

REQUEST FOR QUALIFICATIONS

FOR THE PROVISION OF

AS NEEDED CONTRACTOR SERVICES

FOR

THE NEWBURGH COMMUNITY LAND BANK

15 CHAMBERS STREET

NEWBURGH, NEW YORK 12550

PROPOSAL DUE DATE: NOVEMBER 18, 2015 @ 5 P.M.

Madeline Fletcher, Esq. President
Newburgh Community Land Bank
mfletcher@newburghcommunitylandbank.org

Please be advised that all matters concerning this RFQ, from the date of issuance until the contract awards are made, are to be directed in writing to the above named contact person.

NEWBURGH COMMUNITY LAND BANK

I. INTRODUCTION

The Newburgh Community Land Bank (“NCLB”) is soliciting qualifications from competent firms to provide contractor services for the NCLB. It is anticipated that the NCLB will appoint one or more firms to act in this capacity. Such appointment will be subject to termination by the NCLB at any time.

The firm(s) to be engaged pursuant to this invitation will be required to assist the NCLB in all matters relating to the rehabilitation of NCLB owned properties, including, but not limited to demolition, structural stabilization, repair and replacement of roofing, spot masonry repair. Such work shall be undertaken by the engaged firm(s) in compliance with all applicable laws and regulations.

Should your firm be one of the firms selected to perform these services, it will be required to enter into a standard NCLB contract with the NCLB. Provisions in the standard NCLB contract include, but are not limited to, indemnification, insurance provisions, reporting, confidentiality, fee(s) to perform the work, termination clause and compliance with law provisions. Should the proposer be awarded a contract, such contract shall be subject to NCLB appropriations. **The term of the contract shall be for the two (2) year period commencing December 1, 2015 and terminating November 30, 2017 with the NCLB having an exclusive option to extend the term of the contract for up to three (3) additional one (1) year terms.**

The NCLB will not guarantee any minimum level of activity or business. No exclusive rights are, or are intended to be, granted pursuant to any award under this request and the agreement(s) with the provider(s) of service(s) shall be only for services for such matters as the NCLB, in its sole discretion, shall deem appropriate.

In order to submit a proposal, please read and comply with all Sections of this document and submit an original and three (3) copies of your proposal to:

NEWBURGH COMMUNITY LAND BANK

15 CHAMBERS STREET

NEWBURGH, NEW YORK 12550

The deadline for proposal submission shall be 5 p.m. on Monday, November 18, 2015. Late proposals will not be accepted.

Requests for clarification must be written and submitted to Madeline Fletcher, Esq., Executive Director of the NCLB, 15 CHAMBERS STREET, NEWBURGH, NEW YORK 12550 no later than November 13th. Formal written responses will be distributed by the NCLB on or before December 1, 2015. NO COMMUNICATIONS OF ANY KIND WILL BE BINDING AGAINST THE NCLB, EXCEPT FOR THE FORMAL WRITTEN RESPONSES TO ANY REQUEST FOR CLARIFICATION.

II. BACKGROUND/FACTUAL DATA

The NCLB owns approximately 60 parcels of land within the City of Newburgh New York. A list of the properties is attached as **Exhibit 1**. This list is not a representation of NCLB's continued ownership of property as NCLB is consistently acquiring and conveying real estate, rather this list is meant to provide an illustration of the number of properties the selected firm(s) may be asked to rehabilitate.

The selected firm(s) shall perform this work in strict accordance with the specifications and all applicable laws for construction projects. The firm(s) shall furnish all labor, materials, supervision, services, insurance and equipment necessary for the completion of typical repair and reconstruction of buildings for rehabilitation as described herein, in attachments to the specification, Job Specific Variance(s) and/or as directed by NCLB. All work performed shall be in strict accordance with any applicable regulations and laws.

The firm(s) shall be responsible for filing of project work permits and applicable fees to the appropriate agencies concerning this project.

The firm(s) shall be responsible for (i) completing projects per the specific work scope for each building as recommended by the engineer, or NCLB, (ii) repairing all building components essential for the structural stability of the building, but not limited to, roofing, roof structure, load bearing walls, etc.; (iii) all demolition required to access work areas identified in scope of work and on associated drawings; (iv) alerting NCLB of any concealed conditions that are exposed and require additional work. The firm(s) shall not initiate work on those areas without a written notice to proceed.

The firm(s) shall conduct working during "normal" working hours, Monday through Friday 8:00 A.M. to 5:00 P.M. and/or as defined by the Owner(s) and shall not include Federal and or State Holidays. Upon written approval from the Owner, the Contractor may work past these hours. The firm(s) shall incur any and all costs associated for work performed beyond the defined schedule including, but not limited to: site preparation activities, custodial/staffing labor, overtime, mobilizations, etc.

Any buildings turned over to the firm(s) shall be in "AS IS" condition. The firm(s) shall be responsible for coordinating the provision of electricity and water supply with NCLB. The firm(s) shall be responsible for the location of waste containers, to location of which shall be subject to the approval of the NCLB. .

III. PROPOSAL EVALUATION

The NCLB shall apply the following evaluation criteria in selecting a proposer with whom to commence contract negotiations. Such criteria are not necessarily listed in order of importance. The NCLB reserves the right to weigh its evaluation criteria in any manner it deems appropriate.

Proposer's demonstrated capability to provide the services.

- Evaluation of the professional qualifications, personal background and resume(s) of individuals involved in providing services.
- Proposer's experience to perform the proposed services.
- Proposer's financial ability to provide the services.
- Evaluation of the proposer's fee submission. It should be noted that while price is not the only consideration, it is an important one.
- A determination that the proposer has submitted a complete and responsive proposal as required by this RFQ.
- An evaluation of the proposer's projected approach and plans to meet the requirements of this document.
- The proposer's presentation at and the overall results of any interview conducted with the proposer.

IV. TERM:

The term of any ensuing agreement will commence on or about December 1, 2015 and will continue through November 30, 2017.

V. LEGAL UNDERSTANDINGS

Please take notice. by submission of a proposal, proposing entity agrees to and understands:

- That any proposal, attachments, additional information, etc. submitted constitute merely a suggestion to negotiate with the NCLB;
- Submission of a proposal, attachments, and additional information shall not entitle the proposing entity to enter into a service agreement with the NCLB for the required services;
- By submitting a proposal, the proposing entity agrees and understands that the NCLB is not obligated to respond to the proposal, nor is it legally bound in any manner whatsoever by submission of same;

- That any and all counter-proposals, negotiations or any communications received by a proposing entity, its officers, employees or agents from the NCLB, its officers, employees or agents, shall not be binding against the NCLB, its officers, employees or agents unless and until a formal written agreement for the services is duly executed by both parties and approved by the NCLB Board of Directors.

In addition to the foregoing, by submitting a proposal, the proposing entity also understands and agrees that the NCLB reserves the right, and may at its sole discretion exercise, the following rights and options, except to the extent restricted by applicable law to:

- . reject proposals that do not conform in all material respects with this document or meet the minimum evaluation criteria;
- . reject all proposals;
- . issue additional solicitations for proposals and/or amendments;
- . waive any irregularities in proposals received after notification to all proposers;
- . negotiate for amendments or other modifications to proposals;
- . conduct investigations with respect to the qualifications of each proposer;
- . exercise its discretion and apply its judgment with respect to any aspect of this document, the evaluation of proposals, and the negotiations and award of any contract;
- . enter into an agreement for only portions (or not to enter into an agreement for any) of the services contemplated by the proposals with one or more of the proposers;
- . select the proposal that best satisfies the interests of the NCLB and not necessarily on the basis of price or any other single factor in the evaluation criteria;
- . NCLB has the right to apply the case law under General Municipal Law § 103 regarding bidder responsibility in determining whether a proposer is a responsible vendor;
- . NCLB assumes no responsibility or liability of any kind for costs incurred in the preparation or submission of any proposal;
- . NCLB is not responsible for any internal or external delivery delays which may cause any proposal to arrive beyond the stated deadline. To be considered, proposals MUST arrive at the place specified herein and be time stamped prior to the deadline.

VI. PROPOSAL REQUIREMENTS

- . Proposals must be submitted on the proposer's letterhead or standard proposal form and signed by an authorized representative of the proposer. Telephone or facsimile proposals will not be accepted.

The proposal cover letter signed by a person authorized by the proposer to make a binding proposal must set forth that that “this proposal constitutes a valid, binding and continuing offer at the prices set forth in the proposal for a period of sixty (60) days from the deadline for acceptance of proposals as set forth herein.”

- Proposal must be typed or printed in black ink. All corrections made by the proposer prior to the opening must be initialed and dated by the proposer. No changes will be allowed after proposals are opened.
- Proposals delivered prior to the deadline shall be secured unopened so long as the package is properly marked as set forth above. Late proposals will not be accepted.
- Proposals MUST be signed. Unsigned proposals will be rejected.
- Proposers may be required to give an oral presentation to the NCLB to clarify or elaborate on the written proposal.
- No proposal will be accepted from nor any agreement awarded to any proposer that is in arrears upon any debt or in default of any obligation owed to the NCLB. Additionally, no agreement will be awarded to any proposer that has failed to satisfactorily perform pursuant to any prior agreement with the NCLB.

All proposers to this invitation must submit their proposal in accordance with the following format. Failure of proposers to follow the requested format may be sufficient grounds for their proposal to be considered by the NCLB non-responsive and to be rejected.

A. **Title Page.** The title page should show the proposal title, the name of the proposer, its address, the name and title of the contact person authorized to represent the proposer, and the date.

B. **Table of Contents.** The table of contents in the proposal should clearly identify all items of the proposal by question number and page number.

C. **Transmittal Letter.** The transmittal letter should be on the letterhead of the proposer. The letter should be signed by a partner of the firm.

D. **Specific Questions.** The proposer should, for the convenience of the selection committee, repeat each question asked and thereafter provide the proposer’s response.

1. Please provide a profile of the firm including:
 - a) The address(es) of the firm and the total number of partners and employees.
 - b) The location of the office(s) from which the work is to be managed and the number of partners and staff employed at the office(s).

c) A brief history of the firm, including length of time in operation.

d) A description of the firm's general practice areas.

2. List the names of the governmental and quasi-governmental entities in New York State for which your firm has provided contractor services.

3. Please provide references, with the name of the contact person, address and telephone number, to at least 1 of the entities listed in the answer to (2) above.

4. Please provide the names of the partners and employees in your firm who would be assigned to the NCLB and give a brief description of each person's experience at the firm.

5. For each of the individuals listed in (4) above, provide three references, with the name of the contact person, address and telephone number.

6. We are seeking basic information about how pricing is determined by your firm and any typical unit costs utilized in calculating proposals for different types of work.

7. If your firm has discounted rates for quasi-governmental entities such as the NCLB, please provide these rates. Please provide us with your firm's proposed fee and billing arrangements.

8. What proportion of your firm's partners and associates are minorities? Describe your affirmative action program.

9. What proportion of your firm's partners and associates are women?

10. Please list the firm's concurrent material engagements and outstanding current proposals that could impact the availability of the individuals listed in (4) above.

11. Does your firm "sub-contract" any work relating to its services? If so, what are the names and addresses of these firms? Describe in detail the experience these firms have had with similar projects.

12. If your proposal is submitted as a joint proposal by more than one firm, describe how responsibilities and compensation would be allocated among the firms.

13. Attached are NCLB's standard insurance provisions. Please review and advise if you cannot comply.

14. Why should your firm be selected? What can you do for the NCLB that other firms cannot?

VII. CONTRACT

After selection of the successful proposer, and following contract negotiations, a formal written contract will be prepared by the NCLB and will not be binding until signed by both parties and approved by the NCLB Board of Directors. **NO RIGHTS SHALL ACCRUE TO ANY PROPOSER BY THE FACT THAT A PROPOSAL HAS BEEN SELECTED BY THE NCLB FOR SUBMISSION TO THE BOARD OF DIRECTORS FOR CONTRACT APPROVAL. SAID BOARD HAS THE RIGHT TO REJECT ANY RECOMMENDATION AND THE APPROVAL OF SAID BOARD IS NECESSARY BEFORE A VALID AND BINDING CONTRACT MAY BE EXECUTED BY THE NCLB.**

The successful proposer will be asked to sign a contract substantially in the form attached hereto as **SCHEDULE "C"**.

VIII. NON-COLLUSION

The proposer, by signing the proposal, does hereby warrant and represent that any ensuing agreement has not been solicited, secured or prepared directly or indirectly, in a manner contrary to the laws of the State of New York and the NCLB, and that said laws have not been violated and shall not be violated as they relate to the procurement or the performance of the agreement by any conduct, including the paying or the giving of any fee, commission, compensation, gift, gratuity or consideration of any kind, directly or indirectly, to any NCLB employee, officer or official.

IX. CONFLICT OF INTEREST

The award of a contract is subject to provisions of all Federal, State and County laws. All proposers must disclose with their proposals the name of any officer, director or agent who is also an employee of the NCLB. Further, all proposers must disclose the name of any NCLB officer, employee, or elected official who owns, directly or indirectly, an interest of ten percent or more in the proposer or any of its subsidiaries or affiliates.

X. PROPOSALS SUBJECT TO FREEDOM OF INFORMATION LAW

The New York State Freedom of Information Law as set forth in Public Officers Law, Article 6, Sections 84-90, mandates public access to government records. However, proposals submitted in response may contain technical, financial background or other data, public disclosure of which could cause substantial injury to the proposer's competitive position or constitute a trade secret. Proposers who have a good faith belief that information submitted in their proposals is protected from disclosure under the New York Freedom of Information Law shall: a) insert the following notice in the front of its proposal:

“NOTICE

The data on pages ___ of this proposal identified by an asterisk (*) contains technical or financial information constituting trade secrets or information

the disclosure of which would result in substantial injury to the proposer's competitive position. The proposer requests that such information be used only for the evaluation of the proposal, but understands that any disclosure will be limited to the extent that the NCLB considers proper under the law. If the NCLB enters into an agreement with this proposer, the NCLB shall have the right to use or disclose such information as provided in the agreement, unless otherwise obligated by law."

and

b) clearly identify the pages of the proposals containing such information by typing in bold face on the top of each page " * **THE PROPOSER BELIEVES THAT THIS INFORMATION IS PROTECTED FROM DISCLOSURE UNDER THE STATE FREEDOM OF INFORMATION LAW.**"

The NCLB assumes no liability for disclosure of information so identified, provided that the NCLB has made a good faith legal determination that the information is not protected from disclosure under applicable law or where disclosure is required to comply with an order or judgment of a court of competent jurisdiction. The contents of the proposal which is accepted by the NCLB, except portions "Protected from Disclosure", may become part of any agreement resulting from this RFQ.

XI. MBE/WBE

It is the goal of the NCLB to use its best efforts to encourage, promote and increase the participation of business enterprises which are owned and controlled by persons of color or women in contracts and projects funded by the NCLB. Therefore, the NCLB asks proposers to complete the questionnaire attached hereto as **SCHEDULE "A."**

XII. DISCLOSURE FORM:

To avoid conflicts of interest and the appearance of impropriety, the proposer shall be required to complete the Disclosure Form attached hereto as **SCHEDULE "B."**

XIII. INTENTIONALLY OMITTED

XIV. PROPOSER CERTIFICATION

The undersigned agrees and understands that this proposal and all attachments, additional information, etc. submitted herewith constitute merely an offer to negotiate with the NCLB. Submission of this proposal, attachments, and additional information shall not obligate or entitle the proposing entity to enter into a service agreement with the NCLB for the required services. The undersigned agrees and understands that the NCLB is not obligated to respond to this proposal nor is it legally bound in any manner whatsoever by the submission of same. Further, the undersigned agrees and understands that any and all proposals and negotiations shall not be binding or valid against the NCLB, its directors, officers, employees or agents unless an agreement is signed by a duly authorized officer of the NCLB and approved by the NCLB Board of Directors.

It is understood and agreed that the NCLB reserves the right to reject consideration of any and all proposals including, but not limited to, proposals which are conditional or incomplete.

It is represented and warranted by those submitting this proposal that except as disclosed in the proposal, no officer or employee of the NCLB is directly or indirectly a party to or in any other manner interested in this proposal or any subsequent service agreement that may be entered into.

Proposer Name

By: _____
Name and Title

ACKNOWLEDGMENT

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

On the _____ day of _____ in the year 20__ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Date:

Notary Public

CERTIFICATE OF AUTHORITY

(CORPORATION)

I, _____,
(Officer other than officer signing contract)

certify that I am the _____ of
(Title)
the _____
(Name of Corporation)

a corporation duly organized and in good standing under the _____ (Law
under which organized, e.g., the New York Business Corporation Law) named in the foregoing
agreement; that

(Person executing agreement)

who signed said agreement on behalf of the _____
(Name of Corporation)

was, at the time of execution _____
(Title of such person)

of the Corporation and that said agreement was duly signed for and on behalf of said Corporation
by authority of its Board of Directors, thereunto duly authorized and that such authority is in full
force and effect at the date hereof.

(Signature)

STATE OF NEW YORK)
) ss.:
NCLB OF)

On the ____ day of _____ in the year 20__ before me, the undersigned, a
Notary Public in and for said State, _____ personally appeared,
personally known to me or proved to me on the basis of satisfactory evidence to be the officer
described in and who executed the above certificate, who being by me duly sworn did depose
and say that he/she resides at _____,
and he/she is an officer of said corporation; that he/she is duly authorized to execute said
certificate on behalf of said corporation, and that he/she signed his/her name thereto pursuant to
such authority.

Notary Public
Date

CERTIFICATE OF AUTHORITY
(PARTNERSHIP)

I, _____,
(Partner other than Partner signing contract)

certify that I am a General Partner of _____,
(Name of Partnership)

a partnership duly organized under _____,
(Law under which partnership is organized)

and named in the foregoing Agreement; that _____,
(Partner Executing Agreement)

who signed said Agreement on behalf of the Partnership was, at the time of execution, a General Partner of said Partnership; that said Agreement was duly signed for and in behalf of said Partnership and as the act and deed of said Proposer for the purposes therein mentioned.

(Signature)

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

On this _____ day of _____, in the year 20__ before me, the undersigned, a Notary Public in and for said State, _____ personally appeared, personally known to me or proved to me on the basis of satisfactory evidence to be the General Partner described in and who executed the above certificate, who being by me duly sworn did depose and say that he/she resides at _____, and he/she is a general partner of said Partnership; that he/she is duly authorized to execute said certificate on behalf of said Partnership, and that he/she signed his/her name thereto pursuant to such authority.

Notary Public

EXHIBIT 1

LIST OF NCLB OWNED PROPERTIES AS OF OCTOBER 30, 2015

82 Liberty WH
157 Grand
159 Grand
22 S Miller
24 S Miller
26 S Miller
104 Washington
143 Washington
46 Dubois
48 Dubois
116 Lander
122 Lander
164 N Miller
10 Chambers
36 Dubois
121 Lander
123 Lander
18 Lander
61 Liberty WH
37 S Miller
183 First
185 First
187 First
19 S Miller
195 First
21 S Miller

29 Lander
33 Lander
38 Dubois
39 Johnston
46 S Miller
48 Lander
48 S Miller
50 Lander
54 Dubois
57 Dubois
42 Lander
98 Lander
53 Beacon
124 William
130 First
162 N Miller
30 S Miller
34 Lander
38 Lander
45 Lander
53 Farrington
59 Lander
63 Lander
86 Lander
55 Farrington

SCHEDULE “A”

For Informational Purposes Only

**QUESTIONNAIRE REGARDING BUSINESS ENTERPRISES
OWNED AND CONTROLLED BY PERSONS OF COLOR OR WOMEN**

As part of the NCLB’s program to encourage the meaningful and significant participation of business enterprises owned and controlled by persons of color or women in NCLB contracts, we request that you answer the questions listed below.

The term persons of color means a United States citizen or permanent resident alien who is and can demonstrate membership of one of the following groups: (a) Black persons having origins in any of the Black African racial groups; (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race; (c) Native American or Alaskan native persons having origins in any of the original peoples of North American; or (d) Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian sub-continent or the Pacific Islands.

An enterprise owned and controlled by persons of color or women means a business enterprise including a sole proprietorship, limited liability partnership, partnership, limited liability corporation or corporation that is (a.) at least 51% owned by one or more persons of color or women; (b.) an enterprise in which such ownership by persons of color or women is real, substantial and continuing; (c.) an enterprise in which such ownership interest by persons of color or women has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; and (d.) an enterprise authorized to do business in this state which is independently owned and operated.

In addition, a business enterprise owned and controlled by persons of color or women shall be deemed to include any business enterprise certified as an MBE or WBE pursuant to Article 15-a of the New York State Executive Law and implementing regulations, 9 NYCRR subtitle N Part 540 et seq., or as a small disadvantaged business concern pursuant to the Small Business Act, 15 U.S.C. 631 et seq., and the relevant provisions of the Code of Federal Regulations as amended.

1. Are you a business enterprise which is owned and controlled by persons of color or women in accordance with the standards listed above?

- _____
- No
 - Yes (as a business owned and controlled by persons of color)
 - Yes (as a business owned and controlled by women)

2. If you are a business owned and controlled by persons of color, please specify, the minority classifications which apply:

3. Are you certified with the State of New York as a minority business enterprise (“MBE”) or a women business enterprise (“WBE”)?

- No
- Yes (as a MBE)
- Yes (as a WBE)

4. If you are certified with the State of New York as an MBE, please specify the minority classifications which apply:

5. Are you certified with the Federal Government as a small disadvantaged business concern?

- No
- Yes

Name of Firm/Business Enterprise: _____

Address: _____

Name/Title of Person completing MBE/WBE Questionnaire: _____

Signature: _____

SCHEDULE "B"

REQUIRED DISCLOSURE OF RELATIONSHIPS TO NCLB

(Prior to execution of a contract by the NCLB, the selected firm(s) must complete, sign and return this form to the NCLB)

Name of Firm:

A. Related Employees:

1. Are any of the employees that you will use to carry out this contract with the NCLB also an officer or employee of the NCLB, or the spouse, or the child or dependent of such NCLB officer or employee?

Yes _____ No _____

If yes, please provide details:

B. Related Owners:

1. If you are the owner of the firm, are you or your spouse, an officer or employee of the NCLB?

Yes _____ No _____

If yes, please provide details:

To answer the following question, the following definition of the word "interest" shall be used:

Interest means a direct or indirect pecuniary or material benefit accruing to a NCLB officer or employee, his or her spouse, child or dependent, whether as the result of a contract with the NCLB or otherwise. For the purpose of this chapter, a NCLB officer or employee shall be deemed to have an "interest" in the contract of:

- i. His/her spouse, children and dependents, except a contract of employment with the NCLB;
- ii. A firm, partnership or association of which such officer or employee is a member or employee;

- iii. A corporation of which such officer or employee is an officer, director or employee; and
- iv. A corporation of which more than five (5) percent of the outstanding capital stock is owned by any of the aforesaid parties.

2. Do any officers or employees of the NCLB have an **interest** in the firm or in any proposer that will be used for this contract?

Yes _____ No _____

If yes, please provide details:

Authorized Company Official shall sign below and type or print information below the signature line:

Name: _____ Title: _____

Date:

SCHEDULE "C"

THIS AGREEMENT, made the _____ day of _____, 2015 by and between

NEWBURGH COMMUNITY LAND BANK, a not-for-profit corporation having its principal office at P.O. Box 152 Newburgh, New York 12551 (hereinafter referred to as the "NCLB")

and

_____, having an office at

(hereinafter referred to as the "Firm")

WHEREAS, on _____, the NCLB Board of Directors (the "Board") authorized the NCLB to enter into a contract with the Firm for the Firm to provide construction services to the NCLB; and

WHEREAS, the NCLB desires to retain the Firm to provide construction services; and

WHEREAS, the Firm desires to provide construction services to the NCLB for the compensation and on the terms herein provided.

NOW, THEREFORE, in consideration of the terms and conditions herein contained, the parties agree as follows:

FIRST: The Firm shall furnish construction services to the NCLB in an "as needed" basis.

The Firm shall have the right not to accept an assignment from the NCLB to serve on a particular matter or matters.

Except as the NCLB President may from time to time specifically authorize or direct, the Firm shall report only to the NCLB President or her designee. All assignments of work to be provided under this Agreement shall be made by the NCLB President or her authorized designee.

SECOND: This Agreement shall commence on January 1, 2016 and shall terminate On December 31, 2017, regardless of the actual date of execution, unless terminated sooner in accordance with the provisions hereinafter set forth.

THIRD: INTENTIONALLY OMITTED.

FOURTH: INTENTIONALLY OMITTED.

FIFTH: For the services rendered pursuant to Paragraph "FIRST", the Firm shall be paid in accordance with the fee schedule attached hereto as Schedule "A". The aggregate maximum amount payable hereunder for this contract and for the contracts entered into between the NCLB and _____ shall not exceed _____ (\$ _____) DOLLARS. The Firm shall obtain the express written consent of the NCLB President prior to incurring any expense with respect to any particular assignment of work in excess of Five Hundred (\$500.00) Dollars during the performance of this Agreement.

The Firm shall properly maintain detailed time, activity and disbursement records relative to and contemporaneous with the services rendered for which compensation is to be paid by the NCLB pursuant to the terms of this Agreement. All bills shall be submitted to the NCLB as on a monthly basis not later than the fifteenth day of the month following the month in which services were rendered. The bills shall include, but not be limited to, the following:

1. Dates services were rendered
2. Names of employees rendering service
3. The transaction for which the services were rendered
4. Nature of service rendered
5. Required time expended

Prior to the making of any payments hereunder, the NCLB may, at its option, audit all files and disbursement records of the Firm as are reasonably pertinent to this Agreement to substantiate the basis for payment. The NCLB shall not be restricted from withholding payment for cause found in the course of such audit or because of failure of the Firm to cooperate with such audit. The NCLB shall, in addition, have the right to audit all files at any time and

disbursement records subsequent to payment if such audit is commenced within one year following the expiration or termination of this Agreement.

SIXTH: INTENTIONALLY OMITTED.

SEVENTH: The parties recognize and acknowledge that the obligations of the NCLB under this Agreement are subject to annual appropriations by its Board of Directors pursuant to its Bylaws and the receipt of grant funds from the State of New York. Therefore, this Agreement shall be deemed executory only to the extent of the monies appropriated and available. The NCLB shall have no liability under this Agreement beyond funds appropriated and available for payment pursuant to this Agreement. The parties understand and intend that the obligation of the NCLB hereunder shall constitute a current expense of the NCLB and shall not in any way be construed to be a debt of the NCLB in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the NCLB, nor shall anything contained in this Agreement constitute a pledge of the general tax revenues, funds or moneys of the City of Newburgh nor Orange County. The NCLB shall pay amounts due under this Agreement exclusively from legally available funds appropriated for this purpose. The NCLB shall retain the right, upon the occurrence of the adoption of any NCLB during the term of this Agreement or any amendments thereto, and for a reasonable period of time after such adoption(s), to conduct an analysis of the impacts of any such NCLB Budget on NCLB finances. After such analysis, the NCLB shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates set forth herein. If the NCLB subsequently offers to pay a reduced amount to the Firm, then the Firm shall have the right to terminate this Agreement upon reasonable prior written notice.

This Agreement is also subject to further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of this Agreement. The NCLB shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on NCLB finances. After such analysis, the NCLB shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved

herein. If the NCLB subsequently offers to pay a reduced amount to the Firm, then the Firm shall have the right to terminate this Agreement upon reasonable prior written notice.

EIGHTH: It is understood and agreed by and between the parties hereto that the services to be rendered by the Firm in performance of this Agreement are a material element of this Agreement. Any failure to provide such services shall be deemed a material breach and this Agreement shall terminate in accordance with the provisions in paragraph “THIRTEENTH” hereof. No substitution of the services of the Firm by another shall be permitted during the term of this Agreement without the express written consent of the NCLB.

NINTH: The parties recognize and understand that the NCLB shall evaluate the performance of this contract by the Firm and shall use such evaluation in deciding to award future contracts to the Firm. It is further recognized and understood that the NCLB shall periodically monitor and record the Firm’s performance during the term of this Contract in accordance with its performance evaluation measures, including but not limited to, quality of work, adherence to its fee schedule and timeliness in response to a request. It is recognized and understood that in accordance with NCLB policy, the Firm’s performance of this Agreement shall be taken into consideration in any future contract awards by the NCLB.

TENTH: The Firm shall issue progress reports to the NCLB as requested and shall immediately inform the NCLB President in writing of any cause for delay in the performance of its obligations under this Agreement.

ELEVENTH: The Firm recognizes that this Agreement is non-exclusive in nature and that the NCLB has also retained other firms to provide these services to the NCLB under separate contracts. The apportionment of assignments as between firms shall be made at the sole discretion of the NCLB. The NCLB reserves the right to enter into similar agreements with other firms on an “as needed” basis.

TWELFTH: It is the goal of the NCLB to use its best efforts to encourage, promote and increase the participation of business enterprises owned and controlled by persons of color or women in contracts and projects funded by the NCLB. Attached hereto and forming a part

hereof as Schedule "B" is a questionnaire entitled "Business Enterprises Owned and Controlled by Persons of Color or Women" which the Firm agrees to complete.

THIRTEENTH: (a) The NCLB, upon ten (10) business days notice to the Firm, may terminate this Agreement in whole or in part when the NCLB deems it to be in its best interest. In such event, the Firm shall be compensated and the NCLB shall be liable only for payment for services already rendered under this Agreement prior to the effective date of termination at the rates specified in Schedule "A". Upon receipt of notice that the NCLB is terminating this Agreement in its best interests, the Firm shall stop work immediately and incur no further costs in furtherance of this Agreement without the express approval of the NCLB, and the Firm shall direct any approved subconsultants to do the same.

In the event of a dispute as to the value of the work rendered by the Firm prior to the date of termination, it is understood and agreed that the NCLB shall determine the value of such work rendered by the Firm. The Firm shall accept such reasonable and good faith determination as final.

(b) In the event the NCLB determines that there has been a material breach by the Firm of any of the terms of the Agreement and such breach remains uncured for forty-eight (48) hours after service on the Firm of written notice thereof, the NCLB, in addition to any other right or remedy it might have, may terminate this Agreement and the NCLB shall have the right, power and authority to complete the work provided for in this Agreement, or contract for its completion, and any additional expense or cost of such completion shall be charged to and paid by the Firm. Without limiting the foregoing, upon written notice to the Firm, repeated breaches by the Firm of duties or obligations under this Agreement shall be deemed a material breach of this Agreement justifying termination for cause hereunder without requirement for further opportunity to cure.

The Firm expressly waives any and all liens of any nature whatsoever arising out of this Agreement.

FOURTEENTH: All records or recorded data of any kind compiled by the Firm in completing the work described in this Agreement, including but not limited to written reports, studies, computer printouts, graphs, charts, plans, specifications and all other similar recorded data, shall become and remain the property of the NCLB. The Firm may retain copies of such records for its own use and shall not disclose any such information without the express written consent of the NCLB. The NCLB shall have the right to reproduce and publish such records, if it so desires, at no additional cost to the NCLB.

Notwithstanding the foregoing, all deliverables created under this Agreement by the Consultant are to be considered "works made for hire." If any of the deliverables do not qualify as "works made for hire," the Firm hereby assigns to the NCLB all right, title and interest (including ownership of copyright) in such deliverables and such assignment allows the NCLB to obtain in its name copyrights, registrations and similar protections which may be available. The Firm agrees to assist the NCLB, if required, in perfecting these rights. The Firm shall provide the NCLB with at least one copy of each deliverable.

The Firm agrees to defend, indemnify and hold harmless the NCLB for all damages, liabilities, losses and expenses arising out of any claim that a deliverable infringes upon an intellectual property right of a third party. If such a claim is made, or appears likely to be made, the Consultant agrees to enable the NCLB's continued use of the deliverable, or to modify or replace it. If the NCLB determines that none of these alternatives is reasonably available, the deliverable may be returned.

FIFTEENTH: Any purported delegation of duties or assignment of rights under this Agreement without the prior express written consent of the NCLB is void. The Firm shall not subcontract any part of the work without the written consent of the NCLB. All subcontracts shall provide that subcontractors are subject to all terms and conditions set forth in this Agreement. All work performed by a sub-contractor for all purposes except for professional malpractice or negligent acts shall be deemed work performed by the Firm.

SIXTEENTH: The Firm agrees to fully inform and review with the NCLB, any matter which could present a conflict of interest, or present the appearance of a conflict of interest, at the earliest possible time.

SEVENTEENTH: The conflict Firm agrees that it has no interest and will not acquire any interest, direct or indirect, that would in any manner or degree with the performance of the services and duties hereunder. The Firm further agrees that, in the performance of this Agreement, no person having any such interest shall be employed by it.

The Firm represents and warrants that it has not employed or retained any person, other than a bona fide full time salaried employee working solely for the Firm to solicit or secure this Agreement, and that it has not paid or agreed to pay any person (other than payments of fixed salary to a bona fide full time salaried employee working solely for the Firm) any fee, commission, percentage, gift or other consideration, contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, without limiting any other rights or remedies to which the NCLB may be entitled or any civil or criminal penalty to which any violator may be liable, the NCLB shall have the right, in its discretion, to terminate this Agreement without liability, and to deduct from the contract price, or otherwise to recover, the full amount of such fee, commission, percentage, gift or consideration.

EIGHTEENTH: The Firm shall comply, at its own expense, with the provisions of all applicable state and municipal requirements and with all state and federal laws including, but not limited to all requirements and laws applicable to the Firm as an employer of labor or otherwise. The Firm shall further comply with all rules, regulations and licensing requirements pertaining to its professional status and that of its employees, partners, associates, subcontractors and others employed to render the services hereunder.

NINETEENTH: In performing its obligations hereunder, the Firm, or any person working on the Firm's behalf, shall not discriminate, harass or intimidate any individual on account of race, creed, color, gender, sex, age, physical disability, national origin, ethnicity, familial status, genetic predisposition or carrier status, during the term of or in connection with this Agreement.

TWENTIETH: In addition to, and not in limitation of the insurance requirements contained in Schedule “C” entitled “Standard Insurance Provisions”, attached hereto and made a part hereof, the Firm agrees:

(a) that except for the amount, if any, of damage contributed to, caused by or resulting from the negligence of the NCLB, the Firm shall indemnify and hold harmless the NCLB, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorneys' fees or loss arising directly or indirectly out of the malpractice or negligent acts, errors, or omissions hereunder by the Firm or third parties under the direction or control of the Firm; and

(b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of the malpractice or negligent acts, errors, or omissions hereunder by the Firm or third parties under the direction or control of the Firm and to bear all other costs and expenses related thereto.

(c) The Firm shall not allow any liens to be placed on NCLB properties. The Firm shall defend and indemnify NCLB against any such liens and shall cause such liens to be removed or shall bond an amount sufficient to satisfy the lien while diligently pursuing dismissal.

TWENTY-FIRST: Nothing herein contained shall create or be construed as creating a co-partnership or agency between the NCLB and the Firm. The Firm's relationship to the NCLB shall be that of an independent contractor.

TWENTY-SECOND: The failure of the NCLB to insist, in any one or more instances, upon strict performance of any term or condition herein contained shall not be deemed a waiver or relinquishment for the future of such term or condition, but the same shall remain in full force and effect. No waiver by the NCLB of any provision hereof shall be implied.

TWENTY-THIRD: All notices of any nature referred to in this Agreement shall be in writing and either sent by registered or certified mail postage pre-paid, or sent by hand or overnight courier, or sent by facsimile (with acknowledgment received and a copy of the

notice sent by overnight courier), to the respective addresses set forth below or to such other addresses as the respective parties hereto may designate in writing. Notice shall be effective on the date of receipt.

To the NCLB:

To the Firm:

All notices shall be effective on the date of mailing.

TWENTY-FOURTH: Attached hereto and forming a part hereof as Schedule “F” is a questionnaire entitled “Required Disclosure of Relationships to NCLB.” The Firm agrees to complete said questionnaire as part of this Agreement. In the event that any information provided in the completed questionnaire changes during the term of this Agreement, Firm agrees to notify NCLB in writing within ten (10) business days of such event.

TWENTY-SEVENTH: This Agreement and its attachments constitute the entire Agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

TWENTY-EIGHTH: This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

TWENTY-NINTH: This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, The NCLB and the Firm have executed this Agreement.

NEWBURGH COMMUNITY LAND BANK

By: _____
Madeline Fletcher
President

Firm

By: _____
(Name and Title)

ACKNOWLEDGMENT

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

On the _____ day of _____ in the year 20__ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Date:

Notary Public

SCHEDULE "D-1"

CONTRACT SCHEDULE "A"
SCOPE OF SERVICES
(to be inserted)

SCHEDULE "D-2"

CONTRACT SCHEDULE "B"

For Informational Purposes Only

**QUESTIONNAIRE REGARDING BUSINESS ENTERPRISES
OWNED AND CONTROLLED BY PERSONS OF COLOR OR WOMEN**

As part of the NCLB's program to encourage the meaningful and significant participation of business enterprises owned and controlled by persons of color or women in NCLB contracts, we request that you answer the questions listed below.

The term persons of color means a United States citizen or permanent resident alien who is and can demonstrate membership of one of the following groups: (a) Black persons having origins in any of the Black African racial groups; (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race; (c) Native American or Alaskan native persons having origins in any of the original peoples of North American; or (d) Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian sub-continent or the Pacific Islands.

An enterprise owned and controlled by persons of color or women means a business enterprise including a sole proprietorship, limited liability partnership, partnership, limited liability corporation or corporation that is (a.) at least 51% owned by one or more persons of color or women; (b.) an enterprise in which such ownership by persons of color or women is real, substantial and continuing; (c.) an enterprise in which such ownership interest by persons of color or women has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; and (d.) an enterprise authorized to do business in this state which is independently owned and operated.

In addition, a business enterprise owned and controlled by persons of color or women shall be deemed to include any business enterprise certified as an MBE or WBE pursuant to Article 15-a of the New York State Executive Law and implementing regulations, 9 NYCRR subtitle N Part 540 et seq., or as a small disadvantaged business concern pursuant to the Small Business Act, 15 U.S.C. 631 et seq., and the relevant provisions of the Code of Federal Regulations as amended.

3. Are you a business enterprise which is owned and controlled by persons of color or women in accordance with the standards listed above?

_____No

_____Yes (as a business owned and controlled by persons of color)

Yes (as a business owned and controlled by women)

4. If you are a business owned and controlled by persons of color, please specify, the minority classifications which apply:

6. Are you certified with the State of New York as a minority business enterprise (“MBE”) or a women business enterprise (“WBE”)?

- No
- Yes (as a MBE)
- Yes (as a WBE)

7. If you are certified with the State of New York as an MBE, please specify the minority classifications which apply:

8. Are you certified with the Federal Government as a small disadvantaged business concern?

- No
- Yes

Name of Firm/Business Enterprise: _____

Address: _____

Name/Title of Person completing MBE/WBE Questionnaire: _____

Signature: _____

SCHEDULE "D-3"

CONTRACT SCHEDULE "C"

STANDARD INSURANCE PROVISIONS

(Firm)

Comprehensive general liability and property damage insurance against claims for personal injury or death, or property damage suffered by others occurring on or about the Premises or any improvement or equipment located thereon, such public liability insurance to afford, with respect to any accident or occurrence, protection to the limits of not less than Five Million Dollars (\$5,000,000) combined single limit for bodily injury and death and for property damage, together with contractual coverage and completed operations, and owner's and contractor's protective liability on the operations of all contractors and subcontractors, respectively; all of such insurance shall, by its terms, be primary and noncontributory with respect to any other insurance carried by NCLB;

Automobile liability and property damage insurance for all owned, non-owned and hired vehicles insuring against liability for bodily injury and death and for property damage to afford protection to the limits of Two Million Dollars (\$2,000,000) combined single limit; such insurance shall, by its terms, be primary and noncontributory with respect to any other insurance carried by NCLB;

Worker's compensation insurance (including \$500,000 employer's liability insurance) providing the statutory benefits required under applicable law.

REQUIRED DISCLOSURE OF RELATIONSHIPS TO NCLB
(Prior to execution of a contract by the NCLB, the selected firm(s) must complete, sign and return this form to the NCLB)

Name of Firm:

C. Related Employees:

1. Are any of the employees that you will use to carry out this contract with the NCLB also an officer or employee of the NCLB, or the spouse, or the child or dependent of such NCLB officer or employee?

Yes _____ No _____

If yes, please provide details:

D. Related Owners:

1. If you are the owner of the firm, are you or your spouse, an officer or employee of the NCLB? _____

Yes _____ No _____

If yes, please provide details:

To answer the following question, the following definition of the word "interest" shall be used:

_____ Interest means a direct or indirect pecuniary or material benefit accruing to a NCLB _____
_____ officer or employee, his or her spouse, child or dependent, whether as the result of a _____
_____ contract with the NCLB or otherwise. For the purpose of this chapter, a NCLB officer
or employee shall be deemed to have an "interest" in the contract of:

- iii. His/her spouse, children and dependents, except a contract of employment with the NCLB;
- iv. A firm, partnership or association of which such officer or employee is a member or employee;

- v. A corporation of which such officer or employee is an officer, director or employee; and
- vi. A corporation of which more than five (5) percent of the outstanding capital stock is owned by any of the aforesaid parties.

2. Do any officers or employees of the NCLB have an **interest** in the firm or in any proposer that will be used for this contract?

Yes _____ No _____

If yes, please provide details:

Authorized Company Official shall sign below and type or print information below the signature line:

Name: Title: _____

Date:

