

A regular meeting of the City Council of the City of Newburgh was held on Monday, December 12, 2011 at 7:00 P.M. in the Council Chambers at City Hall, 3rd Floor, 83 Broadway, Newburgh, New York 12550.

The Prayer was led by Mayor Valentine and the Pledge of Allegiance was led by Councilwoman Bell.

Present: Mayor Valentine, presiding; Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard - 5

Councilwoman Angelo moved and Councilwoman Bello seconded that the minutes of the regular meeting of November 28, 2011 be approved.

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

CARRIED

REPORTS

Councilwoman Angelo moved and Councilwoman Bello seconded that the City Clerk's Report, the Registrar of Vital Statistics Report and the Civil Service Administrator's Report for the month of November be received, filed and made available to the Press.

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

CARRIED

EXECUTIVE SESSION

Councilwoman Angelo moved and Councilwoman Bello seconded to enter Executive Session to discuss Collective Bargaining.

All in favor, the Council entered Executive Session at 7:05 p.m.

Councilwoman Bello moved and Councilwoman Angelo seconded to exit Executive Session.

All in favor, the Council exited Executive Session at 7:15 p.m.

COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Brigidanne Flynn, City of Newburgh, asked for a clarification of resolution #243-11 for the South Street Park. Where is it and what are they doing down there?

Kippy Boyle, 400 Grand Street said in regard to resolution #253-11 that she has a resolution dated December 19, 2007 in which the City Council entered into a two year agreement with Eberlin & Eberlin for the overall construction and design of Tyrone Crabb Park in the amount of \$469,349.00. In the 2009 Bonds that were issued, \$510,000.00 of that money was for improvements to Tyrone Crabb Park. Before Eberlin & Eberlin gets another \$26,000.00 she would like to see an accounting from 2009 to current.

Barbara Smith, City of Newburgh, said that resolution #257-11 goes along with something she read recently in the newspaper with regard to Burton Towers. The article she read stated that the Housing Authority was going to issue a grant to do work in Burton Towers and her question is how do they get involved with doing any work in Burton Towers if it is a different builder or person who the City Council has authorized to do the work within that particular complex?

Craig Marti, City Engineer said in response to the South Street Park that it is the area north of Torches Restaurant which is the extension of South Street as it would extend to the Waterfront. This particular resolution clears up the land access. The City ownership goes from South Street extended to the extension line of the easterly edge of Front Street. Joscoss owns the area from the Front Street extension to the waterfront and the area under the water where the Marina is. This resolution authorizes an agreement whereby the land area between Front Street and the Waterfront will be deeded back to the City of Newburgh and Joscoss will agree to remove the Marina from that underwater parcel where the Marina currently extends into South Street as it would be extended into the river. In answer to the Eberlin & Eberlin question in regard to the Park, he said that the 2009 Bond authorization was to cover the projected construction costs of the Park which had been designed. In 2008 or 2009, there was a question of an archaeological impact of the existing design so there was an archaeological study done which has now resulted in some recommendations from the State Office of Historic Preservation to redesign or modify the design to address these issues. This \$26,000.00 is to modify the existing design and prepare the contract documents for bidding. With regard to the Bonding, he believes that some of the bond authorization has been borrowed through BAN's in order to advance the project and there is also a

grant with the Office of Parks and Recreation at the State level which will also come in to play offsetting some of the construction costs.

Michelle Kelson, Corporation Counsel, said in response the Burton Towers question that the complex was put into foreclosure by the US Department of Housing and Urban Development. In that foreclosure process, both the City and the Housing Authority had an opportunity to the right of first refusal to acquire the property and the City ended up being the entity that exercised that right and then subsequently transferred the property to Burton Towers, LLC. Burton Towers, LLC in agreement for being able to obtain the property from the City for \$1.00 agreed to pay the City delinquent PILOT payments that the previous owner had not paid as well as a municipal impact fee of \$200,000.00 and then the City was going to enter into a PILOT agreement with the new entity going forward. The same entity also went to the Housing Authority and also has an agreement with them but the Housing Authority is going to issue debt financing for the project such as bonding for the overall rehabilitation project. The overall control over who makes the repairs and who maintains the project is with Burton Towers, LLC. The Housing Authority does have a separate agreement with Burton Towers, LLC to help with the overall project which includes issuing some of the bond financing that is going to go into rehabilitating that property.

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

CITY MANAGER

Acting City Manger, Richard Herbek, noted that this is the last regular meeting of this City Council. He wished to recognize our outgoing Mayor, Nicholas Valentine, Councilwoman Marge Bell and Councilwoman Christine Bello for their service to the City. Although he has only worked with them since September, 2009 he feels that during this time they have accomplished a great deal despite differences on occasion. Being the representative of the progress that has been made in the City probably first and foremost is getting the finances back on track because without that there is not a lot that can be done. We tackled things like the Courthouse overruns, Consolidated Iron payments, Bond Anticipation Notes and Tax Anticipation Notes as well as how we were going to get assistance from the State of New York through the Newburgh Fiscal Recovery Act. The State Comptroller's Office has been with us a great deal to make sure that our finances are in good shape. We have focused together on reinventing downsizing City Government which has included introducing many new systems for real property tax collection, payroll services, parking ticket collections, code and land use records and moving all of the sanitation costs out of the General Fund and into a new Enterprise Fund which is entirely fee based. The Council has approved structurally balanced Budgets two years in a row for 2011 and 2012. We had the orchestration and approval of the Armory as a Center for education and recreation for the City's youth. We began the process of establishing a Workforce Development Initiative and the creation of the City of Newburgh Land Bank to begin to address the distressed properties in the City. We had the establishment of the first successful City of Newburgh Charter Review Commission which was resoundingly approved by the electorate. There are many others that he could list but he wanted to mention these as examples of their partnership and the beginning of turning things around for the benefit of all who live and work in this great City.

RESOLUTION NO.: 239 -2011

OF

DECEMBER 12, 2011

**A RESOLUTION AMENDING RESOLUTION 135-2011
APPROVING A MEMORANDUM OF UNDERSTANDING
WITH THE POLICE SUPERIOR OFFICERS ASSOCIATION
OF NEWBURGH, NEW YORK, INC. TO PROVIDE
FOR ADDITIONAL BENEFITS PROVIDED FOR
IN SECTION 242 OF THE MILITARY LAW
FOR POLICE SERGEANT FRANK LABRADA
WHILE SERVING ACTIVE DUTY IN THE MILITARY**

WHEREAS, this Council, by Resolution No.: 135-2011 of July 11, 2011, approved a Memorandum of Understanding (“MOU”) with the Police Superior Officers Association of Newburgh, New York, Inc. to provide for additional benefits provided for in Section 242 of the Military Law for Police Sergeant Frank Labrada while serving active duty in the Military effective on or about November 30, 2011; and

WHEREAS, Sergeant Labrada has advised that deployment will now take place on or about January 28, 2012; and

WHEREAS, it is necessary and appropriate to authorize the Acting City Manager to execute an amended “MOU” reflecting the new deployment date; and

WHEREAS, all other terms and conditions of the “MOU” authorized by Resolution No.: 135-2011 of July 11, 2011 shall remain in full force and effect; and

WHEREAS, this Council has determined that authorizing the execution of an amended MOU is in the best interests of the City of Newburgh and its employee;

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 on behalf of the City of Newburgh, the amended Memorandum of Understanding annexed hereto, or in substantially the same form; and be it further

RESOLVED, that the Council of the City of Newburgh hereby extends its esteem, gratitude, appreciation and admiration to every member of the Union and all others called to active duty on behalf of this Country.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

**MEMORANDUM OF UNDERSTANDING
BETWEEN
POLICE SUPERIOR OFFICERS ASSOCIATION OF NEWBURGH, INC.
AND
THE CITY OF NEWBURGH**

WHEREAS, the CITY OF NEWBURGH (CITY) and POLICE SUPERIOR OFFICERS ASSOCIATION OF NEWBURGH, INC. (PSOA), are desirous of entering into an agreement between the parties to provide for extended military benefits for members who are military reservists and are federally activated to military duty as of the result of the events of September 11, 2001 and the ongoing conflicts overseas beyond the benefits mandated by New York State Military Law.

IT IS HEREBY UNDERSTOOD AND AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Members of the PSOA ordered to active military duty (including ordered service in the reserve force) as a result of the events of September 11, 2001, and the ongoing conflicts overseas, shall be entitled to receive the following benefits:
 - a) Members who have exhausted their entitlement to paid military leave under Section 242 of the Military Law shall be entitled to an additional thirty (30) calendar days or twenty-two (22) working days of supplemental military leave at full pay, whichever is greater, in any one calendar year, not exceeding in total sixty (60) calendar days for any one continuous period of absence;
 - b) Members who have exhausted their entitlement to the paid leave set forth in paragraph (a) above shall be entitled to military leave at a rate of pay equal to the Member's rate of pay pursuant to the Collective Bargaining Agreement less the compensation received by the Member as a result of his or her active duty. The Member shall provide the city with an "enlisted pay chart" establishing the applicable military rate of pay.;
 - c) Members shall receive the same individual or family health insurance benefits provided pursuant to the Collective Bargaining Agreement, as received by such members prior to their date of activation;

- d) Members shall accrue vacation leave at the rate set forth in the Collective Bargaining Agreement during the period they receive benefits pursuant to this Memorandum.

2. The benefits provided in paragraph 1 of this Memorandum shall be in effect from January 28, 2012 to and including January 28, 2013. The terms of this Memorandum may be extended by resolution in the event that the Member's active duty status extends beyond January 28, 2013.

3. The parties agree and acknowledge that this agreement shall not establish any past practice or precedent for members called for active military duty for any reason other than the events of September 11, 2001, and currently ongoing overseas conflicts in Iraq, Afghanistan and related areas.

Dated: December _____, 2011
Newburgh, New York

AGREED TO:

CITY OF NEWBURGH

By: _____
Richard F. Herbek, Acting City Manager

POLICE SUPERIOR OFFICERS
ASSOCIATION OF NEWBURGH, INC.

By: _____
, President

RESOLUTION NO.: 240 -2011

OF

DECEMBER, 12, 2011

**A RESOLUTION DECLARING AS SURPLUS
AN OBSOLETE 4" x 6" CARD-STYLE 5-DRAWER METAL FILING CABINET
FROM THE CITY OF NEWBURGH ASSESSOR'S OFFICE TO BE
GIVEN TO THE CITY OF PORT JERVIS CITY CLERK'S OFFICE**

WHEREAS, the City Assessor no longer keeps information on 4" x 6" cards and has emptied the card-style 5-drawer metal filing cabinet; and

WHEREAS, no other City department has use for such a filing cabinet;
and

WHEREAS, the City of Port Jervis City Clerk put out a request for such a filing cabinet through the New York State Archives; and

WHEREAS, this Council has determined that giving such filing cabinet to the City of Port Jervis is in the best interest of each municipality;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the obsolete 4" x 6" card-style 5-drawer metal filing cabinet be declared surplus by the City of Newburgh and given to the City of Port Jervis Office of the City Clerk.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

RESOLUTION NO.: 241 - 2011

OF

DECEMBER 12, 2011

**A RESOLUTION AUTHORIZING APPROVAL OF VARIOUS INSURANCE
POLICIES FOR THE PERIOD OF
JANUARY 1, 2012 TO JANUARY 1, 2013**

WHEREAS, the City of Newburgh has solicited proposals for insurance coverage for the fiscal year 2011; and

WHEREAS, Arthur J. Gallagher of New York, Inc. and Gallagher Bassett Services, Inc. have recommended a package of insurance coverage for property and liability insurance coverage for Fiscal Year 2012;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, New York hereby approves the insurance coverage for the term beginning January 1, 2012 through January 1, 2013; all liability insurance to be provided by U.S. Specialty Insurance Company, under Option 2, and inland marine, property and boiler and machinery to be provided by Praetorian Insurance Company, under Option 1, and with limits, self insured retention amounts and premium rates as set forth in the attached Insurance Quotation; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized and directed to execute agreements with Arthur J. Gallagher of New York, Inc. and Gallagher Bassett Services, Inc. to provide for insurance coverage and third-party claims administration services, respectively, for the period of January 1, 2012 to January 1, 2013.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

241-11

CITY OF NEWBURGH

2012 RISK MANAGEMENT PROPOSAL

EXECUTIVE SUMMARY

In 2009, we thought it would be a good idea to look back at recent history so that the people viewing this proposal have a sense of where the program has been.

For the January 1, 2003 insurance renewal, we started to see the effects of the hard insurance market and the handful of recent large claims in the City. The effects were an increase in the Self-Insurance layer and a significant premium increase.

For the January 1, 2004 insurance renewal, we faced the same items as mentioned above, possible litigation between the City and one of the excess insurance carriers and non-renewal of the Liability Coverage due to claim history. After an extensive search through the marketplace, we were successful in negotiating an excess insurance program with one carrier, Essex Insurance Company at what was truly, terrific premiums when you looked at the loss history!!! In a study we completed, over the past ten years, the City had paid the primary insurance carrier, in relative terms, \$1.00 in premium and collected, or will collect \$2.00 in claim payments, on average. There are not many, if any, businesses that would last with this type of ratio.

The January 1, 2005 presented a new twist as the Essex Insurance Company decided to exit the municipal insurance market and issued a non-renewal notice. After an extensive search we negotiated the best terms, conditions and pricing with Illinois Union Insurance Company. Negotiating a relatively flat premium renewal took a combination of knowing the marketplace and knowing the underwriters from past personal experience based on this difficult loss/claim history.

For 2006, we again marketed the Liability Insurance Program. The marketplace is stabilizing due to a large infusion of capital into the Bermuda Insurance Market and the effects of Katrina have not yet been seen. Our marketing efforts have been hugely successful in negotiating a:

- 31% Decrease in Liability Premium!
- Increasing Liability Limits by \$2,000,000!

In Year 2007, the Property and Liability program had been negotiated to less than a 3% increase! Due to some claim issues in the Workers' Compensation area, specifically claims settlement issues, the retentions have increased. In marketing this coverage we were successful in negotiating lower retentions but at a higher cost. We looked at options. The market overall was expected to remain flat or possible decrease in the next year or two.

And for the 2008 renewal, the insurance market was in a softening phase. We went to various markets and presented options. The overall renewal to the city was successful, achieving a 2% decrease.



For the January 1, 2009 renewal we marketed the program to U.S. Specialty, One Beacon, Star Insurance Co. Praetorian and Safety National Insurance Company.

Our negotiations resulted in another great program renewal for the City with an overall 10% premium savings.

And for January 2010 we are once again successful in our negotiations. If we elect to continue with our same carrier of the last 3 years, we will obtain a 9% premium reduction.

Or, if we elect to renew with the optional quote from U.S. Specialty, the premium reduction is 16%!

In 2011 the insurance was put out for an RFP by the City's Insurance Consultant Philip Platzer and a number of broker/agents were involved. Our proposal came in with a 9% premium reduction and also an option for lower Self-Insured retention for Liability coverage.

Thank you for your continued relationship.



**CITY OF NEWBURGH
GALLAGHER RISK MANAGEMENT STRUCTURE
January 1, 2012 to January 1, 2013**

	<p>\$56,852,984 x/s \$100,000 Practorian Insurance Company</p>	
<p>\$500,000</p>	<p>Law Enforcement Liability</p>	<p>\$5,000,000 U.S. Specialty Insurance Company</p>
<p>\$100,000</p>	<p>General Liability Auto Liability Public Officials</p>	<p>\$500,000 Self-Insured Retention</p>
<p>\$100,000</p>	<p>Property Auto Physical Damage Inland Marine Boiler & Machinery</p>	<p>\$250,000 Self-Insured Retention</p>

NOTE:

1. All coverages are Occurrence form.
2. Defense Costs are Included within the Self-Insured Retention and Limit of Insurance
3. Losses in Excess of SIR are paid by Insurance Carrier.
4. Auto Physical Damage Deductible is \$10,000
5. Deductible for Flood and Earthquake is \$100,000
6. Inland Marine Limit is \$1,225,596 and Deductible is \$5,000

CITY OF NEWBURGH
2012 RISK MANAGEMENT PROPOSAL

CARRIER PREMIUM/FEE SUMMARY

Coverages	2010	2011	2012
Excess Liability	234,835	241,865	240,969
Property Package	66,689	56,991	57,949
TPA Services	58,648	63,221	68,349
Total	\$360,172	\$362,077	\$367,267

Gallagher is responsible for the placement of the following lines of coverage:

Excess Liability and Property

It is understood that any other type of exposure/coverage is either self-insured or placed by another brokerage firm other than Gallagher. If you need help in placing other lines of coverage or covering other types of exposures, please contact your Gallagher representative.

Quote is valid until 01/01/12

Notes:

1. Included in our services are meetings, quarterly, to review and discuss claims, loss prevention and other items.
2. Included in our services is a loss control visit and survey of each and every city Department and location.
3. Excess Liability SIR dropped in 2011 for GL/AL/POL from \$500,000 to \$250,000.



RESOLUTION NO.: 242 - 2011

OF

DECEMBER 12, 2011

**A RESOLUTION TO AUTHORIZE THE RE-PURCHASE OF
REAL PROPERTY KNOWN AS 82 WISNER AVENUE
(SECTION 26, BLOCK 1, LOT 61)
AT PRIVATE SALE TO AGNES PARDEE**

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

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

WHEREAS, Agnes Pardee, the former owner of 16 Lutheran Street, being more accurately described as Section 29, Block 8, Lot 12 on the official tax map of the City of Newburgh, by her attorney, has requested to re-purchase the property at private sale; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of 82 Wisner Avenue, Section 26, Block 1, Lot 61, to Agnes Pardee be and hereby is confirmed and that the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon receipt of all past due tax liens, together with all interest and penalties accruing thereon, and all currently due taxes and charges are paid, in full, for a total amount of \$15,480.42, no later than December 30, 2011; and

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

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

RESOLUTION NO.: 243 - 2011

OF

DECEMBER 12, 2011

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A COOPERATION AGREEMENT BETWEEN
THE CITY OF NEWBURGH AND JOSCOS, INC.
REGARDING THE ESTABLISHMENT OF SOUTH STREET PARK**

WHEREAS, the City of Newburgh Community Development Agency and Joscoss, Inc. are parties to a Contract for Sale of Land for Private Redevelopment dated June 23, 1998, under which Joscoss constructed a marina; and

WHEREAS, the City of Newburgh is contemplating the development of South Street Park on the property formerly known as South Street located easterly of the railroad tracks ("Lower South Street"); and

WHEREAS, Joscoss is the owner of that portion of Lower South Street located upland of the high water mark of the Hudson River ("Joscoss Parcel") and is willing to donate the parcel to the City to be part of the South Street Park; and

WHEREAS, the City is the owner of the underwater portion of the former South Street ("City Underwater Parcel"); and

WHEREAS, a portion of Joscoss' marina extends over the City Underwater Parcel and the City has advised Joscoss that the City may build an in water structure extending from the South Street Park over the City Underwater Parcel which will necessitate removal of the South Street Marina Section; and

WHEREAS, the City and Joscoss have agreed to cooperate in the development of South Street Park and such cooperation requires an agreement between the parties; and

WHEREAS, the City Council of the City of Newburgh finds that entering into a Cooperation Agreement with Joscoss, Inc. for the establishment and development of South Street Park is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the attached South Street Park Cooperation Agreement between the City of Newburgh and Joscoss, Inc., in substantially the same form as annexed hereto, with such other documents as Corporation Counsel may require to effectuate the terms of the Agreement.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

243-11

A SOUTH STREET PARK COOPERATION AGREEMENT dated as of December ____, 2011 by and between the CITY OF NEWBURGH, a New York municipal corporation with offices at 83 Broadway, Newburgh, New York 12550 ("City"), and JOSCOS, INC., a New York business corporation with offices at 1089 Little Britain Road, New Windsor, New York 12553 ("Joscoss").

WHEREAS, the City and Joscoss wish to cooperate on the establishment of a public park ("South Street Park") on the property formerly known as South Street located easterly of the railroad tracks ("Lower South Street"); and

WHEREAS, Joscoss is the owner of that portion of Lower South Street located upland of the high water mark of the Hudson River as described on Schedule A attached hereto as the "Joscoss Park Parcel" which it is willing to donate to the City to be part of the South Street Park; and

WHEREAS, the City is the owner of the underwater portion of the former South Street described on Schedule A attached hereto as the "City Underwater Parcel"; and

WHEREAS, a portion of Joscoss' marina, which was approved by the City Planning Board and consented to by the U.S. Army Corp of Engineers as contemplated in that Contract for Sale of Land for Private Redevelopment by and between the Newburgh Community Development Agency and Joscoss dated June 23, 1998, extends over the City Underwater Parcel ("South Street Marina Section"); and

WHEREAS, the City has advised Joscoss that it may contemplate in the future the City may build an in water structure extending from the South Street Park over the City Underwater Parcel (the "Future in Water Structure") which will necessitate removal of the South Street Marina Section;

WHEREAS, an "In Water Structure" is defined by the Local Waterfront Revitalization Plan (LWRP) as wharves, docks, bulkheads, pilings, moorings, piers, jetties, platforms, breakwaters or other structures";

WHEREAS, for the purposes of this Agreement the definition of "Future In Water Structure" is defined and limited to docks, piers, and platforms;

NOW, THEREFORE, the City and Joscoss agree as follows:

1. Within one (1) month of the date of execution of this Agreement, Joscoss shall execute and deliver to the City a Quitclaim Deed for the Joscoss Park Parcel, in the form attached hereto as Schedule B. The City shall provide a metes and bounds legal description and be responsible for all costs of recording such Deed.
2. Within three (3) years from the receipt of a written notice from the City to Joscoss that the City intends to proceed with construction of a Future in Water Structure, together with the date for commencement of construction of the Future in Water Structure, Joscoss shall remove the

portion of the South Street Marina Section, affected by that improvement, which is located directly over the City Underwater Parcel, including all improvements and supports located in such Section.

3. Joscoss shall at all times limit the height (excluding masts) of the vessels in the water at the northerly portion of the South Street Marina Section that are located directly over the City Underwater Parcel on the Western (inside) of in water structure to six (6) feet above the water line.

4. The City and Josco shall cooperate, collaborate, and accommodate each other, at no cost to Josco, in connection with planning; obtaining funding and obtaining local, State, and Federal approvals, if any ; and constructing the South Street Park and the future In Water structure.

5. This Agreement may only be amended by a writing signed by both the City and Joscoss.

6. This Agreement shall bind and enure to the benefits of the City's and Joscoss' respective successors and assigns.

CITY OF NEWBURGH

By:

Richard F. Herbek
Acting City Manager

JOSCOS, INC.

By:

Joseph Bonura

By:

Nicola Citera

STATE OF NEW YORK:

SS:

COUNTY OF ORANGE:

On the ____ day of December, in the year 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared RICHARD F. HERBEK, 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.

Notary Public

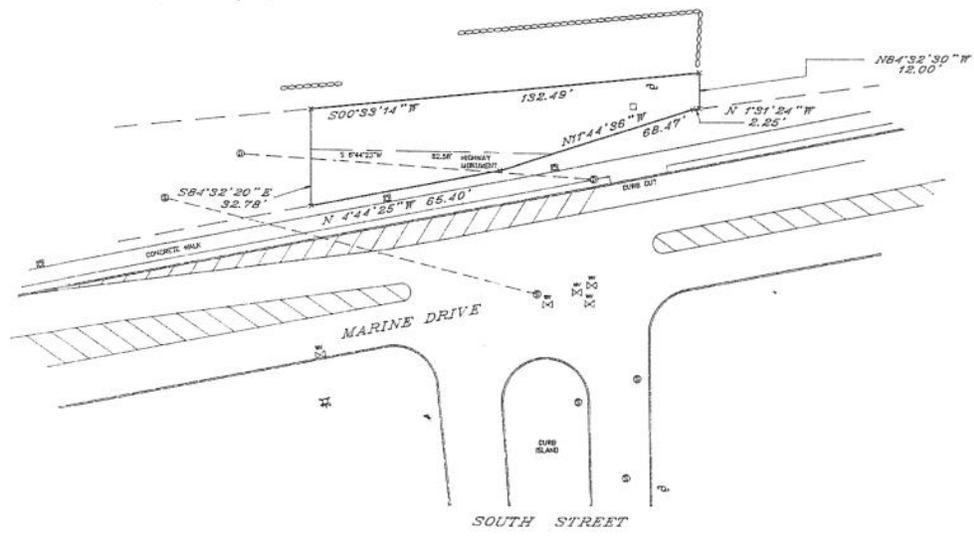
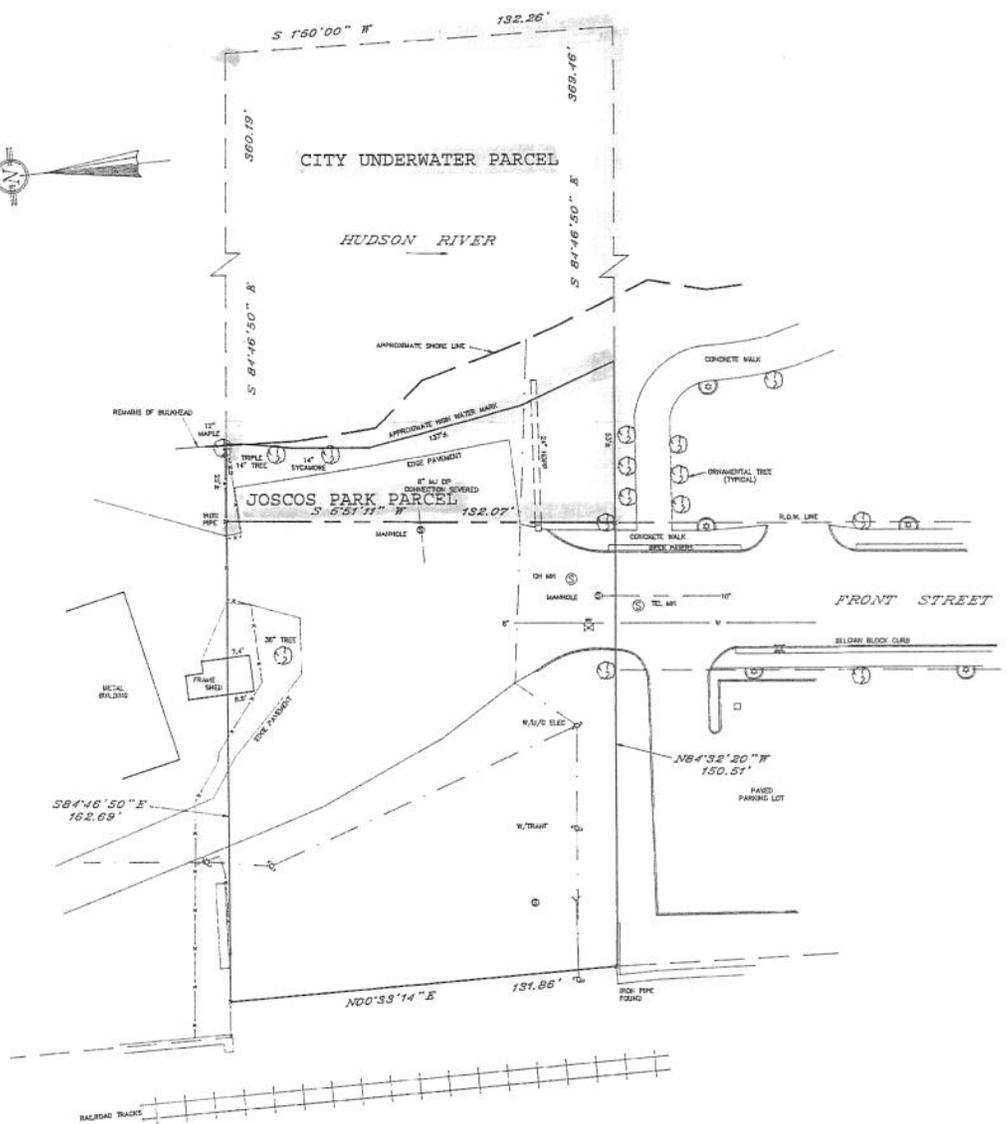
STATE OF NEW YORK:

SS:

COUNTY OF ORANGE:

On the ____ day of December, in the year 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared JOSEPH BONURA AND NICOLA CITERA, personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individuals, or the persons upon behalf of which the individuals acted, executed the instrument.

Notary Public



PROGRESS DRAWING 1 DECEMBER 2011

William B. Hildreth LAND SURVEYING, P.E. <small>607 SOUTH PLANK ROAD UNIT 2, NEWBURGH, N.Y. 10999 TEL: (845) 562-8888</small>		SURVEY FOR CITY OF NEWBURGH	
PROJECT: _____ DATE: _____	AGENCYS: _____ CITY OF NEWBURGH DRAWN: _____ CHECKED: _____ SCALE: 1"=50' DATE: _____ JOB: NY-10-000	ORANGE COUNTY NEW YORK	BOUNDARY/TOPOGRAPHIC SURVEY

THIS INDENTURE, made the _____ day of _____, in the year two thousand

BETWEEN:

JOSCOS INC., having an address of _____, party of the first part, and

THE CITY OF NEWBURGH, a municipal corporation organized under the laws of the State of New York and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, party of the second part.

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby remise, release and quitclaim unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land situate, lying and being in the City of Newburgh, Orange County, New York, being a portion of Lower South Street located upland of the high water mark of the Hudson River, being more accurately described in Schedule A annexed hereto.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to such premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part forever.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

BY: _____

**ORDINANCE NO.: 21 - 2011
OF
DECEMBER 12, 2011**

**AN ORDINANCE AMENDING
SECTION 288-71. SCHEDULE XIII: PARKING PROHIBITED AT ALL TIMES
OF THE CODE OF ORDINANCES REGARDING ROBINSON AVENUE
AND REVEREND DR. MARTIN LUTHER KING JR. BLVD
FORMERLY KNOWN AS WATER STREET**

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Section 288-71, Schedule XIII, Parking Prohibited at all times, be and is hereby amended as follows:

§ 288-71. Schedule XIII: Parking Prohibited at All Times.

In accordance with the provisions of § 288-21, no person shall park a vehicle at any time upon any of the following described streets or parts of streets:

Name of Street	Side	Location
Robinson Avenue	Both	From Broadway to First Street <u>north City Line</u>
Robinson Avenue	East	From Third Street to City line
Robinson Avenue	West	From South Street to City line
Robinson Avenue	West	From a point 200 feet south of the south edge of South Street to South Street
<u>Rev. Dr. Martin Luther King Jr. Blvd. f/k/a Water Street</u>	East	Leroy Place to Broad Street
<u>Rev. Dr. Martin Luther King Jr. Blvd. f/k/a Water Street</u>	East	From a point 440 feet north of Fourth Street to a point 120 feet south of Carpenter Avenue
<u>Rev. Dr. Martin Luther King Jr. Blvd. f/k/a Water Street</u>	East	From a point 415 feet north of Washington Street to the South City line

Rev. Dr. Martin Luther
King Jr. Blvd. f/k/a Water
Street

West Both From Leroy Place to the south City Line

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.

Councilwoman Bello said that from Broadway to Third Street there are several residences that don't have driveways so now if they can't park in front of their homes they are more or less forced to park on side streets which are already congested with the amount of people that live on those streets. She knows what it was like before we had alternate side of the street parking for Broadway and she thinks it would be good if we could at least have it begin at Third Street.

Craig Marti, City Engineer, said to clarify that the only area on Robinson Avenue that is impacted by this is an area two hundred feet south of South Street on Robinson Avenue to Third Street. In that area where there are no driveways those houses actually do have a right of way driveway service so they park in the back of their homes which is accessible from South Street.

Councilwoman Bello noted that there is no parking for the homes between First and Carter.

Craig Marti noted that there never has been. The only change will be on the west side of the road from a point two hundred feet south of South Street to Third Street. The other areas are being left as they have always been.

Councilwoman Bello asked if this affects the east side of the road.

Craig Marti said that there has never been parking allowed on the east side of the road from Third to the north City line.

Councilwoman Bello asked about from Broadway to Third which is the first portion of it.

Craig Marti said that the first portion of that from Broadway to Third is not being changed by this resolution.

Councilwoman Angelo moved and Councilwoman Bello seconded that the ordinance be adopted.

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

RESOLUTION NO.: 244 - 2011

OF

DECEMBER 12, 2011

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AN AGREEMENT FOR VENDOR SERVICES
WITH BELL ENGINEERING, PLLC TO PROVIDE CONSULTING SERVICES
TO THE CITY OF NEWBURGH IN CONNECTION WITH
GEOGRAPHIC INFORMATION SYSTEMS DATA**

WHEREAS, the City of Newburgh is currently involved in several projects which expertise in the field of Geographic Information Systems ("GIS") data; and

WHEREAS, the City has advertised for a GIS Analyst and has been unable to fill the position; and

WHEREAS, Bell Engineering, PLLC has submitted a proposal to perform GIS services for the City of Newburgh at a rate of \$65.00 per hour for general GIS consulting work and \$85.00 per hour for GIS Field Collection work with Data Collector, with such funding to be derived from A.1440.0455; and

WHEREAS, it is necessary and appropriate to enter into an agreement for vendor services in connection with such consulting services; and

WHEREAS, this Council has determined that entering into such agreement is in the best interests of the City of Newburgh and its future development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute an agreement, in substantially the same form annexed hereto and subject to approval of the Corporation Counsel with such other terms and conditions as Counsel may require, with Bell Engineering, PLLC to provide consulting services to the City of Newburgh in connection with Geographic Information Systems data.

Councilwoman Bell wished to reiterate that there is no relationship between Bell Engineering and herself.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

244-11

AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____, 2011, by and between the CITY OF NEWBURGH, a municipal corporation chartered under the authority of the State of New York, hereinafter referred to as the "CITY," with principal offices at 83 Broadway, City Hall, Newburgh, New York 12550; and BELL ENGINEERING, PLLC, 334 North Fostertown Drive, Newburgh, New York 12550, hereinafter referred to as "VENDOR."

ARTICLE 1. SCOPE OF WORK

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

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

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

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning December 15, 2011, and ending December 31, 2012.

ARTICLE 3. COMPENSATION

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

A not-to-exceed cost of \$15,500.00 has been established for the scope of SERVICES and/or the supply of goods rendered by VENDOR. Costs in excess of such not-to-exceed cost, if any, may not be incurred without prior written authorization of the City Manager of the CITY, evidenced only by a written Change Order or Addendum to this Agreement, after consultation with the Department Head. It is specifically agreed to by VENDOR that the CITY will not be responsible for any additional cost or costs in excess of the above noted not-to-exceed cost if the CITY'S authorization by the City Manager is not given in writing prior to the performance of the SERVICES giving rise to such excess or additional costs.

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

ARTICLE 4. EXECUTORY CLAUSE

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

ARTICLE 5. PROCUREMENT OF AGREEMENT

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

For a breach or violation of such representations or warranties, the CITY shall

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

ARTICLE 6. CONFLICT OF INTEREST

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

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

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

ARTICLE 7. FAIR PRACTICES

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

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

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

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

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

ARTICLE 8. INDEPENDENT CONTRACTOR

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

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

ARTICLE 9. ASSIGNMENT AND SUBCONTRACTING

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

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

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

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

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

ARTICLE 10. BOOKS AND RECORDS

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

ARTICLE 11. RETENTION OF RECORDS

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

ARTICLE 12. AUDIT BY THE CITY AND OTHERS

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

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

ARTICLE 13. INSURANCE

For all of the SERVICES set forth herein and as hereinafter amended, VENDOR 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 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 VENDOR and not those of the CITY. Notwithstanding anything to the contrary in this Agreement, VENDOR 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 13. The provisions of insurance by VENDOR shall not in any way limit VENDOR'S liability under this Agreement.

<u>Type of Coverage</u>	<u>Limit of Coverage</u>
Worker's Compensation	Statutory
Employer's liability or similar insurance	\$1,000,000 each occurrence
Automobile liability	\$1,000,000 aggregate
Bodily Injury	\$1,000,000 each occurrence
Property Damage	\$1,000,000 each occurrence
Comprehensive General Liability, including Broad form contractual Liability, bodily injury and property damage	\$1,000,000 aggregate \$2,000,000 each occurrence
Professional liability (If commercially available for your profession)	\$1,000,000 aggregate \$2,000,000 each claim

VENDOR shall attach to this Agreement certificates of insurance evidencing VENDOR'S compliance with these requirements.

Each policy of insurance shall contain clauses to the effect that (i) such insurance shall be primary without right of contribution of any other insurance carried by or on behalf of the CITY with respect to its interests, (ii) it shall not be cancelled, including, without limitation, for non-payment of premium, or materially amended, without fifteen (15) days prior written notice to the CITY, directed to the City Manager, the Corporation Counsel and to the Department Head and the CITY shall have the option to pay any necessary premiums to keep such insurance in effect and charge the cost back to VENDOR.

To the extent it is commercially available, each policy of insurance shall be provided on an "occurrence" basis. If any insurance is not so commercially available on an "occurrence" basis, it shall be provided on a "claims made" basis, and all such "claims made" policies shall provide that:

A. Policy retroactive dates coincide with or precede VENDOR'S start of the performance of this Agreement (including subsequent policies purchased as renewals or replacements);

B. VENDOR will maintain similar insurance for at least six (6) years following final acceptance of the SERVICES;

C. If the insurance is terminated for any reason, VENDOR agrees to purchase an unlimited extended reporting provision to report claims arising from the SERVICES performed or goods provided for the CITY; and

D. Immediate notice shall be given to the CITY through the City Manager of circumstances or incidents that might give rise to future claims with respect to the SERVICES performed under this Agreement.

ARTICLE 14. INDEMNIFICATION

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

In the event that any claim is made or any action is brought against the CITY arising

out of the negligence, fault, act, or omission of an employee, representative, subcontractor, assignee, or agent of VENDOR either within or without the scope of his respective employment, representation, subcontract, assignment or agency, or arising out of VENDOR'S negligence, fault, act or omission, then the CITY shall have the right to withhold further payments hereunder for the purpose of set-off of sufficient sums to cover the said claim or action. The rights and remedies of the CITY provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

ARTICLE 15. PROTECTION OF CITY PROPERTY

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

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

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

The rights and remedies of the CITY provided herein shall not be exclusive and are in addition to any other rights and

remedies provided by law or by this Agreement.

ARTICLE 16. CONFIDENTIAL INFORMATION

In the course of providing the SERVICES and/or goods hereunder, VENDOR may acquire knowledge or come into possession of confidential, sensitive or proprietary information belonging to CITY. VENDOR agrees that it will keep and maintain such information securely and confidentially, and not disclose such information to any third parties, including the media, nor use such information in any manner publically or privately, without receiving the prior approval, in writing, of the CITY authorizing such use. VENDORS obligations under this clause to maintain the confidentiality of such information and to refrain from using such information in any manner without the prior written approval of the CITY shall survive the termination or expiration of this Agreement.

ARTICLE 17. TERMINATION

Either party may, by written notice to the other effective no earlier than two (2) weeks of mailing, terminate this Agreement in whole or in part at any time (i) for convenience of the party, (ii) upon the failure of one party to comply with any of the terms or conditions of this agreement, or (iii) upon the VENDOR becoming insolvent or bankrupt.

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

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

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

In the event the CITY terminates this Agreement in whole or in part, as provided in this Article, the CITY may procure, upon such terms and in such manner as deemed appropriate, SERVICES similar to those so terminated, and the VENDOR shall continue the performance of this Agreement to the extent not terminated hereby. If this Agreement is terminated in whole or in part for other than the convenience of the CITY, any SERVICES or goods procured by the CITY to complete the SERVICES herein will be charged to VENDOR and/or set-off against any sums due VENDOR.

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

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

ARTICLE 18. GENERAL RELEASE

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

ARTICLE 19. SET-OFF RIGHTS

The CITY shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, the CITY'S right to withhold for the purposes of set-off any monies otherwise due VENDOR (i) under this Agreement, (ii)

under any other agreement or contract with the CITY, including any agreement or contract for a term commencing prior to or after the term of this Agreement, (iii) from the CITY by operation of law, the CITY also has the right to withhold any monies otherwise due under this Agreement for the purposes of set-off as to any amounts due and owing to the CITY for any reason whatsoever including, without limitation, tax delinquencies, fee delinquencies or monetary penalties or interest relative thereto.

ARTICLE 20. NO ARBITRATION

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

ARTICLE 21. GOVERNING LAW

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

ARTICLE 22. CURRENT OR FORMER CITY EMPLOYEES

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

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

ARTICLE 23. ENTIRE AGREEMENT

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

ARTICLE 24. MODIFICATION

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

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

THE CITY OF NEWBURGH

VENDOR

BY: _____
RICHARD F. HERBEK,
ACTING CITY MANAGER

BY: _____

DATE: _____

DATE: _____

APPROVED AS TO FORM:

MICHELLE KELSON,
CORPORATION COUNSEL

CHERYL A. GROSS,
COMPTROLLER

Bell Engineering, PLLC
 Site Design ▪ Municipal Engineering ▪ GIS Services
 334 North Postertown Drive
 Newburgh, NY 12550
 (p) 845-565-3802 (f) 845-306-2515
philbell@bellengineering.us www.bellengineering.us

Fee Schedule 2012

<u>Service Description</u>	<u>Fees</u>
Private Sector Clients	
Principal Engineer	\$125.00/hr
GIS Field Collection w/ Data Collector	\$140.00/hr
Public Sector Clients	
Principal Engineer	\$90.00/hr
In-House Consulting	\$65.00/hr
GIS Field Collection w/Data Collector	\$80.00/hr
<u>Deliverables</u>	<u>Costs</u>
Black and White Text/line	
12" x 18" Sheet	\$1.00
24" x 36" Sheet	\$4.00
Check Plotting non-standard sizes	75¢/sf
Color Plain Paper	
12" x 18" Sheet	\$5.00
18" x 24" Sheet	\$12.00
24" x 36" Sheet	\$18.00
Non-standard sizes	\$3.00/sf
Color Photo/Photo Paper	(Using Epson 7800 & Ultra Chrome Inks)
12" x 18" Sheet	\$20.00
16" x 20" Sheet	\$25.00
18" x 24" Sheet	\$35.00
24" x 36" Sheet	\$50.00
Mylars	
Final Mylar Printing	\$3.00/sf
Binding	
Bind and Cover	\$7.00
Mileage Reimbursement	\$0.50/mile
Trip Fee, includes T&M	\$1.00/mile

RESOLUTION NO.: 245 - 2011

OF

DECEMBER 12, 2011

**A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF
REAL PROPERTY KNOWN AS
3 MARNE AVENUE (SECTION 7, BLOCK 7, LOT 8.1)
AT PRIVATE SALE TO WILLIAM ROSE
FOR THE AMOUNT OF \$20,000.00**

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

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

WHEREAS, the City of Newburgh desires to sell 3 Marne Avenue, being more accurately described as Section 7, Block 7, Lot 8.1 on the official tax map of the City of Newburgh; and

WHEREAS, the prospective buyer has offered to purchase this property at private sale; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh to sell said property to the prospective buyer for the sum as outlined below, and upon the same terms and conditions annexed hereto and made a part hereof,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of the following property to the indicated purchaser be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon receipt of the indicated purchase price in cash, money order, good certified or bank check, made payable to **THE CITY OF NEWBURGH**, such sums are to be paid on or before February 10, 2012, being sixty (60) days from the date of this resolution; and

<u>Property address</u>	<u>Section, Block, Lot</u>	<u>Purchaser</u>	<u>Purchase Price</u>
3 Marne Avenue	7 - 7 - 8.1	William Rose	\$20,000.00

Councilwoman Bell said that at the Work Session she suggested that the new Administration make it more clear to everyone in and out of the City that they can put in a bid for City property and acquire it. In the past we have relied on Auctions and so forth. This person is or has been a City employee so he knows that you can look at the list and find a place that you might like to own and then put in a bid to receive it. If we publicized this with a system as to how the process works, then we may be able to sell a lot of the City owned properties.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

Terms and Conditions Sale

3 Marne Avenue, City of Newburgh (7-7-8.1)

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; (e) 2009-2010, 2010-2011 and 2011-2012 school taxes, water rents and assessments, and sewer rents and assessments and any other applicable charges (including, but not limited to, omitted and pro rata taxes, demolition charges, interest and penalties); and (f) 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 2009-2010, 2010-2011 and 2011-2012, and also subject to all school taxes levied subsequent to the date of the City Council resolution authorizing the sale. The purchaser shall reimburse the City for any school taxes paid by the City for the tax year 2009-2010, 2010-2011 and 2011-2012, and subsequent levies up to the date of the closing. Upon the closing, the property shall become subject to taxation. 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 rehabilitate any building on the property and bring it into compliance with all State, County and Local standards for occupancy within (18) months of the date of the deed. Within such eighteen (18) month time period the purchaser must either: obtain a Certificate of Occupancy for all buildings on the property; make all buildings granted a Certificate of Occupancy before the date of purchase fit for the use stated in such Certificate of Occupancy; or demolish such buildings. The deed shall require the purchaser to schedule an inspection by City officials at or before the end of the eighteen (18) month period. If the purchaser has not complied with the deed provisions regarding rehabilitation of the property and obtained a Certificate of Occupancy or Certificate of Compliance 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 Occupancy or Certificate of Compliance is issued. A written request made to the City Manager for an extension of the eighteen (18) month rehabilitation 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 rehabilitate 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. 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.
7. 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.
8. 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. Bidder acknowledges receivership of the pamphlet entitled "Protecting Your Family from Lead in Your Home." Bidder 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.
9. The entire purchase price, and all closing costs/fees must be paid by cash or guaranteed funds to the City of Newburgh Comptroller's Office on or before February 10, 2012. *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.** 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.
10. 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. Purchasers agree that they 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.
11. 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.
12. 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.**
13. 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.

14. 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.
15. Evictions, if necessary, are solely the responsibility of the successful bidder after closing and recording of the deed.
16. 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.: 246 - 2011

OF

DECEMBER 12, 2011

**RESOLUTION AMENDING RESOLUTION NO: 264-2010,
THE AMENDED 2011 BUDGET FOR THE CITY OF NEWBURGH, NEW
YORK TO TRANSFER \$3,000.00 FROM RECREATION/STADIUM
TO MUNICIPAL BUILDINGS TO PROVIDE FUNDING
TO COVER ANTICIPATED EXPENSES FOR CITY HALL SUPPLIES AND
SERVICES**

BE IT RESOLVED, by the Council of the City of Newburgh, New York, that Resolution No: 264-2010, the 2011 Amended Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
Recreation/Stadium		
Materials and Supplies A.7188.415	\$3,000.00	
Municipal Buildings		
Materials and Supplies A.1620.415		\$1,500.00
Other Services A.1620.448		\$1,500.00

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

RESOLUTION NO.: 247 - 2011

OF

DECEMBER 12, 2011

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ACCEPT A GRANT IN THE AMOUNT OF TWENTY THOUSAND
DOLLARS FROM THE COUNTY OF ORANGE TO BE USED BY THE
CITY OF NEWBURGH POLICE DEPARTMENT FOR THE
PURCHASE OF SCUBA EQUIPMENT AND FOUR MOBILE DATA
TERMINALS**

WHEREAS, the City of Newburgh Police Department has been advised by the County of Orange that grant monies have been awarded in the amount of Twenty Thousand (\$20,000.00) Dollars; and

WHEREAS, such funds will be utilized for the purchase of SCUBA Equipment and four (4) Mobile Data Terminals; and

WHEREAS, there is no City match required; and

WHEREAS, this Council has determined that accepting such funds is in the best interests of the safety of the Citizens 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 grant from the County of Orange in the amount of Twenty Thousand (\$20,000.00) Dollars to be utilized by the City of Newburgh Police Department for the purchase of SCUBA Equipment and four (4) Mobile Data Terminals.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

RESOLUTION NO.: 248 - 2011

OF

DECEMBER 12, 2011

**A RESOLUTION REAPPOINTING JUDY JOHNSON
TO THE BOARD OF ASSESSMENT REVIEW**

BE IT RESOLVED, by the Council of the City of Newburgh, New York, that Judy Johnson be and hereby is re-appointed retroactively to the Board of Assessment Review for a term commencing on October 1, 2011 and expiring on September 30, 2016.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

RESOLUTION NO.: 249 - 2011

OF

DECEMBER 12, 2011

**A RESOLUTION APPOINTING CHUCK THOMAS
TO THE WATERFRONT ADVISORY COMMITTEE
FOR THE PURPOSE OF FILLING A VACANCY**

WHEREAS, the Code of Ordinances of the City of Newburgh, § 296-4, provides for the appointment of members, all of whom shall be residents of the City of Newburgh, to the Waterfront Advisory Committee; and

WHEREAS, Regina Dickerson has resigned from her appointment to the Waterfront Advisory Committee; and

WHEREAS, Chuck Thomas has expressed his interest in donating his time and efforts to this Committee to fill such vacancy,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that Chuck Thomas be and is hereby appointed to immediately fill the vacancy on the Waterfront Advisory Committee and to complete the three (3) year term previously held by Regina Dickerson, which commenced on April 1, 2009, such term expiring on March 31, 2012.

Councilwoman Bell said that she can't express how fortunate she believes we are to be able to get Chuck Thomas to sit on the Waterfront Advisory Committee. He has a vast and incredibly rich background in terms of the Hudson River. He is phenomenal and she respects him so much because of the work that he does with our Library in terms of the community activities that he is able to put together. He is a tremendous asset and she is happy to be able to vote yes for him.

Councilwoman Angelo said she works with Chuck and he really reaches out to our community. He just moved into the City of Newburgh about one month ago and he will be so happy about this.

Mayor Valentine said that in months and years past Chuck always wanted to get on a committee but was not able to because he wasn't a City resident. Literally within a month of moving into the City of Newburgh he put his name in. That kind of civic involvement is to be thanked and praised.

He didn't waste any time getting on a Board and yes he brings a wealth of knowledge and involvement.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

RESOLUTION NO.: 250 - 2011

OF

DECEMBER 12, 2011

**RESOLUTION AMENDING RESOLUTION NO: 264-2010,
THE AMENDED 2011 BUDGET FOR THE CITY OF NEWBURGH, NEW
YORK
TO RECONCILE THE GENERAL, WATER AND SELF INSURANCE FUNDS
FOR YEAR END EXPENDITURES**

BE IT RESOLVED, by the Council of the City of Newburgh, New York, that Resolution No: 264-2010, the 2011 Amended Budget of the City of Newburgh, is hereby amended as indicated on the attached spreadsheets.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

250-11

PROPOSED BUDGET TRANSFER TO THE 2011 GENERAL FUND BUDGET

		FROM	TO
GENERAL FUND			
A 1900	SPECIAL ITEMS		
	.1990 CONTINGENCY	76,700	
	.1977 COMPLUS PROCESSING FEES		73,000
A 3120	POLICE DEPARTMENT		
	.0109 NARCOTICS OVERTIME	55,000	
	.0105 HOLIDAY		23,000
	.0113 COURT OVERTIME		32,000
A 3412	FIRE DEPARTMENT		
	.0860.0001 HEALTH INSURANCE - RETIREES	40,000	
	.0103 OVERTIME		40,000
A 1625	ARMORY		
	.0422 GAS and ELECTRIC	25,000	
A 7110	PARKS		
	.0103 OVERTIME		2,565
A 7140	RECREATION		
	.0101 SALARY		5,400
	.0102 PART-TIME		11,613
	.0413 OFFICE SUPPLIES and POSTAGE		444
	.0415 BLDG & GROUNDS/MAINT & SUPPLIES		258
	.0421 TELEPHONE		20
	.0880 EMPLOYEE BENEFIT		4,700
A 8684	PLANNING & MANAGEMENT DEVELOPMENT		
	.0106 SEVERANCE PAY		3,700
		<u>196,700</u>	<u>196,700</u>

PROPOSED BUDGET TRANSFER TO THE 2011 WATER FUND BUDGET

		FROM	TO
WATER FUND			
F 1900	SPECIAL ITEMS		
	.1990 CONTINGENCY	31,963	
F 8310	WATER ADMINISTRATION		
	.0106 SEVERANCE PAY		13,000
	.0107 LONGEVITY		1,200
	.0830 SOCIAL SECURITY		1,800
	.0870 LIFE, DBL INSURANCE		450
	.0891 EMPLOYEE ASSISTANCE PROGRAM		13
F 8330	PURIFICATION		
	.0103 OVERTIME		15,500
		<u>31,963</u>	<u>31,963</u>

PROPOSED BUDGET TRANSFER TO THE 2011 SELF INSURANCE FUND BUDGET

		FROM	TO
SELF INSURANCE			
M 1710	ADMINISTRATION		
	.0400	60,000	
M 1722	EXCESS INSURANCE		
	.0400	30,000	
M 9040	WORKER'S COMPENSATION		
	.0408		90,000
		<u>90,000</u>	<u>90,000</u>

RESOLUTION NO.: 251 - 2011

OF

DECEMBER 12, 2011

**A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-
ENTRY FROM A DEED DATED JANUARY 4, 2001**

WHEREAS, on January 4, 2001, the City of Newburgh conveyed property located at 100 Renwick Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 45, Block 5, Lot 19, to Expedito Tavares; and

WHEREAS, Expedito Tavares subsequently transferred the property to Ariel Tavares; and

WHEREAS, Ariel Tavares has requested a release of the restrictive covenants contained in the deed from the City to Expedito Tavares; and

WHEREAS, the appropriate departments have reviewed their files and advised that the covenants have been complied with, and recommends such release be granted; and

WHEREAS, this Council believes it is in the best interest of the City of Newburgh 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 Angelo moved and Councilwoman Bello seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

RESOLUTION NO.: 252 - 2011

OF

DECEMBER 12, 2011

**A RESOLUTION AUTHORIZING THE AWARD
OF A BID AND THE EXECUTION OF A CONTRACT
WITH BARTON AND LOGUIDICE, P.C. IN THE AMOUNT OF
\$94,600.00 FOR PROFESSIONAL
SERVICES IN CONNECTION WITH THE REPAIR OR
REPLACEMENT OF THE CITY OF NEWBURGH WATER STORAGE TANKS**

WHEREAS, the City of Newburgh through a competitive process in which proposals for professional engineering services were solicited, reviewed and evaluated for the City of Newburgh Water Storage Tanks Project; and

WHEREAS, nine (9) proposals have been duly received, reviewed and evaluated; and

WHEREAS, this project involves the repair or replacement of the City of Newburgh Water Storage Tanks; and

WHEREAS, upon review of professional qualifications and project scope of services staff recommends that the bid for said project be awarded to Barton & Loguidice, P.C. having offices located at 280 Broadway, Suite 12, City of Newburgh, New York; and

WHEREAS, funding for said project in the amount of \$94,600.00 shall be derived from HF1.8340.0200.8300; and

WHEREAS, this Council has determined that awarding the bid and entering into a contract with Barton & Loguidice, P.C. 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 City of Newburgh Water Storage Tanks Project be and is hereby awarded to Barton and Loguidice, P.C.; and

BE IT FURTHER RESOLVED, that the City Manager be and he is hereby authorized to execute a contract with Barton and Loguidice, P.C., in the amount

of \$94,600.00 for professional services in connection with the repair or replacement of the City of Newburgh Water Storage Tanks.

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

Ayes - Councilwoman Angelo, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 4

Nays - Councilwoman Bell - 1

ADOPTED

RESOLUTION NO.: 253 - 2011

OF

DECEMBER 12, 2011

**A RESOLUTION AUTHORIZING THE EXECUTION
OF AN AMENDMENT TO THE AGREEMENT WITH EBERLIN AND
EBERLIN IN THE AMOUNT OF \$26,500.00 TO PROVIDE ADDITIONAL
LANDSCAPE AND ARCHITECTURAL DESIGN SERVICES
FOR THE TYRONE CRABB PARK TO CONFORM WITH THE
SUGGESTIONS OF THE NEW YORK STATE OFFICE OF HISTORICAL
PRESERVATION**

WHEREAS, pursuant to Resolution No.: 236-2007 of December 19, 2007, the City of Newburgh executed an agreement with Eberlin and Eberlin for the development of Tyrone Crabb Park; and

WHEREAS, the New York State Office of Historical Preservation has recently submitted suggestions in connection with the landscape and architectural design; and

WHEREAS, Eberlin and Eberlin has submitted a scope of services to provide additional design and construction services in order to conform with the comments submitted; and

WHEREAS, the cost for such additional scope of services shall be in the amount of Twenty Six Thousand Five Hundred (\$26,500.00) Dollars; and

WHEREAS, funding for such services shall be derived from H1.7110.0200.7100; and

WHEREAS, this Council has reviewed the attached proposal and determined that entering into an amendment to the agreement to provide for the additional scope of work 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 to execute an amendment to the agreement with Eberlin and Eberlin in the amount of \$26,500.00 to provide additional landscape and architectural design services for the Tyrone Crabb Park to conform with the suggestions of the New York State Office of Historical Preservation.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

052-11

EBERLIN & EBERLIN

Science, Design, and the Environment

Consulting Engineers

Landscape Architects

Planners

November 29, 2011

Courtney Kain
Community Development Director
City of Newburgh
83 Broadway
Newburgh NY 12550

RE: Professional Landscape Architectural Services, Tyrone Crabb Park

Dear Ms. Kain;

We are delighted that the City is considering continuing with the design and construction of Tyrone Crabb Park. You have asked that we prepare a proposal for additional landscape architectural design services related to conforming with the New York State Office of Historical Preservation's comments, which will require basically a redesign of the park.

Included in this work will be coordination with the NYS Office of Historic Preservation including meetings and submissions for their review. In addition, we expect that there shall be community presentations as well.

Based on the comments that we have seen our additional scope of work and effort involved for the redesign shall be as follows (these numbers do not include the \$5,100 for construction phase work):

- 1. Leigh Jones, RLA Project Manager and Designer....140 hrs @ \$125/hr.....\$17,500.00
- 2. Ronald Tetelman, RLA Principal.....60 hrs @ \$150/hr.....\$ 9,000.00
- 3. Total Additional Cost to Contract.....**\$26,500.00**

According to our records there is still **\$5,100** remaining in the original contract that was designated for construction administration work. This does not include full time supervision, rather, weekly site visits and review of contractor submissions. If this money is no longer available it should be added to this proposal.

IF you have any questions regarding this request for additional services, we would be happy to respond to them at any time.

Cordially,

Ronald Tetelman

Ronald C. Tetelman, R.L.A.
President

RESOLUTION NO.: 254 - 2011

OF

DECEMBER 12, 2011

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER
INTO AN AGREEMENT FOR PROFESSIONAL
ENGINEERING SERVICES WITH MALCOLM PIRNIE-ARCADIS
IN AN AMOUNT NOT TO EXCEED \$38,500.00
IN CONNECTION WITH THE WASTE WATER TREATMENT PLANT
WATER POLLUTION CONTROL PLAN EMERGENCY
BACKUP GENERATION AND SOLIDS HANDLING SYSTEMS PROJECT**

WHEREAS, the City of Newburgh through a competitive process in which proposals for professional engineering services were solicited, reviewed and evaluated for the Waste Water Treatment Plant Water Pollution Control Plan Emergency Backup Generation and Solids Handling Systems Project; and

WHEREAS, Malcolm Pirnie-Arcadis has submitted a letter proposal, a copy of which is attached hereto, to provide engineering services to evaluate emergency backup generation and solids handling systems at the City of Newburgh Waste Water Treatment Plant; and

WHEREAS, based on their experience, references and project history, Malcolm Pirnie-Arcadis is best qualified to provide such services; and

WHEREAS, the cost for such project shall be in an amount not to exceed Thirty Eight Thousand Five Hundred and 00/100 (\$38,500.00) Dollars; and

WHEREAS, funding for such project shall be derived from HG1.8130.0200.8100; and

WHEREAS, this Council has determined that entering into an agreement with Malcolm Pirnie-Arcadis is in the best interests of the City of Newburgh and its residents;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to enter into an agreement for professional engineering services with Malcolm Pirnie-Arcadis in an amount not to exceed \$38,500.00 in connection with the Waste Water Treatment Plant Water Pollution Control Plan Emergency Backup Generation and Solids Handling Systems Project.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

254-11



The Water Division of ARCADIS

Malcolm Pirnie, Inc.
855 Route 146
Suite 210
Clifton Park
New York 12065
Tel 518 250 7300
Fax 518 250 7301
www.arcadis-us.com

Mr. Craig Marti, P.E.
City Engineer
83 Broadway
Newburgh, New York 12550

Subject:
Proposal for Engineering Services for WPCP Emergency
Backup Generation and Solids Handling Systems
Preliminary Engineering Study

Water

Date:
December 2, 2011

Dear Mr. Marti:

Contact:
Robert Ostapczuk

Malcolm Pirnie, Inc., the Water Division of ARCADIS (Pirnie\ARCADIS), is pleased to provide the City of Newburgh (City) with this letter proposal for engineering services to evaluate emergency backup generation and solids handling systems at the City's Water Pollution Control Plant (WPCP).

Phone:
518.250.7305

Project Understanding

Email:
robert.ostapczuk@ar
us.com

The City owns and Severn Trent operates a 9 million gallon per day (mgd) WPCP. The WPCP currently has a 150 kW emergency backup generator that cannot provide sufficient power to the WPCP in accordance with the *Recommended Standards for Wastewater Treatment Facilities* (Ten States Standards). The existing electrical infrastructure of the WPCP includes a secondary feeder system for emergency backup generation that only provides power to the headworks, primary clarifiers and chlorine disinfection unit operations. The City has entered into an Order on Consent with the New York State Department of Environmental Conservation (NYS DEC) that requires the City to design and construct new emergency backup generation for the WPCP that meets Ten States Standards.

Our ref:
60004881.0000

The City has also entered into an Order on Consent with the NYS DEC for replacement of the existing sludge dewatering belt filter presses (BFPs). The existing BFPs are at the end of their useful lives and significant amounts of solids are returned in the filtrate to the WPCP process. This return of solids is resulting in inefficiencies through additional solids and excessive wash water usage and the City's contract operation staff should be commended for their management of sludge with the existing equipment and processes. However, as the NYS DEC issued the

Imagine the result

Order on Consent, the City would like to evaluate more efficient operations that will provide long-term operational savings, improvement solids handling and equipment reliability.

Scope of Services**Task 1 NYSERDA Funding**

On behalf of the City, Pirnie\ARCADIS will apply for funding from Program Opportunity Notice 1746 (FlexTech Program) through the New York State Research & Development Authority (NYSERDA). Under this program, the City may receive up to 50 percent of the cost of the remaining tasks that are focused on energy efficiency and process improvement.

Task 2 Emergency Backup Generator Preliminary Design

Pirnie\ARCADIS will prepare a preliminary design for an emergency backup generator at the WPCP to meet the requirements of Ten States Standards and the Order on Consent with the NYS DEC. As part of this task, Pirnie\ARCADIS will complete the following:

- Up to two visits to the WPCP to inspect existing electrical equipment and switchgear;
- Confirm the electrical distribution of the WPCP as shown on existing drawings and based on information obtained during the site visits;
- Determine the best generator distribution to feed the critical equipment;
- Determine the size of the generator, probable location and an interconnection equipment requirements;
- Develop a preliminary one line diagram with minimum detail on the generator distribution system;
- Develop an American Association Cost Engineers (AACE) Class 4 Construction Estimate;
- Estimate the anticipated revenue to the City if they elect to participate in a Demand Response Program to shed electrical load when required;
- Prepare a Technical Design Memorandum outlining the findings of this Task.

Task 3 Solids Handling Evaluation

Pirnie\ARCADIS will evaluate the existing solids dewatering systems and alternatives to mechanical components of the system. The existing belt filter presses (BFPs) are inefficient as significant amount of solids are returned to the primary clarifiers through the filtrate. This return of solids results in additional run time on pumps and the BFPs. Furthermore, BFPs utilize more energy and wash water than other technologies that have been introduced recently for sludge dewatering. As part of this task, Pirnie\ARCADIS will complete the following:

- Evaluate the existing solids handling systems including gravity thickening, sludge holding, sludge pumping, sludge dewatering, sludge conditioning (to reduce H₂S concentrations);
- Develop baseline energy and water usage of the existing solids handling systems;
- Evaluate two sludge handling systems alternatives including:
 - Replacement of the existing BFPs in kind with improvements to sludge thickening and sludge conditioning;
 - Replacement of the existing BFPs with screw presses and relocate the sludge dewatering facilities into the sludge thickening building where the existing dissolved air floatation thickeners (DAFTs) are located with improvements to sludge thickening and sludge conditioning;
- Determine equipment sizes and support system requirements for both alternatives;
- Determine energy and wash water usage for both alternatives;
- Develop an American Association Cost Engineers (AACE) Class 4 Construction Estimate for both alternatives and simple paybacks based on incremental costs.

Task 4 Anaerobic Digestion and CHP Evaluation

Pirnie\ARCADIS will perform a desktop evaluation of the feasibility of constructing anaerobic digestion facilities at the WPCP. As part of this task, Pirnie\ARCADIS will complete the following:

- Determine maximum month and average month volatile solids loading at the WPCP. The City may be required to take several volatile solids samples of the primary and waste activated sludge (WAS);
- Determine the size of the digestion facilities required to treat the loads;
- Determine the digester gas that will be available for combined heat and power (CHP) facilities at the WPCP;
- Determine reduction in sludge for disposal offsite;
- Develop an American Association Cost Engineers (AACE) Class 4 Construction Estimate for digestion and CHP and simple paybacks based on electrical generation and reduced sludge disposal costs.

Task 5 Prepare Feasibility Report

Pimie\ARCADIS will prepare a summary report containing the following information on the selected improvements.

- Facility Description: Describe in general terms the facilities, its function, schedules, operation, and energy usage.
- Equipment Description: Describe in general terms the sizing and impact of each system on the function of the facilities and the energy usage impact on the facilities.
- System Control: Describe in general terms the control philosophy to be employed, including how specific equipment will be operated and controlled.
- Energy Conservation Measure Summary: A breakdown of the recommended energy improvements, by measure type, showing a measure description, NYSERDA category, baseline energy usage, proposed energy usage, annual energy savings, peak savings, annual cost savings, cost of equipment, maintenance costs, and simple payback.
- Estimate of Life Cycle Costs. Provide a preliminary opinion of probable construction costs for the selected alternatives. Prepare life cycle cost and simple payback analyses for the above alternative measures based on electrical and natural gas costs.

Schedule

The first phase, preliminary design and process evaluations will be complete by March 2012. Funding through NYSERDA PON 1746 will be sought between December 2011 and January 2012. Upon recommendation of the solids handling process with input from your office and the City's contract operation staff, Pirnie\ARCADIS will present the findings to the City Council. Once the process modifications are defined, Pirnie\ARCADIS will prepare a scope of work for the detailed design including preparation of contract documents, regulatory approval, bidding assistance and construction assistance for services to commence in March 2012 and continue through 2013 for the construction of the facilities. This schedule is in accordance with the City's Order on Consent that requires regulatory approval in June 2012 and construction to be complete in 2013.

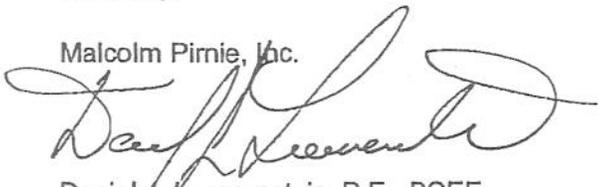
Fees

Pirnie\ARCADIS is prepared to complete the Scope of Services outlined herein for a total not to exceed budget of \$38,500. Please refer to the Project Budget attachment, for a detailed breakdown of hours for each task. If NYSERDA elects to provide funding for the project, the City can reasonably expect a cost share of up to \$19,250, which is paid directly to Pirnie/ARCADIS and will reduce the City's share by the same amount through contract with NYSERDA. Please note we have extended our approved NYSERDA rates to the City regardless of receipt of NYSERDA funding for this project.

If you have any questions, please do not hesitate to contact Robert Ostapczuk or myself at (518) 250-7300 so that we may be of further assistance.

Sincerely,

Malcolm Pirnie, Inc.



Daniel J. Loewenstein, P.E., BCEE
Senior Vice President

Copies:

R. Ostapczuk, Pirnie\ARCADIS

Enclosures

PROJECT BUDGET

**City of Newburgh
Water Pollution Control Plant
Newburgh, New York
Emergency Backup Generation, Sludge Handling and Anaerobic Digester Study**

DESCRIPTION	RATES*										Totals
	\$94.00	\$51.00	\$37.00	\$32.00	\$24.00	\$32.00	\$22.00	T3	T5	T3	
	Officer	Assoc	E5	E4	E2	T5	T3	T5	T3	T3	
Task 1 - NYSERDA Funding	0	0	0	0	0	0	0	0	0	0	
Task 2 - Emergency Backup Generator Preliminary Design	2	20	60	0	0	12	0	12	0	94	
Task 3 - Solids Handling Evaluation	2	16	0	60	24	0	0	0	0	102	
Task 5 - Anaerobic Digestion and CHP Evaluation	2	16	0	40	0	0	0	0	0	58	
Task 4 - Prepare Summary Report	2	12	0	40	0	8	16	8	16	78	
TOTAL LABOR HOURS	8	64	60	140	24	20	16	20	16	332	
TOTAL DIRECT LABOR COSTS	\$752	\$3,264	\$2,220	\$4,480	\$576	\$640	\$352	\$640	\$352	\$12,284	

*Hourly direct labor rates in Contract for 12/2010 to 12/2011

Total Direct Labor:	\$12,284
Overhead and Fee (2.0)	\$24,568
Subtotal	\$36,852
Expenses:	
Computer	\$1,155
Reproductions	\$159
Mileage	\$333
TOTAL	\$38,500

**RESOLUTION NO.: 255 - 2011
OF
DECEMBER 12, 2011**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER
INTO AN AGREEMENT FOR PROFESSIONAL
ENGINEERING SERVICES WITH C.T. MALE ASSOCIATES, P.C.
IN CONNECTION WITH THE MUCHATTOES LAKE DAM PROJECT**

WHEREAS, the City of Newburgh through a competitive process in which proposals for professional engineering services were solicited, reviewed and evaluated for the Muchattoes Lake Dam, a masonry arch dam owned by the City of Newburgh to provide dam safety; and

WHEREAS, C.T. Male Associates, P.C. has submitted a proposal to prepare an Inspection and Maintenance Plan and a Seepage Mitigation Evaluation; and

WHEREAS, based on their experience, references and project history, C.T. Male Associates, P.C. is best qualified to provide such services; and

WHEREAS, the cost for such project shall be in an amount not to exceed Six Thousand Six Hundred Twenty Five and 00/100 (\$6,625.00) Dollars; and

WHEREAS, funding for such project shall be derived from Engineering Line A.1440.0455, Consulting Services; and

WHEREAS, this Council has determined that entering into an agreement with C. T. Male Associates, P.C. is in the best interests of the City of Newburgh and its residents;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to enter into an agreement with C.T. Male Associates, P.C. for professional engineering services in connection with the evaluation of vacant city-owned buildings and the preparation of a scope of work for a request for qualifications for demolition.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

RESOLUTION NO.: 256 - 2011

OF

DECEMBER 12, 2011

**A RESOLUTION REJECTING ALL BIDS RECEIVED
IN CONNECTION WITH THE CITY OF NEWBURGH
COMMUNITY DEVELOPMENT BLOCK GRANT
BUILDING DEMOLITION PROJECT**

WHEREAS, the City of Newburgh has duly advertised for bids in connection with the Community Development Block Grant Building Demolition Project; and

WHEREAS, four (4) bids were received and opened; and

WHEREAS, upon review of the bids it has been determined that all bids received were non-responsive to the bid requirements, including the bonding and Section 3 Plan requirements of the contract; and

WHEREAS, this Council has determined that rejecting all bids is in the best interests of the City of Newburgh and the project;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that all bids received in connection with the City of Newburgh Community Development Block Grant Building Demolition Project be and are hereby rejected.

Councilman Dillard said that they rejected these bids the other evening based on the fact that there were a lot of inconsistencies with the particulars of each bid so they decided to put them back out there but he is concerned about the time frame. When will they go back out, how long will it take to get them and when will we get that project started if there is a successful bid?

Acting City Manager, Richard Herbek said that they are looking at doing this fairly quickly so the delay would be for only about thirty days and they are looking at demolition for sometime around March or April.

Mayor Valentine said that he had a chance to speak with one of the entities that did not get chosen because of a time factor in submitting data. He

actually looked through his entire proposal which is very good so he would suggest if they could make it a little quicker and get these back in here.

Craig Marti, City Engineer, said that of the four bids received one did not contain the bonds because they did not have the time to obtain them. The other three did obtain bonds; however, they did not comply with other contractual obligations. We are looking now at a bidding through the month of January with an award around the first meeting in February and demolition to follow.

Mayor Valentine said to try to get this out as quickly as possible and make the time frame as short as they can.

Councilwoman Bell said that she was approached by the person that was told they didn't have the bond but what he showed her looked like he did obtain the necessary bond. If we have City of Newburgh qualified minority contractors, they should have first preference. It doesn't make sense to her, when we don't have any opportunities for local people, to go out and hand it to someone else when we have someone right here who has the paperwork and is Section 3 qualified. She added that charity begins at home and then spreads abroad, which is not something that has often been adhered to here but she thinks it should be absolutely imperative that they do it in this case.

Councilwoman Angelo said that it seems like they were all visited by the same applicant. He has good qualifications and good work habits and she has known him for years.

Mayor Valentine said that it was one of those things when it did not get in on time with the necessary documentation but that doesn't mean that it was for a lack of trying.

Craig Marti, City Engineer, said that the paperwork he provided contained an application to the bonding company but it did not contain an acknowledgment or commitment from the bonding company to provide the bond.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

RESOLUTION NO.: 257 - 2011

OF

DECEMBER 12, 2011

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A MUNICIPAL IMPACT FEE
AGREEMENT AND AN AGREEMENT FOR THE
PAYMENT IN LIEU OF TAXES BY AND AMONG
THE CITY OF NEWBURGH, HONY HOUSING
DEVELOPMENT FUND CORP. AND BURTON
TOWERS LLC WITH REGARD TO THE BURTON
TOWERS PROJECT.**

WHEREAS, the City of Newburgh (the "City") encourages a sufficient supply of adequate, safe and sanitary dwelling accommodations properly planned for senior citizens having household incomes less than or equal to sixty percent (60%) of area median income for Orange County, adjusted for family size ("AMI"); and

WHEREAS, HONY Housing Development Fund Corp. (the "HDFC"), a New York not-for-profit corporation organized under Article XI of the New York Private Housing Finance Law ("PHFL") and Section 402 of the NYS Not-for-Profit Corporation Law and Burton Towers LLC, a New York limited liability company (the "Company"), have acquired certain improved real property located at 36 Cerone Place, City of Newburgh, Orange County, New York, Tax Map No. Section 33, Block 6, Lot 3.1 (the "Land"), consisting of a single building containing approximately one hundred twenty-six (126) residential units for senior citizens of low income and known as Burton Towers Apartments (the "Project"), and the HDFC and the Company intend to redevelop, renovate and rehabilitate the Project; and

WHEREAS, the HDFC has been formed for the purpose of providing residential rental accommodations for senior citizens having household incomes less than or equal to sixty percent (60%) of AMI; and

WHEREAS, the HDFC will acquire fee title to the Land, as nominee for the Company, and will convey its equitable and beneficial interests in the Land to the Company in furtherance of the redevelopment, renovation and rehabilitation of the Project; and

WHEREAS, the HDFC's and the Company's plan for the use of the Project constitutes a "housing project" as that term is defined in the PHFL; and

WHEREAS, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL and Section 577 of the PHFL authorizes the City Council to exempt the Project from real property taxes; and

WHEREAS, the HDFC is or will be a member of the managing member of the Company; and

WHEREAS, the Company and the HDFC will be willing to enter into a PILOT Agreement whereby they will make annual payments in lieu of taxes to the City as set forth in the PILOT Agreement presented to the City Council for approval; and

WHEREAS, the Company and the City are parties to a Contract for Sale, dated August 11, 2011, which provides that the Company will pay to the City a municipal impact fee of \$200,000.00;

NOW THEREFORE, BE IT RESOLVED, that the members of the City Council hereby exempt the Project from real property taxes to the extent authorized by Section 577 of the PHFL and approve the proposed PILOT Agreement by and among the City of Newburgh, the Company and the HDFC, in substantially the form presented at this meeting, providing for annual payments as set forth in such agreement; and

BE IT FURTHER RESOLVED, that the Acting City Manager is hereby authorized to execute and deliver the foregoing PILOT Agreement, in substantially the same form with other documents as Corporation Counsel may require, on behalf of the City; and

BE IT FURTHER RESOLVED, that the Acting City Manager is hereby authorized to execute and deliver the foregoing Municipal Impact Fee Agreement, in substantially the form presented at this meeting, on behalf of the City.

Councilman Dillard said that he is concerned about the delinquent PILOT. Will the Corporation be prepared to pay those delinquent fees?

Corporation Counsel, Michelle Kelson said that they are contractually obligated to pay those fees.

Councilman Dillard asked what the fees are because they never received any figures.

Corporation Counsel, Michelle Kelson, said that it is about three quarters of a million dollars total in delinquent PILOT payments and water and sewer payments. This was all set forth in the agreement that the Council authorized on August 8, 2011.

Councilman Dillard asked how much is the new PILOT; one million plus per year?

Michelle Kelson responded with a "no". It states in the resolution that it is \$105, 996.30 per year.

Councilman Dillard asked if this is consistent with other PILOTS of this magnitude.

Michelle Kelson answered "yes".

Councilman Bello noted that this is the same as Ebenezer Baptist Church had and then it gets increased by 2%.

Councilman Dillard said that things have gone up and what he calculates from those units over there through Section 8 they will be getting over one million dollars a month. Is that not true?

Michelle Kelson said that the PILOT is not based on the rents.

Councilman Dillard said that other PILOT's that have come before this Council were based on the amount of rent.

Michelle Kelson said not always. The Varick Homes PILOT that expired was based on a percentage of the rent. Voisins of Newburgh PILOT that was negotiated four years ago also was based on a percentage of the rent. The original PILOT for Burton Towers called for an initial sum of \$46,000.00 per year that was payable quarterly and it would increase based on the cost of living (CPI) so it varied from year to year. She has a spread sheet of what was billed every year the PILOT was in place and what was paid every year as well as what the difference was. In the initial years of the PILOT, we were billing them about \$60,000.00 and then it went up to \$70,000.00, \$80,000.00 and \$90,000.00 until the last couple of years it was \$102,000.00. Most of the payments were made until 2008 when they started to go into delinquency. This PILOT was never based on a percentage of the rents. This PILOT was based on a fixed amount of money that would increase on a percentage basis

based on the cost of living increase by the Federal Government. This PILOT proposes to basically pay where the delinquent PILOT left off. Payment that would have been due for 2012 from the former Burton Towers entity was \$105,382.42 and it would have gone up whatever the percentage of the cost of living index is over the next five or six years that it would be in place. A new entity gets a new bite at the apple so they are starting at the same place the old entity would have started out and they are proposing a permanent increase of 2.5% every year. If the CPI shrinks, you will still get a 2.5% increase.

Councilman Dillard said he understands this but that's his point. This is a continuation of the old PILOT.

Michelle Kelson said that it is not a continuation of the old PILOT. This is a new entity and it is a brand new agreement.

Councilman Dillard said that it may be a brand new agreement but doesn't it start where the old PILOT left off?

Michelle Kelson said that the number is based on that figure. That is the only connection. This is a new agreement. It is not a continuation of the old PILOT because you are dealing with two different entities. It is not the same agreement.

Councilman Dillard said that he still has some concerns about Burton Towers.

Michelle Kelson said that everyone is entitled to have concerns. This is a whole new project with a whole new organization and you are entitled to have concerns but it is not the same agreement and it is not the same entity. This is a brand new agreement. She has the actual PILOT from the original entity if he would like to see it and the Council has the proposed PILOT agreement for the new entity which is not the same agreement. The numbers and terms are not the same so this is a brand new agreement.

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

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Mayor Valentine - 4

Nays - Councilman Dillard - 1

ADOPTED

**AGREEMENT FOR PAYMENT IN LIEU OF TAXES (PILOT) BY
AND AMONG THE CITY OF NEWBURGH, HONY HOUSING
DEVELOPMENT FUND CORP. AND BURTON TOWERS LLC**

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES (the “PILOT Agreement” or “Agreement”), dated December __, 2011, by and among the **CITY OF NEWBURGH, NEW YORK**, a New York incorporated municipality, having its principal office located at 83 Broadway, Newburgh, New York 12550 (the “City”), **HONY HOUSING DEVELOPMENT FUND CORP.**, an Article XI New York private housing finance law corporation and a New York not-for-profit corporation, having an address at 59 Rutledge Road, Scarsdale, New York 10583 (the “HDFC”), which HDFC will hold title to the Property (as hereinafter defined) for the benefit of **BURTON TOWERS LLC**, a New York limited liability company, having an address c/o Mountco Construction and Development Corp., 700 White Plains Road, Suite 363, Scarsdale, New York 10583 (the “Company”).

WHEREAS, the HDFC is or will be the bare legal or record owner, and the Company is or will be the beneficial and equitable owner of certain improved real property located at 36 Cerone Place, City of Newburgh, Orange County, New York, Tax Map No. Section 33, Block 6, Lot 3.1 (the “Property”); and

WHEREAS, the HDFC is a corporation established pursuant to section 402 of the Not-For-Profit Corporation Law and Article XI of the Private Housing Finance Law (“PHFL”); and

WHEREAS, the HDFC is or will be a member of the managing member of the Company; and

WHEREAS, the HDFC and the Company have each been formed for the purpose of providing residential rental accommodations for senior citizens having household incomes less than or equal to sixty percent (60%) of area median income for Orange County, adjusted for family size (“AMI”); and

WHEREAS, the Company will own, redevelop, rehabilitate, renovate, maintain and operate a housing project on the Property consisting of approximately 126 dwelling units, not less than 125 of which shall be for senior citizens having household incomes less than or equal to sixty percent (60%) of AMI (sometimes referred to herein as the “Project”); and

WHEREAS, the HDFC’s and the Company’s plan for the use of the Property constitutes a “housing project” as that term is defined in the PHFL; and

WHEREAS, the HDFC is a “housing development fund company” as the term is defined in Section 572 of the PHFL; and

WHEREAS, pursuant to Section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

WHEREAS, the City Council members of the City of Newburgh, New York, by resolution adopted December 12, 2011, approved and authorized the execution of this Agreement,

NOW, THEREFORE, it is agreed as follows:

1. Pursuant to Section 577 of the PHFL, the City hereby exempts from local and municipal taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Property, including both land and improvements. “Local and Municipal Taxes” shall mean any and all real estate taxes levied by Orange County (“County”), the City of Newburgh (“City”), the Newburgh City School District (“School District”) or other taxing jurisdiction. Exclusions from the exemption described herein (in addition to assessments for local improvements) shall include special tax and/or special assessment districts, if any.

2. This tax exemption will commence on the date on which the HDFC acquires fee or record title to the Property (the “PILOT Commencement Date”) and shall continue for a period of thirty-two (32) years from the PILOT Commencement Date. This Agreement shall not limit or restrict the HDFC’s or Company’s right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this Agreement.

3. So long as the exemption hereunder continues, following the completion of rehabilitation of the Project as evidenced by the issuance of a Certificate of Completion, the Company shall make annual payments in lieu of taxes (“PILOT”) in the amount of One Hundred Five Thousand Nine Hundred Ninety Six and 30/100 Dollars (\$105,996.30) (“PILOT Payment”), which amount shall increase two and one half percent (2.5%) each year thereafter, to cover all Local and Municipal Taxes owed in connection with the Property and the Project. Annual PILOT Payments shall be due on June 30th of each calendar year. PILOT Payments shall be mailed via First Class mail through the United States Postal Service to the City of Newburgh, Attention Tax Collector at 83 Broadway, Newburgh, New York 12550. So long as the tax exemption remains

in effect, tenant rental charges for restricted units shall not exceed the maximum established or allowed by law, rule or regulation, and the Property shall be operated in conformance with the provisions of Article XI of PHFL.

4. The tax exemption provided by this Agreement will continue for the term described above provided that not less than 126 units within the Property continue to be used as housing facilities for senior citizens having household incomes less than or equal to sixty (60%) percent of AMI as described herein, and any of the following occur (i) the HDFC and/or the Company operate the Property in conformance with Article XI of the PHFL; or (ii) in the event an action is brought to foreclosure a mortgage upon the Property, and the legal and beneficial interest in the Property shall be acquired at the foreclosure sale or from the mortgagee, or by a conveyance in lieu of such sale, by a housing development fund corporation organized pursuant to Article XI of the PHFL, or by the Federal government or an instrumentality thereof, or by a corporation which is, or by agreement has become subject to the supervision of the superintendent of banks or the superintendent of insurance, such successor in interest shall operate the Property in conformance with Article XI of the PHFL.

5. The failure to make the required payment will be treated as failure to make payment of taxes and will be governed by the same provisions of law as apply to the failure to make payment of taxes, including but not limited to enforcement and collection of taxes and assessment of interest and penalties to the extent permitted by law. In the event the City commences a proceeding to enforce the provisions of this Agreement, then, in addition to the remedies to which the City shall be entitled, it shall have the right to award reasonable attorney fees. Notwithstanding the above, the City may terminate this Agreement, and the tax exemption shall thereupon terminate, pursuant to Section 6 hereof.

6. This Agreement and the exemption granted hereunder shall terminate pursuant to Section 5 above or in an event of default as follows:

(a) Failure of the Company (or the Company's investor member on its behalf) to pay in full any payment due under this Agreement within thirty (30) days of mailing of written notice by the City stating that said payment is past due.

(b) Failure of the Company (or the Company's investor member on its behalf) to comply with or perform any provision of this Agreement if such failure continues in whole or in part for more than thirty (30) days after mailing of written notice by the City of such failure to comply or perform.

In the event of a default hereunder, in addition to the termination of this Agreement and the tax exemption, the City may exercise any and all rights or remedies permitted by law.

Notwithstanding any provision hereof to the contrary, the mortgagees of record with respect to the Property (the "Lender") shall have an additional period of thirty (30) days after the cure periods of the Borrower set forth in this Section 6 to cure any monetary defaults and an additional period of up to one hundred twenty (120) days to cure non-monetary defaults provided that the Lender shall diligently pursue such cure.

7. All notices and other communications hereunder shall be in writing and shall be sufficiently given when delivered to the applicable address stated above (or such other address as the party to whom notice is given shall have specified to the party giving notice) by registered or certified mail, return receipt requested or by such other means as shall provide the sender with documentary evidence of such delivery. Copies of notices to the Company shall be provided to the Lender and investor for the Project at such address as may be designated in writing by the Company.

8. This Agreement shall inure to the benefit of and shall be binding upon the City, the Company and the HDFC and their respective successors and assigns, including the successors in interest of the Company and the HDFC. There shall be no assignment of this Agreement except in accordance with Section 4 hereof or with written consent of the other party, which consent shall not be unreasonably withheld.

9. If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement and the application of that provision to other persons or circumstances shall be enforced to the greatest extent permitted by law.

10. This Agreement may be executed in any number of counterparts with the same effect as if all the signing parties had signed the same document. All counterparts shall be construed together and shall constitute the same instrument.

11. This Agreement constitutes the entire agreement of the parties relating to payments in lieu of taxes with respect to the Property and supersedes all prior contracts, or agreements, whether oral or written, with respect thereto.

12. Each of the parties individually represents and warrants that the execution, delivery and performance of this Agreement, (i) has been duly

authorized and does not require any other consent or approval, (ii) does not violate any article, by-law or organizational document or any law, rule, regulation, order, writ, judgment or decree by which it is bound, and (iii) will not result in or constitute a default under any indenture, credit agreement, or any other agreement or instrument to which any of them is a party. Each party represents that this Agreement shall constitute the legal, valid and binding agreement of the parties enforceable in accordance with its terms.

Remainder of page intentionally left blank.

IN WITNESS WHEREOF, the City, the HDFC and the Company have caused this Agreement to be executed in their respective names by their duly authorized representatives and their respective seals to be hereunder affixed, all as of the date above-written.

DATED: _____, 2011 CITY OF NEWBURGH, NEW YORK

By: _____

Name: Richard Herbek

Title: Acting City Manager

DATED: _____, 2011 HONY HOUSING DEVELOPMENT FUND
CORP.

By: _____

Name: John Madeo

Title: President

DATED: _____, 2011 BURTON TOWERS LLC

By: Burton Towers Managers LLC,
its Managing Member

By: MBT Associates I LLC
its Manager

By: _____

Name: Joel B. Mounty

Title: Sole Member

STATE OF NEW YORK)
)
) SS.:
COUNTY OF)

On the ____ day of December in the year 2011, before me personally appeared Richard Herbek, 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/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

STATE OF NEW YORK)
)
) SS.:
COUNTY OF)

On the ____ day of December in the year 2011, before me personally appeared John Madeo, 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/she executed the same in his/her capacity, and that by his/her signature on the instrument, the

MUNICIPAL IMPACT FEE AGREEMENT

THIS MUNICIPAL IMPACT FEE AGREEMENT (the “Agreement”), dated as of the ____ day of December, 2011, by and between the **CITY OF NEWBURGH**, a municipal corporation of the State of New York with offices located at 83 Broadway, Newburgh, New York 12550 (the “City”) and **BURTON TOWERS LLC**, a New York limited liability company having offices at 700 White Plains Road, Suite 363, Scarsdale, New York 10583 (the “Company”).

WITNESSETH:

WHEREAS, the Company intends to redevelop, renovate and rehabilitate certain land and the improvements thereon located at 36 Cerone Place, Newburgh, New York, (also known as Section 33, Block 6, Lot 3.1 on the official tax map of the City of Newburgh), which improvements consist of a single building containing one hundred twenty-six (126) residential rental units for seniors of low-income (the “Project”); and

WHEREAS, on or about the date hereof and in connection with the Project, the City, the Company and HONY Housing Development Fund Corp. entered into an agreement (the “PILOT Agreement”) making provisions for payments in lieu of taxes by the Company to the City for the benefit of the City, the Newburgh City School District and the County of Orange, New York; and

WHEREAS, the City and the Company, in recognition that a significant inducement to the Company to redevelop the Project was the responsiveness of the City in addressing applications associated with the Project and the City’s willingness to continue to provide municipal services to the Project during the term of the PILOT Agreement and thereafter, desire to enter into this Agreement whereby the Company will pay to the City an impact fee as reimbursement for the costs and associated expenses related to the continued level of municipal services to be provided by the City for the benefit of the Project;

NOW, THEREFORE, in consideration of the covenants herein contained, and for other good and valuable consideration the receipt and sufficiency of which are acknowledged, it is mutually agreed as follows:

Section I – Payment of Impact Fee.

1.1 (i) *Payment of Impact Fee.* The Company, pursuant to the terms of this Agreement, shall pay and remit to the City an impact fee in the amount of Two Hundred Thousand Dollars (\$200,000.00) (the “Impact Fee”). The Impact Fee shall be payable in full on the date of closing of the Project’s construction financing.

(ii) *Public Purpose.* The parties agree and acknowledge that the payment to be made by the Company hereunder is to obtain revenues for any public purpose,

including without limitation costs and associated expenses related to municipal services or infrastructure in the vicinity of the Project.

Section II - Miscellaneous.

2.1 This Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

2.2 All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:

To the City:

City of Newburgh
83 Broadway
Newburgh, New York 12550
Attn: City Manager

City of Newburgh
83 Broadway
Newburgh, New York 12550
Attn: Corporation Counsel

To the Company:

Burton Towers LLC
700 White Plains Road, Suite 363
Scarsdale, New York 10583
Attn.: Joel B. Mounty

To Company Counsel:

Cannon Heyman & Weiss LLP
54 State Street, 5th Floor
Albany, New York 12207
Attn.: Geoffrey Cannon, Esq.

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section.

2.3 This Agreement embodies and constitutes the entire understanding between the parties with respect to the transaction contemplated herein, and all prior agreements, understandings, representations and statements, oral or written, are merged

into this Agreement. Neither this Agreement nor any provision hereof may be waived, modified, amended, discharged or terminated except by an instrument signed by the party against whom enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.

2.4 This Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in the City of Newburgh, Orange County, New York.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF NEWBURGH, NEW YORK

By: _____

Name: Richard Herbek

Title: Acting City Manager

BURTON TOWERS LLC

By: Burton Towers Managers LLC,
Managing

Member

By: MBT Associates I LLC, Manager

By: _____

Name: Joel B. Mouny

Title: Sole Member

RESOLUTION NO.: 258-11

OF

DECEMBER 12, 2011

**A RESOLUTION RE-APPOINTING MARY MCTAMNEY AND
GAIL FULTON AS MEMBERS OF
THE WATERFRON ADVISORY COMMITTEE**

BE IT RESOLVED, by the Council of the City of Newburgh, New York that Mary McTamaney and Gail Fulton be and hereby are re-appointed retroactively to the Waterfront Advisory Committee for Three (3) year terms commencing on April 1, 2011 and expiring March 31, 2014.

Councilwoman Angelo moved and councilwoman Bello seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilwoman Bell, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 5

ADOPTED

PUBLIC COMMENTS REGARDING GENERAL MATTERS

Maria Valentine Gaffney, Town of Newburgh, said that this is the Mayor's final Council meeting and his family wished it known that they are proud of him and his accomplishments especially never having missed a Council meeting in twelve years. When his dream to run for City Government was nothing more than a seed, they put forth arguments entering the world of politics and his answer was always the same, "I love this City" and his determination has never wavered from this. The tougher the fight, the stronger he became. As her younger brother, she was expected to always look after him but she was the one who became the one who looked up to him with respect and admiration. He has been a relentless fighter and a cheerleader for this City. He has accomplished goals with integrity, courage and a constant resolve. His family and friends wish him and his wife, Susan, a wonderful retirement from public life to be enjoyed with great health and love.

Janet Gianopoulos, City of Newburgh, said that after a little more than two years she has become aware of many good things in this City. Before three of the five Council members step down she wished to point out some of those things. The Charter Review was already mentioned and she thinks that is a fabulous new opportunity if used well by all of the citizens to come together in groups. She applauded the Council for a balanced Budget under the 2% cap and the City Manager for coming up with the proposal. She feels that the Mid-Broadway property has great possibility to become a Civic Center which could involve some of the property that currently has a waterfront view. We could move things there and sell the waterfront view property which is an asset in this City. She also thinks that in regard to the Waterfront we need to see if we can possibly build out so that we are not limited to what we currently see as our waterfront properties. We could build entertainment or dining and shopping piers of some kind for example. There was a lot of collaboration here to put on events that the people in the City have enjoyed including Festivals, Concerts, the Memorial Day Parade, the Tall Ships and related educational activities. Downing Park is a fabulous and underutilized venue in this City and we have the possibility of the new South Street Park which is good. We have had the FBI roundup of gangs. If we do bring the FBI here to have more of a steady presence, she believes that we can bring this community into more of a law abiding community because most of us are law abiding citizens. We sometimes get a black eye because of a few bad headlines here. In 2009, she became aware that the Council fired a City Manager with no succession plan. We now have something in place with the Charter change so she hopes that we don't let the first professional City Manager this City has had go too quickly.

Manny Pereira, speaking for the residents at 112 and 116 West Parmenter Street, said they have concerns that their properties and their children are at risk because of the increase in drug activity. The property at 120 West Parmenter Street is a stash house that they have contacted the Police Department about. The properties at 123 and 125 West Parmenter are vacant and at 127 West Parmenter there is a lot of dealing going on. He said that he has property in that area as well and something has to be done. They are talking about cutting back on the Police Department but they need more police officers on the streets. At 120 West Parmenter the property has a padlock but the druggies have the keys. The people that live in that area are scared and just because they don't speak English doesn't mean that they don't deserve protection.

Aquanetta Wright, City of Newburgh, said farewell to the Council members who will be leaving. She said that Nick has been around a long time. She has watched him go from City Council to Mayor and she thinks that he has the best showmanship of anyone she has ever seen. He is right up front and ready to be the face of the City at the drop of a hat so she wanted him to know that she appreciates that. To Councilwoman Marge Bell and Christine Bello she said that whether she agreed with what they had to say or not they both were not afraid to stand up and fight. She sat here for ten or eleven years with everyone just getting along and not saying a thing and half the time she doesn't think that the people at the table actually read anything. Now at the end of the night she can tell that they actually read something because they would fight over it and battle it out. She appreciates that and feels that it is that level of energy that actually brought out a lot of people who never came to this room before. She hopes that whoever steps in after them learned from them to not just sit there and be a passive lump on a log and take direction only from the City Manager. They need to read and fight which is why the residents put them there and that is what they expect. She said that they have done a great job representing the voice whether she agreed or not.

Micheal Ferrara, Police Chief, wanted it put on the record that the Police Department will address and look into the problems on West Parmenter Street. He said that there will never be any communication barriers between members of this community and the Police Department. He thanked Manny Pereira for his communication with him because he lets him know about things that are happening in different parts of the City and they address them. This will be promptly looked into.

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

COMMENTS FROM THE COUNCIL

Councilwoman Angelo said that it has been a pleasure to serve with Councilwoman Bell and Councilwoman Bello for the last four years as well as Nick Valentine both as Councilman and Mayor for twelve years. She told Mayor Valentine that she is going to miss him but she is not going to say *arrivederci* because she will still see him walking the streets of Newburgh. Marge Bell is right in her area on Liberty Street and she will be seeing Christine Bell also. She said that she is going to miss all three of them because they had a very good working relationship and they accomplished a lot together. She reminded everyone that the tree lighting will be on December 14th and the elves have been busy with eight bags of toys that they have to distribute. She thanked everyone who gave donations for toys and noted that many were anonymous. She thanked everyone for coming tonight and wished them a Merry Christmas.

Councilwoman Bell said that she made some notes about things that she thought were significant about these past four years. She heard a comment made earlier stating that the financial difficulties that the City is experiencing now were because of the fact that there were several City Managers since the last permanent City Manager left but that is not really correct. The problems with the finances were created from the time when we did have a permanent City Manager here. Some people say that we were wrong to have terminated the City Manager but the issue is that the staff and administration during that time period engaged in a lot of self serving activity and not activity serving the people. That is the bottom line. The mismanagement in the Courthouse and so forth and the accumulation of that huge deficit was not because of the transitions that happened after the City Manager left. She is happy about the Charter Reform because people spoke loudly so now we will have more equal representation. She wanted to see a real IDA Board put in place because the prior Industrial Development Association consisted of the five Council Members and two of their friends that they appointed which was a really serious breeding ground for the smoke filled, back room, non transparent activities. She thanked our current IDA Board because they came in with a huge handicap and when they tried to get the records they couldn't get them. Some of the records were in the Kingston Bus Terminal and others were destroyed and missing. There were so many gaps that it took them years to try to get certified as an IDA Board. She wished to thank Dr. Joshua Smith, Chairman, and the other members of that Board who have worked diligently. She is so absolutely proud of what they have done to bring Newburgh into the 21st Century in terms of what an IDA should look like. She hopes that the new Council will get the Jazz Series back because whatever we have that increases the positive image of our City we should embrace wholeheartedly. She

encouraged Councilman Dillard, Councilwoman Angelo and the new members to see what they can do to get that Jazz Series back here because that is something that we should never have lost. She added that we have been working with CDBG on the Art and History Tour Bus and we finally gained recognition this year. We had several International groups come and several people gave tips because the Tour Guides were so thorough and informative about the beautiful aspects of Newburgh. She wished to personally thank Connie Allen, Denise Ribble and Susan Smith as well as all of the other volunteers because it has been incredible. We have been trying many different methods to try to get some art on our bus and we came upon the idea that we could make our Art Bus a rolling art expo. We realized that we could give artists magnetized strips that they could place art on and then place the magnets to the side of the bus. She showed some examples of the magnetic art work to the audience and noted that when our bus starts rolling in the spring up and down the Waterfront then we will be known to have something truly unique and fantastic. She noted that she will be picking up several magnets from the Wallkill River School where they have done a whole series of Hudson River landscapes for us. She is very proud of this. She is happy to be handing the baton over to the new Council Members and told the ones that are coming on board that at 2:00 in the morning when you cannot sleep because you have angst over a specific problem or issue just remember that warm milk works. She wished to personally thank her dear partner, Denise Ribble as well as Jerry Maldonado and Karen Mejia who have become like family and everyone who did what they could to assist. No one can sit here and do this alone. If people think that this happens in a vacuum, they will be very surprised. She said that it has been her absolute pleasure to serve and she is just so ecstatic about the future of Newburgh. She is more excited about our City now than she has been in a long time. She showed the audience and the Council Members a t-shirt she had made that reads "Be the change you wish to see in the World". If we all get involved, then we together can win. She encouraged everyone to keep coming back to let their wishes be known.

Councilman Dillard thanked his colleagues whom he has served with for the past two years. He has learned several lessons from them and one is to ask if you are not sure of something. He has always gotten good information from his colleagues in terms of guidance. He promised Councilwoman Bell that he will work towards getting the Jazz Series back in Newburgh. He told Mayor Valentine that it has been a pleasure working with him and he thanked Councilwoman Bello very much. He said that we have lost the backbone of this City Council so he is asking the City to not let them down and to continue to come and bring their criticism and positiveness so we can all work together to get Newburgh up and rolling again. He thanked everyone for coming and wished them a very Happy Holiday.

Councilwoman Bello thanked everyone for the opportunity to serve. It was an incredible experience and it was nothing like what she thought it would be. It was truly a great learning experience and an opportunity to forge friendships with people she would have never had the opportunity to meet. She thanked the people for giving her that honor. She thanked the City Manager, the Department Heads and all of the employees but especially the City Manager and Department Heads because we really truly need their expertise and no Council Member can be successful without that. She thanked her colleagues and said that she enjoyed the spirited debates. She wished everyone a Merry Christmas, Happy Hanukah and Happy New Year. God bless everyone and God bless our City.

Mayor Valentine said that although this is the last official meeting for the current year we still hold out hope that we may have to do a special meeting if negotiations and contracts work out well between the City of Newburgh and the PBA. He thanked Richard Herbek who really is the true professional of City Managers. He came to Newburgh at our request to help us at a time when we were literally a revolving door of City Managers. He brought with him thirty plus years of City Manger experience and he doesn't believe that we would be sitting here tonight without his hard work. The Department Heads and staff that he has worked with for the last twelve years will stay with him forever. Most of the time they are overlooked unless there is something wrong but the work that they do every day and the hours that they put in are too numerous to mention. Tonight is not just about saying thank you it is about moving forward into the future. He agrees that the Charter Review is one of the most important things that they accomplished in his eight years as Mayor. He made it a promise his first year but if failed and it was a sad vote but it came back up this past year with a vibrant committee that worked hard together and came up with something that passed overwhelmingly by the electorate. The City will now be a better place but we need to cultivate more people to run for Office. Like Councilwoman Bello said it is not what you think and there is no way to tell anyone what it is like until they sit up here through it themselves. He added that we need to work on our young people and make them understand that getting involved in the political process is a good thing. He said that he didn't get involved until he was forty years old. He didn't want to get into a long list of accomplishments but he wanted to mention Leyland. Although it is not being built at this moment that was a time when the City of Newburgh worked so well together. One thousand people came to the final presentation of Leyland. The time will be right and when the money and developers are available and the Council has a passion then the product is already there and it can be done. One thousand people cannot be wrong. The Consolidated Iron Site is now a marketable, developable piece of property through a very hard working commitment by this Council. We spent two and a half million dollars up front

so now something has to get developed there. Provan on Mill Street is the same story. These things take so long and they are so frustrating because everyone wants to see it happen quickly but it doesn't. Some projects had a different life. The Orange County Community College Campus is a wonderful thing in Newburgh but it is in the wrong spot. That was a decision made by Goshen. It could have been so much more of a ripple effect in our City if it had been placed in an area where it was surrounded by the City and not on a hill overlooking the river. It is here and it is successful and it will do but he believes that it could have done even better. We also have the Land Bank which is the piggy bank to the other stigma in Newburgh which is the mid Broadway vacant block. He came in with it being vacant and he is leaving with it being vacant. The Land Bank is in place and that gives him hope that things will start to happen. The other thing he wanted to mention, which may seem small but it wasn't, was the frustrating negotiations for the Sales Tax agreement with Orange County. We think of ourselves as part of a team of other elected officials throughout the County and the State but sometimes we are not. We are the step child of Orange County and we tend to be the dumping ground. We went to the County to ask for help with all of the expertise from our financial people and the City Manager; everything that said that this could work and if it did it would have been one million dollars a year to us with very little effect on the County. We hit a wall when we went which was frustrating and it hurt but they had to shake it off and move on. The Burton Towers negotiation was something that the City of Newburgh never did in its lifetime but the Council was committed and it was scary. He said that he never went to so many meetings and had so many heated discussions but at the end of the day he believes that they have made the residents of Burton Towers safer and in better shape than they have been in years. For many years the people that live there were taken advantage of and they didn't have a voice in government. They are the older and poorer of Newburgh and entities took advantage of that but we stopped it and he is proud of this Council for that. Habitat just dedicated their fiftieth house in Newburgh and he was there for number one which was during his second month in office as a City Council person. They have done fifty homes in eleven years which is something to be proud of because every one of those resolutions came across this table. These are all now full paying taxable properties with homeownership. Mention the Courthouse and you get chills. They handled one of the most sensitive issues that a city could ever handle which was the discovery of human remains from a long time ago that had been treated so disrespectfully in the past. It is called the "Colored Burial Ground" because that is what it should be called. In years past, shovels went through them and bodies were disgraced and development was built around them. In this particular case, it was treated with respect and dignity. He was proud to be on site to watch those remains reinterred respectfully and for that to be a part of our legacy of how a city should treat the people who came before us and not

the way it was done before. Lastly, we got a Ferry after a year and a half of negotiating. Because we got it we are a better place now than we were before and we are looked at in the Hudson Valley as a better community because of it. It opens up the opportunity for people to go to work and to settle in Newburgh without having to hop in their car to go to Westchester or New York City. We should expand this to weekends and it should grow and prosper over time because it means a city is growing when you have that mass transit opportunity. He thanked his fellow Council members and said that it has always been a pleasure to work with people who care about what they believe in. To the people here tonight he said thank you for the good times and the bad times. To the people he worked with before who are no longer here he said that it was always exciting and never ever boring. There were two people in particular that he wished to mention. One is Steve Rockafellow which goes back to the first Council meetings he attended. He was termed "The Rock" for a lot of very good reasons. He was one of the strongest people that he ever worked with and he said that he was his mentor. He truly did it for all the right reasons. A City of Newburgh resident raising his family here came back from commuting to Albany every day for Council Work Session and Council Meetings. He is an amazing man who is still one of his closest friends and will always be because of the time they spent together through some tough years. The second person is Regina Angelo. The term Deputy Mayor does not say it enough. This is the consummate politician and political person. The City of Newburgh is literally in her blood. We have worked together for all of the years that he has been on the City Council. It is not just about the campaigning and the meetings; it is about all of the other things that she has such a passion for. It's not easy to get and put up a Christmas tree every year, or hold a Festival or plant the flowers. With the planning and donations you have no idea how much money she receives and gives to make this City a better place. He said that he will miss working with her because she is what it represents to say this is the sacrifice and the giving that you want to do for your City. Finally, to his wife, Susan, family and friends he thanked them for all coming tonight and for the strength that they have given him to do this. This can be tough like tonight's conversations with people in need you can't just shake off. If you are a good person, you take it to heart and it is frustrating when you can't get everything done that you want but that doesn't mean that you don't want to try. Being the Mayor has been like a gift. He never dreamed that he would do it and never planned it as a part of his life. He has said in many conversations that he has been very lucky to have two successful careers in a city that he was born in, grew up and went to school in, worked and had his own business. Then somewhere in the middle he had the opportunity to serve this City in these last twelve years. That is an amazing gift that will live with him forever but he now has to move on. There are some other projects that he wants to get involved in but he can't do them as an elected official. That is his next step but he is certainly not leaving the City of

Newburgh. He wanted to thank the City of Newburgh including everyone for giving him the privilege to be their Mayor for eight years because it has truly been an honor for him. He wished everyone a wonderful holiday season.

There being no further business to come before the Council, the meeting adjourned at 8:55 P.M.

LORENE VITEK
CITY CLERK