated conversion of one (1) Closet into a Shower Room, as described by Mr. Jason C. Morris, of the City of Newburgh.
- **QuES&T** will review building/structure plans and records, provided by the Owner and/or the Owner's Representative(s), for references to asbestos, ACM, PACM, suspect miscellaneous ACM or asbestos materials used in construction, renovation or repair in the affected building area(s).
- Perform limited bulk sampling of suspect Asbestos-containing Materials (ACM) in compliance with 12 NYCRR Part 56 regulations.
- Perform collection and analysis of suspect friable Asbestos-containing Materials (ACM) using Polarized Light Microscopy (PLM) analytical protocol.
- Perform collection and analysis of suspect non-friable organically bound Asbestos-containing Materials (ACM) using both Polarized Light Microscopy-NOB (PLM-NOB) and Quantitative Transmission Electron Microscopy (QTEM) analytical protocols.
- Discussion of laboratory results for all bulk samples (PLM & QTEM/PLM).
- Documentation of all analytical laboratory certifications.
- Preparation of one (1) Final Summary Report identifying estimated quantity, location, types, and condition of identified Asbestos-containing Materials (ACM).

QuES&T Services – CONT'D

■ **Item #2 – Limited Lead-Based Paint Survey**

- Provide Niton-certified XRF Technician(s) to perform representative In-Situ measurements using a Niton Model XLp 300A XRF Meter on painted surfaces and immovable objects potentially affected by the anticipated conversion of one (1) Closet into a Shower Room, as described by Mr. Jason C. Morris, of the City of Newburgh.
- Locations and quantity of representative In-Situ measurements will be based on the observed homogeneity of painted surfaces.
- Sequential and summary reports will be provided of all surfaces tested.
- Preparation of one (1) Final Summary Report identifying lead-based paint(s), lead-containing materials, and condition of Lead-Based Paints (LBP).

■ **Item #3 – Limited Microbial Survey**

- Provide IH Technician to perform a visual inspection to identify moisture-impacted areas and microbial growth. The visual inspection will focus on the specific areas and associated building components potentially affected by the anticipated conversion of one (1) Closet into a Shower Room, as described by Mr. Jason C. Morris, of the City of Newburgh.
- Preparation of one (1) Final Summary Report identifying findings of the visual inspection and remedial recommendations.

LIMITED ASBESTOS SURVEY
for
CITY OF NEWBURGH
83 Broadway
Newburgh, NY 12550
at
PUBLIC SAFETY BUILDING – CLOSET CONVERSION PROJECT
55 Grand Street
Newburgh, New York 12550

This proposal is based on the following assumptions:

- **QuES&T** shall perform all inspections visually; using reasonable care and judgment. Limited localized demolition will be performed to access representative concealed surfaces, as practicable. *The City of Newburgh (The Owner)* recognizes & agrees that ACM/LBP/Microbials/Etc. concealed within structural components & accessible only through extensive mechanical or structural demolition may not be identified as part of this survey.
- **QuES&T** shall not perform patching of sampling locations. *The City of Newburgh (The Owner)* may elect to hire an independent General Contractor to accompany **QuES&T** inspection personnel and perform required patching accordingly.
- **QuES&T** shall not be responsible for damage caused to building finishes, surfaces or equipment by sampling. Responsibility and cost for repair of damaged building finishes, surfaces and/or equipment shall be by *The City of Newburgh (The Owner)*.
- **QuES&T** will exercise reasonable caution to minimize disturbance of ACM/LBP/Microbials/Etc. during the inspection process. However, clean-up of ACM/LBP/Microbials/Etc. disturbed or dislodged during the inspection process shall be the responsibility of *The City of Newburgh (The Owner)*.
- *The City of Newburgh (The Owner)* responsible for providing immediate access into all inspection areas and securing same upon completion.
- Inspection work to be conducted during normal weekday “Business Hours” (M-F; 9am-5pm).
- Laboratory sample analysis turnaround times (TAT) shall be five (5) Business Days. TAT commences upon laboratory receipt of samples, and does not include weekends or holidays.
- **QuES&T** shall commence terms of this contract upon receipt of written Notice to Proceed and/or Purchase Order (PO) number.

LIMITED ASBESTOS SURVEY
for
CITY OF NEWBURGH
83 Broadway
Newburgh, NY 12550
at
PUBLIC SAFETY BUILDING – CLOSET CONVERSION PROJECT
55 Grand Street
Newburgh, New York 12550

*****PRICING*****

➤ **LIMITED PRE-RENOVATION SURVEYS**

Asbestos/Lead Inspector Labor (1 Inspector, ½ Day @ \$320/each)	\$ 320.00
IH Technician Labor (1 IH Tech, ½ Day @ \$320/each)	\$ 320.00
PLM Asbestos Bulk Analysis – 15* @ \$14/layer	\$ 210.00*
QTEM/PLM Asbestos Bulk Analysis – 6* @ \$41/layer	\$ 246.00*
1 – Final Asbestos Summary Report w/o Drawings	\$ 150.00
1 – Final XRF Lead Summary Report w/o Drawings	\$ 150.00
1 – Final Moisture/Microbial Summary Report w/o Drawings	\$ 200.00
Travel, S&H & Misc. Materials (1 day @ \$50/day)	<u>\$ 50.00</u>
Estimated Total :	\$ 1,646.00*

NOTES:

1. Estimated number of samples to be collected/analyzed.
2. Client shall be charged for actual samples analyzed and services rendered.
3. Lab analysis turnaround (TAT) commences upon laboratory receipt of samples and excludes weekends/holidays.
4. Additional services required shall be billed in accordance with attached QuES&T Unit Rates.
5. Pricing valid until December 31, 2015.

ACCEPTANCE OF PROPOSAL #P15-4470

Payment Terms: Billing increments will be at approximately two-week intervals. Payment Shall Be Net 15 Days; Following Delivery Of Invoice. To Execute This Agreement, Please Review, Sign, Date & Return Two Copies of the signed proposal. A fully executed copy will be sent for your records. Late Payments Shall Be Assessed a Penalty of 1.5% per Month.

The City of Newburgh – Authorized Representative:

By _____
Signature Print Name & Title Date

Quality Environmental Solutions & Technologies, Inc.:

By _____
Signature Paul A. Rodriguez, Director, Field & Technical Services Date

QuES&T

Quality Environmental Solutions & Technologies, Inc.

I. ASBESTOS SERVICES:

Item 1: Labor (Minimum On-site Billing; 4 Hours @ OT Rate)

- Sr. Principal: \$225/Hr ST; \$255/Hr OT
- Principal: \$185/Hr ST; \$225/Hr OT
- Project Manager: \$90/Hr ST/OT
- EPA/NYS/DOL/NYC/DEP Asbestos Inspector:
 - \$320/4-hr day Includes Calibrated Area A/S Equipment
 - \$500/8-hr day Includes Calibrated Area A/S Equipment
 - \$ 80/hr OT
- EPA/NYS/DOL Combined Project Monitor/Air Sampling Technician:
 - \$275/4-hr day Includes Calibrated Area A/S Equipment
 - \$400/8-hr day Includes Calibrated Area A/S Equipment
 - \$ 75/hr; OT

Item 2: Asbestos Laboratory Services

- A/S Sample Analysis (PCM):
 - \$ 12/Sample Includes 72-hr turn-around of results
 - \$ 15/Sample Includes 24-hr turn-around of results
 - \$ 17/Sample Includes 6-hr turn-around of results
 - \$ 20/Sample Includes Rush turn-around of results.
- A/S Sample Analysis (AHERA-TEM):
 - \$100/Sample Includes 48-hr turn-around of results
 - \$125/Sample Includes 24-hr turn-around of results
 - \$175/Sample Includes 12-hr turn-around of results
 - \$225/Sample Includes 6-hr turn-around of results
- Bulk Sample Analysis (PLM):
 - \$ 14/Layer Includes 7 day turn-around of results
 - \$ 16/Layer Includes 5 day turn-around of results
 - \$ 20/Layer Includes 72-hr turn-around of results
 - \$ 25/Layer Includes 24-hr turn-around of results
 - \$ 30/Layer Includes 12-hr turn-around of results
 - \$ 45/Layer Includes Rush turn-around of results
- Bulk Sample Analysis (PLM-NOB):
 - \$ 16/Layer Includes 7 day turn-around of results
 - \$ 23/Layer Includes 5 day turn-around of results
 - \$ 30/Layer Includes 48-hr turn-around of results
 - \$ 40/Layer Includes 24-hr turn-around of results
 - \$ 60/Layer Includes 12-hr turn-around of results
- Bulk Sample Analysis (QTEM):
 - \$ 25/Layer Includes 7 day turn-around of results
 - \$ 50/Layer Includes 5 day turn-around of results
 - \$ 65/Layer Includes 48-hr turn-around of results
 - \$ 70/Layer Includes 30-hr turn-around of results
 - \$ 110/Layer Includes 12-hr turn-around of results

NOTE A:

1. OT Rate Applies to hours: < 4 hrs/day; > 8 hrs/day; > 40 hrs/wk; Weekends & Holidays
2. Laboratory Turn-Around Begins When Samples Are Received In The Laboratory And Does Not Include Saturday, Sunday & Holidays.
3. Reimbursable Travel Will Be Billed At \$0.550/Mile + Tolls

Item 2: Asbestos Laboratory Services (Cont'd)

- Vermiculite-Containing Spray-On Fireproofing (ELAP 198.8): Minimum Sample Size: 10g

SOF-V Analysis – NYS ELAP 198.8	Laboratory Turnaround Time					
	1 Day	2 Day	3 Day	4 Day	1 Week	2 Week
Twofold Segment Analysis						
Segment I: Analysis to detect and quantify Chrysotile Asbestos	\$800.00	\$500.00	\$350.00	\$315.00	\$285.00	\$260.00
Segment II: Analysis to detect and quantify Amphibole Asbestos						
Prep Fee Positive Stop at Chrysotile >1%	\$325.00	\$255.00	\$220.00	\$175.00	\$150.00	\$125.00
Prep Fee Positive Stop at Amphibole	\$525.00	\$325.00	\$270.00	\$225.00	\$200.00	\$175.00

Following identification of Vermiculite in Spray-on Fireproofing utilizing NYS ELAP NY ELAP Method 198.8 incorporates a two-step approach for the identification and quantitation of Chrysotile and Amphibole Asbestos, including Libby amphiboles, in SOF-V (Sprayed on Fireproofing – Vermiculite).

- ❖ Gravimetric reduction including ashing to remove the organic materials and dilute acid treatment to remove gypsum and cement from SOF-V.
 - The residue is then examined by PLM for the presence of chrysotile, which is quantitated by point counting.
 - If the concentration of chrysotile is found to exceed 1%, the material is considered asbestos containing material (ACM) and the analysis is terminated.
 - If chrysotile is either not detected, or is found at a concentration less than 1%, then the analysis is continued to determine the concentration of amphibole asbestos.
- ❖ Heavy liquid centrifugation is used to separate particles with densities exceeding 2.75 g/cc from the majority of the less dense matrix components. This results in a centrifugate that contains any amphibole that was present in the original sample.
 - The concentration of the amphibole is then determined by PLM and point counting.
 - The total asbestos content is obtained by adding the concentration of asbestos quantitated in step one (chrysotile) with the asbestos quantitated in step two (amphibole). If the final concentration is determined to be greater than 1%, the material is designated as ACM.

NOTE A:

1. OT Rate Applies to hours: < 4 hrs/day; > 8 hrs/day; > 40 hrs/wk; Weekends & Holidays
2. Laboratory Turn-Around Begins When Samples Are Received In The Laboratory And Does Not Include Saturday, Sunday & Holidays.
3. Reimbursable Travel Will Be Billed At \$0.550/Mile + Tolls

II. SAFETY & ENVIRONMENTAL SERVICES:

Item 1: Labor (Minimum On-site Billing; 4 Hours @ OT Rate)

- Certified Industrial Hygienist: \$175/Hr ST; \$215/Hr OT
- Certified Safety Professional: \$175/Hr ST; \$215/Hr OT
- EPA LBP Inspector/Risk Assessor: \$ 90/Hr ST/OT
- IH Tech:
 - \$320/4-hr day Includes Calibrated Area A/S Equipment
 - \$500/8-hr day Includes Calibrated Area A/S Equipment
 - \$ 80/hr; OT

Item 2: Laboratory Services

- Lead - Air/Paint Chip/Dust Sample Analysis (AAS/FLAA):
 - \$ 20/Sample Includes 3-5 Day turn-around of results
 - \$ 25/Sample Includes 48-hr turn-around of results
 - \$ 30/Sample Includes 24-hr turn-around of results
 - \$ 45/Sample Includes 6-hr turn-around of results
- PCB – Bulk Material Sample Analysis:
 - \$100/Sample Includes 5 Day turn-around of results
 - \$150/Sample Includes 3 Day turn-around of results
 - \$200/Sample Includes 48-hr turn-around of results
 - \$250/Sample Includes 24-hr turn-around of results

Item 3: Equipment Charges

- Niton XRF: \$175/Day
- Electrical Generator: \$ 75/Day (2-Day Minimum)
- SCBA: \$300/Day
- Confined Space Tripod: \$ 150/Day

NOTE A:

1. OT Rate Applies to hours: < 4 hrs/day; > 8 hrs/day; > 40 hrs/wk; Weekends & Holidays
2. Laboratory Turn-Around Begins When Samples Are Received In The Laboratory And Does Not Include Saturday, Sunday & Holidays.
3. Reimbursable Travel Will Be Billed At \$0.550/Mile + Tolls

III. INDUSTRIAL HYGIENE SERVICES:

Item 1: Labor (Minimum On-site Billing; 4 Hours @ OT Rate)

- Certified Industrial Hygienist: \$175/Hr ST; \$215/Hr OT
- Certified Safety Professional: \$175/Hr ST; \$215/Hr OT
- Industrial Hygiene Scientist/CBST \$125/Hr ST; \$150/Hr OT
- Project Manager: \$ 90/Hr ST/OT
- IH Tech: \$320/4-hr day Includes Calibrated Area A/S Equipment
\$500/8-hr day Includes Calibrated Area A/S Equipment
\$ 80/hr; OT

Item 2: Microbiological Laboratory Services

- Air Sample Analysis (Total Spore Counts):
 - \$120/Sample Includes same-day turn-around of results
 - \$100/Sample Includes 24-48 hr turn-around of results
 - \$ 80/Sample Includes 5-7 day turn-around of results
- Air Sample Analysis (Culturable Fungi; One Medium): Sample Turn-Around Time 7-10 Days
 - \$ 70/Sample Enumeration & Identification to genus or species
 - ADD \$ 45/Sample To Include Full Fungal Speciation (Including ID Of Cladosporium and Penicillium to Species; 2% MEA Only)
- Air Sample Analysis (Culturable Bacteria; One Medium): Sample Turn-Around Time 7-10 Days
 - \$ 70/Sample Enumeration & Identification to genus or species
- Bulk/Swab Sample Analysis (Culturable Fungi; One Medium): Sample Turn-Around Time 7-10 Days
 - \$ 90/Sample Enumeration & Identification to genus or species
 - ADD \$ 45/Sample To Include Full Fungal Speciation (Including ID Of Cladosporium and Penicillium to Species; 2% MEA Only)
- Bulk/Swab Sample Analysis (Culturable Bacteria; One Medium): Sample Turn-Around Time 7-10 Days
 - \$ 90/Sample Enumeration & Identification to genus or species
- Other Microbiological Services and PCR Technology Available: CALL FOR PRICING
- Additional Industrial Hygiene Services Available: CALL FOR PRICING AND CAPABILITIES

Item 3: Equipment Charges

- Anderson Air Sampler: \$125/Day (Single Stage N-6 Impactor)
- Boroscope: \$ 50/Day
- 4-Gas Monitor w PID: \$200/Day
- Infrared Camera: \$225/Day
- Delmhorst BD-2100: \$ 100/Day (Moisture Survey Meter)
- ASHRAE IAQ Meter: \$200/Day
- PM-10 Impactor/Sampler: \$125/Day
- Additional Equipment: Call For Pricing

NOTE A:

1. OT Rate Applies to hours: < 4 hrs/day; > 8 hrs/day; > 40 hrs/wk; Weekends & Holidays
2. Laboratory Turn-Around Begins When Samples Are Received In The Laboratory And Does Not Include Saturday, Sunday & Holidays.
3. Reimbursable Travel Will Be Billed At \$0.550/Mile + Tolls

IV. MISCELLANEOUS SERVICES

Item 4: Miscellaneous Services

- Asbestos/Lead/Environmental "Letter Report" w/o Drawings - \$150/each.
- Asbestos/Lead/Environmental "Letter Report" w/KeyCAD Drawings - \$200/each.
- Asbestos/Lead/Environmental "Final Report" w/o Drawings - \$250/each.
- Asbestos/Lead/Environmental "Final Report" w/KeyCAD Drawings - \$300/each.
- Abatement Specifications / AutoCAD / Bidding Process – Priced Based on Scope of Work.
- Preparation/Submittal "Site Specific" Variance - Price Based on Scope of Work
- Conduct Onsite Bid Walkthrough w/Prospective Contractors – Priced Based on Scope of Work.
- Travel & Misc. Materials – Actual Mileage @ \$0.550/mile plus Actual Tolls & Parking.
- Laboratory analysis turnaround times begin when samples are received at Laboratory and does not include weekends or holidays.

RESOLUTION NO.: 241 - 2015

OF

SEPTEMBER 28, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ACCEPT A PROPOSAL AND EXECUTE AN AGREEMENT WITH
KENNETH B. SALZMANN, LS FOR SURVEYING SERVICES
AT THE CITY'S RESERVOIRS IN THE AMOUNT OF \$1,300.00**

WHEREAS, the City of Newburgh intends to install remote reservoir level monitoring sensors at the City's reservoirs known as Washington Lake and Brown's Pond; and

WHEREAS, the installation of said sensors require that the City obtain new survey data for certain areas in and around the reservoirs; and

WHEREAS, the City has obtain a proposal from Kenneth B. Salzman, LS, to perform the survey services at a cost of \$1,300.00 with the funding for such services to be derived from F.8320.0208; and

WHEREAS, said work is appropriate and necessary to maintain and protect the water supply 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 hereby is authorized to accept a proposal and execute an agreement with Kenneth L. Salzman, LS, for land surveying services at the City's reservoirs at a cost of \$1,300.00.

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

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

ADOPTED

KENNETH B. SALZMANN, LAND SURVEYOR

12 Hunter Lane • P.O. Box 498 • Pawling, NY 12564-0498

Licensed in New York • New Jersey • Connecticut

(845) 855-3885 • fax (845) 855-4101

September 16, 2015

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

RE: Elevation Survey
Lake Washington
Browns Pond
City of Newburgh, New York

Proposal for Surveying Services

Dear Jason:

I am pleased to submit this Proposal for Surveying Services for the above referenced sites. I understand you intend to install reservoir level sensors and require elevations on various features and structures at each water body. Accordingly, I propose to perform the following:

I. SCOPE OF SERVICES:

A. Elevation Survey

You have indicated that you are seeking an elevation on the spillway, top of dam, gatehouse floor and a few other relevant points at each water body. I will meet you at the site to review the exact locations desired. A chiseled cross, survey nail, or other durable marker will be established at each site for future elevation reference. Elevations will be referenced to the apparent datum of record plans you will provide, based upon spot elevation(s) depicted on said plans.

Spillway elevations will be limited to the accessible portion near the gate house; I do not propose to profile the entire spillway or dam. The elevations will not be referenced to the North American Vertical Datum, 1988 (NAVD88), nor will the elevations between the two water bodies be tied together. However, I would be pleased to provide you with a proposal for these additional services if desired.

I will provide a written report in letter format summarizing and describing the various elevations.

II. ACCESS:

I will require access to the site during daylight hours, including the key(s) to all locked gates or doors, if any.

III. SCHEDULING:

In light of my current commitments and your scheduled vacation, I will begin this work when it is convenient to meet with you on or after September 28. I expect to deliver the report within 1 week of completing the fieldwork.

IV. FEES:

The services described above will be performed for a fixed fee of \$1,300.

V. AUTHORIZATION AND PAYMENT:

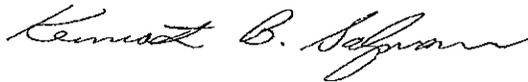
Your authorization for me to proceed simply requires the return of one (1) copy of this Proposal signed, dated and duly authorized. Payment is due upon my submission of the elevation report.

If we are instructed in writing to stop work for any reason, payment for services rendered before the receipt of said notice to stop work is still due.

Please feel free to call me at (845) 855-3885 if you have any questions.

Thank you for the opportunity to submit this Proposal for Surveying Services. I look forward to receiving your authorization to proceed.

Sincerely,



Kenneth B. Salzmann, LS

ACCEPTED: _____
signature

BY: _____
please print

DATE: _____

RESOLUTION NO.: 242 - 2015

OF

SEPTEMBER 28, 2015

**A RESOLUTION DEDICATING A PORTION OF CHAMBERS STREET
FROM FARRINGTON STREET TO SOUTH STREET
AS JULIUS H. ROBINSON, SR. AVENUE IN HONOR OF THE CITY OF
NEWBURGH'S FIRST AFRICAN-AMERICAN PLUMBER**

WHEREAS, Julius H. Robinson, Sr. served with pride for 25 years with Local Union 269-Plumbers and Steamfitters; and

WHEREAS, Mr. Robinson, upon his retirement from the union, achieved the rank of master plumber in the City of Newburgh and started his own business, Julius Robinson Plumbing and Heating, in the early 1990s at 171 Chambers Street, becoming thereby the first African-American in our city to establish a plumbing enterprise here; and

WHEREAS, Mr. Robinson, over a lengthy and distinguished career, earned a reputation as a highly competent, compassionate, honest and indeed beloved plumber whose services were desired by residents of all races, ethnicities and religions; and

WHEREAS, Mr. Robinson was known for being available well beyond the hours of other workers in his profession; and

WHEREAS, Mr. Robinson also served as president of the City of Newburgh Examining Board of Plumbers; and

WHEREAS, Mr. Robinson inspired his son, Julius H. Robinson, Jr., to follow in his footsteps, that son learning the trade at the side of this great craftsman; and

WHEREAS, Julius H. Robinson Sr., passed away on Sept. 26, 2014, eliciting great sorrow as well as fond memories, among the residents of this City; and

WHEREAS, his son Julius H. Robinson, Jr., now carries on the work of his father in the same tradition of excellence;

NOW, THEREFORE, BE IT RESOLVED, that the portion of Chambers Street from Farrington Street to South Street in the City of Newburgh be renamed Julius H. Robinson Avenue, and that an unveiling of signage indicating this change be held, with appropriate ceremony, at a date to be designated by Mr. Robinson's family; and that a copy of this resolution be forwarded to Mr. Robinson's widow and other family members, with greatest respect, from the entire Newburgh City Council; and

BE IT FURTHER RESOLVED that the City Manager be and he is hereby authorized to effectuate the necessary and appropriate signage in keeping herewith.

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

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

ADOPTED

RESOLUTION NO.: 243 - 2015

OF

SEPTEMBER 28, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO
A LICENSE AGREEMENT WITH THE YOUTH EMPOWERMENT CENTER FOR
THE FIRST FLOOR OF 104 SOUTH LANDER STREET**

WHEREAS, the Youth Empowerment Center (YEC) has expressed an interest in using the first floor of the building located at 104 South Lander Street to establish a location for providing youth programs and services; and

WHEREAS, allowing the YEC to use the first floor of the building located at 104 South Lander street will require a license agreement, a copy of which is annexed hereto and made a part of this resolution; and

WHEREAS, this Council has reviewed such license agreement and finds that entering into the same would be in the best interests of the City of Newburgh and the community alike;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the attached license agreement with the Youth Empowerment Center for the use of the first floor of 104 South Lander Street in substantially the same form and on the terms and conditions contained in the attached license agreement, including such other terms and conditions as may be deemed appropriate and necessary by the City Manager and /or the Corporation Counsel in order to carry-out the subject transaction.

Councilwoman Abrams said that she has a lot of questions and she feels that it is unsafe and the conditions are too scary for the children in that building. She doesn't want to see children in that building six days a week until they find out more about how much it would take to fix the heating and cooling. Is the elevator still broken and will they be able to clean the upstairs as well as the downstairs? She would just like to table this and iron these things out before they vote on it.

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

Ayes – Councilwoman Abrams, Councilwoman Angelo, Councilwoman Holmes – 3

Nays – Councilman Brown, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 4

FAILED

Mayor Kennedy said that we have kids in the Heights that need some place to be. This may not be a perfect building but it's in pretty good shape and we have made some corrections to it. They will not be on the second floor so we don't have to worry about the second floor bathroom and cleaning but we need our kids off the streets. It is much more dangerous out on the streets than it is in the building under supervision.

Councilman Brown said that there was an unsolved murder up there recently just one hundred feet from this building so that area is not safe. If those kids could stay there twenty-four hours he would probably approve that as long as he knew they were safe. Not only are they safe but they are also being provided food which a lot of them don't get at home. We have to support our youth programs because if not those youths will be at our front doors saying Trick or Treat with a gun in their hand.

Councilwoman Holmes said that she agrees that we have to support our youth programs but she also thinks that we need to monitor more when they are in our buildings because they are our responsibility. She knows that they are using that second floor which is fine but she has a problem with them saying that they aren't and they have to make sure that it is safe and secure. She personally would not want her child out at 12:00 Midnight because as Councilman Brown said there was a murder in that area recently and no kid should be out at 12:00 Midnight. A few of the kids spoke tonight which is good but no one asked them how they are doing in School or if they are going to School and what their accomplishments are. What are the accomplishments of the program? We need to see viable accomplishments on paper. She said that she deals with at risk kids every day in the Newburgh Enlarged City School District and she has to do an evaluation on them every day.

Councilman Brown said that for him the accomplishment is that they are off the street and he hopes that Pastor Austin has established some sort of learning program for them. Even if that is not the case they are off the street and that is what's important. Let's start there and leave everything else alone because they are off the street and that's what is important. He grew up in this City and he knows the importance of having a place to go.

Councilwoman Lee said that it is also not too late to ask Chief Vatter or the City Manager to put a system in place to make sure that everything is alright and that it is safe and warm. In regard to the cost, if it is something that they have to approve they can put it back on the Agenda and vote on it but doing this doesn't help us it just takes up time. We

all know that there is a problem over there so let's fix it as we go and not close the place down.

Mayor Kennedy said that she agrees they can fix it as they go and she agrees with Councilman Brown that this is a top priority.

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

Ayes – Councilwoman Angelo, Councilman Brown, Councilwoman Lee, Councilwoman Mejia, Mayor Kennedy – 5

Nays – Councilwoman Abrams, Councilwoman Holmes – 2

ADOPTED

LICENSE AGREEMENT

This Agreement made this _____ day of _____ 2015, between the CITY OF NEWBURGH, a municipal corporation having its principal offices at City Hall, 83 Broadway, Newburgh, NY 12550 (hereinafter referred to as "LICENSOR" or "CITY) and YOUTH EMPOWERMENT CENTER, a domestic corporation organized and existing under the Not-For-Profit Corporation Law of the State of New York, having an address of P.O. Box 1755, Newburgh, New York 12550 (herein referred to as "LICENSEE" or "YEC").

WITNESSETH:

WHEREAS, LICENSOR owns property located at 104 South Lander Street, Newburgh, New York, hereinafter referred to as the "PREMISES"; and

WHEREAS, LICENSEE desires the license or privilege of gaining access to the Premises for the purpose of providing youth programs and services; and

WHEREAS, LICENSOR is willing to give said license or privilege on the following terms and conditions:

NOW THEREFORE, in pursuance of said agreement and in consideration of ONE AND NO/100 (\$1.00) DOLLAR paid by LICENSEE to LICENSOR, receipt of which is hereby acknowledged and of the mutual covenant, agreements, conditions, and stipulations herein contained, it is mutually covenanted, stipulated and agreed by and between the parties hereto as follows:

1. PREMISES:

LICENSOR does hereby grant unto LICENSEE use and occupancy of the Premises for the purpose of providing youth programs and services according to the terms and conditions as hereinafter provided.

2. TERM:

The license granted hereunder shall be for a term of one (1) year, commencing upon the date this Agreement is properly executed by both parties, unless earlier terminated by either or both parties as provided herein.

3. CONSIDERATION:

The consideration shall be ONE AND NO/100 (\$1.00) DOLLAR payable by LICENSEE to LICENSOR upon execution of this License Agreement, and all such other covenants, promises and understandings provided herein.

4. USE AND OCCUPANCY:

- A. LICENSEE shall use and occupy the Premises in a careful, safe and proper manner, and shall not occupy or use said premises or permit the same to be occupied or used for any purpose or business which is unlawful and shall comply with all lawful requirements of all current laws, ordinances, rules and regulations of all governmental authorities pertaining to the use and occupancy of the Premises and according to the following conditions:
- i. All employees, volunteers, interns and other personnel of LICENSEE shall comply with City of Newburgh security policies and procedures and will be issued City of Newburgh identification badges which must be displayed at all times while in and on City property;
 - ii. Licensee's access to the Premises shall be Monday, Tuesday and Wednesday each week from 1:30 pm until 8:30 pm and Thursday, Friday and Saturday each week from 1:00 pm until 12:00 am.
 - iii. Licensee may provide youth programs on Thursday, Friday and Saturday each week from 3:00 pm to 12:00 am. However, no program for teenage youth may begin before 5:00 pm on Thursday and Friday.
 - iv. Licensee shall provide its own security.
- B. LICENSOR shall notify LICENSEE when other organizations are scheduled for the approved use of the PREMISES.

5. REPRESENTATIONS OF LICENSEE:

LICENSEE represents and warrants:

- A. That it is duly organized and existing under the laws of New York State;
- B. That it is financially solvent;
- C. That it is experienced and competent to perform the type of work and to provide the programs and services to be furnished by it;
- D. That it is familiar and in compliance with all federal, state, municipal and department laws, ordinances and regulations that apply to the work or programs or services or to those employed or engaged therein, including but not limited to volunteers and interns;
- E. That all of its employees, volunteers and interns have been screened and subject to the same pre-employment practices to which the City subjects its own employees, volunteers and interns; and
- F. That it has procured and paid for all permits and licenses necessary for the work, programs and services to be rendered hereunder.

6. INSURANCE:

A. LICENSEE shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, Workers' Compensation insurance, liability insurance covering personal injury and property damage, and other insurance with stated minimum coverages, all as listed below. Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to the CITY who have been fully informed as to the nature of the programs provided or services to be performed. Except for Workers' Compensation and professional liability, the CITY shall be an additional insured on all such policies with the understanding that any obligations imposed upon the insured (including, without limitation, the liability to pay premiums) shall be the sole obligation of LICENSEE and not those of the CITY. Notwithstanding anything to the contrary in this Agreement, LICENSEE irrevocably waives all claims against the CITY for all losses, damages, claims or expenses resulting from risks commercially insurable under this insurance described in this Article. The provisions of insurance by LICENSEE shall not in any way limit LICENSEE'S liability under this Agreement.

B. LICENSEE shall not occupy the Premises or commence work or programs or provide services under this Agreement until it has obtained the following insurance required under this article and such insurance has been approved by the City:

1. Worker's Compensation - Statutory

2. General Liability and Property Damage Insurance - LICENSEE shall take out and maintain during the life of this agreement such general liability and property damage insurance as shall protect it from claims for damages for personal injury including accidental death, as well as from claims for property damage which may arise from operations under this agreement. The amounts of such insurance shall be as follows:

- a. General Liability Insurance in an amount not less than \$1,000,000.00 for injuries including wrongful death to any one person and subject to the same limit for each person, in an amount not less than \$3,000,000.00 on account of any one occurrence.
- b. Property Damage Insurance in an amount not less than \$500,000.00 for damage on account of all occurrences.

The Licensee shall furnish the above insurance to the City and shall also name the City as an additional named insured in said policies. Such insurance shall be maintained in force during the entire term of this contract.

C. Any accident shall be reported to the Office of the City Manager as soon as possible and not later than twenty-four hours from the time of such accident. A detailed written report must be submitted to the City as soon thereafter as possible and not later than three (3) days after the date of such accident.

7. INDEMNITY AND SAVE HARMLESS AGREEMENT:

- A. It is hereby mutually covenanted and agreed that the relation of the LICENSEE to the work to be performed by it under this Agreement shall be that of an independent contractor. As an independent contractor, it will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said performances, whether or not the LICENSEE, its agents or employees have been negligent. The LICENSEE shall hold and keep the CITY free and discharged of and from any and all responsibility and liability of any sort or kind. The LICENSEE shall assume all responsibility for risks or casualties of every description, for loss, death or injury to persons or property arising out of the nature of the performance, other than those wholly caused by Acts of God or conditions pre-existing this license. The LICENSEE shall make good any damages that may occur in consequence of the performances or any part of it. The LICENSEE shall assume all blame, loss and responsibility of any nature by reason of the LICENSEE'S neglect or violation of any federal, state, county or local laws, regulations or ordinances applicable to the Licensee and/or the nature of its performance.
- B. The LICENSEE agrees to indemnify and save the City, its officers, agents and employees harmless from any liability imposed upon the City, its officers, agents and/or employees arising from the negligence, active or passive, of the Licensee.
- C. It is understood and agreed between the parties that the LICENSEE shall have no right to control the actions of City employees nor any duty to supervise the actions of CITY employees.

8. IMPROVEMENT AND MAINTENANCE:

- A. LICENSOR shall maintain the Premises in good repair and conditions, supply utilities including heat, air conditioning, light, ventilation, sanitation, trash removal during the term of this Agreement.
- B. LICENSEE shall not install any equipment or replace any locks and shall not make any alterations to the Premises without the express written permission of the City Manager of the City of Newburgh.
- C. LICENSOR shall provide LICENSEE with two (2) keys to the front door of the PREMISES and a code to the security alarm; and shall permit LICENSEE to store items and supplies in the rear closet.
- D. LICENSEE shall maintain the Premises in a clean and orderly condition; shall provide their own clean up service; surrender the Premises in the same state and condition as it was at the commencement of LICENSEE'S use and occupancy.

Newburgh, NY 12550

Attn: Deronica Austin

With copies to:

Attn:

11. ENFORCEABILITY:

Should any provision of this Agreement be deemed unenforceable for any reason, the remainder of this Agreement shall continue in effect so long as the purpose of this Agreement is not nullified by the absence of such provision.

12. NON-ASSIGNMENT:

LICENSEE shall not have the right to assign this Agreement without prior written approval of LICENSOR.

13. INVALIDITY OF PROVISIONS:

If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons whose circumstances are other than those as to which it is held invalid or unenforceable, shall not be affected thereby.

14. HEADINGS:

It is understood and agreed that the headings are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of this Agreement, or in any way affect this Agreement.

15. ENTIRE AGREEMENT:

This Agreement contains the entire agreement between the parties and any agreement hereafter made shall be ineffective to change, modify or discharge it in whole or part unless such agreement is in writing and signed by both parties.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have signed this Agreement below.

(date)

CITY OF NEWBURGH, LICENSOR

By: -----

Michael G. Ciaravino
City Manager
Per Resolution No.

(date)

LICENSEE

By: -----

RESOLUTION NO: 244 - 2015

OF

SEPTEMBER 28, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT
A PROPOSAL FROM O'CONNOR DAVIES FOR AN AUDIT OF THE NEW YORK
STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION
CLEAN WATER/CLEAN AIR BOND ACT PROGRAM GRANT CONTRACT NO.
C569943 IN CONNECTION WITH THE NEWBURGH LANDING AND WATERFRONT
PARK IMPROVEMENTS PROJECT AMENDING RESOLUTION NO: 296 - 2014,
THE 2015 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
TO TRANSFER \$3,000.00 FROM GENERAL FUND CONTIGENCY
TO CITY COMPTROLLER – CONSULTANTS SERVICES**

WHEREAS, by Resolution No. 156-99 of August 16, 1999, the City Council of the City of Newburgh authorized the application for funding the New York State Office of Parks, Recreation and Historic Preservation under Title 9 of the New York State Environmental Protection Act of 1993 or Title 3 of the Clean Water/Clean Air Bond Act, and upon the approval of such application, the execution of a project agreement with New York State for the Newburgh Landing and Waterfront Parks Improvement Project; and

WHEREAS, the City was awarded funding and signed an agreement, which is designated Contract No. C569943; and

WHEREAS, the City now seeks to close out the grant contract and the OPRHP requires an audit of the revenues and expenditures incurred under the grant contract; and

WHEREAS, the City has obtained a proposal from O'Connor Davies at a cost of \$3,000.00 to perform such auditing services with such funding to be derived from A1315.0445; and

WHEREAS, this Council finds that accepting the proposal for the purpose of closing out the grant contract is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept a proposal for auditing

services from O'Connor Davies at a cost of \$3,000.00 in connection with the close-out of the New York State Office of Parks, Recreation and Historic Preservation Clean Water/Clean Air Bond Act program grant contract no. C569943; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York that Resolution No: 296-2014, the 2015 Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
A.1900.1990 Contingency	\$3,000.00	
A.1315.0455 City Comptroller Consultants Services		<u>\$3,000.00</u>
TOTALS:	\$3,000.00	\$3,000.00

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

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

ADOPTED



September 9, 2015

Members of the City Council
City of Newburgh
City Hall
83 Broadway
Newburgh, New York 12550

Dear Members of the City Council:

We are pleased to confirm our understanding of the nature and limitations of the services we are to provide for the City of Newburgh, New York ("City").

We will apply the agreed-upon procedures which the City has specified, listed in the attached schedule, which were agreed to by the NYS Office of Parks, Recreation, and Historic Preservation solely to assist in evaluating the City's assertion that the revenues and expenditures submitted under Contract #C569943 are allowable based on the contract provisions, guidelines, rules and regulations, and the policies prescribed by the New York State Office of Parks, Recreation, and Historic Preservation. Our engagement to apply agreed-upon procedures will be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described in the attached schedule either for the purpose for which this report has been requested or for any other purpose. If, for any reason, we are unable to complete the procedures, we will describe any restrictions on the performance of the procedures in our report, or will not issue a report as a result of this engagement.

Because the agreed-upon procedures listed in the attached schedule do not constitute an examination, we will not express an opinion on the assertions that the revenues and expenditures submitted under Contract #C569943 are allowable based on the contract provisions, guidelines, rules and regulations, and the policies prescribed by the New York State Office of Parks, Recreation, and Historic Preservation. In addition, we have no obligation to perform any procedures beyond those listed in the attached schedule.

We will submit a report listing the procedures performed and our findings. This report is intended solely for the use of the City and the State of New York Office of Parks, Recreation, and Historic Preservation, and should not be used by anyone other than these specified parties. Our report will contain a paragraph indicating that had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

You are responsible for the presentation of the assertions that the revenues and expenditures submitted under Contract #C569943 are allowable based on the contract provisions, guidelines, rules and regulations, and the policies prescribed by the New York State Office of Parks, Recreation, and Historic Preservation.; and for selecting the criteria and determining that such criteria are appropriate

O'CONNOR DAVIES, LLP
500 Mamaroneck Avenue, Suite 301, Harrison, NY 10528 | Tel: 914.381.8900 | Fax: 914.381.8910 | www.odpkf.com

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for your purposes. You are responsible for assuming all management responsibilities; for designating an individual, preferably within senior management, who possesses suitable skill, knowledge, and/or experience. In addition, you are responsible for evaluating the adequacy and results of the services performed and accepting responsibility for the results of such services.

Domenick Consolo is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it.

We plan to begin our procedures shortly after the acceptance of this engagement letter and, unless unforeseeable problems are encountered, the engagement should be completed within 30 days. At the conclusion of our engagement, we will require a representation letter from management that, among other things, will confirm management's responsibility for the presentation of the assertions that the revenues and expenditures submitted under Contract #C569943 are allowable based on the contract provisions, guidelines, rules and regulations, and the policies prescribed by the New York State Office of Parks, Recreation, and Historic Preservation.

We estimate that our fees for these services will be \$3,000. The fee estimate is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. Our invoices for these fees will be rendered and are payable on presentation.

We appreciate the opportunity to assist you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us. If the need for additional procedures arises, our agreement with you will need to be revised. It is customary for us to enumerate these revisions in an addendum to this letter. If additional specified parties of the report are added, we will require that they acknowledge in writing their responsibility for the sufficiency of procedures.

Very truly yours,

O'Connor Davies, LLP
O'Connor Davies, LLP

CITY OF NEWBURGH, NEW YORK

RESPONSE:

This letter correctly sets forth the understanding of the City of Newburgh, New York.

By: _____ By: _____
Title: _____ Title: _____
Date: _____ Date: _____

Agreed-Upon Procedures Schedule

1. Verify that all payments claimed by the grantee in the final report were made by examining cancelled checks, payee endorsements, and/or other evidentiary material.
2. In cases with "force account expenditures" (salaries of the grantee's staff), verify Time & Attendance/Payroll documentation exists supporting the charge for personnel used on grant project.
3. In cases where "donations" of labor, materials, equipment, supplies, and real property were claimed, verify that the donations were applicable to grant activities, that values assigned to donations are legitimate and all donations are matched by documented eligible expenditures for grant activities.
4. Verify that the "Schedule of Project Expenditures by Vendors" supports the documented eligible project costs.
5. Verify that the "Schedule of Revenues by Source" clearly identifies the source of all eligible matching funds.
6. Verify that all services provided and costs incurred were within the contract term or within the permitted retroactive window when those expenses are approved as itemized in the project budget.

RESOLUTION NO.: 245 – 2015

OF

SEPTEMBER 28, 2015

**A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM A DEED ISSUED TO THE CHURCH OF ST. MARY
TO THE PREMISES KNOWN AS 184 N. MILLER STREET
(SECTION 11, BLOCK 2, LOT 23)**

WHEREAS, on May 3, 2001, the City of Newburgh conveyed property located at 184 N. Miller Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 11, Block 2, Lot 23, to the Church of St. Mary; and

WHEREAS, the Church of St. Mary, by its attorney, has requested a release of the restrictive covenants contained in said deed; and

WHEREAS, the appropriate departments have reviewed their files and recommend such release be granted; and

WHEREAS, this Council believes it is in the best interest of the City of Newburgh and its further development to grant such request;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the release, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3, 4 and 5 of the aforementioned deed.

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

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

ADOPTED

**RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY**

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 184 N. Miller Street, Section 11, Block 2, Lot 23, on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4 and 5 in a deed dated May 3, 2001, from the CITY OF NEWBURGH to THE CHURCH OF ST.MARY, recorded in the Orange County Clerk's Office on May 10, 2001, in Liber 5519 of Deeds at Page 268 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2015

THE CITY OF NEWBURGH

By: _____

Michael G. Ciaravino, City Manager

Per Resolution No.: _____-2015

STATE OF NEW YORK)

)ss.:

COUNTY OF ORANGE)

On the _____ day of _____ in the year 2015, before me, the undersigned, a Notary Public in and for said State, personally appeared MICHAEL G. CIARAVINO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

RESOLUTION NO.: 246 - 2015

OF

SEPTEMBER 28, 2015

**A RESOLUTION AMENDING RESOLUTION NO. 103-2015 OF MAY 11, 2015
AUTHORIZING AN AMENDMENT TO THE TERMS OF SALE AND AN EXTENSION
OF TIME TO CLOSE TITLE ON THE CONVEYANCE OF REAL PROPERTY
KNOWN AS 258 LIBERTY STREET REAR (SECTION 18, BLOCK 6, LOT 29)
AT PRIVATE SALE TO DAN GILBERT FOR THE AMOUNT OF \$500.00**

WHEREAS, by Resolution No. 103-2015 of May 11, 2015, the City Council of the City of Newburgh authorized the sale of real property known at 258 Liberty Street Rear, more accurately described as Section 18, Block 6, Lot 29 on the official tax map of the City of Newburgh, to Dan Gilbert upon receipt of the purchase price of \$500.00; and that said purchase price must be paid no later than July 10, 2015, and in accordance with certain terms and conditions of sale; and

WHEREAS, the purchaser has requested a modification of the terms of sale and requested additional time to close title and the City Council of the City of Newburgh has determined that it would be in the best interests of the City of Newburgh to modify the terms of sale and to extend the time to close title;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that Resolution No. 103-2015 of May 11, 2015 is hereby amended to extend the time to close title on the sale of 258 Liberty Street Rear to Dan Gilbert until November 30, 2015; and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon receipt of the purchase price of \$500.00; and that said purchase price must be paid no later than November 30, 2015, and in accordance with the amended terms and conditions of sale as annexed hereto and made part hereof; and

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

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

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

ADOPTED

Terms and Conditions Sale

258 Liberty Street Rear, City of Newburgh (18-6-29)

STANDARD TERMS:

1. City of Newburgh acquired title to this property in accordance with Article 11 of the Real Property Tax Law of the State of New York, and all known rights of redemption under said provisions of law have been extinguished by the tax sale proceedings and/or as a result of forfeiture.
2. For purposes of these Terms and Conditions, parcel shall be defined as a section, block and lot number.
3. All real property, including any buildings thereon, is sold "AS IS" and without any representation or warranty whatsoever as to the condition or title, and subject to: (a) any state of facts an accurate survey or personal inspection of the premises would disclose; (b) applicable zoning/land use/building regulations; (c) water and sewer assessments are the responsibility of the purchaser, whether they are received or not; (d) easements, covenants, conditions and rights-of-way of record existing at the time of the levy of the tax, the non-payment of which resulted in the tax sale in which City of Newburgh acquired title; and (e) for purposes of taxation, the purchaser shall be deemed to be the owner prior to the next applicable taxable status date after the date of sale.
4. The property is sold subject to unpaid school taxes for the tax years of 2014 and 2015 County Tax and 2014-2015 School Taxes and any subsequent levies. The purchaser shall reimburse the City for 2014 and 2015 County Taxes and 2014-2015 School Taxes and any subsequent levies. Upon the closing, the property shall become subject to taxation and apportionment of the 2015 City taxes shall be made as of the date of closing. Water and sewer charges and sanitation fees will be paid by the City to the date of closing.
5. **WARNING: FAILURE TO COMPLY WITH THE TERMS OF THIS PARAGRAPH MAY RESULT IN YOUR LOSS OF THE PROPERTY AFTER PURCHASE.** The deed will contain provisions stating that the purchaser is required to partially demolish and rebuild a storage area on the property in compliance with all State, County and Local standards within twelve (12) months of the date of the deed. Within such twelve (12) month time period the purchaser must obtain all permits necessary to complete said demolition and reconstruction. The deed shall require the purchaser to schedule an inspection by City officials at or before the end of the twelve (12) month period. If the purchaser has not complied with the deed provisions regarding the demolition and reconstruction of said storage area and obtained a Certificate of Compliance/Completion by that time, then the title to the property shall revert to the City of Newburgh. The deed shall also provide that the property shall not be conveyed to any other person before a Certificate of Compliance/Completion is issued. A written request made to the City Manager for an extension of the twelve (12) month period shall be accompanied by a non-refundable fee of \$250.00 per parcel for which a request is submitted. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to demolish and rebuild said structure of up to, but not to exceed, three (3) months. Any additional request thereafter shall be made in writing and placed before the City Council for their consideration.
6. The Purchaser is currently the owner of adjacent parcel identified as 258 Liberty Street, Section 18, Block 6, Lot 28, and will combine both parcels as one lot of record within one (1) year of the date of conveyance.
7. All purchasers are advised to personally inspect the premises and to examine title to the premises prior to the date upon which the sale is scheduled to take place. Upon delivery of the quitclaim deed by the City of Newburgh to the successful purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.
8. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located

on any parcel sold shall be the sole responsibility of the successful purchaser following the closing of sale.

9. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Property may contain paint or other similar surface coating material containing lead. Purchaser shall be responsible for the correction of such conditions when required by applicable law. Property also may contain other environmental hazards. Purchaser shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchaser shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing. Purchaser acknowledges receipt of the pamphlet entitled "Protecting Your Family from Lead in Your Home." Purchaser also acknowledges that he/she has had the opportunity to conduct a risk assessment or inspection of the premises for the presence of lead-based paint, lead-based paint hazards or mold.
10. The entire purchase price and all closing costs/fees must be paid by money order or guaranteed funds to the City of Newburgh Comptroller's Office on or before November 30, 2015. *The City of Newburgh does not accept credit card payments for the purchase price and closing costs/fees. The City is not required to send notice of acceptance or any other notice to a purchaser.* At closing, purchaser, as grantee, may take title as a natural person or as an entity wherein purchaser is an officer or managing member of said entity. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days. No request shall be entertained unless in writing, stating the reasons therefor, and unless accompanied by a fee of \$250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. Any additional request made thereafter shall be made in writing and placed before the City Council for their consideration.
11. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the successful bidder shall be entitled only to a refund of the purchase money paid with interest. Purchaser agrees that he shall not be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
12. Sale shall be final, absolute and without recourse once title has closed and the deed has been recorded. In no event, shall City of Newburgh be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, his heirs, successors or assigns, against City of Newburgh arising from this sale.
13. Conveyance shall be by quitclaim deed only, containing a description of the property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price, buyer's premium, and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon recording of deed.**
14. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject property, which deed shall be drawn by the City Corporation Counsel. The City shall not convey its interest in any street, water, sewer or drainage easement, or any other interest the City may have in the property. The City shall only convey that interest obtained by the City pursuant to the judgment rendered in an *in rem* tax foreclosure action filed in the Orange County Clerk's Office.
15. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh and provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Engineer.
16. Evictions, if necessary, are solely the responsibility of the successful bidder after closing and recording of the deed.
17. By acknowledging and executing these Terms & Conditions, the purchaser certifies that he/she is not representing the former owner(s) of the property against whom City of Newburgh foreclosed and has no intent to defraud City of Newburgh of the unpaid taxes, assessment, penalties and charges which have been levied against the property. The purchaser agrees that neither he/she nor his/her assigns

shall convey the property to the former owner(s) against whom City of Newburgh foreclosed within 24 months subsequent to the auction date. If such conveyance occurs, the purchaser understands that he/she may be found to have committed fraud, and/or intent to defraud, and will be liable for any deficiency between the purchase price at auction and such sums as may be owed to City of Newburgh as related to the foreclosure on the property and consents to immediate judgment by City of Newburgh for said amounts.

RESOLUTION NO.: 247 - 2015

OF

SEPTEMBER 28, 2015

**A RESOLUTION AUTHORIZING THE AWARD OF A BID AND
THE EXECUTION OF A CONTRACT WITH SUN-UP ENTERPRISES, INC.
FOR THE DELANO-HITCH RECREATION PARK BASKETBALL COURTS
IMPROVEMENTS PROJECT AT A BASE BID COST OF \$169,310.00**

WHEREAS, the City of Newburgh has duly advertised for bids for the Delano-Hitch Recreation Park Basketball Courts Improvements Project (the "Project"); and

WHEREAS, the Project involves repair and resurfacing of the basketball courts located within the Delano-Hitch Recreation Park; and

WHEREAS, bids have been duly received and opened and Sun-up Enterprises is the low bidder; and

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

WHEREAS, this Council has determined that awarding such bid and entering into a contract with Sun-Up Enterprises, Inc. is in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the bid for the Delano-Hitch Recreation Park Basketball Courts Improvements Project at a base bid cost of \$169,310.00, and that the City Manager be and he is hereby authorized to enter into a contract for such work in this amount.

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

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

ADOPTED

RESOLUTION NO.: 248 - 2015

OF

SEPTEMBER 28, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ACCEPT DONATIONS IN SUPPORT OF THE
RECREATION DEPARTMENTS TRAVELING SPORTS PROGRAM**

WHEREAS, the City of Newburgh Recreation Department will be establishing a traveling sports program; and

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

WHEREAS, the funds will be used to pay for tournaments for the travel teams which will make sure that everyone has an opportunity to play on these teams and compete against the highest level of competition; and

WHEREAS, this Council deems it to be in the best interests of the City of Newburgh and its residents 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 of the Recreation Department's traveling sports program.

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

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

ADOPTED

RESOLUTION NO.: 249 - 2015

OF

SEPTEMBER 28, 2015

**A RESOLUTION REAPPOINTING ELIZABETH BERARDINELLI
TO THE BOARD OF ASSESSMENT REVIEW**

WHEREAS, it is necessary to appoint members to vacancies on the Board of Assessment Review; and

WHEREAS, each member of such Board serves a five-year term; and

WHEREAS, it is necessary to re-appoint one member whose term of office expired and who is willing to serve a new term;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the following individual be and is hereby appointed to the Board of Assessment Review for the term indicated:

Elizabeth Berardinelli, to serve a new five-year term commencing on October 1, 2015 and expiring on September 30, 2020.

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

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

ADOPTED

RESOLUTION NO.: 250 - 2015

OF

SEPTEMBER 28, 2015

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A PAYMENT OF CLAIM WITH
SUSANA MENDOZA-SOLIS IN THE AMOUNT OF \$2,973.99**

WHEREAS, Susana Mendoza-Solis brought a claim against the City of Newburgh; and

WHEREAS, the parties have reached an agreement for the payment of the claim in the amount of Two Thousand Nine Hundred Seventy-Three and 99/100 Dollars (\$2,973.99) in exchange for a release to resolve all claims among them; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to settle the claim of Susana Mendoza-Solis in the total amount of Two Thousand Nine Hundred Seventy-Three and 99/100 Dollars (\$2,973.99) and that the City Manager be and he hereby is authorized to execute documents as the Corporation Counsel may require to effectuate the settlement as herein described.

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

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

ADOPTED

RESOLUTION NO.: 251-2015

OF

SEPTEMBER 28, 2015

**A RESOLUTION RATIFYING A MEMORANDUM
OF AGREEMENT AND APPROVING A COLLECTIVE
BARGAINING AGREEMENT WITH LOCAL 589
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS**

WHEREAS, the City of Newburgh and Local 589 International Association of Fire Fighters ("Local 589") are parties to a collective bargaining agreement which term expired on December 31, 2014; and

WHEREAS, the City Manager and negotiators representing the City of Newburgh and Local 589 have engaged in collective negotiations for a successor agreement pursuant to the requirement of the Taylor Law; and

WHEREAS, the City Council has reviewed the terms negotiated as set forth in the attached Collective Bargaining Agreement between the City of Newburgh and the Local 589, which sets forth the terms and conditions of employment for the term January 1, 2015 through December 31, 2017, and has consulted with the representatives of the City, who have recommended that the City Council approve the negotiated changes and new collective bargaining agreement;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the terms of the attached Memorandum of Agreement are ratified; and

BE IT FURTHER RESOLVED, that the City Manager is directed and authorized to enter into a complete collective bargaining agreement incorporating the terms of the Memorandum of Agreement into a complete collective bargaining agreement with Local 589 for the term January 1, 2015 through December 31, 2017.

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

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

ADOPTED

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STIPULATION OF AGREEMENT made and entered into this 16th day of September 2015 by and between the negotiating committees for the City of Newburgh and Local 589, IAFF, AFL-CIO ("the Union").

WHEREAS, the parties have engaged in negotiations in good faith in an effort to arrive at the terms of a new collective negotiations agreement to succeed the one that expired on December 31, 2014; and

WHEREAS, the parties have arrived at a tentative agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties stipulate and agree as follows:

1. The provisions of this Agreement are subject to ratification by the Union's membership, and ratification and approval by the City Council.
2. The signatories agree to recommend this Agreement for ratification/approval.
3. A copy of this original document has been furnished to representatives of the City and the Union.
4. All proposals made by either party during the course of negotiations which are not covered by this Agreement shall be deemed dropped.
5. The provisions of the new collective negotiations agreement will be as per the attached draft document.
6. Article VI (Productivity). Effective upon the complete ratification and approval of the 2015-2017 Agreement, and contingent upon the implementation of the provisions of ¶7 of this 2015-2017 Agreement, and contingent upon the City's execution with the terms of a Fiscal Year 2014 SAFER grant award contract covering the period

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2015-2017, employee duties and responsibilities may, at the City's discretion, include Commercial Occupancy Inspections, Vacant Property Inspections, Street Sweep Inspections and Rental Registry Inspections. This provision will sunset, and be of no further force and effect, at 11:59:59 p.m. on December 31, 2017, unless otherwise extended by the parties in a writing that is ratified by the Union's membership and ratified and approved by the City Council. The existence of the provisions of this paragraph and/or termination of the terms and conditions set forth in this paragraph may not be referenced in any interest arbitration proceeding between the City and the Union. This includes the City's agreement that it does not have the right to seek continuation of this provision before an interest arbitration panel.

7. Article XLII (Layoffs). Effective upon the complete ratification and approval of the 2015-2017 Agreement, and contingent upon the City's execution of a fiscal year 2014 SAFER grant award contract covering the period 2015-2017, in the event that bargaining unit staffing levels drop below 70 positions, then the City will fill the vacancies within six months consistent with civil service requirements. If the City is unwilling or unable to do so, then employee obligations pursuant to ¶6 for Vacant Property Inspections, Street Sweep Inspections and Rental Registry Inspections will be reduced as follows: (a) if staffing levels fall below 68, then employees will not be required to perform Street Sweep Inspections; (b) if staffing levels fall below 65, then employees will not be required to perform Vacant Property Inspections; and (c) if staffing levels fall below 62, then employees will not be required to perform Rental Registry Inspections. This provision will expire and become null and void effective 11:59:59 P.M. on December 31, 2017, unless otherwise extended by the parties in a writing that is

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ratified by the Union's membership and ratified and approved by the City Council. The existence of the provisions of this paragraph and/or termination of the terms and conditions set forth in this paragraph may not be referenced in any interest arbitration proceeding between the City and the Union. This includes the Union's agreement that it does not have the right to seek continuation of this provision before an interest arbitration panel.

8. Article IX(A-E) (Salaries). Effective on the payroll date immediately following the complete ratification and approval of the 2015-2017 Agreement, the annual salary rates for each position and step will be increased by 1%. Effective January 1, 2016, the annual salary rates for each position and step will be increased by 1.75% above the rates in effect on December 31, 2015. Effective January 1, 2017, the annual salary rates for each position and step will be increased by 2% above the rates in effect on December 31, 2016.

9. Article XXXVI (Random Drug & Alcohol Testing). Effective upon the complete ratification and approval of the 2015-2017 Agreement, the following random drug and alcohol testing procedure will be implemented:

10. DRUG AND ALCOHOL TESTING

A. Policy – It is the policy of the City to detect and deter the abuse of alcohol, the use and possession of illegal drugs and the abuse of prescription drugs in the work place. The parties recognize that the use and possession of such substances constitutes a serious threat to the health and safety of all employees and members of the public. Accordingly, the purpose of this article is to formalize a City policy that prohibits the use,

possession, sale, delivery or being under the influence of illegal substances and/or drugs and/or alcohol while on duty.

B. The City will have the right to conduct reasonable suspicion testing for drugs and alcohol. In addition, in the event that an employee is in an accident in a City-owned vehicle, the City will have the right to conduct an immediate drug and alcohol test. All employees will be subject to annual drug and alcohol testing within one month of the employee's anniversary date.

C. Definitions

1. The term "Drug" will include controlled substances as defined in Penal Law Section 220.00(5), steroids and marijuana, as defined in Section 220.00(6).
2. The term "Drug Abuse" will include the use of a controlled substance or marijuana, which has not been legally prescribed and/or dispensed, and the improper or excessive use of a legally prescribed drug as determined by the Medical Review Officer designated by the City.
3. The term "Alcohol Abuse" will be a test result of 0.04 or greater.
4. Random Employee Selection Sheet: A computer-generated list of randomly selected employees identified by employee I.D. numbers.
5. Computer Control Sheet: A computer generated list of all employees contained within the random drug/alcohol test data base.

D. Procedure

1. Employees will be subject to random drug testing. The employee(s) picked will report for testing upon notification if on duty, or on their next working shift.

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2. Whenever employees obtain information or suspect that another employee may be abusing drugs or alcohol, they will immediately notify the Chief.

3. Refusal to submit. The refusal by an employee to submit to a drug or alcohol test or the adulteration of the test by the employee pursuant to this policy may result in immediate suspension and subsequent disciplinary action, which may include dismissal from the City. Any disciplinary action taken pursuant to this provision will be subject to all of the protections afforded to employees pursuant to Civil Service Law Section 75 and this Agreement.

E. Testing Procedures

1. Every reasonable effort will be made to maintain employee confidentiality. In order to ensure confidentiality and the integrity of the tests, samples will only be taken at the test location by the authorized medical staff. Sample taking will not be conducted, or otherwise interfered with by the City or any representative of the employee. Samples will never be handled or tampered with by the City or any representative of the employee. Samples will not be released to anyone, except as authorized in this policy or as required by law, without the individual written consent of the employee.

2. Each employee being tested will present his or her identification card at the test location to ensure proper identification.

3. Each employee being tested may consult with and be accompanied by an Union representative, who may confer with and advise the employee before and after the collection process, but will not participate in or interfere with the process in any way. The representative will be given reasonable advance notice of when the testing will

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occur so that he or she may attend. However, the collection process will not be delayed because the representative is unavailable.

4. Prior to testing, each employee will list all medications ingested during the preceding 10 days. The employee may also list any supplements, vitamins, herbs, foods or other products ingested during that same period. The list will be sealed in an envelope and the employee's name and date will be written on the outside. If the test results are negative, the envelope will remain sealed and be destroyed in the presence of the Union President or designee.

5. There will be no direct observation of the giving of the urine sample, unless there is reason to believe that the sample may be tampered with, in which event direct observation by an authorized individual of the medical staff is permitted. This individual will be a person of the same gender as the employee providing the sample.

6. Testing will be performed by a laboratory licensed or certified by SAMHSA, HHS. Two separate containers supplied by the testing lab will be prepared by each employee being tested. Each container will have a code number and date of collection affixed. The specimen will be divided into two samples at the time of collection and will be sealed and initialed in the presence of the employee.

7. The laboratory administering the test will assure that the appropriate chain of custody is established in order to verify the identity of each sample being tested.

8. Initial alcohol screening will be conducted by a breath alcohol technician using an individually-sealed mouthpiece opened and attached to the evidential

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breath testing device ("EBT"). The employee will be asked to blow forcefully into the mouthpiece for at least six seconds, or until the EBT indicates that an adequate amount of breath has been obtained. If the employee states that he/she does not have sufficient air capacity, he/she will be sent immediately for a medical evaluation for verification of the claim. Absence of verification will be considered a refusal. If the result of the screening is an alcohol concentration of greater than 0.04, a confirmation test will be performed between 15 and 20 minutes after the completion of the screening test. Prior to the confirmation test, the EBT will be cleaned and a new mouthpiece will be used. If the first test result is negative, no further testing will be performed. If the confirmation test is negative, the entire test will be deemed negative, and a negative test result will be reported. Samples will be destroyed.

9. Initial drug screening will be by the Enzyme Multiple Immunoassay Testing (EMIT). No sample will be further tested upon a negative screening for controlled substances or marijuana. After a negative screening, the sample will be destroyed.

10. Each and every positive EMIT test will be confirmed using Gas Chromatography Mass Spectrometry test (GCMS). Only if confirmed by GCMS will a test result in a positive report. In order to be defined as a "positive" result, the initial and/or confirmatory test levels must be at or above those set forth in the applicable federal D.O.T. guidelines.

11. Any employee whose test results in a positive report may, within five business days of receiving notification of the result, request in writing to the Chief that the second sample be made available for retesting at the licensed/certified laboratory

from a list of laboratories supplied by the City. The City will be responsible for all costs and expenses in connection with the retesting. If the retesting results in a negative report, the test will be deemed negative and all samples will be destroyed.

12. Selection of employees to be selected on a random basis will be performed by a computer program that will randomly select the employee number of those to be tested. The random selection of an employee will not result in that employee's employee number being removed from the selection process.

13. The selection will be made by a laboratory licensed or certified by SAMHSA, HHS and witnessed by a representative designated by the Chief as well as a representative designated by the Union. All designated representatives will affix their signatures to the random employee selection sheet and computer control sheet.

14. The selection process will not be delayed due to the unavailability of the Union representative.

15. An employee selected will be notified and ordered to report for testing. Employees will not be given any advance notice of randomly scheduled tests. The Union President will be permitted to review the list of employees selected for testing and the computer control sheet after all selected employees have been tested.

16. Employees will not be recalled to duty for random testing on their regularly scheduled days off or if the member is on authorized leave.

17. All random employee selection sheets and corresponding computer control sheets will be maintained in the office of the Chief.

18. An employee will be exempt from a drug test if at the time of selection for that particular test he or she is unavailable due to (i) vacation, (ii) injury, (iii)

sickness, (iv) military leave, (v) bereavement leave, (vi) jury duty, (vii) personal leave, (viii) compensatory time, (ix) mutual exchange; (x) training, provided that the entire shift is spent outside of the City, or (xi) school.

F. Results of Tests

Employees who are tested will be notified of the results of all drug/alcohol tests and provided a copy of the corresponding test results, as they become available, at no cost to the employee as they become available. If the employee has a drug and alcohol test and intends on introducing the results of that test at his/her disciplinary hearing, the City will be provided with a copy of the results of the test at no cost and at least 30 days prior to the hearing.

G. Confidentiality

The test results and/or other records released are to be used solely by the City to carry out its obligations pursuant to the drug and alcohol testing policy, administering the contractual procedures, taking appropriate disciplinary action, or where the release is authorized or required by law. For the purpose of administering the policy, they may only be accessed by City Manager, the Chief, and the Corporation Counsel, and/or their designated medical experts, or others authorized by the Corporation Counsel for the purpose of presenting evidence in disciplinary matters. If release of these records to others is authorized or required by law, the City will provide written notification to the employee listing the records released and to whom the records were released.

H. Positive Test Results

1. All positive test results will be reviewed and verified by a qualified Medical Review Officer (MRO) designated by the City. The City has exercised its

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discretion to name Hudson Vista Medical as the MRO. The MRO will examine alternate medical explanations for a positive test result. Pursuant to this responsibility, he/she may conduct a medical interview with the employee, who may be accompanied to the interview by an attorney and/or Union representative, review the employee's medical history or review any other relevant biomedical factors. If the employee provides appropriate documentation and/or the MRO determines that there is a legitimate medical use of the prohibited drug or alcohol, or an alternate medical explanation exists, then the test results are reported as negative. A negative test result is not reviewable by the City.

2. Positive Alcohol Test: Employees who test positive for the use of alcohol, after being interviewed by the MRO, will be relieved of duty. The City retains the right to discipline an employee who tests positive for alcohol with a BAC of .04 or greater up to and including dismissal. In the sole discretion of the City, employees who test positive for the use of alcohol who do not have a history of alcohol abuse may be referred to the EAP.

3. Positive Drug Test: Employees who test positive for the use of drugs, after being interviewed by the MRO, will be relieved of duty. The City retains the right to discipline an employee who tests positive for drug use up to and including dismissal. In the sole discretion of the City, employees who test positive for the use of drugs who do not have a history of drug abuse may be referred to the EAP.

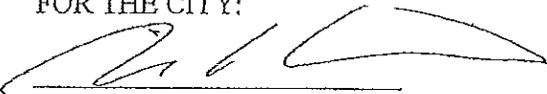
4. Discipline For Positive Test Results: Subject to the restrictions of this policy, the City has the right to discipline employees who test positive for drug and/or alcohol use. Any disciplinary action taken pursuant to this provision will be

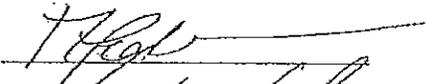
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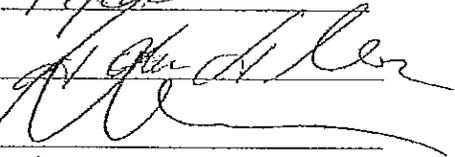
subject to all of the protections afforded to employees pursuant to Civil Service Law Section 75 and this Agreement.

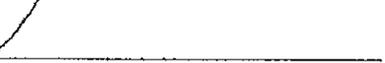
5. Voluntary Treatment: Employees may voluntarily seek treatment at any time before he/she reports to the laboratory for testing. Employees who voluntarily seek treatment for substance abuse under the auspices of the EAP will immediately notify the EAP of their desire to participate in the program. The employee and the representative of the EAP will meet as soon as possible for purposes of discussion on entrance into the program. Any employee who has voluntarily sought treatment will not be subject to any disciplinary action for that reason.

FOR THE CITY:

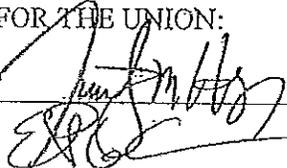


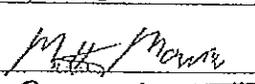


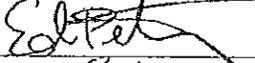




FOR THE UNION:









OLD BUSINESS

There was no old business.

NEW BUSINESS

Councilman Brown said that over the weekend a friend that he graduated with was inducted into the Albany State Hall of Fame for his football career back around 1985 when they won the State Championship. He attended the ceremony and as he was sitting there he noticed that there was a young lady there from the City of Newburgh who was also being inducted. He happened to be sitting right behind her and her name is Amber Maisonet. She played softball at SUNY Albany from 2005 to 2008 and apparently she was really good so he wanted to give a shout out to her and say congratulations.

PUBLIC COMMENTS REGARDING GENERAL MATTERS

Melinda Ware, 9 McCord Drive said that she is involved in a youth program and has no disrespect for Pastor Austin's program because if it is a successful program then she is fine with that. However, there seems to be some issue with the safety of this building so she asked the Council to please make sure that it is safe for our children. Off the street doesn't necessarily mean to her that they are safe. She applauded Pastor Austin for even being up in that area because it is not safe outside there but please make sure that it is safe inside. The Council knows that she works with youth and she loves them but she was appalled to hear tonight that we are putting them in a building where the toilets aren't being flushed which is disgusting. That is not safe and it's not sanitary and the Engineer said that there were gases coming from the toilet.

Mayor Kennedy noted that those issues were fixed.

Ms. Ware said that this building needs to be safe and she is not here to argue but they voted tonight and she is going to be back to make sure they are accountable for what they say they are doing and that our kids are safe.

Nelson McAllister, 412 Liberty Street, said in regard to resolution #249-2015 that he went before the Assessment Review Board this past year and one of the things that disturbed him is that the Board was not reflective of the community. He asked the Council to look at all of their Boards and volunteers that they have to make sure that they are reflective of Newburgh. The majority of people in Newburgh are of Hispanic origin; second is African-American and then Caucasian. He added that the greatest natural resource of any Nation is our youth and we have been afforded no greater responsibility than the raising of the next generation. Out of all the discussion that he heard tonight about the program in the Heights Councilwoman Lee said what he would have said so he would suggest and encourage this Council to instruct their City Manager and their Comptroller to find the money to fix that building from the ground up so that our kids will be safe when they go into that building with qualified people to do what Pastor Austin is doing.

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

COMMENTS FROM THE COUNCIL

Councilwoman Abrams thanked Newburgh Art Supply and everyone involved in the Newburgh Open Studios Tour for our artists this past weekend. It was great and brought in many people to see our City and a lot of our Artists. She is glad that they finally passed this resolution honoring Julius H. Robinson Sr. tonight. This was Councilman Brown's idea which he brought up almost one year ago when Mr. Robinson passed away so they will have the family gather for a nice celebration at their convenience sometime this year.

Councilwoman Angelo announced that Vesuvio's opened in her Ward and they are doing very well. Also the Broadway Market where Stewart's was has opened and Hurricane should be opening in a few weeks where the old Coliseum was. So they have three new projects in that area now. She announced that there will be a Fall Festival on October 17th with a rain date of October 18th. There is also a good possibility that there will be a Flea Market down by Gully's as he is begging us to do something with his property. He would like some activity down there so they are thinking if they could maybe do a huge Flea Market with the Churches involved then the Churches could make some money. The month of October is so full of things right now that she doesn't know if they can fit this in however. She thanked everyone for coming tonight.

Councilman Brown said that Julius Robinson was the first guy who taught him how to do plumbing and it was always an honor and a privilege to be around him. He was probably one of the nicest guys that you would every want to meet. He always came to his house whenever he had a plumbing issue but would never accept payment so he always found a way to pay him in kind and he thinks that the resolution they passed tonight is repayment. The celebration will be when they dedicate that street to him and his sign is placed on the pole. As far as the Youth Program goes he doesn't want to be misunderstood. He is all about the safety of the youth and he knows that building is safe. It does have some issues but nothing structural and they feel that they can get that heating system working until they can get it permanently fixed. He is very concerned about people who work with youth and he believes that there should be a process to make sure that they are qualified to work with them. We have a lot of pedophiles that are placed here in this community who disguise themselves very well so a vetting process should be implemented and he is sure that Pastor Austin could implement that if she hasn't already done so. It's our City but if we don't protect the youth of this City then it's not our City because we will lose in the end. For him it's about the youth and it always has been. He thanked everyone for coming and wished them a good night.

Councilwoman Holmes thanked everyone for coming out and said that she is happy to see her Pastor and Rev. McAllister here. She appreciates everything that was said tonight and she agrees that they need to make sure that building is safe. She has been up to visit the Program so she has been in the building and it does need some work. She agrees that the youth that are there need to be evaluated all the time. She works with at risk kids and if you

let them slip just a little bit they are gone and it's hard to save them. She thanked everyone for coming tonight and wished them a good night.

Councilwoman Lee thanked everyone for coming out tonight and added that when she first moved here her heat went out so she asked her neighbor if he knew of a Plumber and he gave her Mr. Robinson's number. She called him and asked if he could come by on Thursday because she didn't have any money to pay him until then. A few minutes later Mr. Robinson was at her door so she reminded him that she didn't have any money to pay him right now and he laughed and said, "*Ms. Lee, it's cold today*". He was a really nice man and she is glad that part of Chambers Street is going to be named for him and it also sends a message to all of the children in that area who don't see anyone getting any kind of recognition that a good clean life does have its rewards. She added that she is also glad that the Fire Fighters Contract was approved tonight.

Councilwoman Mejia thanked everyone for coming out and everyone listening on the Internet as well. On the services of our youth and how we are utilizing our community centers she said that they had this discussion last year. They put in place to have certifications and background checks done for everyone who is working in those contracts which she thinks raises the level of oversight by the Council. In terms of the conditions of our buildings, we are a struggling City and all of our building have something that needs to be fixed. We have actual shimmies holding up the structures here in this building but that is the type of environment we live in and we are working towards trying to move from. She wanted to thank Rev. Best for his words at the beginning of the meeting which she feels really gave a different tone to our session. Lastly she congratulated the executive team for getting an agreement with our labor force. She also thanked the Local 589 International Association of Fire Fighters for their service and for working in collaboration with the City knowing all of the restraints and struggles that we have. One of the key changes of that contract was the enforcement of the Rental Agreement which is important to the safety of our residents and our families. She wished everyone a good night and said to get home safely.

Mayor Kennedy added her congratulations on the contract for the Fire Fighters Local 589. We have gone a long time around here without getting contracts done so she thanked the City Manager for plugging away at those. We have two done; CSEA and the Fire Fighters and now we are working on the Police Contract which they are making progress with. Concerning the oversight of contracts and the condition of buildings she wants to reiterate both Councilwoman Mejia's and Councilman Brown's sentiments. Every building that belongs to the City needs something done to it and unless someone knows where the printing press is to print the money for complete renovations we have to work with what we've got. It's all a big balancing act with fixing streets, potholes, buildings, bridges and sewers. It's one great big trade off at every Council Meeting with what gets fixed and it isn't that one is more important than the other but we work to find some dollars to do one and then work to find some dollars for the next one. We have to constantly work at this and it's not always perfect but we are working towards solutions every day. Every day, every month we are working in the right direction. She has been over to that building and the structure is perfectly safe and if Pastor Austin wants to take on the cleaning of the building that helps. She said to remember that they are leasing a building to a youth organization that is not a

city run program. This is Pastor Austin's program and we are enabling her to use the building. We are trying to partner with people and groups who are trying to help with our youth and do the very best we can so that they can have opportunities. She heard that they passed a complete safety inspection last year and our DPW fixed all of the bathroom fixtures so there is not a problem over there with that now. The only issue left is the heat which is what they are going to work on. She mentioned that she received a notice from our Emergency Center with an update of potential rain and wind in our area to start tomorrow with amounts of 1.5 to 3 inches possible through Wednesday with isolated higher amounts. There could be flash flooding in poor drainage areas so she encouraged everyone to pay attention to that especially when driving and to be cautious and careful. She also mentioned that on October 8th at 12:30 P.M. at the Downing Park Greenhouse they will be having their monthly Brown Bag Luncheon Tour. If you would like to know more about what is going on there, then stop by for the Tour. If it is raining that day it will be held on Tuesday, October 13th so stop by to see what is happening at Downing Park. She thanked everyone for coming tonight.

There being no further business to come before the Council the meeting adjourned at 8:50 P.M.

LORENE VITEK
CITY CLERK