

# PRELIMINARY OFFICIAL STATEMENT DATED JULY 19, 2023

## NEW ISSUE BOND ANTICIPATION NOTES

RATINGS: See “RATINGS” herein

*In the opinion of Hawkins Delafield & Wood LLP, Bond Counsel to the City, under existing statutes and court decisions and assuming continuing compliance with certain tax certifications described herein, (i) interest on the Notes is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and (ii) interest on the Notes is not treated as a preference item in calculating the alternative minimum tax under the Code, however for tax years beginning after December 31, 2022, interest on the Note is included in the “adjusted financial statement income” of certain corporations that are subject to the alternative minimum tax under Section 55 of the Code. In addition, in the opinion of Bond Counsel to the City, under existing statutes, interest on the Notes is exempt from personal income taxes of New York State and its political subdivisions, including The City of New York. See “Tax Matters” herein.*

*The City will NOT designate the Notes as “qualified tax-exempt obligations” pursuant to the provisions of Section 265(b)(3) of the Code.*

## CITY OF NEWBURGH ORANGE COUNTY, NEW YORK

**\$9,000,000**

### BOND ANTICIPATION NOTES – 2023 SERIES B (the “Notes”)

**Date of Issue: August 10, 2023**

**Maturity Date: August 9, 2024  
(subject to optional redemption)**

The Notes are general obligations of the City of Newburgh, in the County of Orange, New York (the “City”), and will contain a pledge of the faith and credit of the City for the payment of the principal thereof and interest thereon and, unless paid from other sources, the Notes are payable from ad valorem taxes which may be levied upon all the taxable real property within the City, subject to certain statutory limitations imposed by Chapter 97 of the New York Laws of 2011, as amended (the “Tax Levy Limit Law”). (See “*The Tax Levy Limit Law*” herein.)

The Notes are dated the Date of Issue and bear interest from that date until the Maturity Date, or the date set for prior redemption, at the annual rate(s) as specified by the purchaser(s) of the Notes. The Notes will be subject to optional redemption prior to maturity as described herein. (See “*Optional Redemption*” herein.)

The Notes will be issued in registered form and, at the option of the purchaser(s), the Notes will be (i) registered in the name of the successful bidder or (ii) registered to Cede & Co., as the partnership nominee for The Depository Trust Company (“DTC”) as book-entry notes.

If the Notes are registered in the name of the successful bidder, a single note certificate will be issued for those Notes bearing the same rate of interest in the aggregate principal amount awarded to such purchaser at such interest rate. Principal of and interest on such Notes of a series will be payable in Federal Funds by TD Bank, Newburgh, New York, as Paying Agent for the City (the “Paying Agent”), at such bank or trust company located and authorized to do business in the State of New York as selected by the successful bidder.

DTC will act as Securities Depository for those Notes issued as book-entry notes. Individual purchases of such Notes may be made in book-entry form only, in principal amounts of \$5,000 or integral multiples thereof. Purchasers will not receive certificates representing their ownership interests in said Notes issued as book-entry notes. Principal of and interest on such Notes will be paid by the Paying Agent to DTC, which will in turn remit such principal and interest to its Participants for subsequent distribution to the Beneficial Owners of the Notes. The City will not be responsible or liable for payments by DTC to its participants or by DTC participants to beneficial owners or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants. (See “*Description of Book-Entry System*” herein.)

Capital Markets Advisors, LLC has served as the Municipal Advisor to the City in connection with the issuance of the Notes.

The Notes are offered when, as and if issued and received by the purchaser(s) and subject to the receipt of the final approving opinion of Hawkins Delafield & Wood LLP, New York, New York, Bond Counsel. It is anticipated that the Notes will be available for delivery through the offices of DTC or as otherwise agreed upon by the purchaser(s) and the City on or about the Date of Issue.

THIS PRELIMINARY OFFICIAL STATEMENT IS IN A FORM DEEMED FINAL BY THE CITY FOR PURPOSES OF SECURITIES AND EXCHANGE COMMISSION RULE 15c2-12 (THE “RULE”). FOR A DESCRIPTION OF THE CITY’S AGREEMENT TO PROVIDE CONTINUING DISCLOSURE FOR THE NOTES AS DESCRIBED IN THE RULE, SEE “DISCLOSURE UNDERTAKINGS” HEREIN.

Dated: July \_\_, 2023

\* Preliminary, subject to change.

**CITY OF NEWBURGH  
ORANGE COUNTY, NEW YORK**

**Torrance Harvey  
Mayor**

**CITY COUNCIL**

Anthony Grice.....Councilmember  
Giselle Martinez.....Councilmember  
Ramona Monteverde.....Councilmember  
Omari Shakur.....Councilmember  
Robert Sklarz .....Councilmember  
Patricia Sofokles .....Councilmember

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Todd Venning, J.D., M.S. .... City Manager and Director of Finance  
Janice Gaston ..... City Comptroller  
Vickiana DeMora.....City Collector  
Lorene Vitek .....City Clerk  
Michelle Kelson, Esq. .... Corporation Counsel

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**INDEPENDENT AUDITOR  
PKF O'Connor Davies, LLP  
Harrison, New York**

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**BOND COUNSEL  
Hawkins Delafield & Wood LLP  
New York, New York**

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**MUNICIPAL ADVISOR**



**Capital Markets Advisors, LLC  
Hudson Valley \* Long Island \* Southern Tier \* Western New York  
(516) 487-9817**

No dealer, broker, salesperson or other person has been authorized by the City of Newburgh to give any information or to make any representation other than those contained in this Official Statement and, if given or made, such other information or representations must not be relied upon as having been authorized. This Official Statement does not constitute an offer, solicitation or sale. The information estimates and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the City of Newburgh since the date hereof.

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**OFFICIAL STATEMENT**  
**CITY OF NEWBURGH**  
**ORANGE COUNTY, NEW YORK**

**relating to**  
**\$9,000,000**  
**BOND ANTICIPATION NOTES – 2023 SERIES B**

This Official Statement, which includes the cover page and appendices attached hereto, presents certain information relating to the City of Newburgh, in Orange County, in the State of New York (the “City,” “County,” and “State,” respectively), in connection with the sale of \$9,000,000 Bond Anticipation Notes – 2023 Series B (the “Notes”).

All quotations from and summaries and explanations of provisions of the Constitution and laws of the State contained herein do not purport to be complete and are qualified in their entirety by reference to the official compilations thereof. All references to the Notes and the proceedings of the City relating thereto are qualified in their entirety by reference to the definitive form of the Notes and such proceedings.

This Official Statement should be read with the understanding that the ongoing COVID-19 global pandemic, which emerged in early 2020, has affected education, travel, commerce, financial markets globally and economic growth worldwide. Accordingly, the City’s overall economic situation and outlook (and all of the specific City-related information contained herein) should be carefully reviewed, evaluated and understood in the full light of this unprecedented world-wide event.

**INTRODUCTION**

The New York State Legislature enacted Chapter 223 of the Laws of 2010, as amended by Chapter 350 of the Laws of 2011 (the “Act”), authorizing the City to finance the projected deficits in the General Fund, Special Revenue Fund and Capital Project Fund existing at the close of the fiscal year ending December 31, 2010. In a letter dated February 28, 2012, the Office of State Comptroller certified the deficit at \$6,093,846 and on June 27, 2012, the City issued \$6,090,000 General Obligation Deficit Liquidation Serial Bonds, Series 2012B (the “Deficit Bonds”) to liquidate the deficit in the City’s General Fund.

The Act, and the deficit bond resolution of the City Council adopted on July 26, 2010, (the “Resolution”) provides the purchasers of the City’s debt obligations, including the Notes, with special enforcement rights and remedies not usually afforded to the holders of general obligation debt of most other municipalities in the State. (See “FINANCIAL FACTORS”, “*Summary Results of Operations – FY Ended December 31, 2017-2021*” in Appendix A hereto, and Appendix F hereto).

The Notes are general obligations of the City for which the City has pledged its faith and credit. The City has the power to levy ad valorem taxes on all taxable real property within the City for the payment of principal and interest on the Notes, subject to applicable statutory limitations (see “*Tax Levy Limit Law*” in Appendix A hereto). A percentage of all City ad valorem real property taxes, together with any portion of State Aid and such additional amounts of ad valorem real property taxes as the State Comptroller determines necessary to ensure sufficient moneys are available to make scheduled debt service payments, must be deposited, as received, into the Special Debt Service Fund maintained with the State Comptroller. The Special Debt Service Fund is to be maintained until the Act is deemed repealed on August 30, 2025. TD Bank, N.A. serves as depository bank for the Special Debt Service Fund. Only the State Comptroller may direct the distribution of monies in the Special Debt Service Fund. Funds in the Special Debt Service Fund may be used only to pay principal of and interest on bonds of the City, required principal amortization of outstanding bond anticipation notes of the City and accrued interest on note obligations of the City. With respect to tax anticipation notes, interest due at maturity is paid from the Special Debt

Service Fund to the City's paying agent and principal due at maturity is paid from the Special Debt Service Fund to the City's paying agent to the extent receipt of delinquent taxes have been collected and will be paid directly by the City to the Special Debt Service Fund. The balance of any maturing tax anticipation notes, being equal to the amounts of taxes uncollected as of the maturity date, generally may be funded from the proceeds of renewal tax anticipation notes or funds on hand. The City does not have any tax anticipation notes outstanding (See "*Operating Purposes*" under "*Short-Term Indebtedness*" herein).

Statements in this Official Statement, and the documents included by specific reference, that are not historical facts are forward-looking statements, which are based on the City management's beliefs as well as assumptions made by, and information currently available to, the City's management and staff.

## **THE NOTES**

### ***Description***

The Notes will be dated and will mature on the dates as reflected on the cover page hereof. The Notes will be subject to optional redemption prior to maturity as described herein. (See "*Optional Redemption*" herein.) Interest will be calculated on a 30-day month and 360-day year basis, payable at maturity or prior redemption.

Principal of and interest on the Notes will be paid by TD Bank, Newburgh, New York, as Paying Agent for the City (the "Paying Agent") to DTC, which will in turn remit such principal and interest to its Participants for subsequent distribution to the Beneficial Owners of the Notes (see "*Description of Book-Entry System*" herein).

### ***Authority for and Purpose of the Notes***

The Notes are issued pursuant to the Constitution and statutes of the State, including among others, the Local Finance Law and the Act, and a bond resolution duly adopted by the City Council on November 8, 2021 and amended on July 11, 2022, authorizing the issuance of up to \$32,310,000 bonds or notes to finance the Long Term Control Plan Phase III North Interceptor Improvements Project in the City. The proceeds from the sale of the Notes will be used to provide additional original financing in the amount of \$9,000,000. It is expected that the Notes will be redeemed with grant funds anticipated to be received by the City.

### ***Optional Redemption***

The Notes will be subject to redemption prior to maturity, at the option of the City, on any date on or after March 15, 2024, in whole or in part, and if in part selected by lot, at the redemption price equal to par, plus accrued interest to the date of redemption.

The City may select the amount of Notes to be redeemed, as the City shall determine to be in the best interest of the City at the time of such redemption. If less than all of the Notes are to be redeemed prior to maturity, the particular Notes to be redeemed shall be selected by the City by lot in any customary manner of selection as determined by the City. Notice of such call for redemption shall be given by mailing such notice to the registered owner not less than twenty (20) days nor more than thirty (30) days prior to such date. Notice of redemption having been given as aforesaid, the Notes, or a part thereof so called for redemption shall, on the date of redemption set forth in such call for redemption, become due and payable, together with accrued interest to such redemption date, and interest shall cease to be paid thereon after such redemption date.

## ***Description of Book-Entry-Only System***

The Depository Trust Company (“DTC”) will act as securities depository for the Notes issued in book-entry form. Said Notes will be issued as fully-registered notes registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered note certificate will be issued for each Note bearing the same rate of interest and CUSIP number, and will be deposited with DTC.

DTC, the world’s largest depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

Purchases of the Notes under the DTC system must be made by or through Direct Participants, which will receive a credit for the Notes on DTC’s records. The ownership interest of each actual purchaser of each bond (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Notes are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Notes, except in the event that use of the book-entry system for the Notes is discontinued.

To facilitate subsequent transfers, all Notes deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Notes with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Notes; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Notes are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Notes unless authorized by a Direct Participant in accordance with DTC’s Money Market Instruments (MMI) Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the City as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.’s consenting or voting rights to those Direct Participants to whose accounts the Notes are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption notices shall be sent to DTC. If less than all of the Notes within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Payment of redemption proceeds and principal and interest payments on the Notes will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the City, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC or the City, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the City, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Notes at any time by giving reasonable notice to the City. Under such circumstances, in the event that a successor depository is not obtained, bond certificates are required to be printed and delivered.

The City may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, bond certificates will be printed and delivered as applicable.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the City believes to be reliable, but the City takes no responsibility for the accuracy thereof.

Source: The Depository Trust Company

THE INFORMATION CONTAINED IN THE ABOVE SECTION CONCERNING DTC AND DTC'S BOOK-ENTRY SYSTEM HAS BEEN OBTAINED FROM SAMPLE OFFERING DOCUMENT LANGUAGE SUPPLIED BY DTC, BUT THE CITY TAKES NO RESPONSIBILITY FOR THE ACCURACY THEREOF. IN ADDITION, THE CITY WILL NOT HAVE ANY RESPONSIBILITY OR OBLIGATION TO PARTICIPANTS, TO INDIRECT PARTICIPANTS OR TO ANY BENEFICIAL OWNER WITH RESPECT TO: (I) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC, ANY PARTICIPANT OR ANY INDIRECT PARTICIPANT; (II) THE PAYMENTS BY DTC OR ANY PARTICIPANT OR ANY INDIRECT PARTICIPANT OF ANY AMOUNT WITH RESPECT TO THE PRINCIPAL OF, OR PREMIUM, IF ANY, OR INTEREST ON THE NOTES OR (III) ANY NOTICE WHICH IS PERMITTED OR REQUIRED TO BE GIVEN TO NOTEOWNERS.

THE CITY CANNOT AND DOES NOT GIVE ANY ASSURANCES THAT DTC, DIRECT PARTICIPANTS OR INDIRECT PARTICIPANTS OF DTC WILL DISTRIBUTE TO THE BENEFICIAL OWNERS OF THE NOTES (1) PAYMENTS OF PRINCIPAL OF OR INTEREST OR REDEMPTION PREMIUM ON THE NOTES (2) CONFIRMATIONS OF THEIR OWNERSHIP INTERESTS IN THE NOTES OR (3) OTHER NOTICES SENT TO DTC OR CEDE & CO., ITS PARTNERSHIP NOMINEE, AS THE REGISTERED OWNER OF THE NOTES, OR THAT THEY WILL DO SO ON A TIMELY BASIS, OR THAT DTC, DIRECT PARTICIPANTS OR INDIRECT PARTICIPANTS WILL SERVE AND ACT IN THE MANNER DESCRIBED IN THIS OFFICIAL STATEMENT.

THE CITY WILL NOT HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO DTC, THE DIRECT PARTICIPANTS, THE INDIRECT PARTICIPANTS OF DTC OR THE BENEFICIAL OWNERS WITH RESPECT TO (1) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DIRECT PARTICIPANTS OR INDIRECT PARTICIPANTS OF DTC; (2) THE PAYMENT BY DTC OR ANY DIRECT PARTICIPANTS OR INDIRECT PARTICIPANTS OF DTC OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL AMOUNT OF OR INTEREST OR REDEMPTION PREMIUM ON THE NOTES; (3) THE DELIVERY BY DTC OR ANY DIRECT PARTICIPANTS OR INDIRECT PARTICIPANTS OF DTC OF ANY NOTICE TO ANY BENEFICIAL OWNER THAT IS REQUIRED OR

PERMITTED TO BE GIVEN TO OWNERS; OR (4) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS THE REGISTERED HOLDER OF THE NOTES.

## **PAYMENT AND SECURITY FOR THE NOTES**

### ***General***

Each Note when duly issued and paid for will constitute a contract between the City and the owner thereof. Under current law, provision is made for contract creditors, including bond and noteholders of the City, to enforce payments upon such contracts, if necessary, through court action, although the present statute limits interest on the amount adjudged due to creditors to nine per centum per annum from the date due to the date of payment. As a general rule, property and funds of a municipal corporation serving the public welfare and interest have not been judicially subjected to execution or attachment to satisfy a judgment, although judicial mandates have been issued to officials to appropriate and pay judgments out of current funds or the proceeds of a tax levy.

The Constitution of the State requires that every county, city, town, village, and school district in the State provide annually by appropriation for the payment of all interest and principal on its serial bonds and certain other obligations, and that, if at any time the respective appropriating authorities shall fail to make such appropriations, a sufficient sum shall be set apart from the first revenues thereafter received and shall be applied to such purposes. In the event that an appropriating authority were to make appropriation for debt service and then decline to expend it for that purpose, this provision would not apply. However, the Constitution of the State also provides that the fiscal officer of any county, city, town, village, or school district may be required to set apart and apply such revenues at the suit of any holder of any such obligations.

The Notes will be general obligations of the City and will be secured by a pledge of the faith and credit of the City for the payment of the principal thereof and the interest thereon as required by the Constitution and laws of the State. For the payment of such principal and interest, the City has power and statutory authorization to levy ad valorem taxes on all real property within the City subject to taxation by the City, subject to applicable statutory limitations. See “*Tax Levy Limit Law*,” in Appendix A hereto.

Under the Constitution of the State, the City is required to pledge its faith and credit for the payment of the principal of and interest on the Notes and the State is specifically precluded from restricting the power of the City to levy taxes on real estate to pay debt service on obligations issued prior to the effective date of any such State legislation. However, the Tax Levy Limit Law imposes a statutory limitation on the City’s power to increase its annual tax levy. The amount of such increase is limited by the formulas set forth in the Tax Levy Limit Law. See “*Tax Levy Limit Law*,” in Appendix A hereto.

The Notes will be entitled to certain benefits of the provisions of the Act including certain rights of the State Comptroller and City noteholders to require the City to carry out any of its obligations under the Act or enjoin any acts or things which may be unlawful or in violation of the obligations imposed on the City under the Act. Pursuant to the Act the State Comptroller has specific monitoring and enforcement functions. (See “FUNCTIONS OF THE STATE COMPTROLLER” herein and Appendix F).

### ***Special Debt Service Fund***

Pursuant to the Act, the Special Debt Service Fund (as hereinafter defined in Appendix F), established by the City pursuant to the Act and the Resolution, shall be maintained by the City with the State Comptroller for the purpose of paying Special Debt Service until August 30, 2025. “Special Debt Service” means, with respect to a fiscal year, the amounts required for the timely payment of (i) all principal due or becoming due and payable in said year with respect to any serial bonds, tax anticipation notes, capital notes or budget notes of the City, and all principal amortization for said year required by law with respect to bond anticipation notes or other securities of the City not specifically mentioned, (ii) all interest due or becoming due and payable in said year with respect to any serial bonds, bond anticipation notes, tax anticipation notes, revenue anticipation notes, capital notes, budget notes or other



securities of the City not specifically mentioned herein, and (iii) all sinking fund contributions required in said year with respect to any sinking fund bonds.

It should be noted as to tax anticipation notes issued in anticipation of the receipt of taxes for prior, and the current, fiscal years that the principal due thereon is not included in the calculations as to required principal amortization for the fiscal year inasmuch as the extent of receipt of said amounts is not knowable at the beginning of the City's fiscal year. With respect to tax anticipation notes, the principal due at maturity will be paid from the Special Debt Service Fund to the City's paying agent to the extent receipt of delinquent taxes have been collected and will be paid directly by the City to the Special Debt Service Fund. The balance of maturing tax anticipation notes, being equal to the amounts of taxes uncollected as of the maturity date of tax anticipation notes are expected to be funded from the proceeds of renewal tax anticipation notes for a statutory limited number of years, or from cash on hand.

The State Comptroller shall deposit and pay into the Special Debt Service Fund any portion of State aid as the State Comptroller determines necessary to ensure sufficient moneys are available to make scheduled Special Debt Service payments over the succeeding twelve-month period taking account of the City's receipt of City taxes and State aid during such twelve month period and the availability of other amounts appropriated or set aside by the City to make such payments. Other than the initial deposit required to open the Special Debt Service Fund, it has not been necessary to utilize state aid to fund this account as property taxes have been sufficient to fully fund the account.

In addition to State aid, a percentage of the City's ad valorem real property taxes shall be deposited in the Special Debt Service Fund beginning not later than the first day of each fiscal year after issuance of deficit bonds or deficit notes, as follows.

The percentage of all ad valorem real property taxes collected by the City, determined according to the following formula and calculated at the commencement of each fiscal year:

$$\frac{\text{Total Appropriation for Special Debt Service}}{\text{Total City Ad Valorem Real Property Tax Levy less reserve for uncollected taxes}} = \text{Debt Service Percentage}$$

Immediately upon receipt of any payment during such fiscal year of or on account of any City real property taxes, the City, its collecting officer and the agent receiving the same shall remit such payment to the State Comptroller. Of each sum received, the State Comptroller shall deposit and pay into the Special Debt Service Fund the portion thereof equal to the Debt Service Percentage, and shall deposit and pay into the Special Debt Service Fund additional amounts as the State Comptroller determines necessary to ensure sufficient moneys are available to make scheduled Special Debt Service Payments from the Special Debt Service Fund over the succeeding twelve month period taking account of the timing of the City's receipt of City taxes and state aid during such twelve month period and the availability of other amounts appropriated or set aside by the City to make such payments. Thereafter, the State Comptroller shall as soon practicable, pay over the remainder of such sum to the City Comptroller for use by the City in the manner provided by law.

The Special Debt Service Fund has been fully funded since its inception in December 2010. The table on the following page sets forth the pro forma funding of the Special Debt Service Fund for the 2022 and 2023 fiscal years.

**Pro Forma - Special Debt Service Fund**  
**Actual January 2022 – May 2023, Estimated for June 2023 – December 2023**

Month	Deposit to SDSF (a)	Debt Service Payments	Balance in SDSF (b)	Debt Service Coverage (c)	Transfer to General Fund (d)
January 2022	\$ 338,448	\$ 261,808	\$ 576,675	1.91x	NA
February 2022	1,210,058	0	1,786,733	NA	NA
March 2022 (e)	1,667,532	1,623,519	1,830,747	1.10	NA
April 2022	1,302,081	343,271	2,789,556	5.33	NA
May 2022	401,335	67,025	3,123,866	41.62	NA
June 2022	439,066	2,007,245	1,555,687	1.56	NA
July 2022	956,304	1,344,048	1,167,943	1.16	NA
August 2022	9	133,691	1,034,261	8.74	NA

September 2022	16	275,550	758,727	3.75	NA
October 2022	290	0	759,017	NA	NA
November 2022	328	1,050	758,296	722.87	NA
December 2022	290	452,565	306,021	1.68	NA
January 2023	406,234	246,563	465,692	0.36	NA
February 2023	2,316,425	0	2,782,117	NA	NA
March 2023	1,437,791	1,710,263	2,509,645	1.63	NA
April 2023	1,272,532	345,236	3,436,941	7.27	NA
May 2023	1,879,962	71,050	5,245,853	48.37	NA
June 2023	68,352	2,180,122	3,134,082	2.41	NA
July 2023	28,400	1,351,129	1,811,353	2.32	NA
August 2023	17,088	381,410	1,447,031	4.75	NA
September 2023	65	244,925	1,202,171	5.91	NA
October 2023	5	0	1,202,176	NA	NA
November 2023	0	0	1,202,176	NA	NA
December 2023	0	220,392	981,784	5.45	NA

- (a) Deposits are subject to modification by OSC.
- (b) Does not include interest to be earned on Special Debt Service Fund investments.
- (c) Debt Service Coverage is based on the balance in the Special Debt Service Fund as of the last day of the month prior to Debt Service Payment.
- (d) Represents transfer from Special Debt Service Fund to General Fund as the Special Debt Service Fund was fully funded to cover debt service through end of fiscal year.
- (e) Inclusive of interest due on the outstanding bond anticipation notes being redeemed with proceeds from the sale of the Notes.

The Act provides that money or securities in or payable to the Special Debt Service Fund are City property devoted to essential governmental purposes and accordingly, shall not be applied to any purpose other than as provided in the Act and shall not be subject to any order, judgment, lien, attachment, execution, setoff or counterclaim by any creditors of the City other than a creditor for whose benefit the Special Debt Service Fund is established. Principal of bonds of the City maturing in the years 2026 and thereafter together with accrued interest on such bonds payable on or after January 1, 2026 will be paid by the City to DTC directly from its General Fund. (See, however, “Special Rights and Remedies” for a discussion of the effect on the Special Debt Service Fund of the filing of a petition by or on behalf of the City under the Federal Bankruptcy Code or subsequently enacted law governing creditor’s rights).

### **FUNCTIONS OF THE STATE COMPTROLLER**

The Special Debt Service Fund has been established by the City to be maintained with the State Comptroller for the purpose of paying the City’s Special Debt Service until August 30, 2025. Pursuant to the Act, the State Comptroller shall deposit into the Special Debt Service Fund any portion of State aid as the State Comptroller determines is necessary to ensure sufficient monies are available to make scheduled Special Debt Service payments over the succeeding twelve month period taking account of the City’s receipt of City taxes and State aid during such twelve month period and the availability of other amounts appropriated or set aside by the City to make such payments. In addition, the City is required to remit to the State Comptroller any City real property taxes levied and received by the City. The State Comptroller is required to deposit in the Special Debt Service Fund the Debt Service Percentage of such tax receipts and additional amounts of such tax receipts as the State Comptroller determines necessary to ensure sufficient moneys are available to make scheduled debt service payments, and then pay the remainder over to the City Comptroller for the general use of the City.

The State Comptroller is required to withdraw from the Special Debt Service Fund from time to time all amounts needed for the payment of all Special Debt Service as it becomes due and payable.

During the effective period of the Act (which currently extends to August 30, 2025), the City Comptroller shall notify the State Comptroller at least fifteen days prior to the issuance of any bonds or notes or entering into any installment purchase contract and the State Comptroller may review and make recommendations regarding the affordability to the City of any such proposed issuance or contract.

The Act provided for the issuance of deficit bonds in an amount not exceeding the amount of deficits as certified by the State Comptroller. The Act authorized the private sale of such deficit bonds, any bonds issued to refund deficit

bonds and any other bonds to be issued on or before December 31, 2012 subject to approval by the State Comptroller of the terms and conditions of such sales.

On August 30, 2010, the City issued the \$12,000,000 Deficit Notes – 2010B based on then current estimates of such projected deficit. Based on calculations provided by the City’s external auditor, on August 29, 2011, the City issued \$9,000,000 Bond Anticipation Deficit Notes – 2011B, which together with \$3,000,000 of current funds were used to redeem at their maturity on August 30, 2011 the \$12,000,000 Bond Anticipation Deficit Notes – 2010B. In a letter dated February 28, 2012, the Office of State Comptroller certified the deficit at \$6,093,846. The Deficit Bonds, together with \$2,910,000 of funds on hand were used to redeem at their maturity on August 29, 2012 the \$9,000,000 Bond Anticipation Deficit Notes – 2011B.

During the effective period of the Act, the City shall submit the proposed budget for each fiscal year beginning with the 2011 Fiscal Year to the State Comptroller no later than thirty days before the date scheduled for the City Council’s vote on the adoption of the final budget or the last date on which the budget may be adopted, whichever is sooner. The State Comptroller shall examine such proposed budget and make such recommendations as deemed appropriate thereon to the City prior to the adoption of the budget, but no later than ten days before the date scheduled for the City Council’s vote on the adoption of the final budget or the last date on which the budget must be adopted, whichever is sooner. Such recommendations shall be made after examination into the estimates of revenues and expenditures of the City. The City Council, no later than five days prior to the adoption of the budget, shall review such recommendations and make adjustments to the proposed budget consistent with any recommendations by the State Comptroller. The City shall prepare along with the proposed budget for the next succeeding fiscal year, a three-year financial plan covering the next succeeding fiscal year and the two fiscal years thereafter. The financial plan shall also identify actions necessary to achieve and maintain long-term fiscal stability. (See “*Fiscal Recovery Plan*” in Appendix A and City of Newburgh Fiscal Recovery Act in Appendix F hereto).

The City is in compliance with the Act.

### **SPECIAL RIGHTS AND REMEDIES**

In the event that the City shall fail to comply with provisions of the Act, and such non-compliance continues for a period of 30 days, (1) State Comptroller acting alone, or (2) a duly appointed representative of the holders of at least 25% in aggregate principal amount of (i) any series of deficit bonds or notes, (ii) any series of bonds issued to refund such deficit bonds or deficit notes, or (iii) any other series of notes or bonds issued by the City during the effective period of the Act, by instrument or instruments filed in the office of the Clerk of Orange County and proved or acknowledged in the same manner as a deed recorded may bring an action or commence a proceeding in accordance with the civil law and rules to (A) require the City to carry out any of its obligations under the Act or (B) enjoin any acts or things which may be unlawful or in violation of the obligations imposed on the City under the Act. In addition, the duly appointed representative of the holders of any such series of notes or bonds may bring an action or commence a proceeding in accordance with the civil practice law and rules to enforce the rights of the holders of such series of notes or bonds.

The Act does not purport to create any priority for holders of such bonds or notes should the City be under the jurisdiction of any court, pursuant to the laws of the United States, now or hereafter in effect, for the composition or adjustment of municipal indebtedness.

The rights of the owners of bonds or notes to receive interest and principal payments from the City could be adversely affected by the restructuring of the City’s debt under Chapter 9 of the Federal Bankruptcy Code. No assurance can be given that any priority of holders of debt obligations issued by the City (including the Notes) to payment from monies retained in the Special Debt Service Fund or from other cash resources would be recognized if a petition were filed by or on behalf of the City under the Federal Bankruptcy Code or pursuant to other subsequently enacted laws relating to creditors’ rights; such monies might, under such circumstances, be paid to satisfy the claims of all City creditors generally. Judicial enforcement of the City’s obligations to make payments into the Special Debt Service Fund, of the State Comptroller’s obligation to retain certain monies in the Special Debt Service Fund, of the rights of holders of the bonds and notes of the City to monies in the Special Debt Service Fund and of the

obligations of the City under certain covenants of the City and the State under certain covenants of the State, may, under certain circumstances, be within the discretion of the court.

Under the Federal Bankruptcy Code, a petition may be filed in the Federal Bankruptcy court by a municipality which is insolvent or unable to meet its debts as they mature. Generally, the filing of such a petition operates as a stay of any proceeding to enforce a claim against the municipality. The Federal Bankruptcy Code also requires that a plan be filed for the adjustment of the municipality's debt, which may modify or alter the rights of creditors and which could be secured. Any plan of adjustment confirmed by the court must be approved by the requisite number of creditors. If confirmed by the bankruptcy court, the plan would be binding upon all creditors affected by it. Title 6-A of the Local Finance Law provides that a municipality in the State or its emergency control board may file any petition with any United States district court or court of bankruptcy under provision of the laws of the United States now or hereafter in effect, for the composition or adjustment of municipal indebtedness.

In prior years, events and legislation in the State affecting bondholders' remedies upon default have resulted in litigation. While courts of final jurisdiction have upheld and sustained the rights of bondholders, it cannot now be ascertained whether future events and legislation and any litigation arising therefrom would or would not be held by a court of final jurisdiction to render the rights of bondholders subject to the emergency and police powers of the State to deal with various financial crises as they may occur in the State and in municipalities of the State and to assure the continuation of essential services therein.

## **RISK FACTORS**

There are certain potential risks associated with an investment in the Notes, and investors should be thoroughly familiar with this Official Statement, including its appendices, in order to make an informed investment decision. Investors should consider, in particular, the following factors:

The City's credit rating could be affected by circumstances beyond the City's control. Economic conditions such as the rate of unemployment and inflation, termination of commercial operations by corporate taxpayers and employers, as well as natural catastrophes, could adversely affect the assessed valuation of City property and its ability to maintain fund balances and other statistical indices commensurate with its current credit rating. As a consequence, a decline in the City's credit rating could adversely affect the market value of the Notes.

If and when an owner of any of the Notes should elect to sell all or a part of the Notes prior to maturity, there can be no assurance that a market will have been established, maintained and continue in existence for the purchase and sale of any of those Notes. The market value of the Notes is dependent upon the ability of holder to potentially incur a capital loss if such Notes are sold prior to their maturity.

There can be no assurance that adverse events including, for example, the seeking by another municipality in the State or elsewhere of remedies pursuant to the Federal Bankruptcy Act or otherwise, will not occur which might affect the market price of and the market for the Notes. In particular, if a significant default or other financial crisis should occur in the affairs of the State or any of its municipalities, public authorities or other political subdivisions thereby possibly further impairing the acceptability of obligations issued by those entities, both the ability of the City to arrange for additional borrowing(s) as well as the market for and market value of outstanding debt obligations, including the Notes, could be adversely affected.

The City is dependent in part upon financial assistance from the State in the form of State aid as well as grants and loans to be received ("State Aid"). The availability of such monies and the timeliness of such payment may be affected by a delay in the adoption of the State budget, the State's economy and financial condition and other circumstances. State aid appropriated and apportioned to the City can be paid only if the State has such monies available therefore. The City's receipt of State aid may be delayed as a result of the State's failure to adopt its budget timely and/or to appropriate State Aid to municipalities and school districts. Should the City fail to receive all or a portion of the amounts of State Aid expected to be received from the State in the amounts and at the times anticipated, occasioned by a delay in the payment of such moneys or by a reduction in State Aid or its elimination, the City is authorized pursuant to the Local Finance Law ("LFL") to provide operating funds by borrowing in

anticipation of the receipt of such uncollected State Aid, however, there can be no assurance that, in such event, the City will have market access for any such borrowing on a cost effective basis. (See also “*State Aid*” herein.)

In addition, in some recent years, the City’s receipt of State aid was delayed as a result of the County’s delay in disseminating State aid to municipalities within its borders, including the City. If the County should further delay payments to the municipalities within its borders, including the City, in this year or future years, the City may be affected by such a delay.

Future amendments to applicable statutes whether enacted by the State affecting the treatment of interest paid on municipal obligations, including the Notes, for income taxation purposes could have an adverse effect on the market value of the Notes (see “*Tax Matters*” herein).

The enactment of the Tax Levy Limit Law, which imposes a tax levy limitation upon municipalities, school districts and fire districts in the State, including the City, without providing exclusion for debt service on obligations issued by municipalities and fire districts, may affect the market price and/or marketability for the Notes. (See “*The Tax Levy Limit Law*” herein.)

Federal or State legislation imposing new or increased mandatory expenditures by municipalities, school districts and fire districts in the State, including the City could impair the financial condition of such entities, including the City and the ability of such entities, including the City to pay debt service on their respective obligations.

An outbreak of disease or similar public health threat, such as the COVID-19 outbreak, or fear of such an event, could have an adverse impact on the City’s financial condition and operating results by potentially delaying the receipt of real property taxes or resulting in a delay or reduction by the State in the payment of State aid. COVID-19 had spread globally, including to the United States, had been declared a pandemic by the World Health Organization and caused the Federal government to declare a national state of emergency. The State also initially declared a state of emergency and the Governor took steps designed to mitigate the spread and impacts of COVID-19. The outbreak of COVID-19 and the dramatic steps taken by the State to address it negatively impacted the State’s economy and financial condition. (See “*Impacts of COVID-19*” and “*State Aid*” herein).

### ***Impacts of COVID-19***

The federal government has passed several pieces of legislation in response to the COVID-19 pandemic including the \$2.3 trillion Coronavirus Aid, Relief, and Economic Security (“CARES”) Act, which attempt to address financial stability and liquidity issues through a variety of stimulus measures.

On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 on the one-year anniversary of COVID-19 being declared a global pandemic by the World Health Organization. This act is an additional \$1.9 trillion coronavirus relief bill and is one of the biggest stimulus plans in U.S. history. The plan provides \$350 billion in relief to state, local, and tribal governments.

Specifically, eligible uses of the aid include: (i) revenue replacement for the provision of government services to the extent the reduction in revenue is due to the COVID-19 public health emergency relative to revenues collected in the most recent fiscal year prior to the emergency; (ii) premium pay for essential workers; (iii) assistance to small businesses, households, and hard-hit industries, and economic recovery; and (iv) investments in water, sewer and broadband infrastructure. The bill also contains two restrictions on eligible uses: (i) funds cannot be used to directly or indirectly offset tax reductions or delay a tax increase; and (ii) funds cannot be deposited into any pension fund.

The City received approximately \$21.8 million in direct relief – half of which was paid in June 2021 and the second half was paid in June 2022.

## **THE STATE COMPTROLLER'S FISCAL STRESS MONITORING SYSTEM AND COMPLIANCE REVIEWS**

The New York State Comptroller has reported that New York State's school districts and municipalities are facing significant fiscal challenges. As a result, the Office of the State Comptroller ("OSC") has developed a Fiscal Stress Monitoring System ("FSMS") to provide independent, objectively measured and quantifiable information to school district and municipal officials, taxpayers and policy makers regarding the various levels of fiscal stress under which the State's school districts and municipalities are operating.

The fiscal stress scores are based on financial information submitted as part of each school district's ST-3 report filed with the State Education Department annually, and each municipality's annual report filed with the State Comptroller. Using financial indicators that include year-end fund balance, cash position and patterns of operating deficits, the system creates an overall fiscal stress score which classifies whether a school district or municipality is in "significant fiscal stress", in "moderate fiscal stress," as "susceptible to fiscal stress" or "no designation". Entities that do not accumulate the number of points that would place them in a stress category will receive a financial score but will be classified in a category of "no designation." This classification should not be interpreted to imply that the entity is completely free of fiscal stress conditions. Rather, the entity's financial information, when objectively scored according to the FSMS criteria, did not generate sufficient points to place them in one of the three established stress categories.

The most current applicable report of the State Comptroller designates the City as "No Designation." See <http://www.osc.state.ny.us/localgov/fiscalmonitoring/>.

See the State Comptroller's official website for more information on FSMS. Reference to this website implies no warranty of accuracy of information therein.

The financial affairs of the City are subject to periodic compliance reviews by OSC to ascertain whether the City has complied with the requirements of various State and federal statutes. The last audit conducted by OSC was released on October 25, 2012. The purpose of such audit was to examine the City's financial operations for the period January 1, 2010, to June 21, 2011. The complete report can be obtained from the OSC's website.

The City's budget is subject to annual review to determine whether the significant revenue and expenditure projections in the City's proposed budget are reasonable. The last budget review conducted by OSC was released on November 18, 2022. The review found that the City's use of approximately \$4.4 million of fund balance to close gaps in the budget decreases the fund balance that is available to cover unforeseen circumstances. The City has also appropriated approximately \$3.2 million of fund balance in the sewer fund and appropriated \$587,250 of fund balance for the water fund. The water fund only has \$261,871 of fund balance to appropriate. Therefore, the City would have a \$325,379 budgetary shortfall in the water fund. The Comptroller warned the City that it should refrain from including the \$1.1 million revenue and corresponding expenditures in its 2023 adopted budget for the New York State Touring Route Program because there is no assurance the State will appropriate additional money for this program in fiscal year 2023-24. The review also pointed out that the City could potentially face shortfalls based on revenue estimates for sanitation user fees, sewer usage and sale of metered water and that budgeted overtime funding for police (\$850,200) is likely underestimated by at least \$384,000. The proposed budget does not include a contingency appropriation in the General Fund. The review also states that the proposed budget does not include a tax overlay, which could potentially create a revenue shortfall in 2023. The proposed budget includes a tax levy of \$23,630,768, which is \$16,086 from exceeding the tax levy limit. (See also "*COVID-19*" herein for a discussion of the impacts of COVID-19 on the City's budget.)

### **LITIGATION**

The City is subject to a number of lawsuits and claims in the ordinary conduct of its affairs. In the opinion of the Corporation Counsel for the City, unless otherwise set forth herein and apart from matters provided for by applicable insurance coverage, there are no claims pending which, if determined against the City, are likely to have a material adverse effect on the financial condition of the City. The City maintains a self-insured retention in the

amount of \$500,000 per occurrence for all liability claims. The City also maintains an excess general liability insurance policy providing additional coverage up to \$5,000,000 per occurrence and \$5,000,000 in the aggregate.

All claims have been forwarded to the City's administrator of its self-insured risk retention program (see note above detailing risk management policy limitations). The City's liability would be limited to its self-insured retention levels. An estimate of the ultimate amounts due by the City have been accrued in the government-wide Statement of Net Position within claims payable as presented in the City's audited financial statements.

The Department of Environmental Conservation ("DEC") conducted a preliminary site assessment of the former City landfill which characterized the waste present at the site and identified "Company A" as a potentially responsible party. The Environmental Protection Agency ("EPA"), on referral of the DEC, conducted a drum removal action at the site to address approximately 450 barrels of waste material. The EPA identified the City and "Company B" as potentially responsible for the removal action. The City has asserted that Company A is primarily responsible since the barrels containing waste materials were disposed of by them and/or their predecessors which owned and operated the neighboring manufacturing facility and former landfill. In January 2012, the City and the two companies signed a Settlement and Access Agreement for the companies to clean up the site. In August 2020, the DEC notified the City that the site is a potential hazardous waste disposal site and the City has consented to DEC access to conduct further environmental investigation activities. The City is also seeking a "No Ability to Pay" determination from the EPA and the DEC, but the determination remains outstanding. The drum removal clean-up is completed. At this time, this matter had no impact on the City's 2022 financial statements. The City is not able to determine the outcome of this matter.

The City is a defendant in numerous tax certiorari proceedings, the result of which cannot be determined at this time. Any future refunds resulting from adverse settlements will be funded in the year the payments are made.

On May 2, 2016, the City discontinued the use of Washington Lake as the City's primary water supply due to the discovery of Perfluorooctane Sulfonate (PFOS). The detected levels of PFOS were below the provisional health advisory published by the Environmental Protection Agency ("EPA") at the time the water supply was sampled and the PFOS detected. The City took immediate action to access back-up water supply. The Department of Environmental Conservation ("DEC") has undertaken construction of improvements to the City's water filtration plant for the purpose of removing PFOS from the City's primary water supply at Washington Lake. A motion to file late notices of claim against the City for personal injuries allegedly resulting from exposure to PFOS was denied in New York State Supreme Court. A second motion to file late notices of claim was granted in part dismissing property damage claims and denied in part as to personal injuries. All claims were removed to federal court and consolidated into the multi-district AFFF Products Liability Litigation and following preliminary discovery, only fifteen claims remain active, and of the fifteen, only three claims were timely filed. A DEC investigation into the source of the PFOS contamination determined that the PFOS originated at facilities within Stewart Airport, formerly Stewart Air Force Base, by activities conducted by the US Department of Defense. The City has not been identified as a potentially responsible party and no evidence of causation between the PFOS and any of the claimants' injuries have been presented. The City is not able to determine the outcome of this matter.

A claimant filed a complaint against the City alleging civil rights violations based on his claim that he spent more than 9 years in state prison as the result of actions taken by City police officers at the time of his arrest. He was convicted twice but both verdicts were reversed on appeal and the indictment dismissed. If the civil rights violations are established, a trial verdict may exceed excess coverage limits. The excess insurance carrier has been notified. The matter is in the early stages of litigation and there is little chance that the case would go to trial in 2023. The City is not able to determine the outcome of this matter.

## **TAX MATTERS**

### ***Opinion of Bond Counsel***

In the opinion of Hawkins Delafield & Wood LLP, Bond Counsel to the City, under existing statutes and court decisions and assuming continuing compliance with certain tax certifications described herein, (i) interest on the

Notes is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and (ii) interest on the Notes is not treated as a preference item in calculating the alternative minimum tax under the Code, however for tax years beginning after December 31, 2022, interest on the Note is included in the “adjusted financial statement income” of certain corporations that are subject to the alternative minimum tax under Section 55 of the Code. The Tax Certificate of the City (the “Tax Certificate”), which will be delivered concurrently with the delivery of the Notes, will contain provisions and procedures relating to compliance with applicable requirements of the Code. In rendering its opinion, Bond Counsel has relied on certain representations, certifications of fact, and statements of reasonable expectations made by the City and others in connection with the Notes, and Bond Counsel has assumed compliance by the City with certain ongoing provisions and procedures set forth in the Tax Certificate relating to compliance with applicable requirements of the Code to assure the exclusion of interest on the Notes from gross income under Section 103 of the Code.

In addition, in the opinion of Bond Counsel to the City, under existing statutes, interest on the Notes is exempt from personal income taxes of New York State and its political subdivisions, including The City of New York.

Bond Counsel expresses no opinion as to any other federal, state or local tax consequences arising with respect to the Notes, or the ownership or disposition thereof, except as stated above. Bond Counsel renders its opinion under existing statutes and court decisions as of the issue date, and assumes no obligation to update, revise or supplement its opinion to reflect any action thereafter taken or not taken, any fact or circumstance that may thereafter come to its attention, any change in law or interpretation thereof that may thereafter occur, or for any other reason. Bond Counsel expresses no opinion as to the consequence of any of the events described in the preceding sentence or the likelihood of their occurrence. In addition, Bond Counsel expresses no opinion on the effect of any action taken or not taken in reliance upon an opinion of other counsel regarding federal, state or local tax matters, including, without limitation, exclusion from gross income for federal income tax purposes of interest on the Notes.

### ***Certain Ongoing Federal Tax Requirements and Certifications***

The Code establishes certain ongoing requirements that must be met subsequent to the issuance and delivery of the Notes in order that interest on such Notes be and remain excluded from gross income under Section 103 of the Code. These requirements include, but are not limited to, requirements relating to use and expenditure of gross proceeds of the Notes, yield and other restrictions on investments of gross proceeds, and the arbitrage rebate requirement that certain excess earnings on gross proceeds be rebated to the federal government. Noncompliance with such requirements may cause interest on the Notes to become included in gross income for federal income tax purposes retroactive to their issue date, irrespective of the date on which such noncompliance occurs or is discovered. The City, in executing the Tax Certificate, will certify to the effect that the City will comply with the provisions and procedures set forth therein and that it will do and perform all acts and things necessary or desirable to assure the exclusion of interest on the Notes from gross income under Section 103 of the Code.

### ***Certain Collateral Federal Tax Consequences***

The following is a brief discussion of certain collateral federal income tax matters with respect to the Notes. It does not purport to address all aspects of federal taxation that may be relevant to a particular owner of the Notes. Prospective investors, particularly those who may be subject to special rules, are advised to consult their own tax advisors regarding the federal tax consequences of owning and disposing of the Notes.

Prospective owners of the Notes should be aware that the ownership of such obligations may result in collateral federal income tax consequences to various categories of persons, such as corporations (including S corporations and foreign corporations), financial institutions, property and casualty and life insurance companies, individual recipients of Social Security and railroad retirement benefits, individuals otherwise eligible for the earned income tax credit, and taxpayers deemed to have incurred or continued indebtedness to purchase or carry obligations the interest on which is excluded from gross income for federal income tax purposes. Interest on the Notes may be taken into account in determining the tax liability of foreign corporations subject to the branch profits tax imposed by Section 884 of the Code.



## ***Original Issue Discount***

“Original issue discount” (“OID”) is the excess of the sum of all amounts payable at the stated maturity of a Note (excluding certain “qualified stated interest” that is unconditionally payable at least annually at prescribed rates) over the issue price of that maturity. In general, the “issue price” of a maturity (a bond with the same maturity date, interest rate, and credit terms) means the first price at which at least 10 percent of such maturity was sold to the public, i.e., a purchaser who is not, directly or indirectly, a signatory to a written contract to participate in the initial sale of the Notes. In general, the issue price for each maturity of Notes is expected to be the initial public offering price set forth on the cover page of the Official Statement. Bond Counsel further is of the opinion that, for any Notes having OID (a “Discount Obligation”), OID that has accrued and is properly allocable to the owners of the Discount Obligations under Section 1288 of the Code is excludable from gross income for federal income tax purposes to the same extent as other interest on the Notes.

In general, under Section 1288 of the Code, OID on a Discount Obligation accrues under a constant yield method, based on periodic compounding of interest over prescribed accrual periods using a compounding rate determined by reference to the yield on that Discount Obligation. An owner’s adjusted basis in a Discount Obligation is increased by accrued OID for purposes of determining gain or loss on sale, exchange, or other disposition of such Note. Accrued OID may be taken into account as an increase in the amount of tax-exempt income received or deemed to have been received for purposes of determining various other tax consequences of owning a Discount Obligation even though there will not be a corresponding cash payment.

Owners of Discount Obligations should consult their own tax advisors with respect to the treatment of original issue discount for federal income tax purposes, including various special rules relating thereto, and the state and local tax consequences of acquiring, holding, and disposing of Discount Obligations.

## ***Note Premium***

In general, if an owner acquires a note for a purchase price (excluding accrued interest) or otherwise at a tax basis that reflects a premium over the sum of all amounts payable on the note after the acquisition date (excluding certain “qualified stated interest” that is unconditionally payable at least annually at prescribed rates), that premium constitutes “note premium” on that note (a “Premium Obligation”). In general, under Section 171 of the Code, an owner of a Premium Obligation must amortize the note premium over the remaining term of the Premium Obligation, based on the owner’s yield over the remaining term of the Premium Obligation, determined based on constant yield principles (in certain cases involving a Premium Obligation callable prior to its stated maturity date, the amortization period and yield may be required to be determined on the basis of an earlier call date that results in the lowest yield on such bond). An owner of a Premium Obligation must amortize the note premium by offsetting the qualified stated interest allocable to each interest accrual period under the owner’s regular method of accounting against the note premium allocable to that period. In the case of a Premium Obligation, if the note premium allocable to an accrual period exceeds the qualified stated interest allocable to that accrual period, the excess is a nondeductible loss. Under certain circumstances, the owner of a Premium Obligation may realize a taxable gain upon disposition of the Premium Obligation even though it is sold or redeemed for an amount less than or equal to the owner’s original acquisition cost. Owners of any Premium Obligations should consult their own tax advisors regarding the treatment of note premium for federal income tax purposes, including various special rules relating thereto, and state and local tax consequences, in connection with the acquisition, ownership, amortization of note premium on, sale, exchange, or other disposition of Premium Obligations.

## ***Information Reporting and Backup Withholding***

Information reporting requirements will apply to interest on tax-exempt obligations, including the Notes. In general, such requirements are satisfied if the interest recipient completes, and provides the payor with, a Form W-9, “Request for Taxpayer Identification Number and Certification,” or if the recipient is one of a limited class of exempt recipients. A recipient not otherwise exempt from information reporting who fails to satisfy the information reporting requirements will be subject to “backup withholding,” which means that the payor is required to deduct and withhold a tax from the interest payment, calculated in the manner set forth in the Code. For the foregoing

purpose, a “payor” generally refers to the person or entity from whom a recipient receives its payments of interest or who collects such payments on behalf of the recipient.

If an owner purchasing a Note through a brokerage account has executed a Form W-9 in connection with the establishment of such account, as generally can be expected, no backup withholding should occur. In any event, backup withholding does not affect the excludability of the interest on the Notes from gross income for federal income tax purposes. Any amounts withheld pursuant to backup withholding would be allowed as a refund or a credit against the owner’s federal income tax once the required information is furnished to the Internal Revenue Service.

### ***Miscellaneous***

Tax legislation, administrative actions taken by tax authorities, or court decisions, whether at the federal or state level, could adversely affect the tax-exempt status of interest on the Notes under federal or state law or otherwise prevent beneficial owners of the Notes from realizing the full current benefit of the tax status of such interest. In addition, such legislation or actions (whether currently proposed, proposed in the future, or enacted) or such decisions could affect the market price or marketability of the Notes.

Prospective purchasers of the Notes should consult their own tax advisors regarding the foregoing matters.

## **LEGAL MATTERS**

Legal matters incident to the authorization, issuance and sale of the Notes are subject to the approving legal opinion of Hawkins Delafield & Wood LLP, New York, New York, Bond Counsel. The opinion of Bond Counsel will be in substantially the form attached hereto in Appendix D.

## **DISCLOSURE UNDERTAKING**

In order to assist the purchaser(s) in complying with Rule 15c2-12 with respect to the Notes, the City will execute a Certificate to Provide Notices of Events, the form of which is attached hereto as Appendix E.

### ***Compliance History***

The audited financial statements for the fiscal year ended December 31, 2017 were not posted in a timely manner. Such audited financial statements have since been posted and a related notice has been filed. A related event notice has been filed.

## **MUNICIPAL ADVISOR**

Capital Markets Advisors, LLC, Great Neck, New York, (the “Municipal Advisor”) is an independent municipal advisor registered with the SEC and the Municipal Securities Rulemaking Board. The Municipal Advisor has served as the independent financial advisor to the City in connection with this transaction.

In preparing the Official Statement, the Municipal Advisor has relied upon governmental officials, and other sources, who have access to relevant data to provide accurate information for the Official Statement. The Municipal Advisor has not been engaged, nor has it undertaken, to independently verify the accuracy of such information. The Municipal Advisor is not a public accounting firm and has not been engaged by the City to compile, review, examine or audit any information in the Official Statement in accordance with accounting standards. The Municipal Advisor is not a law firm and does not provide legal advice with respect to this or any debt offerings of the City. The Municipal Advisor is an independent advisory firm and is not engaged in the business of underwriting, trading or distributing municipal securities or other public securities and therefore will not participate in the underwriting of the Notes.

## **RATINGS**

The City has not applied to Moody's Investors Service, Inc. ("Moody's") for a rating on the Notes.

On June 21, 2023, Moody's affirmed the City's underlying, uninsured rating of "A3" with a positive outlook.

Such rating reflects only the views of such organizations and any desired explanation of the significance of such rating should be obtained from such rating agency at the following address: Moody's Investors Service, 7 World Trade Center at 250 Greenwich Street, New York, New York 10007. There can be no assurance that such rating will continue for any specified period of time or that such rating will not be revised or withdrawn, if in the judgment of Moody's circumstances so warrant. Any such change or withdrawal of such rating may have an adverse effect on the market price of the or the availability of a secondary market for the Notes.

## **ADDITIONAL INFORMATION**

Additional information may be obtained from Janice Gaston, City Comptroller, City Hall, 83 Broadway, Newburgh, New York 12550, (845) 569-7320, e-mail: [jgaston@cityofnewburgh-ny.gov](mailto:jgaston@cityofnewburgh-ny.gov) or from the City's Municipal Advisor, Capital Markets Advisors, LLC, 11 Grace Avenue, Suite 308, Great Neck, New York 11021, (516) 487-9817.

Any statements in this Official Statement involving matters of opinion or estimates, whether or not expressly so stated, are intended as such and not as representations of fact. No representation is made that any of such statements will be realized. This Official Statement is not to be construed as a contract or agreement between the City and the original purchasers or any subsequent holders of any of the Notes.

Hawkins Delafield & Wood LLP expresses no opinion as to the accuracy or completeness of any documents prepared by or on behalf of the City for use in connection with the offer or sale of the Notes, including this Official Statement. This Official Statement has been prepared only in connection with the sale of the Notes by the City and may not be reproduced or used in whole or in part for any other purpose.

Capital Markets Advisors, LLC may place a copy of this Official Statement on its website at [www.capmark.org](http://www.capmark.org). Unless this Official Statement specifically indicates otherwise, no statement on such website is included by specific reference or constitutes a part of this Official Statement. Capital Markets Advisors, LLC has prepared such website information for convenience, but no decisions should be made in reliance upon that information. Typographical or other errors may have occurred in converting original source documents to digital format, and neither the City nor Capital Markets Advisors, LLC assumes any liability or responsibility for errors or omissions on such website. Further, Capital Markets Advisors, LLC and the City disclaim any duty or obligation either to update or to maintain that information or any responsibility or liability for any damages caused by viruses in the electronic files on the website. Capital Markets Advisors, LLC and the City also assume no liability or responsibility for any errors or omissions or for any updates to dated website information.

The City hereby disclaims any obligation to update developments of the various risk factors or to announce publicly any revision to any of the forward-looking statements contained herein or to make corrections to reflect future events or developments except to the extent required by Rule 15c2-12 promulgated by the Securities and Exchange Commission.

The statements contained in this Official Statement and the appendices hereto that are not purely historical are forward-looking statements. Such forward-looking statements can be identified, in some cases, by terminology such as "may," "will," "should," "expects," "intends," "plans," "anticipates," "believes," "estimates," "predicts," "potential," "illustrate," "example," and "continue," or the singular, plural, negative or other derivations of these or other comparable terms. Readers should not place undue reliance on forward-looking statements. All forward-looking statements included in this Official Statement are based on information available to such parties on the date of this Official Statement, and the City assumes no obligation to update any such forward-looking statements. The

forwardlooking statements included herein are necessarily based on various assumptions and estimates and are inherently subject to various risks and uncertainties, including, but not limited to, risks and uncertainties relating to the possible invalidity of the underlying assumptions and estimates and possible changes or developments in various important factors. Accordingly, actual results may vary from the projections, forecasts and estimates contained in this Official Statement and such variations may be material.

This Official Statement is submitted only in connection with the sale of the Notes by the City and may not be reproduced or used in whole or in part for any other purpose.

CITY OF NEWBURGH  
ORANGE COUNTY, NEW YORK

By: \_\_\_\_\_  
Todd Venning  
City Manager and Director of Finance

DATED: July \_\_, 2023

**APPENDIX A**

**THE CITY**

## **THE CITY**

### ***General Information***

The City, which was incorporated in 1865, is located in the northeastern part of the County on the west bank of the Hudson River approximately 60 miles north of New York City. According to the 2020 U.S. Census, the population of the City is 28,146 and it has a land area of 3.8 square miles. The City is largely residential in character but has many light industries.

### ***Form of Government***

The City has the powers and responsibilities inherent in the operation of a municipal government including independent taxing and debt issuance authority. Subject to the provisions of the State Constitution, the City operates under a charter adopted on May 21, 1917, as amended, and in accordance with other statutes including General City Law, General Municipal Law, the Local Finance Law and the Real Property Tax Law, to the extent that these statutes apply to a city operating with a charter. In its charter, the City has elected to have a managerial form of government. The City Manager, who is appointed by and serves at the pleasure of the City Council, serves as the chief executive officer of the City. The City Council is vested with all legislative authority.

The City Council is the legislative body of the City and consists of four members elected at large to serve four-year terms, plus the Mayor. It is the responsibility of the City Council to approve all legislation, including resolutions, ordinances and local laws, adopt and modify as required, operating and capital budgets, levy real property taxes and authorize the issuance of all indebtedness. In 2012, the City amended its Charter to expand the City Council to seven members, effective for the November elections in 2013. As a seven-member City Council it would take the four votes to pass the budget and five votes to enact a local law in order to override of the Tax Levy Limitation Law.

The Mayor and members of the City Council are elected at a general election for a four-year term and there is no restriction on the number of terms that may be served. As a member of the City Council, the Mayor presides over this body and is eligible to vote on all matters.

As noted above, the City Manager is appointed by the City Council and serves at its pleasure. The City Manager is the chief administrative and executive officer and responsible for the City's day-to-day operations. The City Manager is also an ex-officio, non-voting member of the Council. The City Manager appoints all department heads. Under the City's Charter, the City Manager is designated as the City budget officer responsible for preparing annual operating budgets.

The City Director of Finance and Comptroller are appointed by and serve at the pleasure of the City Manager, however the City Manager may assume the duties and powers of the Director of Finance. The duties of these positions include: the collection of taxes and other revenues and the investment thereof; the disbursement of moneys for payrolls and accounts payable; the maintenance of the City's accounting records; the coordination of debt issuance and the analysis of financial and operational matters. The Director of Finance and Comptroller assist the City Manager with the preparation of the annual operating budget and the administration of the City's employee benefit programs.

### ***Key City Management Positions***

City Manager and Director of Finance. Todd Venning was appointed City Manager of Newburgh on May 23, 2021. He also currently serves as Director of Finance. Todd Venning was previously appointed Director of Finance and Comptroller in February 2019. During his time as Comptroller, Mr. Venning balanced the budget, built the City's reserves and improved the City's credit rating outlook. Mr. Venning has over 10 years of financial, policy and operations experience. He previously served as a senior management analyst at the City of Atlanta's Department of Watershed Management, and as a senior budget analyst in the Tax Policy, Revenue & Economic Analysis Unit within the NYC Office of Management and Budget. Mr. Venning has a Master of Science in Business Administration, with a concentration in finance from the Simon Graduate School of Business. He is a licensed attorney, graduate of Brooklyn Law School, and received his undergraduate degree from University of Rochester.

City Comptroller: Janice Gaston was appointed City Comptroller in July 2021. Ms. Gaston has over 10 years of financial and analytical experience which includes seven years of municipal experience with the New York State Department of Taxation & Finance as a tax auditor. Ms. Gaston has an M.B.A. from Mercy College and a B.S. in Accounting from the State University of New York, College at Old Westbury.

Corporation Counsel: Michelle Kelson, Esq. was appointed in April 2011. From May 2001 through April 2011, Ms. Kelson served as Assistant Corporation Counsel for the City. From 1998 through 2001, Ms. Kelson was associated with the law firm of Gorlick, Kravitz & Listhaus in New York, NY. She began her legal career as an attorney with the Federal Labor Relations Authority from 1991 through 1998. Ms. Kelson is a graduate of Emory Law School and received her undergraduate degree from Cornell University.

### ***Services***

The City provides a full range of municipal services. These services include public safety (police and fire), public works (sanitation, highway and public improvements), park and recreational facilities, public parking, economic development and community development, and general administrative services necessary to serve the citizens of the City. The City also owns and maintains two reservoirs, four water storage tanks with a 5.5 million gallon capacity, a City-wide water distribution system, a sewage treatment plant and a sewage collection system.

Public education is provided by the City School District of the City of Newburgh (the “District”), which serves the City and certain areas outside the City. The District has a separately elected governing body and has independent taxing and debt authority.

### ***Employees***

The City provides services through approximately 264 full-time and part-time union employees.

<u>Employee Organization</u>	<u>Employees</u>	<u>Contract Expiration Date</u>
Civil Service Employees' Assoc.	148	12/31/26
Policemen's Benevolent Assoc.	48	12/31/26
Police Superior Officers Assoc.	16	12/31/21 <sup>(1)</sup>
International Assoc. of Fire Fighters	52	12/31/21 <sup>(1)</sup>

(1) In negotiations.

In addition, the City has a non-bargaining unit for 40 exempt employees that has its terms of employment imposed by the City Manager.

### ***Employee Benefits***

Substantially all employees of the City are members of the New York State and Local Employees Retirement System (“ERS”) or the New York State and Local Police and Fire Retirement System (“PFRS”) (ERS and PFRS are referred to collectively hereinafter as the “Retirement System” where appropriate). The Retirement System is a cost-sharing multiple public employer retirement system. The obligation of employers and employees to contribute and the benefits to employees are governed by the New York State Retirement and Social Security Law (the “Retirement System Law”). The Retirement System offers a wide range of plans and benefits which are related to years of service and final average salary, vesting of retirement benefits, death and disability benefits and optional methods of benefit payments. All benefits generally vest after five years of credited service. The Retirement System Law generally provides that all participating employers in the Retirement System are jointly and severally liable for any unfunded amounts. Such amounts are collected through annual billings to all participating employers. Generally, all employees, except certain part-time employees, participate in the Retirement System. The Retirement System is non-contributory with respect to members hired prior to July 27, 1976. All members hired on or after July 27, 1976 through and including December 31, 2009, must contribute three percent of their gross annual salary toward the costs of retirement programs until they attain ten years in the Retirement System, at such time contributions become voluntary. Members

hired on or after January 1, 2010 must contribute three or more percent of their gross annual salary toward the costs of retirement programs for the duration of their employment.

Additionally, on March 16, 2012, the Governor signed into law the new Tier 6 pension program, effective for new ERS employees hired after April 1, 2012. The Tier 6 legislation provides, among other things, for increased employee contribution rates of between 3% and 6%, an increase in the retirement age from 62 years to 63 years, a readjustment of the pension multiplier, and a change in the time period for final average salary calculation from 3 years to 5 years. Tier 6 employees will vest in the system after five years of employment and will continue to make employee pension contributions throughout employment.

Police officers and firefighters who are members of PFRS are divided into four tiers. As with ERS, retirement benefit plans available under PFRS are most liberal for Tier 1 employees. The plans adopted for PFRS employees are noncontributory for Tier 1 and Tier 2 employees. Police officers and firefighters that were hired between July 1, 2009 and January 8, 2010 are currently in Tier 3, which has a 3% employee contribution rate by members. There is no Tier 4 in PFRS. Police officers and firefighters hired after January 9, 2010 are in Tier 5 which also requires a 3% employee contribution from members. Police officers and firefighters hired after April 1, 2012 are in Tier 6, which also originally had a 3% contribution requirement for members for FY 12-13; however, as of April 1, 2013, Tier 6 PFRS members are required to contribute a specific percentage of their annual salary, as follows, until retirement or until the member has reached 32 years of service credit, whichever occurs first: \$45,000.00 or less contributes 3%; \$45,000.01 to \$55,000.00 contributes 3.5%; \$55,000.01 to \$75,000.00 contributes 4.5%; \$75,000.01 to \$100,000.00 contributes 5.75%; and more than \$100,000.00 contributes 6%.

Beginning July 1, 2013, a voluntary defined contribution plan option was made available to all unrepresented employees of New York State public employers hired on or after that date, and who earn \$75,000 or more on an annual basis.

The New York State Retirement System allows municipalities to make employer contribution payments in December of each year, at a discount, or the following February, as required. The City generally opts to make its pension payments in December in order to take advantage of the discount and expects to make this payment in December 2022 for the upcoming fiscal year.

Due to significant capital market declines in 2008 and 2009, the State's Retirement System portfolio experienced negative investment performance and severe downward trends in market earnings. As a result of the foregoing, the employer contributions for the State's Retirement System continued to be higher than the minimum contribution rate established by Chapter 49. Legislation was enacted that permits local governments and school districts to borrow a portion of their required payments from the State pension plan at an interest rate of 5%. The legislation also requires those local governments and school districts that amortize their pension obligations pursuant to the regulation to establish reserve accounts to fund payment increases that are a result of fluctuations in pension plan performance. The City does not currently amortize any pension payments.

In Spring 2013, the State and ERS approved a Stable Contribution Option ("SCO"), which modified its existing SCO adopted in 2010, that gives municipalities the ability to better manage spikes in Actuarially Required Contribution rates ("ARCs"). The plan allows municipalities to pay the SCO amount in lieu of the ARC amount. The City pays its ERS and PFRS contributions on a pay as you go basis and does not expect to participate in the SCO in the foreseeable future.



**ERS and PFRS Contributions.** The current retirement expenditures presented in the City’s financial statements for each of the last five years and the amounts budgeted for the upcoming fiscal year are shown in the following table:

Fiscal Year Ended December 31:	ERS	PFRS
2018	\$1,019,435	\$2,952,797
2019	999,465	2,837,409
2020	766,582	2,256,135
2021	871,454	2,534,485
2022	1,519,000	3,385,289
2023 (Budget)	1,202,882	2,761,791

Source: Audited Financial Statements and Adopted Budget.

### ***Other Postemployment Benefits***

The City implemented GASB Statement No. 75 (“GASB 75”) of the Governmental Accounting Standards Board (“GASB”), which replaces GASB Statement No. 45 as of fiscal year ended June 30, 2018. GASB 75 requires state and local governments to account for and report their costs associated with post-retirement healthcare benefits and other non-pension benefits, known as other post-employment benefits (“OPEB”). GASB 75 generally requires that employers account for and report the annual cost of OPEB and the outstanding obligations and commitments related to OPEB similarly to GASB Statement No. 68 reporting requirements for pensions.

GASB 75 requires state and local governments to measure a defined benefit OPEB plan as the portion of the present value of projected benefit payments to be provided to current active and inactive employees, attributable to past periods of service in order to calculate the total OPEB liability. Total OPEB liability generally is required to be determined through an actuarial valuation using a measurement date that is no earlier than the end of the employer’s prior fiscal year and no later than the end of the employer’s current fiscal year.

GASB 75 requires that most changes in the OPEB liability be included in OPEB expense in the period of the changes. Based on the results of an actuarial valuation, certain changes in the OPEB liability are required to be included in OPEB expense over current and future years.

The City’s total OPEB liability as of December 31, 2022 was \$217,056,900 using a discount rate of 1.84% and actuarial assumptions and other inputs as described in the City’s December 31, 2022 audited financial statements.

Should the City be required to fund the total OPEB liability, it could have a material adverse impact upon the City’s finances and could force the City to reduce services, raise taxes or both. At the present time, however, there is no current or planned requirement for the City to partially fund its OPEB liability.

At this time, New York State has not developed guidelines for the creation and use of irrevocable trusts for the funding of OPEB. As a result, the City will continue funding this expenditure on a pay-as-you-go basis.

Legislation has been introduced from time to time to create an optional investment pool to help the State and local governments fund retiree health insurance and OPEB. Such proposed legislation would generally authorize the creation of irrevocable OPEB trusts so that the State and its local governments can help fund their OPEB liabilities, establish an OPEB investment fund in the sole custody of the State Comptroller for the investment of OPEB assets of the State and participating eligible local governments, designate the president of the Civil Service Commission as the trustee of the State’s OPEB trust and the governing boards as trustee for local governments and allow school districts to transfer certain excess reserve balances to an OPEB trust once it is established. Under the proposals, there would be no limits on how much a local government can deposit into the trust. The City cannot predict whether such legislation will be enacted into law in the foreseeable future.

## ***Economic Development Activities***

### Adaptive Reuse of Developable Properties:

The City's history as a regional downtown has left an organized footprint that offers much to be desired by both public and private investors. The area is defined by a physically well-organized business district with some of the best architecture preserved in one of the largest historic districts in the State, many ripe for adaptive reuse. This has encouraged Safe Harbors of the Hudson, a \$22 million Low Income Housing Tax Credit project, to invest an additional \$10 million in the development of two commercial spaces, a half-acre park space, and a performing art space. This property, known as the Ritz Theater, will result in 30 full-time jobs for entrepreneurial artistic residents. The overall scope will create a social hub and link downtown activities through arts and culture.

Three blocks away, Baxter Development group is invested \$3.5 million in the redevelopment of a former industrial building into a live-work space with co-working and professional office spaces on a revitalizing former industrial corridor. The Boys and Girls Club is investing in a \$4 million Performing Arts Academy adjacent to a \$24.4 million hotel, conference center, and spa project rehabilitating three marquis former civic buildings, a block away from the private redevelopment of a City-owned City Club building into a food based commercial hub. Additionally, the \$20 million final stage of the Foundry redevelopment will create 60 market rate condo units in a former foundry building. Planned investments also include Regal Bag's \$40 million redevelopment project of a former industrial building to anchor the northern end of the waterfront, The Schoolhouse project which will rehabilitate a mid-century school into a brewery and construct two residential towers on the adjacent former parking lot, and other projects embedded in the Rhinebeck Bank's \$4 million Creative Neighborhood Loan Fund.

### New Large Scale Infill Development:

The City has prioritized the redevelopment of existing buildings, while also targeting new sympathetic infill development. The Kearney Development group has two large-scale mixed-income housing projects approved for construction in the downtown area with a total of over 150 units. Liberty Street Partners is fully approved for the construction of 104 Washington Street which will replace a derelict shell building with a mixed-use, 20-unit project half a block off of the downtown main street. On Broadway, two separate market-rate 50 units residential towers on formerly vacant lots, are before the Planning Board. And on Water Street, the first new construction project since Urban Renewal is proposed to be constructed as an expansion of a popular waterfront restraint and to be the new downtown headquarters for the development group proposing the project. Finally, the Newburgh Ministry is nearing full approval for a 53-unit permanent housing project for the City's unhoused population to ensure equity in housing and development going forward.

### Existing Trail of Historical and Cultural Landmarks:

The City's downtown is dotted by a trail of prominent historical and cultural landmarks which can serve to drive local tourism and help to merge centers of place. This trail includes the nation's first publicly owned historic site, Washington's Headquarters. The site served as the headquarters for General Washington as the American Revolution was nearing completion and is where Washington famously rejected an American monarchy. The site just underwent a \$4 million restoration project for its "Tower of Victory", which was built for the centennial of the Revolutionary War, and which offers unprecedented views of the Hudson River and the Hudson Highlands from its restored viewing deck. Washington's Headquarters is central on Liberty Street, which is becoming a highly concentrated area of investment defined by new shops and restaurants.

The downtown is also home to one of Thomas Edison's first electrical power plants, which served to make Newburgh one of the first electrified cities in the United States. Other sites include 93 Liberty Street (Alsdorf Hall) which served as a stop on the underground railroad, Colonial Terraces (Built by Henry Wright) which served to house workers at Newburgh's Shipyard during World War I, Downing Park (Designed in memoriam to Andrew Jackson Downing by Olmstead and Vaux), Newburgh Heritage Center (Former Orange County Courthouse), and the Dutch Reformed Church at 134 Grand Street which is designated as a National Historic Landmark and has tremendous potential for cultural redevelopment.

### Investment in Arts, Culture and Entrepreneurship:

The City is home to an ever-growing arts scene which is fostering the development of entrepreneurship via mixed-use spaces that house resident artists, galleries, performing arts centers, cultural tours, and public festivals. Examples of this growing scene can be found in development of the Thornwillow Institute and Makers Village, which seeks to promote and perpetuate the art of the printed arts and bookbinding by providing opportunities to entrepreneurs through fellowships, artists, and writers in residency, educational workshops and master classes, job and career training, artistic exhibitions, publications, providing access to specialized equipment, the restoration of historic structures and community outreach activities. The Institute, which was founded in 2015, is making craft production a catalyst for the City's overall revitalization.

Atlas Industries offers another shining example of the City's burgeoning artistic, cultural, and entrepreneurship scene at 11 Spring Street; where their factory houses 45 businesses which range from architecture and development firms, technology companies, and artist and maker spaces. Cultural activities include furniture making workshops, a rotating gallery space, and live performances.

The Ritz Theater project, led by Safe Harbors of the Hudson, is providing for the adaptive reuse of the last remaining historic theater in the City, consisting of \$8 million in improvements which will result in a multi-use performing arts space to supplement the already completed \$22 million arts and housing redevelopment project, which includes 128 units of affordable housing, an art gallery, performing arts venue, 2 vibrant commercial spaces, a half-acre urban park, and 8 artist studio spaces.

Newburgh's local arts scene has also benefited from a \$2 million grant from a local, private foundation, and \$663,000 in planned New Market Tax Credits, as the Boys & Girls Club of Greater Newburgh has purchased and is renovating a long underutilized 21,000 square foot multi-story building in the center of the downtown to establish a new Center for Arts & Education. This facility houses an early childhood education center for 100 children in grades K-2 and also the Newburgh Performing Arts Academy. The Boys & Girls Club of Newburgh's arts program serves over 800 youth and adults each week.

## **FINANCIAL FACTORS**

### ***Budgetary Procedure***

The budget process begins mid-year at which time department heads prepare estimates of revenue and expenditures for the following year. Departmental estimates must be submitted to the City Manager on or about August 15. Subsequently, the City Manager reviews each department's requests, conducts departmental hearings and assembles the preliminary budget.

A preliminary budget is submitted to the Mayor and City Council, generally no later than the second Tuesday in October. The City Council reviews the budget and may make changes or revisions that are not inconsistent with the law. After review of the proposed budget, public sessions are held by the City Council during the months of October and November.

A summary of the budgets for the 2022 and 2023 fiscal years may be found in Appendix B hereto.

A public hearing is held by the City Council on the budget in November at which members of the public may express their views on the budget. Following the public hearing, the City Council may make whatever additional revisions it deems necessary.

See also "*Functions of the State Comptroller*" herein regarding the State Comptroller's annual examination into the estimates of revenues and expenditures of the City in the proposed budget, making of recommendations as deemed appropriate thereon to the City prior to the adoption of the budget, and the requirement for the City Council to review such recommendations and make adjustments to the proposed budget consistent with such recommendations.

Not later than November 20, the Director of Finance receives the revised budget from the City Council and proceeds to prepare the final version for adoption. On or before the last Monday of November, the operating budgets are legally enacted through adoption of an ordinance by the City Council. The budget is not subject to referendum.

Once the budget has been approved, in order to amend the budget during the fiscal year, the City Manager is authorized to transfer budgeted amounts within a department. Further, upon recommendation of the City Manager, the City Council may transfer amounts from one department to another department and from one fund to another or it may decrease the budget appropriations through City Council resolutions.

The City Comptroller may not disburse money in excess of appropriated amounts. Except for personal services and related employee benefits, department heads may transfer budgeted amounts within major objects of expenditures or expense with the approval of the City Manager. Transfers between departments and modifications to personal service related appropriations or the total budget must be authorized by the City Council.

Encumbrance accounting is used to control the budget. Under this method, unfilled purchase orders, contracts or other commitments are recorded in order to reserve that portion of the applicable appropriations. At the end of the year, all appropriations lapse including any amount encumbered. Outstanding encumbrances at year end are recorded as a reservation of the fund balance since they do not constitute current expenditures or liabilities. The budget in the following year is amended to provide the authority to complete these transactions at the proper time.

**The Act – Budgetary Monitoring.** Pursuant to the Act, as well as generally applicable statutory requirements, the City must present a balanced budget to the State Comptroller (See “*Appendix F – City of Newburgh Fiscal Recovery Act*”). For the effective period of the Act, the Act requires the State Comptroller to examine the City's proposed budget and make recommendations thereon to the City prior to the adoption of the budget by the City Council. The City Council is required to make adjustments to the proposed budget consistent with any such recommendations. In addition, while the City is limited by the Tax Levy Limitation Law (the “Law”) to the amount that the tax levy may increase for its succeeding fiscal year, the Law does set forth certain exclusions to the real property tax levy limitation of the City, including the ability of the governing board of the City to adopt a budget that exceeds the tax levy limit for the coming fiscal year.

For each fiscal year during the effective period of the Act, the City Comptroller shall monitor the City’s budget and prepare a quarterly report of summarized budget data depicting overall trends of actual revenue and budget expenditures for the entire budget rather than individual line items. Such reports shall compare revenue estimates and appropriations as set forth in such budget with the actual revenues and expenditures to date. All quarterly reports shall be accompanied by a recommendation by the City Manager setting forth any remedial action necessary to resolve any unfavorable budget variances including the over estimation of revenues and the underestimation of appropriations, and shall be completed within thirty days of the end of each quarter. The above quarterly budgetary reports and quarterly trial balances shall be prepared in accordance with applicable accounting principles incorporated in the uniform system of accounts prescribed by the State Comptroller. These reports shall be submitted to the City Manager, the Mayor, the City Council, the State Director of the Budget, the State Comptroller, the Chair of the Assembly Ways and Means Committee, and the Chair of the Senate Finance Committee.

In 2012, the City amended its Charter to expand the City Council to seven members, effective for the November elections in 2013. As a seven-member City Council it takes four votes to pass the budget and five votes to enact a local law in order to override of the Tax Levy Limitation Law.

Reference is directed to the Act contained herein and the definitive form thereof. (See “*Appendix F – City of Newburgh Fiscal Recovery Act*”).

### ***Financial Statements and Accounting Procedures***

The City maintains its financial records in accordance with the Uniform System of Accounts for Cities prescribed by the State Comptroller. Summary Balance Sheets and the Analysis of Fund Balance and Statements of Revenues and Expenses of the General Fund, the Water Fund and the Sewer Fund for the years 2017 through 2021, which are presented in Appendix B, have been compiled from audited financial information.

The financial records of the City are audited by independent accountants. The City retained the services of PKF O'Connor Davies, LLP to perform the audits for the fiscal years since the fiscal year ending December 31, 2016. These services also include an A-133 Single Audit to ascertain whether the City has complied with the requirements of various State and Federal statutes. The last completed audit made available for public inspection covers the fiscal year ending December 31, 2022. (See Appendix C "General Purpose Financial Statements" independent auditors report, page 1). In addition, the financial affairs of the City are subject to periodic compliance reviews by the Office of the State Comptroller. See "The State Comptroller's Fiscal Stress Monitoring System and Compliance Reviews" herein.

Beginning with the fiscal year ending December 31, 2004 the City has issued its financial statements in accordance with The Government Accounting Standards Board (GASB) Statement No. 34, as required by law. The financial statements include a Management Discussion and Analysis plus Government-Wide Financial Statements that include all City assets and all long-term obligations of the City using the accrual basis of accounting. All current year's revenues and expenses are taken into account regardless of when cash is received or paid.

### ***Investment Policy***

Pursuant to Section 39 of the State's General Municipal Law, the City has an investment policy applicable to the investment of all moneys and financial resources of the City. The responsibility for the investment program has been delegated by the City Council to the Comptroller who is required to establish written operating procedures consistent with the City's investment policy guidelines. According to the investment policy of the City, all investments must conform to the applicable requirements of law and provide for: the safety of the principal; sufficient liquidity; and a reasonable rate of return.

**Authorized Investments.** The City has designated four banks or trust companies which are located and authorized to conduct business in the State and any financial institution specified in the Newburgh Fiscal Recovery Act. to receive deposits of money. The City is permitted to invest in special time deposits or certificates of deposit.

In addition to bank deposits, the City is permitted to invest moneys in direct obligations of the United States of America, obligations guaranteed by agencies of the United States where the payment of principal and interest are further guaranteed by the United States of America and obligations of the State. Other eligible investments for the City include: revenue and tax anticipation notes issued by any municipality, school district or district corporation other than the City (investment subject to approval of the State Comptroller); obligations of certain public authorities or agencies; obligations issued pursuant to Section 109(b) of the General Municipal Law (certificates of participation) and certain obligations of the City, but only with respect to moneys of a reserve fund established pursuant to Section 6 of the General Municipal Law. The City may also utilize repurchase agreements to the extent such agreements are based upon direct or guaranteed obligations of the United States of America. Repurchase agreements are subject to the following restrictions, among others: all repurchase agreements are subject to a master repurchase agreement; trading partners are limited to banks or trust companies authorized to conduct business in the State or primary reporting dealers as designated by the Federal Reserve Bank of New York; securities may not be substituted; and the custodian for the repurchase security must be a party other than the trading partner. All purchased obligations, unless registered or inscribed in the name of the City, must be purchased through, delivered to and held in the custody of a bank or trust company located and authorized to conduct business in the State. Reverse repurchase agreements are not allowed under State law.

**Collateral Requirements.** All City deposits in excess of the applicable insurance coverage provided by the Federal Deposit Insurance Act must be secured in accordance with the provisions of and subject to the limitations of Section 10 of the General Municipal Law of the State. Such collateral must consist of the "eligible securities" eligible surety bonds, or "eligible letters of credit" as described in the Law.

Eligible securities pledged to secure deposits must be held by the depository or third party bank or trust company pursuant to written security and custodial agreements. The City's security agreements provide that the aggregate market value of pledged securities must equal or exceed the principal amount of deposit, the agreed upon interest, if any, and any costs or expenses arising from the collection of such deposits in the event of a default. Securities not registered or inscribed in the name of the City must be delivered, in a form suitable for transfer or with an assignment in blank, to the City or its designated custodial bank. The custodial agreements used by the City provide that pledged

securities must be kept separate and apart from the general assets of the custodian and will not, under any circumstances, be commingled with or become part of the backing for any other deposit or liability. The custodial agreement must also provide that the custodian shall confirm the receipt, substitution or release of the collateral, the frequency of revaluation of eligible securities and the substitution of collateral when a change in the rating of a security may cause ineligibility.

An eligible irrevocable letter of credit may be issued, in favor of the City, by a qualified bank other than the depository bank. Such letters may have a term not to exceed 90 days and must have an aggregate value equal to 140% of the deposit obligations and the agreed upon interest. Qualified banks include those with commercial paper or other unsecured or short-term debt ratings within one of the three highest categories assigned by at least one nationally recognized statistical rating organization or a bank that is in compliance with applicable Federal minimum risk-based capital requirements.

An eligible surety bond must be underwritten by an insurance company authorized to do business in the State which has claims paying ability rated in the highest rating category for claims paying ability by at least two nationally recognized statistical rating organizations. The surety bond must be payable to the City in an amount equal to 100% of the aggregate deposits and the agreed interest thereon.

**Summary Results of Operations – FY Ended December 31, 2018-2022**

The following tables summarize the results of operations for the City’s General Fund. As of December 31, 2022, the City showed a fund balance of \$27,217,383, including an unassigned balance of \$20,799,491.

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
Revenues & Transfers In	\$47,778,130	\$52,326,693	\$56,876,252	\$54,818,814	\$60,795,757
Proceeds of Obligations	0	0	0	0	0
Expenditures & Transfers Out	<u>(47,074,735)</u>	<u>(48,844,294)</u>	<u>(54,208,099)</u>	<u>(48,001,942)</u>	<u>(55,568,743)</u>
Excess(Deficiency) of Revenues Over Expenditures	<u>703,395</u>	<u>3,482,399</u>	<u>2,668,153</u>	<u>6,816,872</u>	<u>5,227,014</u>
Fund Balance – Beginning of Year	11,442,886	9,022,945	12,505,344	15,173,497	21,990,369
Prior Year Adjustments	<u>(3,123,336)</u>	0	0	0	0
Fund Balance – End of Year	<u><u>\$9,022,945</u></u>	<u><u>\$12,505,344</u></u>	<u><u>\$15,173,497</u></u>	<u><u>\$21,990,369</u></u>	<u><u>\$27,217,383</u></u>

Source: Audited Financial Statements. Summary itself not audited.

**Fund Balance - End of Year  
Composed of:**

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
Nonspendable, Restricted, and Assigned	\$4,579,139	\$2,553,708	\$6,311,944	\$6,684,738	\$6,417,892
Unreserved/Unassigned	4,443,806	9,951,636	8,861,553	15,305,631	20,799,491

Source: Audited Financial Statements. Summary itself not audited.

**Fiscal Year 2022 Budget**

The General Fund budget adopted in November 2021 for the City’s fiscal year commencing January 1, 2022 included expenditures and other uses of \$54,554,958; revenues and other sources of \$51,954,958 with an appropriated fund

balance of \$2,600,000, producing a balanced budget. The balanced budget was accomplished with a tax levy increase that was within the confines of the Tax Levy Limitation Law. The budget in its entirety is available on the City's website.

<https://www.cityofnewburgh-ny.gov/Archive.aspx?ADID=181>

The required review of the State Comptroller of the City's fiscal year 2022 budget can be found at

<https://www.osc.state.ny.us/local-government/audits/city/2021/11/10/city-newburgh-budget-review-b21-6-13>

### ***Fiscal Year 2023 Budget***

The General Fund budget adopted in November 2022 for the City's fiscal year commencing January 1, 2023 included expenditures and other uses of \$63,788,058; revenues and other sources of \$59,376,712 with an appropriated fund balance of \$4,411,346 producing a balanced budget. The balanced budget was accomplished with a tax levy increase that was within the limits set by the Tax Levy Limitation Law. The budget in its entirety is expected to be available on the City's website by January 1, 2023.

<https://www.cityofnewburgh-ny.gov/Archive.aspx?AMID=38>

The required review of the State Comptroller of the City's fiscal year 2023 budget can be found at

<https://www.osc.state.ny.us/local-government/audits/city/2022/11/18/city-newburgh-budget-review-b22-6-10>

### ***Fiscal Recovery Plan***

**The Deficit Bonds.** Pursuant to the Act, the City was authorized to issue deficit notes and bonds in the aggregate principal amount not to exceed \$15,000,000. On August 30, 2010, the City issued \$12,000,000 Bond Anticipation Deficit Notes - 2010B based on then current estimates of such projected deficit. Based on calculations provided by the City's external auditor, on August 29, 2011, the City issued \$9,000,000 Bond Anticipation Deficit Notes – 2011B, which together with \$3,000,000 of current funds were used to redeem at their maturity on August 30, 2011 the \$12,000,000 Bond Anticipation Deficit Notes – 2010B. In a letter dated February 28, 2012, the Office of State Comptroller certified the deficit at \$6,093,846. The City's \$6,090,000 General Obligation Deficit Liquidation Serial Bonds, Series 2012B (the "Deficit Bonds"), together with \$2,910,000 of funds on hand were used to redeem the \$9,000,000 Bond Anticipation Deficit Notes – 2011B at their maturity on August 29, 2012.

**The Fiscal Recovery Plan.** The City has implemented strict controls over financial management to prevent future deficits through a fiscal recovery plan. As per the Multiyear Financial Plan dated December 31, 2022, the City is projecting balanced operations in 2023-2026 through the use of appropriated fund balance as required. (see "Multiyear Financial Plan" herein). The fiscal recovery plan included, but was not limited to, the following:

- Strategic use of appropriated fund balance, allowing specific revenue sources time to develop to support and sustain budgetary increases related to the following:
  - Increased equipment and operating costs due to surging global inflation
  - Increased personnel costs resulting from a highly competitive labor market
- Produce additional parking revenue related to recent expansion and upgrade of the City's parking ecosystem
- Implement a Hotel Occupancy Tax and begin revenue collection in CFY 2023
- Raise various City fees
- Reduce overtime in Police and Fire departments
- Maintain City-wide staffing levels steady through CFY 2024

**Multiyear Financial Plan.** The Act requires the City Manager to prepare a three (3) year financial plan covering the next succeeding fiscal year and two fiscal years thereafter, which would at a minimum contain; projected employment levels; projected annual expenditures; reserve fund accounts; estimated annual revenues; and the proposed use of onetime revenue sources. In addition, the financial plan would identify actions necessary to achieve and maintain long-term fiscal stability, including, but not limited to, improved management practices, initiatives to minimize or reduce operating expenses, and potential shared services agreements with other municipalities. The City Manager is required to update the financial plan consistent with the adopted budget and quarterly budget reports. The most recent

Multiyear Financial Plan is dated December 31, 2022 and includes projections for the fiscal years ending December 31, 2023-2026.

The City has identified and initiated significant actions necessary to achieve and maintain long-term fiscal stability. For the fiscal years ended December 31, 2017, 2018, 2019, 2020, 2021 and 2022, the City had operating surpluses of \$1,581,215, \$703,395, \$3,482,399, \$2,668,153, \$6,816,872 and \$5,227,014, respectively.

Unanticipated capital needs may be financed with bond anticipation notes and/or bonds and unanticipated declines in revenues or unanticipated operating expense may, if necessary, be financed temporarily by the issuance of revenue or tax anticipation notes, budget notes or deficiency notes, depending on the circumstances.

**Revenues**

The City derives its principal revenues from real property taxes, sales taxes and State aid. A summary of revenues and other financing sources for the 2018–2022, fiscal years may be found under the Statements of Revenues, Expenditures and Changes in Fund Balance in Appendix B hereto. Also, see “*Summary Results of Operations – Fiscal Years Ended December 31, 2018–2022*” See also “*Tax Levy Limit Law*” herein.

**Real Property Taxes.** The City receives a significant portion of its revenues from real property taxes and assessments. See also “*Tax Levy Limit Law*” herein.

The proceeds of real property taxes are to be deposited directly into the Special Debt Service Fund held by the State Comptroller for the purpose of paying Special Debt Service until August 30, 2025. Such Special Debt Service Fund was established in December 2010 upon the first issuance of deficit notes in August 2010 and will be maintained by the City with the State Comptroller through August 30, 2025. (See “*Special Debt Service Fund*” herein.)

**Real Property Taxes as a % of General Fund Revenues**

	<u>General Fund Revenues</u>	<u>Real Property Taxes Collected</u>	<u>Tax as % GFR</u>
2018	\$47,195,114	\$20,791,465	44.1%
2019	51,619,895	21,147,194	41.0
2020	46,088,444	21,774,799	47.3
2021	52,156,486	22,351,471	42.9
2022	60,434,060	23,435,466	38.8
2023 (Budget)	57,933,932	23,632,551	40.8

(1) General Fund.  
Source: Audited Financial Statements and Adopted Budget of the City. Summary itself not audited.

**Sales Tax Distribution from County.**

**Sales Tax as a % of General Fund Revenues**

	<u>General Fund Revenues</u>	<u>Sales Tax</u>	<u>Sales Tax as % of GFR</u>
2018	\$47,195,114	\$10,906,703	23.1%
2019	51,619,895	11,294,567	21.9
2020	46,088,444	10,541,816	22.9
2021	52,156,486	13,128,058	25.2
2022	60,434,060	14,278,680	23.6
2023 (Budget)	57,933,932	14,765,784	25.5

(1) General Fund.  
Source: Audited Financial Statements and Adopted Budget of the City. Summary itself not audited.



**State Aid.** There is no assurance that State appropriations for aid to municipalities will continue, either pursuant to existing formulas or in any form whatsoever. The State is not constitutionally obligated to maintain or continue such aid.

State aid, in an amount deemed necessary by the State Comptroller to ensure sufficient moneys are available to make Special Debt Service payments, will be deposited directly into the Special Debt Service Fund by the State Comptroller for the purpose of paying Special Debt Service. Such Special Debt Service Fund will be established and maintained by the City Council with the State Comptroller pursuant to the Act.

**State Aid as a % of General Fund Revenues**

	<u>General Fund Revenues</u>	<u>State Aid</u>	<u>State Aid as % GFR</u>
2018	\$47,195,114	\$5,555,190	11.8%
2019	51,619,895	6,874,438	13.3
2020	46,088,444	4,929,957	10.7
2021	52,156,486	6,146,700	11.8
2022	60,434,060	5,801,702	9.6
2023 (Budget)	57,933,932	10,199,271	17.6

(1) General Fund.

Source: Audited Financial Statements and Adopted Budget of the City. Summary itself not audited.

***Expenditures***

The major categories of expenditure for the City are General Government, Public Safety, Public Works, Community Services, Culture and Recreation and Debt Service. A summary of the expenditures for the 2018-2022 fiscal years may be found in Appendix B hereto. Also, see “Summary Results of Operations – FY Ended December 31, 2018–2022.”

**REAL PROPERTY TAXES**

**Constitutional Tax Margin  
Fiscal Year Ending December 31:**

	<u>2022</u>	<u>2023</u>
Tax Limit	\$20,952,973	\$23,349,511
Total Tax Levy	23,029,608	23,632,551
Total Exclusions	<u>10,551,325</u>	<u>10,751,046</u>
Tax Levy Subject to Limit	<u>12,478,283</u>	<u>12,881,505</u>
Constitutional Tax Margin	<u>8,474,690</u>	<u>10,468,006</u>
Percentage of Unused Taxing Power	<u>40.45%</u>	<u>55.71%</u>

## ***Tax Collection Procedures***

The City is responsible for the collection of its own taxes and for the collection of County taxes, both current and delinquent (for taxes levied on property which is located within the City) and delinquent taxes of the District (for taxes levied on property which is located within the City). In addition, commencing with the 1998 tax year, the City has levied delinquent water and sewer bills.

City and County taxes are levied simultaneously, payable in four installments. The first installment is due in February, the second installment is due in May, the third installment is due in June and the final installment is due in August. If an installment payment is not paid in full by the due date, there is a 5% penalty until paid. Tax enforcement is accomplished through judicial foreclosure.

Delinquent County and Newburgh Enlarged City School District (the “District”) taxes are paid by the City to the County and District, respectively, as collected or prior to foreclosure. With respect to District taxes, the District notifies the City by April 15 each year of the amount of uncollected taxes owed to the District. The City must then forward such uncollected taxes by April 30 or pay an interest penalty. Any uncollected District taxes received by the City between May 1 and October 31 will be paid with interest and fees that are retained by the City. The City is required to pay the District in full within two years after the return of the statement of unpaid taxes. Under the City Charter, the County Levy must be paid in full by October 10th of the levy year.

## ***Tax Rates, Levies and Collection Record***

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
City Tax Levy	\$20,619,583	\$22,229,800	\$22,213,661	\$23,029,608	\$23,632,551
Relevied Amounts (1)	1,678,028	1,797,824	1,154,236	1,347,132	3,696,574
County Taxes	3,415,404	3,605,638	4,213,317	4,476,392	4,099,289
Total to be Collected	25,713,015	27,633,262	27,581,214	28,853,132	31,428,414
Amount Collected (2)	24,522,838	26,089,403	25,861,686	26,890,120	15,474,266 <sup>(3)</sup>
% Collected	95.37	94.41	93.77	93.19	65.47
Tax Rates per \$1,000 Of Assessed Valuation:					
Homestead	\$19.66	\$19.60	\$15.68	\$15.07	\$12.98
Non-Homestead	26.79	27.93	23.53	22.03	21.48

- (1) Includes uncollected Water/Sewer and Sanitation taxes from previous years.  
(2) As of the end of each respective fiscal year.  
(3) As of May 30, 2023.

## Major Taxpayers

### Selected Listing of Large Taxable Properties 2022 Assessment Roll for 2023 Taxes

Name	Type	Assessed Valuation	% of Assessed Value <sup>(1)</sup>
Central Hudson Gas & Electric	Utility Company	\$78,800,479	5.30%
Mid Hudson Film LLC	Manufacturing/Storage	11,655,500	0.78
CSX Transportation Inc	Railroad	8,803,230	0.59
Chadwick Gardens Assoc	Apartment Complex	8,800,000	0.59
Verizon New York Inc	Telephone/Telecom	6,615,954	0.45
Newburgh Commercial	Shop Ctr/WHs/Retail	5,792,000	0.39
High Pointe Apartments Owner LLC	Apartment Complex	4,740,000	0.32
Cerone Place LLC	Apartment Complex	4,714,000	0.32
Newburgh Metals Inc	Manufacturer	3,995,000	0.27
Riverfront Realty LLC	Rests/Marina/Ofc/Pking lots	3,889,200	0.26
		<u>\$137,805,363</u>	<u>9.27</u>

(1) Total assessed value for 2023 is \$1,486,059,235.

(2) City of Newburgh IDA is leased by Orange County and is billed to c/o Orange County DPS.

## Tax Levy Limit Law

Prior to the enactment of Chapter 97 of the New York Laws of 2011, as amended (the "Tax Levy Limit Law"), all the taxable real property within the City has been subject to the levy of ad valorem taxes to pay the bonds and notes of the City and interest thereon without limitation as to rate or amount. However, the Tax Levy Limit Law imposes a tax levy limitation upon the City for any fiscal year commencing after January 1, 2012 and thereafter, without providing an exclusion for debt service on obligations issued by the City. As a result, the power of the City to levy real estate taxes on all the taxable real property within the City is subject to statutory limitations set forth in Tax Levy Limit Law.

The following is a brief summary of certain relevant provisions of Tax Levy Limit Law. The summary is not complete and the full text of the Tax Levy Limit Law should be read in order to understand the details and implications thereof.

The Tax Levy Limit Law imposes a limitation on increases in the real property tax levy of the City, subject to certain exceptions. The Tax Levy Limit Law permits the City to increase its overall real property tax levy over the tax levy of the prior year by no more than the "Allowable Levy Growth Factor", which is the lesser of one and two-one hundredths or the sum of one plus the Inflation Factor; provided, however that in no case shall the levy growth factor be less than one. The "Inflation Factor" is the quotient of: (i) the average of the 20 National Consumer Price Indexes determined by the United States Department of Labor for the twelve-month period ending six months prior to the start of the coming fiscal year minus the average of the National Consumer Price Indexes determined by the United States Department of Labor for the twelve-month period ending six months prior to the start of the prior fiscal year, divided by: (ii) the average of the National Consumer Price Indexes determined by the United States Department of Labor for the twelve-month period ending six months prior to the start of the prior fiscal year, with the result expressed as a decimal to four places. The City is required to calculate its tax levy limit for the upcoming year in accordance with the provision above and provide all relevant information to the New York State Comptroller prior to adopting its budget. The Tax Levy Limit Law sets forth certain exclusions to the real property tax levy limitation of the City, including exclusions for certain portions of the expenditures for retirement system contributions and tort judgments payable by the City. The City Council may adopt a budget that exceeds the tax levy limit for the coming fiscal year, only if the City Council first enacts, by a vote of at least sixty percent of the total voting power of the governing board of the City, a local law to override such limit for such coming fiscal year.

The Tax Levy Limit Law does not contain an exception from the levy limitation for the payment of debt service on either outstanding general obligation bonds or notes of the City or such indebtedness incurred after the effective date of the Tax Levy Limit Law. As such, there can be no assurances that the Tax Levy Limit Law will not come under legal challenge for violating (i) Article VIII, Section 12 of the State Constitution for not providing an exception for debt service on obligations issued prior to the enactment of the Tax Levy Limit Law, (ii) Article VIII, Section 10 of the State Constitution by effectively eliminating the exception for debt service to general real estate tax limitations, and (iii) Article VIII, Section 2 of the State Constitution by limiting the pledge of its faith and credit by a municipality or school district for the payment of debt service on obligations issued by such municipality or school district.

## **CITY INDEBTEDNESS**

### ***Constitutional Requirements***

The State Constitution limits the power of the City (and other municipalities and city school districts of the State) to issue obligations and to contract indebtedness. Such constitutional limitations in summary form, and as generally applicable to the City and its obligations include the following:

**Purpose and Pledge.** Subject to certain enumerated exceptions, the City shall not give or loan any money or property to or in aid of any individual, or private corporation or private undertaking or give or loan its credit to or in aid of any of the foregoing or any public corporation.

The City may contract indebtedness only for a City purpose and shall pledge its faith and credit for the payment of principal of and interest thereon.

**Payment and Maturity.** Except for certain short-term indebtedness contracted in anticipation of taxes or to be paid in one of the two fiscal years immediately succeeding the fiscal year in which such indebtedness was contracted, indebtedness shall be paid in annual installments commencing no later than two years after the date such indebtedness shall have been contracted and ending no later than the expiration of the period of probable usefulness of the object or purpose (as determined by statute) or, in the alternative, the weighted average period of probable usefulness of the several objects or purposes for which such indebtedness is to be contracted; no installment may be more than fifty per centum in excess of the smallest prior installment, unless the City has authorized the issuance of indebtedness having substantially level or declining annual debt service. The City is required to provide an annual appropriation for the payment of interest due during the year on its indebtedness and for the amounts required in such year for amortization and redemption of its serial bonds and bond anticipation notes.

**General.** The City is further subject to constitutional limitation by the general constitutionally imposed duty of the State Legislature to restrict the power of taxation and contracting indebtedness to prevent abuses in the exercise of such powers. As has been noted under “Payment and Security for the Notes”, the State Legislature is prohibited by a specific constitutional provision from restricting the power of the City to levy taxes on real estate for the payment of interest on or principal of indebtedness theretofore contracted. However, the Tax Levy Limitation Law imposes a statutory limitation on the City’s power to increase its annual tax levy. The amount of such increase is limited by the formulas set forth in the Tax Levy Limit Law. (See “*Tax Levy Limit Law*” herein.)

**Debt Limit.** The City has the power to contract indebtedness for any City purpose provided the aggregate principal amount of such indebtedness, excluding certain specified types of obligations, shall not exceed seven percent of the average full valuation of the taxable real estate located in the City and subject to certain enumerated exclusions and deductions such as debt contracted to provide water, self-liquidating facilities, certain sewer facilities and cash or appropriations for principal of debt. Pursuant to constitutional and statutory methods, average full valuation is determined by taking the assessed valuation of taxable real estate for the last five assessment rolls and applying thereto the ratio (equalization rate) which such assessed valuation bear to the full valuation, as determined by the NYS Department of Taxation & Finance – Office of Real Property Tax Service (“ORPTS”).

The ORPTS annually establishes State equalization rates for the City and all localities in the State which are determined by statistical sampling of market sales/assessment studies. The equalization rates are used in the

calculation and distribution of certain State aid and are used by many localities in the calculation of debt contracting and real property taxing limitations. The debt contracting and real property taxing limitations are based on a percentage amount of average full valuation.

Preparation of the City assessment roll is the statutory responsibility of the City under the Real Property Tax Law of the State. The ORPTS establishes the assessed valuation of special franchises and the taxable ceiling of railroad property. Special franchises include assessment on certain specialized equipment of utilities under, above, upon or through public streets or public places. Assessments are made on certain properties which are taxable for school purposes but which the City exempts for general municipal purposes.

### ***Statutory Procedure***

In general, the State Legislature, by enactment of the Local Finance Law, has authorized the powers and procedure for the City to borrow and incur indebtedness by the enactment of the Local Finance Law, subject, of course, to the constitutional provisions set forth above. The power to spend money, however, generally derives from other law, including specifically the General Municipal Law of New York State and the City Charter. See "*Tax Levy Limit Law*," herein.

Pursuant to the Local Finance Law, the City authorizes the issuance of bonds by the adoption of a resolution, approved by at least two-thirds of the members of the City Council, the finance board of the City. Customarily the City has delegated to the Director of Finance and Comptroller, as chief fiscal officer of the City, the power to authorize and sell bond anticipation notes in anticipation of authorized bonds.

The Local Finance Law also provides a twenty-day statute of limitations after publication of a bond resolution, together with a statutory form of notice which, in effect, stops legal challenges to the validity of obligations authorized by such bond resolution except for alleged constitutional violations. It is a procedure that is recommended by Bond Counsel, but it is not an absolute legal requirement. Except on rare occasion, the City complied with this estoppel procedure.

Each bond resolution usually authorizes the construction, acquisition or installation of the object or purpose to be financed, sets forth the plan of financing and specifies the maximum maturity of bonds subject to the legal (Constitution, Local Finance Law and case law) restrictions relating to the period of probable usefulness with respect thereto. The City has authorized bonds for a variety of City objects or purposes.

Statutory law in New York permits bond anticipation notes to be renewed each year provided annual principal installments are made in reduction of the total amount of such notes outstanding, commencing no later than two years from the date of the first of such notes, and provided that such renewals do not (with certain exceptions) extend five years beyond the original date or borrowing. However, notes issued in anticipation of bonds for assessable improvements are not subject to such five year limit and may be renewed subject to annual reductions of principal for the entire period of probable usefulness of the purpose for which such notes were originally issued.

In general, the Local Finance Law contains provisions providing the City with power to issue certain other short-term general obligation indebtedness including revenue and tax anticipation notes and budget notes.

***Constitutional Debt-Contracting Limitation***

Pursuant to Article VIII of the New York State Constitution, the debt limit of the City is as follows:

**Computation of Constitutional Debt Contracting Limitation**

Tax Levy Year Ending December 31:	Assessed Valuation	State Equalization Rate	Full Valuation
2019	\$ 907,883,380	100.00	\$ 907,883,380
2020	963,236,334	100.00	963,236,334
2021	1,182,537,988	100.00	1,182,537,988
2022	1,297,660,744	100.00	1,297,660,744
2023	1,486,059,235	100.00	1,486,059,235
Total Five Year Full Valuation			<u>\$5,837,377,681</u>
Average Five Year Full Valuation			<u>1,167,475,536</u>
Debt Limit - 7% of Average Full Valuation			<u><u>\$81,723,288</u></u>

***Statutory Debt Limit and Net Indebtedness***

**Statement of Debt Contracting Power  
As of July 19, 2023**

	Amount	Percentage of Debt Limit
Debt Contracting Limitation:	<u>\$81,723,288</u>	<u>100.00%</u>
Gross Indebtedness:		
Serial Bonds	57,077,237	69.84
Bond Anticipation Notes <sup>(1)</sup>	<u>7,672,221</u>	<u>9.39</u>
Total Gross Indebtedness	<u>64,749,458</u>	<u>79.23</u>
Less Deductions and Exclusions:		
Water Debt	13,727,760	16.80
Sewer Debt <sup>(1)(2)</sup>	20,552,309	25.15
Unexpended Appropriations	<u>93,654</u>	<u>0.11</u>
Total Exclusions	<u>34,373,723</u>	<u>42.06</u>
Net Indebtedness	<u>30,375,735</u>	<u>37.17</u>
Debt Contracting Margin	<u><u>51,265,553</u></u>	<u><u>62.73</u></u>

(1) Includes outstanding short-term financing of \$3,058,859 with New York State Environmental Facilities Corporation (EFC) related to a \$9,375,000 project financing for Storm Water Separation. At long term financing, this loan will be comprised of 50% of the project at market rate financing and 50% at 0% financing. Also includes \$2,568,662 short-term financing with EFC related to a \$7,137,325 project.

(2) Sewer debt exclusion pursuant to Section 124.10 dated July 15, 2022.

## ***Short-Term Indebtedness***

Pursuant to the Local Finance Law, the City is authorized to issue short-term indebtedness, in the form of notes as specified by such statute, to finance both capital and operating purposes.

**Capital Purposes.** Bond anticipation notes may be sold to provide moneys for capital projects once a bond resolution has been adopted. Generally, bond anticipation notes are issued in anticipation of the sale of bonds at some future date and may be renewed from time to time up to five years from the date of the first note. Notes may not be renewed after the second year unless there is a principal payment on such notes from a source other than the proceeds of bonds. In no event may bond anticipation notes be renewed after the sale of bonds in anticipation of which the notes were originally issued.

The City currently has outstanding a \$2,568,662 EFC short-term loan at 0% interest and a \$9,375,000 EFC short-term loan at 0% interest.

**Operating Purposes.** The City is also authorized by law to issue tax anticipation notes and revenue anticipation notes to provide cash to pay operating expenditures. Borrowings for these purposes are restricted by formulas contained in the Local Finance Law and Regulations issued under the U.S. Internal Revenue Code. Such notes may be renewed from time to time generally not beyond three years in the case of revenue anticipation notes and five years for tax anticipation notes.

Budget notes may be issued to finance current operating expenditures for which there is no appropriation or the amount so appropriated is not sufficient. Generally, the amount of budget notes issued may not exceed 5% of the budget and must be redeemed in the next fiscal year.

In common with other cities in the State, the City finds it necessary from time to time to borrow in anticipation of the receipt of its real property taxes. The City has not issued revenue or tax anticipation notes in the last 5 fiscal years and does not plan to issue revenue or tax anticipation notes in the current fiscal year.

**Cash Management/Cash Flow.** The Director of Finance is empowered by the City Charter to invest all monies not immediately required and is empowered by the City Council resolution to borrow monies as needed for the uninterrupted operation of the City, subject to the limitation of the Local Finance Law.

Summaries of cash receipts and cash disbursements provide the basis for establishing borrowing needs. Prior year experience shows that disbursements are fairly consistent for the twelve months of the fiscal year. Real property taxes may be paid in four installments in February, May, June and August without penalty.

## ***Environmental Facilities Corporation***

The City is in the process of financing the following projects through EFC.

- \$12,500,000 CWSRF Project No: C3-7332-11-00 total current approved project amount, with a grant of \$3,125,000. The balance of \$9,375,000 issued through EFC initially as a short-term loan at 0% interest and converting to long-term financing at project completion. Interest on the loan will be compromised of 50% loan amount at 0% and 50% of loan amount at market rate interest.
- \$5,044,700 DWSRF Project No: 18631 total current approved project amount with a grant of \$3,000,000 balance of \$2,044,700 issued through EFC initially as a short-term loan at an initial interest rate of 0.32% per annum.
- \$31,394,650 CWSRF Project No: C3-7332-11-01 total current approved project amount, with grants of \$19,137,325 and federal funding of \$5,120,000; balance of \$7,137,325 financed by City bond anticipation notes initially, redeemed with EFC short-term loan at 0% interest and converting to long-term financing at project completion. Interest on the loan will be compromised of the principal loan amount at 0%. On November 17, 2022, the City issued a \$2,568,662 EFC short-term loan at 0% interest

to fund this project. The Notes are being issued for this project and are expected to be repaid with grand funds.

***Trend of Capital Debt***

The following table provides information relating to direct indebtedness outstanding for the last five fiscal years.

	Fiscal Year Ending December 31:				
	2018	2019	2020	2021	2022
Debt Outstanding End of Year					
Bonds	\$37,960,240	\$35,205,000	\$50,213,506	\$47,548,506	\$43,655,000
EFC Loans Payable	18,286,003	18,732,947	17,061,365	17,364,781	20,477,549
Bond Anticipation Notes	<u>5,297,245</u>	<u>5,055,000</u>	<u>4,862,500</u>	<u>4,670,000</u>	<u>12,885,000</u>
Total Debt Outstanding	<u>\$61,543,488</u>	<u>\$58,992,947</u>	<u>\$72,137,371</u>	<u>\$69,583,287</u>	<u>\$77,017,549</u>

Source: Audited Financial Statements. Summary itself not audited.

***Overlapping and Underlying Debt***

The real property taxpayers of the City are responsible for a proportionate share of outstanding debt obligations of the County and the school districts situated in the City. Such taxpayers' share of this overlapping debt is based upon the amount of the City's equalized property values taken as a percentage of each separate units' total values. The following table presents the amount of overlapping debt and the City's estimated share of this debt. Authorized but unissued debt has not been included.

**Statement of Direct and Overlapping Indebtedness  
As of July 19, 2023**

Gross Direct Indebtedness					\$ 64,749,458
Exclusions and Deductions					<u>34,373,723</u>
Net Direct Indebtedness					<u>\$30,375,735</u>
	<u>Overlapping Units</u>	<u>Date of Report</u>	<u>Net Indebtedness</u>	<u>Percentage Applicable</u>	<u>Applicable Net Indebtedness</u>
	County of Orange	06/29/23	\$212,880,656	2.81%	\$ 5,981,946
	Newburgh City School District	12/27/22	26,250,000	22.49	<u>5,903,625</u>
	Totals				<u>\$11,885,571</u>

Sources: MSRB Electronic Municipal Market Access system.

***Authorized But Unissued Debt***

On July 11, 2022, the City Council adopted an amending bond resolution authorizing the issuance of up to \$31,394,650 bonds or notes to finance the Long-Term Control Plan Phase III North Interceptor Improvements Project in the City. The City also issued its \$2,568,662 EFC grid note pursuant to this resolution. There is \$20,241,338 remaining pursuant to this resolution. On August 8, 2022, the City Council adopted a bond resolution authorizing the issuance of up to \$35,531,976 for floatable control and disinfection project (Phase IV of the long-term control plan). The full amount of this authorization has not been issued.



## Debt Ratios

The following table sets forth certain ratios relating to the City's direct and overlapping capital indebtedness:

	<b><u>Net Direct and Overlapping Indebtedness</u></b>		
	<u>Amount</u>	<u>Per Capita (a)</u>	<u>% of Full Value (b)</u>
Gross Direct Debt	\$64,749,458	\$2,300	4.36%
Net Direct Debt	34,373,735	1,221	2.31
Net Direct & Overlapping Debt	42,261,306	1,502	2.84

- (a) The population of the City is 28,146 according to the 2020 U.S. Census.  
 (b) The full valuation of real property in the City for 2023 is \$1,486,059,235.

## Debt Service Schedule

The following table shows the annual debt service requirements to maturity on the City's outstanding general obligation bonded indebtedness.

Year Ending Dec 31	<u>Outstanding Bonded Debt:</u>			% of Principal Paid
	<u>Principal</u>	<u>Interest</u>	<u>Total</u>	
2023 <sup>(1)</sup>	\$4,539,486	\$1,592,347	\$6,131,833	7.41%
2024	4,606,310	1,613,394	6,219,704	14.92%
2025	4,693,416	1,484,720	6,178,136	22.58%
2026	4,125,381	1,369,088	5,494,469	29.31%
2027	4,127,346	1,248,742	5,376,088	36.04%
2028	4,209,311	1,114,221	5,323,532	42.91%
2029	4,156,276	981,759	5,138,035	49.69%
2030	4,243,241	862,834	5,106,075	56.61%
2031	4,340,206	746,250	5,086,456	63.69%
2032	4,264,250	625,256	4,889,506	70.65%
2033	4,374,250	499,967	4,874,217	77.78%
2034	2,834,250	391,076	3,225,326	82.41%
2035	2,909,250	304,273	3,213,523	87.15%
2036	1,314,250	239,782	1,554,032	89.30%
2037	604,250	196,417	800,667	90.28%
2038	619,250	177,684	796,934	91.29%
2039	634,250	158,200	792,450	92.33%
2040	659,250	137,975	797,225	93.41%
2041	674,250	116,642	790,892	94.51%
2042	689,250	94,592	783,842	95.63%
2043	709,250	71,842	781,092	96.79%
2044	399,250	47,911	447,161	97.44%
2045	409,250	36,380	445,630	98.11%
2046	414,250	24,452	438,702	98.78%
2047	419,250	12,326	431,576	99.47%
2048	109,250	0	109,250	99.64%
2049	109,250	0	109,250	99.82%
2050	109,250	0	109,250	100.00%
Totals	<u>\$61,296,723</u>	<u>\$14,148,130</u>	<u>\$75,444,853</u>	

(1) For the entire fiscal year.

***Principal Amortization by Purpose***

Fiscal Years Ending December 30:	Outstanding Bonds				
	General	Water	Sewer	Sanitation	Total
2023	\$2,938,346	\$ 773,461	\$741,596	\$86,082	\$4,539,486
2024	2,967,782	791,353	759,145	88,030	4,606,310
2025	3,038,388	796,064	769,006	89,958	4,693,416
2026	2,450,055	800,612	783,071	91,643	4,125,381
2027	2,425,006	814,751	793,964	93,625	4,127,346
2028	2,481,579	824,889	807,930	94,913	4,209,311
2029	2,455,211	829,188	794,150	77,727	4,156,276
2030	2,512,267	840,563	811,291	79,120	4,243,241
2031	2,580,528	850,951	828,024	80,703	4,340,206
2032	2,641,525	694,504	845,882	82,339	4,264,250
2033	2,724,607	699,214	866,402	84,027	4,374,250
2034	1,641,545	491,128	686,734	14,843	2,834,250
2035	1,692,165	499,843	701,977	15,265	2,909,250
2036	929,121		385,129		1,314,250
2037	212,806		391,444		604,250
2038	221,493		397,757		619,250
2039	230,177		404,073		634,250
2040	243,209		416,041		659,250
2041	251,894		422,356		674,250
2042	260,579		428,671		689,250
2043	273,605		435,645		709,250
2044			399,250		399,250
2045			409,250		409,250
2046			414,250		414,250
2047			419,250		419,250
2048			109,250		109,250
2049			109,250		109,250
2050			109,250		109,250
	<u>\$35,171,888</u>	<u>\$9,706,521</u>	<u>\$15,440,038</u>	<u>\$978,275</u>	<u>\$61,296,723</u>

## ECONOMIC AND DEMOGRAPHIC DATA

The following tables present certain comparative demographic and statistical information regarding the City, the County, the State and the United States.

### *Population*

The table below shows population statistics for the City for the last four censuses, with comparable information for the County and State.

<u>Population</u>			
<u>Year</u>	<u>City</u>	<u>County</u>	<u>State</u>
1980	23,438	259,603	17,558,165
1990	26,454	307,647	17,990,778
2000	28,259	341,367	18,976,457
2010	28,866	372,813	19,378,102
2020	28,146	382,077	20,201,249

Source: U.S. Department of Commerce, Bureau of the Census (American FactFinder).

### *Income*

<u>Per Capita Money Income</u>			
	<u>2010</u>	<u>2020</u>	<u>% Change</u>
City	\$15,897	\$22,425	41.1%
County	28,944	35,616	23.1
State	30,948	40,898	32.2

Source: U.S. Department of Commerce, Bureau of the Census (American Community Survey 5-Year Estimates).

### *Employment*

The table below shows the annual average employed labor force for the City, County and State.

	<u>Average Employed Civilian Labor Force</u>				
	<u>2000-2020</u>				
	<u>2000</u>	<u>2010</u>	<u>2020</u>	<u>% Change</u>	
				<u>2000-2010</u>	<u>2010-2020</u>
City	10,800	11,600	12,500	7.4%	7.8%
County	155,800	166,800	183,300	7.1	9.9
State	8,718,700	8,769,700	9,289,200	0.6	5.9

Source: New York State Department of Labor.

**Average Unemployment Rates**

<u>Year</u>	<u>City</u>	<u>County</u>	<u>State</u>	<u>United States</u>
2018	5.1%	3.9%	4.1%	3.9%
2019	4.9	3.6	3.8	3.7
2020	10.9	8.0	9.9	8.1
2021	6.7	4.7	6.9	5.4
2022	4.7	3.1	4.4	3.7

Source: New York State Department of Labor and U.S. Bureau of Labor Statistics.

**Major Non-Governmental Employers in the County  
(400+ Employees)**

<u>Name</u>	<u>Type</u>	<u>Approx. No. of Employees</u>
United States Military Academy at West Point	College & Technical Institute	4,000
Orange Regional Medical Center	Hospital	2,524
Crystal Run Healthcare	Physician Specialty Practice	2,050
Access: Supports for Living	Rehabilitation Services	1,400
St. Luke's/Cornwall Hospital	Hospital	1,247
Elant Inc.	Senior Health and Housing	1,200
Amscan Inc.	Manufacturing and Distribution	800
C&S Wholesale Grocers Inc.	Distribution Center	800
Empire Blue Cross / Blue Shield	Health Insurance	795
Spectrum Enterprise	Communications	750
Bon Secours Community Hospital	Hospital	598
Cornerstone Family Healthcare	Healthcare	550
Amscan, Inc.	Distribution	525
Arc of Orange County	Non-Profit Organizations	525
Here's Help Staffing & Recruiting	Staffing Services	500
Horizon Family Medical Group	Health Care	500
Kolmar Laboratories Inc.	Cosmetics / Personal Care Manufacturing	500
Mirabito Energy Products	Distribution - Fuel	500
Staples Inc.	Distribution Center - Office Supplies	460
Verla International Ltd.	Cosmetics Manufacturing	445
YRC Worldwide	Cargo & Freight	435
SUNY Orange	Education	418
Adecco	Staffing Service	400
United Natural Foods, Inc.	Food Manufacturer	400

Source: 2022 official statement for Orange County dated November 10, 2022.

## *Housing Data*

### **Median Housing Values and Rents 2020**

	<u>Median Value Owner Occupied Units</u>	<u>Median Rents Renter Occupied Units</u>	<u>Owner Occupied</u>
City	\$159,500	\$1,139	32.1%
County	278,400	1,294	67.8
State	325,000	1,315	54.1

Source: U.S. Department of Commerce, Bureau of the Census.

## *Educational, Cultural and Medical Institutions*

**Education.** There are several colleges and universities located in the area of the City. Mt. Saint Mary's College, a liberal arts college, is located in the City. It serves not only as an institution of higher learning, but also as a civic and cultural center. Orange County Community College maintains a campus in the City. Other colleges and universities in the area include the United States Military Academy at West Point, Vassar College and Marist College in Poughkeepsie, State University of New York at New Paltz, and the main campus of Orange County Community College in MiddleCity.

**Cultural.** Library services are provided to the residents by the City School District. The library has books, periodicals and other materials in excess of 200,000 volumes. Also located in the City is the Crawford House (1829), a Cityhouse once owned by sea captain David Crawford, which provides an example of Greek revival style architecture. Of historical significance, General George Washington used a site, now a national historic monument, within the City as a headquarters during the Revolutionary War. At the same time, General Washington's troops were encamped at the nearby New Windsor Cantonment.

**Medical.** Hospital services are provided by St. Luke's Hospital ("St. Luke's") located in the City. St. Luke's is a 242-bed facility with more than 900 employees including a medical staff of 115 professionals.

## *Financial Institutions*

The following commercial banks serve City residents: Banc of America, Citizens Bank, Key Bank and TD Bank NA.

## *Transportation*

The City enjoys the benefits of a favorable transportation system. Two interstate highways, the New York State Thruway (I-87), and Interstate 84 serve the City; while the Newburgh-Beacon Bridge spans the Hudson River. Other major arteries include State highways 9W, 17K, 207, and 32. There is also local and interstate bus service. Commercial and passenger air transportation is conveniently located in the City of Newburgh at Stewart International Airport and the City is also located just two hours from the three major airports that serve the New York City area (Kennedy, LaGuardia, and Newark).

## *Utilities*

Electricity and natural gas are supplied to the City by CH Energy Group, Inc. Telephone service is provided by Time Warner Cable and Verizon. The City provides sewer facilities and water supply and distribution to its residents, and is responsible for financing the construction, operation and maintenance of these systems. The City bills its residents directly for these services.

### *Communications*

The City is served by the major New York metropolitan area newspapers, radio and television stations. In addition, the City has two local weekly newspapers and one radio station. Time Warner Cable Company and Verizon provide telephone, internet and cable television service within the City.

**END OF APPENDIX A**

**APPENDIX B**

**SUMMARY OF FINANCIAL STATEMENTS AND BUDGETS**

**CITY OF NEWBURGH  
GENERAL FUND  
BALANCE SHEET**

AS OF DECEMBER 31:

<b>ASSETS</b>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
Cash and Equivalents	\$ 11,343,921	\$ 15,398,726	\$ 13,576,366	\$ 19,559,294	\$ 20,996,803
Investments	0	0	0	10,907,507	17,302,943
Accounts Receivables (Net)	752,388	413,335	327,539	452,242	448,021
Taxes Receivables (Net)	4,208,924	3,564,477	4,312,050	4,452,570	4,703,159
Due From Other Governments	3,707,483	4,658,405	4,064,457	3,885,613	4,774,116
Due From Other Funds	0	876,027	958,431	1,739,524	3,025,772
Prepaid Items	<u>906,595</u>	<u>931,425</u>	<u>924,855</u>	<u>1,036,501</u>	<u>932,731</u>
<b>Total Assets</b>	<b>\$ <u>20,919,311</u></b>	<b>\$ <u>25,842,395</u></b>	<b>\$ <u>24,163,698</u></b>	<b>\$ <u>42,033,251</u></b>	<b>\$ <u>52,183,545</u></b>
<b>LIABILITIES AND FUND EQUITY</b>					
<b>Liabilities:</b>					
Accounts Payable	\$ 852,452	\$ 650,450	\$ 436,462	\$ 693,145	\$ 988,666
Accrued Liabilities	689,075	2,127,404	1,074,570	2,005,770	221,736
Due To Component Unit	0	0	0	0	0
Deposits Payable	0	1,665,258	1,481,501	1,482,722	1,503,084
Employee Payroll Tax Deductions	0	63,525	66,643	97,208	249,854
Due To Other Governments	9,449	10,047	3,042	3,261	28,311
Due To School Districts	1,194,105	1,259,434	949,388	4,599	24,132
Due To Other Funds	4,746,258	3,522,398	302,150	17,476	48,278
Overpayments	180,154	207,941	199,316	207,274	249,004
Deferred Tax Revenues	3,578,563	3,295,551	3,968,143	4,134,939	4,205,882
Unearned Revenues	<u>646,310</u>	<u>535,043</u>	<u>508,986</u>	<u>11,396,488</u>	<u>17,447,215</u>
<b>Total Liabilities</b>	<b><u>11,896,366</u></b>	<b><u>13,337,051</u></b>	<b><u>8,990,201</u></b>	<b><u>20,042,882</u></b>	<b><u>24,966,162</u></b>
<b>Fund Equity:</b>					
Nonspendable	906,595	931,425	924,855	1,036,501	932,731
Restricted	1,610,484	1,622,283	2,587,089	1,829,738	1,086,631
Assigned	2,062,060	0	2,800,000	3,818,499	4,398,530
Unassigned	<u>4,443,806</u>	<u>9,951,636</u>	<u>8,861,553</u>	<u>15,305,631</u>	<u>20,799,491</u>
<b>Total Fund Equity</b>	<b><u>9,022,945</u></b>	<b><u>12,505,344</u></b>	<b><u>15,173,497</u></b>	<b><u>21,990,369</u></b>	<b><u>27,217,383</u></b>
<b>Total Liabilities and Fund Equity</b>	<b>\$ <u>20,919,311</u></b>	<b>\$ <u>25,842,395</u></b>	<b>\$ <u>24,163,698</u></b>	<b>\$ <u>42,033,251</u></b>	<b>\$ <u>52,183,545</u></b>

The financial data presented on this page has been excerpted from the audited financial statements of the City. Such presentation, however, has not been audited. Complete copies of the City's audited financial statements are available upon request.



**CITY OF NEWBURGH  
GENERAL FUND  
STATEMENT OF REVENUES, EXPENDITURES  
AND CHANGES IN FUND BALANCE**

YEARS ENDED DECEMBER 31:

	2018	2019	2020	2021	2022
<b>REVENUES:</b>					
Real Property Taxes	\$ 20,791,465	\$ 21,147,194	\$ 21,774,799	\$ 22,351,471	\$ 23,435,466
Other Tax Items	1,777,255	2,227,169	1,709,075	2,106,809	1,457,836
Non-property taxes	12,697,526	13,027,620	12,123,867	14,941,863	16,582,103
Departmental Income	1,079,576	1,111,908	801,770	1,023,596	1,076,116
Intragovernmental Charges	2,995,990	3,397,312	2,580,589	0	0
Intergovernmental Charges	168,910	172,485	94,979	75,390	85,327
Use of Money and Property	232,545	376,312	203,652	101,307	387,787
Licenses And Permits	368,820	566,786	591,849	442,385	647,971
Fines and Forfeitures	725,639	757,627	453,847	647,520	1,129,792
Interfund Revenues	0	0	0	3,346,305	3,834,342
Federal and State Aid	5,600,088	6,925,839	4,946,457	6,175,965	10,656,083
Miscellaneous	757,300	1,909,643	807,560	943,875	1,141,237
<b>Total Revenues</b>	<b>47,195,114</b>	<b>51,619,895</b>	<b>46,088,444</b>	<b>52,156,486</b>	<b>60,434,060</b>
<b>EXPENDITURES:</b>					
Current:					
General Government Support	8,660,396	8,380,640	8,187,123	9,100,517	10,993,210
Public Safety	27,787,301	29,285,918	26,560,667	28,176,404	27,729,402
Transportation	2,649,327	3,851,660	2,164,681	3,017,453	3,212,230
Culture And Recreation	1,360,842	1,347,776	985,243	1,137,593	1,444,527
Home and Community Services	450,752	364,676	1,007,281	1,111,786	1,266,008
Employee Benefits	2,239,784	1,942,060	1,703,837	1,693,328	1,559,933
Debt Service	3,407,498	3,465,736	3,001,326	3,612,361	4,236,282
<b>Total Expenditures</b>	<b>46,555,900</b>	<b>48,638,466</b>	<b>43,610,158</b>	<b>47,849,442</b>	<b>50,441,592</b>
Excess of Revenues Over Expenditures	639,214	2,981,429	2,478,286	4,307,044	9,992,468
<b>OTHER FINANCING SOURCES (USES):</b>					
Insurance Recoveries	526,869	369,711	307,475	348,228	306,865
Insurance Premium	0	0	275,816	0	0
Refunding Bonds Issued	0	0	10,045,140	0	0
Payment to refunded bond escrow agent	0	0	(9,890,441)	0	0
Bonds Issued	0	0	0	0	0
Sale of Property	0	0	0	0	0
Transfers - In	56,147	337,087	159,377	2,314,100	54,832
Transfers - Out (a)	(518,835)	(205,828)	(707,500)	(152,500)	(5,127,151)
<b>Total Other Financing Sources (Uses)</b>	<b>64,181</b>	<b>500,970</b>	<b>189,867</b>	<b>2,509,828</b>	<b>(4,765,454)</b>
Excess (Deficiency) of Revenues and Other Sources Over Expenditures and Other Uses	703,395	3,482,399	2,668,153	6,816,872	5,227,014
Fund Equity - Beginning of Year	11,442,886	9,022,945	12,505,344	15,173,497	21,990,369
Adjustment	(3,123,336)	0	0	0	0
<b>Fund Equity - End of Year</b>	<b>\$ 9,022,945</b>	<b>\$ 12,505,344</b>	<b>\$ 15,173,497</b>	<b>\$ 21,990,369</b>	<b>\$ 27,217,383</b>

The financial data presented on this page has been excerpted from the audited financial statements of the City. Such presentation, however, has not been audited. Complete copies of the City's audited financial statements are available upon request.

**CITY OF NEWBURGH  
WATER AND SEWER FUNDS  
BALANCE SHEET**

AS OF DECEMBER 31:

	2018	2019	2020	2021	2022
<b>ASSETS</b>					
Current Assets:					
Cash and Equivalents	\$ 13,211,635	\$ 16,019,423	\$ 18,387,615	\$ 17,108,190	\$ 16,831,458
Investments	0	0	2,261,271	1,988,154	5,239,745
Restricted Cash	3,194,095	2,465,349	227,038	203,926	3,926
Accounts Receivable	4,449,715	4,186,892	4,396,722	5,781,644	6,773,840
Due From Other Governments And Agencies:	3,222,591	351,372	2,390,807	1,072,646	1,534,261
Due From Other Funds	7,219,692	2,368,561	200,097	0	85,956
Prepaid Items	42,941	45,329	49,144	55,498	41,939
Net Pension Asset-ERS	0	0	0	0	428,309
Noncurrent Assets:					
Capital Assets (net)	57,607,318	58,949,033	62,825,707	62,213,105	78,442,681
Total Assets	\$ 88,947,987	\$ 84,385,959	\$ 90,738,401	\$ 88,423,163	\$ 109,382,115
<b>DEFERRED OUTFLOWS OF RESOURCES</b>					
	1,367,588	1,053,561	2,481,964	3,513,716	3,210,785
<b>LIABILITIES</b>					
Current Liabilities:					
Accounts Payable	\$ 2,518,880	\$ 485,465	\$ 535,522	\$ 693,064	\$ 2,901,121
Accrued Liabilities	47,432	347,614	588,895	981,396	1,611,785
Bond Anticipation Notes Payable	3,541,417	3,505,000	3,465,000	3,425,000	12,885,000
Accrued Interest	101,054	99,121	134,571	174,902	229,049
Retained Percentages	0	0	0	0	0
Compensated Absences	35,100	42,600	0	0	0
Current Maturities of Bonds Payable	629,034	540,367	680,405	890,761	855,571
Current Maturities of Loans Payable	533,615	4,343,565	650,556	4,213,058	659,486
Current Portion of Compensated Absences	0	0	0	40,100	45,400
Unearned Revenues	304,160	271,520	238,880	773,162	740,522
Due to Other Funds	0	0	0	0	381,866
Noncurrent Liabilities:					
Due within one year	0	0	0	0	0
Due in more than one year	37,070,979	32,720,750	39,364,117	35,242,893	40,784,427
Total Liabilities	44,781,671	42,356,002	45,657,946	46,434,336	61,094,227
<b>DEFERRED INFLOWS OF RESOURCES</b>					
	542,697	1,031,402	308,217	1,768,211	2,492,147
<b>NET POSITION</b>					
Net Investment in Capital Assets	34,163,302	33,513,142	34,859,736	35,234,454	42,551,830
Unreserved:					
Designated for Ensuing Year's Budget	0	0	0	0	0
Unrestricted	10,827,905	8,538,974	10,351,966	8,499,878	6,454,696
Total Net Position	44,991,207	42,052,116	45,211,702	43,734,332	49,006,526
<b>Total Liabilities, Deferred Inflows and Net Position</b>	\$ 90,315,575	\$ 85,439,520	\$ 91,177,865	\$ 91,936,879	\$ 112,592,900

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**CITY OF NEWBURGH  
WATER AND SEWER FUNDS  
STATEMENT OF REVENUES, EXPENDITURES  
AND CHANGES IN NET POSITION**

YEARS ENDED DECEMBER 31:

	2018	2019	2020	2021	2022
<b>OPERATING REVENUES:</b>					
Metered Sales	\$ 12,255,589	\$ 11,429,214	\$ 13,325,735	\$ 14,781,649	\$ 15,612,473
Penalty Income	0	0	0	0	0
Reimbursement from Town	305,182	300,582	301,770	301,600	300,781
State Aid	3,139,623	815,590	0	0	0
Miscellaneous	84,691	84,571	84,433	105,508	97,788
<b>Total Operating Revenues</b>	<b>15,785,085</b>	<b>12,629,957</b>	<b>13,711,938</b>	<b>15,188,757</b>	<b>16,011,042</b>
<b>OPERATING EXPENSES:</b>					
Personal Services	1,516,164	1,634,956	1,714,460	1,590,847	1,756,953
Depreciation	1,261,347	1,733,931	2,155,588	1,903,526	1,778,764
Supplies	610,635	617,320	528,568	1,086,453	1,173,520
Utilities	274,505	273,022	250,816	239,629	103,059
Insurance	372,544	566,120	670,748	559,314	681,770
Contractual	6,410,476	6,602,246	6,361,569	6,245,984	6,773,765
Fees for Service	2,010,134	2,098,128	1,563,214	2,087,574	2,322,755
Employee Benefits	1,753,318	1,451,505	1,723,889	1,710,409	1,580,359
<b>Total Operating Expenses</b>	<b>14,209,123</b>	<b>14,977,228</b>	<b>14,968,852</b>	<b>15,423,736</b>	<b>16,170,945</b>
<b>OPERATING INCOME</b>	<b>1,575,962</b>	<b>(2,347,271)</b>	<b>(1,256,914)</b>	<b>(234,979)</b>	<b>(159,903)</b>
<b>NON-OPERATING REVENUES (EXPENSES)</b>					
Interest Income	64,338	120,047	31,618	7,247	125,071
Refunding bond issuance costs	0	0	0	0	0
Interest Expense	(703,442)	(711,867)	(571,592)	(711,732)	(808,415)
Federal Aid	0	0	600,375	13,414	0
State Aid	0	0	4,356,099	1,848,680	2,636,157
Transfers In	140,983	158,177	0	0	3,400,785
Transfers Out	(140,983)	(158,177)	0	0	0
<b>Total Non-Operating Revenues (Expenses)</b>	<b>(639,104)</b>	<b>(591,820)</b>	<b>4,416,500</b>	<b>1,157,609</b>	<b>5,353,598</b>
<b>CAPITAL CONTRIBUTIONS</b>					
State Aid	0	0	0	0	78,499
<b>Change in Net Position</b>	<b>936,858</b>	<b>(2,939,091)</b>	<b>3,159,586</b>	<b>922,630</b>	<b>5,193,695</b>
Total Net Position - Beginning	46,332,223	44,991,207	42,052,116	42,811,702 *	43,734,332
Change in Accounting Principle Adjustments	0	0	0	0	0
<b>Total Net Position - Ending</b>	<b>\$ 44,991,207</b>	<b>\$ 42,052,116</b>	<b>\$ 45,211,702</b>	<b>\$ 43,734,332</b>	<b>\$ 49,006,526</b>

\* Restated

The financial data presented on this page has been excerpted from the audited financial statements of the City. Such presentation, however, has not been audited. Complete copies of the City's audited financial statements are available upon request.

**CITY OF NEWBURGH  
2022 OPERATING BUDGET**

	General Fund	Water Fund	Sewer Fund	Self Insurance Fund	Sanitation Fund	Total 2022 Budget
<b>ESTIMATED REVENUES:</b>						
Real Property Taxes	\$ 23,029,608	\$ 0	\$ 0	\$ 0	\$ 0	\$ 23,029,608
Real Property Tax Items	1,683,996	0	0	0	0	1,683,996
Non-Property Tax Items	13,798,408	0	0	0	0	13,798,408
Departmental Income	922,577	7,243,326	7,166,736	0	5,212,912	20,545,551
Intergovernmental Charges	97,119	0	795,000	0	0	892,119
Use Of Money And Property	50,142	13,148	2,958	0	2,500	68,748
Licenses And Permits	358,260	0	24,500	0	8,575	391,335
Fines And Forfeitures	740,025	0	0	0	0	740,025
State and Federal Aid	7,952,930	0	0	0	0	7,952,930
Interfund Revenues	2,811,687	169,824	0	1,890,221	0	4,871,732
Miscellaneous	455,374	63,301	293,705	0	45,601	857,981
<b>Total Estimated Revenues</b>	<b>51,900,126</b>	<b>7,489,599</b>	<b>8,282,899</b>	<b>1,890,221</b>	<b>5,269,588</b>	<b>74,832,433</b>
<b>APPROPRIATIONS:</b>						
General Government Support	8,253,758	3,816,230	8,705,667	1,551,300	3,249,271	25,576,226
Public Safety	16,500,153	0	0	0	0	16,500,153
Transportation	5,762,281	0	0	0	0	5,762,281
Culture & Recreation	1,156,608	0	0	0	0	1,156,608
Home & Community Services	1,056,023	0	0	0	0	1,056,023
Employee Benefits	16,569,787	1,219,477	365,294	0	871,582	19,026,140
Debt Service	4,388,782	1,049,978	1,118,449	1,557,420	122,221	8,236,850
<b>Total Appropriations</b>	<b>53,687,392</b>	<b>6,085,685</b>	<b>10,189,410</b>	<b>3,108,720</b>	<b>4,243,074</b>	<b>77,314,281</b>
Excess (Deficiency) Of Estimated Revenues Over Appropriations	(1,787,266)	1,403,914	(1,906,511)	(1,218,499)	1,026,514	(2,481,848)
<b>OTHER FINANCING SOURCES (USES):</b>						
Operating Transfers - In	54,832	0	0	0	0	54,832
Operating Transfers - Out	(867,566)	(1,403,914)	(1,573,738)	0	(1,026,514)	(4,871,732)
<b>Total Other Financing Sources (Uses)</b>	<b>(812,734)</b>	<b>(1,403,914)</b>	<b>(1,573,738)</b>	<b>0</b>	<b>(1,026,514)</b>	<b>(4,816,900)</b>
Excess (Deficiency) of Estimated Revenues and Other Financing Sources Over Appropriations and Other Financing Uses	(2,600,000)	0	(3,480,249)	(1,218,499)	0	(7,298,748)
<b>Appropriation of Fund Balance</b>	<b>\$ (2,600,000)</b>	<b>\$ 0</b>	<b>\$ 3,480,249</b>	<b>\$ 1,218,499</b>	<b>\$ 0</b>	<b>\$ 2,098,748</b>

**CITY OF NEWBURGH  
2023 OPERATING BUDGET**

	General Fund	Water Fund	Sewer Fund	Self Insurance Fund	Sanitation Fund	Total 2023 Budget
<b>ESTIMATED REVENUES:</b>						
Real Property Taxes	\$ 23,632,551	\$ 0	\$ 0	\$ 0	\$ 0	\$ 23,632,551
Real Property Tax Items	1,305,509	0	0	0	0	1,305,509
Non-Property Tax Items	16,538,246	0	0	0	0	16,538,246
Departmental Income	921,941	7,571,703	7,640,861	0	5,355,967	21,490,472
Intergovernmental Charges	102,960	0	1,127,088	0	0	1,230,048
Use Of Money And Property	47,600	12,380	1,500	0	1,500	62,980
Licenses And Permits	476,570	0	24,000	0	5,000	505,570
Fines And Forfeitures	761,900	0	0	0	0	761,900
State and Federal Aid	10,199,271	0	0	0	0	10,199,271
Interfund Revenues	3,374,457	210,142	0	4,180,560	0	7,765,159
Miscellaneous	572,927	79,162	312,849	0	50,862	1,015,800
<b>Total Estimated Revenues</b>	<b>57,933,932</b>	<b>7,873,387</b>	<b>9,106,298</b>	<b>4,180,560</b>	<b>5,413,329</b>	<b>84,507,506</b>
<b>APPROPRIATIONS:</b>						
General Government Support	11,251,776	4,265,227	8,503,845	4,180,560	3,105,819	31,307,227
Public Safety	16,205,377	0	0	0	0	16,205,377
Transportation	7,731,919	0	0	0	0	7,731,919
Culture & Recreation	1,733,976	0	0	0	0	1,733,976
Home & Community Services	1,705,161	0	0	0	0	1,705,161
Employee Benefits	17,248,643	1,313,016	451,732	0	912,500	19,925,891
Debt Service	4,056,955	1,118,224	1,356,307	0	119,141	6,650,627
<b>Total Appropriations</b>	<b>59,933,806</b>	<b>6,696,468</b>	<b>10,311,883</b>	<b>4,180,560</b>	<b>4,137,460</b>	<b>85,260,177</b>
Excess (Deficiency) Of Estimated Revenues Over Appropriations	(1,999,874)	1,176,919	(1,205,585)	0	1,275,869	(752,671)
<b>OTHER FINANCING SOURCES (USES):</b>						
Operating Transfers - In	333,257	0	0	0	0	333,257
Operating Transfers - Out	(2,750,808)	(1,764,170)	(1,974,312)	0	(1,275,869)	(7,765,158)
<b>Total Other Financing Sources (Uses)</b>	<b>(2,417,551)</b>	<b>(1,764,170)</b>	<b>(1,974,312)</b>	<b>0</b>	<b>(1,275,869)</b>	<b>(7,431,901)</b>
Excess (Deficiency) of Estimated Revenues and Other Financing Sources Over Appropriations and Other Financing Uses	(4,417,425)	(587,250)	(3,179,897)	0	(0)	(8,184,572)
<b>Appropriation of Fund Balance</b>	<b>\$ (4,417,425)</b>	<b>\$ 587,250</b>	<b>\$ 3,179,897</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ (650,278)</b>

**APPENDIX C**

**INDEPENDENT AUDITORS' REPORT  
FOR THE FISCAL YEAR ENDED  
DECEMBER 31, 2022**

**Can be accessed on the Electronic Municipal Market Access (“EMMA”) website  
of the Municipal Securities Rulemaking Board (“MSRB”)  
at the following link:**

<https://emma.msrb.org/P11713873.pdf>

**The audited financial statements referenced above are hereby incorporated into the  
attached Official Statement.**

**\* Such Financial Statements and opinion are intended to be representative only as of the  
date thereof. PKF O'Connor Davies, LLP has not been requested by the City to further  
review and/or update such Financial Statements or opinion in connection with the  
preparation and dissemination of this Official Statement.**

**APPENDIX D**

**FORM OF APPROVING LEGAL OPINION OF BOND COUNSEL**

Hawkins Delafield & Wood LLP  
7 World Trade Center  
250 Greenwich Street, 41<sup>st</sup> Floor  
New York, New York 10007

August 10, 2023

The City Council of the  
City of Newburgh, in the  
County of Orange, New York

Ladies and Gentlemen:

We have examined a record of proceedings relating to the issuance of the \$9,000,000 Bond Anticipation Note-2023 Series B of the City of Newburgh, in the County of Orange (the “City”), a municipal corporation of the State of New York (the “Note”). The Note is dated August 10, 2023, bears interest at the rate of \_\_\_% per annum, to be computed on the basis of a 30-day month and 360-day year, payable at maturity or prior redemption, and matures on August 9, 2024, subject to prior redemption as designated in said Note. Any term not defined herein shall have the same meaning as defined in the Act, as defined below.

The Note is issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York, pursuant to the resolution duly adopted by the City Council on November 8, 2021 and amended on July 11, 2022, authorizing financing for the Long Term Control Plan Phase III North Interceptor Improvements Project in the City (the “Resolution”), and the Certificate of Determination executed by the Director of Finance as of August 10, 2023 (the “Certificate of Determination”); and is entitled to the benefits of the City of Newburgh Fiscal Recovery Act, constituting Chapter 223 of the New York Laws of 2010, as amended (the “Act”).

Reference to the Act and the Certificate of Determination, and any and all modifications thereto is made for a description of the nature and extent of such benefits, and the rights and remedies of the holders of the Note.

Said bond anticipation note is a temporary obligation issued in anticipation of the sale of permanent bonds.

The Act provides, among other things, for the establishment by the City of a special debt service fund (the “Debt Service Fund”), for the deposit in the Debt Service Fund of (a) any portion of state aid as the State Comptroller of the State (the “State Comptroller”) determines necessary to ensure sufficient moneys are available to make certain scheduled debt service payments, (b) certain percentages of the tax on real property levied and assessed by the City based upon valuation upon receipt of such tax by the City (such percentages to be determined in accordance with the Act), and (c) such additional amounts as the State Comptroller determines



necessary to ensure sufficient moneys are available to make scheduled special debt service payments; and certain other matters related to the financial management of the City, and for the State Comptroller to hold the Debt Service Fund in accordance with the Act. In addition, the Act authorizes a pledge and agreement of the State, as more particularly set forth in the Act (including, among other things, that the State will not limit, alter or impair the rights vested in the City by the Act to fulfill the terms of any agreements made with holders of any bonds, Note or other obligations issued by the City during the effective period of the Act until such bonds, Note or other obligations together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged).

The Note is payable as to both principal and interest at TD Bank, National Association, Newburgh, New York, and is in the form of a single, fully registered note, in the name of Cede & Co., as registered owner and nominee for The Depository Trust Company, an automated depository for securities and clearing house for securities transactions which will maintain a book-entry system for recording the ownership interests in the Note. Purchases of ownership interests in the Note will be made only in book-entry form in denominations of \$5,000 or any integral multiple thereof.

Based on and subject to the foregoing, and in reliance thereon, as of the date hereof, we are of the following opinions:

1. The Note is a valid and legally binding general obligation of the City for which the City has validly pledged its faith and credit and, unless paid from other sources, all the taxable real property within the City is subject to the levy of ad valorem real estate taxes to pay the Note and interest thereon, subject to certain statutory limitations imposed by Chapter 97 of the New York Laws of 2011, as amended. The enforceability of rights or remedies with respect to such Note may be limited by bankruptcy, insolvency or other laws affecting creditors' rights or remedies heretofore or hereafter enacted.

2. Under existing statutes and court decisions and assuming continuing compliance with certain tax certifications described herein, (i) interest on the Note is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and (ii) interest on the Note is not treated as a preference item in calculating the alternative minimum tax under the Code, however for tax years beginning after December 31, 2022, interest on the Note is included in the "adjusted financial statement income" of certain corporations that are subject to the alternative minimum tax under Section 55 of the Code.

The Code establishes certain requirements which must be met subsequent to the issuance of the Note in order that the interest on the Note be and remain excluded from gross income for federal income tax purposes under Section 103 of the Code. These requirements include, but are not limited to, requirements relating to the use and expenditure of proceeds of the Note, restrictions on the investment of proceeds of the Note prior to expenditure and the requirement that certain earnings be rebated to the federal government. Noncompliance with such requirements may cause the interest on the Note to become subject to federal income taxation retroactive to the date of issuance thereof, irrespective of the date on which such noncompliance occurs or is ascertained.

On the date of issuance of the Note, the City will execute a Tax Certificate relating to the Note containing provisions and procedures pursuant to which such requirements can be satisfied. In executing the Tax Certificate, the City represents that it will comply with the provisions and procedures set forth therein and that it will do and perform all acts and things necessary or desirable to assure that the interest on the Note will, for federal income tax purposes, be excluded from gross income.

In rendering the opinion in this paragraph 2, we have relied upon and assumed (i) the material accuracy of the City's representations, statements of intention and reasonable expectations, and certifications of fact contained in the Tax Certificate with respect to matters affecting the status of the interest on the Note, and (ii) compliance by the City with the procedures and representations set forth in the Tax Certificate as to such tax matters.

3. Under existing statutes, interest on the Note is exempt from personal income taxes of New York State and its political subdivisions, including The City of New York.

We express no opinion as to any other federal, state or local tax consequences arising with respect to the Note, or the ownership or disposition thereof, except as stated in paragraphs 2 and 3 above. We render our opinion under existing statutes and court decisions as of the date hereof, and assume no obligation to update, revise or supplement our opinion to reflect any action hereafter taken or not taken, any fact or circumstance that may hereafter come to our attention, any change in law or interpretation thereof that may hereafter occur, or for any other reason. We express no opinion as to the consequence of any of the events described in the preceding sentence or the likelihood of their occurrence. In addition, we express no opinion on the effect of any action taken or not taken in reliance upon an opinion of other counsel regarding federal, state or local tax matters, including, without limitation, exclusion from gross income for federal income tax purposes of interest on the Note.

We give no assurances as to the adequacy, sufficiency or completeness of the Preliminary Official Statement and/or Official Statement relating to the Note or any proceedings, reports, correspondence, financial statements or other documents, containing financial or other information relative to the City, which have been or may hereafter be furnished or disclosed to purchasers of ownership interests in the Note.

Very truly yours,

**APPENDIX E**

**FORM OF CERTIFICATE TO PROVIDE NOTICES OF EVENTS**

## UNDERTAKING TO PROVIDE NOTICES OF EVENTS

### Section 1. Definitions

“EMMA” shall mean the Electronic Municipal Market Access System implemented by the MSRB.

“Financial Obligation” shall mean “financial obligation” as such term is defined in the Rule.

“GAAP” shall mean generally accepted accounting principles as in effect from time to time in the United States.

“Holder” shall mean any registered owner of the Securities and any beneficial owner of Securities within the meaning of Rule 13d-3 under the Securities Exchange Act of 1934.

“Issuer” shall mean the **City of Newburgh**, in the County of Orange, a municipal corporation of the State of New York.

“MSRB” shall mean the Municipal Securities Rulemaking Board established in accordance with the provisions of Section 15B(b)(1) of the Securities Exchange Act of 1934.

“Purchaser” shall mean the financial institution(s) referred to in the Certificate of Determination, executed by the City Manager as of August 10, 2023.

“Rule 15c2-12” shall mean Rule 15c2-12 under the Securities Exchange Act of 1934, as amended through the date of this Undertaking, including any official interpretations thereof.

“Securities” shall mean the Issuer’s \$9,000,000 Bond Anticipation Notes – 2023 Series B, dated August 10, 2023 maturing on August 9, 2024, and delivered on the date hereof.

Section 2. Obligation to Provide Notices of Events. (a) The Issuer hereby undertakes, for the benefit of Holders of the Securities, to provide or cause to be provided either directly or through Capital Markets Advisors, LLC, 11 Grace Avenue, Suite 308, Great Neck, New York 11021 to the Electronic Municipal Market Access (“EMMA”) System implemented by the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934, or any successor thereto or to the functions of such Board contemplated by the Undertaking, in a timely manner, not in excess of ten (10) business days after the occurrence of any such event, notice of any of the following events with respect to the Securities:

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults, if material;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;

- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices of determinations with respect to the tax status of the Securities, or other events affecting the tax status of the Securities;
- (vii) modifications to rights of Securities holders, if material;
- (viii) Bond calls, if material, and tender offers;
- (ix) defeasances;
- (x) release, substitution, or sale of property securing repayment of the Securities, if material;
- (xi) rating changes;
- (xii) bankruptcy, insolvency, receivership or similar event of the Issuer;

Note to clause (xii): For the purposes of the event identified in clause (xii) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Issuer in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or government authority has assumed jurisdiction over substantially all of the assets or business of the Issuer, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Issuer;

- (xiii) the consummation of a merger, consolidation, or acquisition involving the Issuer or the sale of all or substantially all of the assets of the Issuer, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) appointment of a successor or additional trustee or the change of name of a trustee, if material;

- (xv) incurrence of a Financial Obligation of the Issuer, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Issuer, any of which affect security holders, if material; and
- (xvi) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Issuer, any of which reflect financial difficulties.

(b) Nothing herein shall be deemed to prevent the Issuer from disseminating any other information in addition to that required hereby in the manner set forth herein or in any other manner. If the Issuer disseminates any such additional information, the Issuer shall have no obligation to update such information or include it in any future materials disseminated hereunder.

(c) Nothing herein shall be deemed to prevent the Issuer from providing notice of the occurrence of certain other events, in addition to those listed above, if the Issuer determines that any such other event is material with respect to the Securities; but the Issuer does not undertake to commit to provide any such notice of the occurrence of any event except those events listed above.

Section 3. Remedies. If the Issuer shall fail to comply with any provision of this Undertaking, then any Holder of Securities may enforce, for the equal benefit and protection of all Holders similarly situated, by mandamus or other suit or proceeding at law or in equity, this Undertaking against the Issuer and any of the officers, agents and employees of the Issuer, and may compel the Issuer or any such officers, agents or employees to perform and carry out their duties under this Undertaking; provided that the sole and exclusive remedy for breach of this Undertaking shall be an action to compel specific performance of the obligations of the Issuer hereunder and no person or entity shall be entitled to recover monetary damages hereunder under any circumstances. Failure to comply with any provision of this Undertaking shall not constitute an event of default on the Securities.

Section 4. Parties in Interest. This Undertaking is executed to assist the Purchaser to comply with (b)(5) of the Rule and is delivered for the benefit of the Holders. No other person shall have any right to enforce the provisions hereof or any other rights hereunder.

Section 5. Amendments. Without the consent of any holders of Securities, the Issuer at any time and from time to time may enter into any amendments or changes to this Undertaking for any of the following purposes:

- (a) to comply with or conform to any changes in Rule 15c2-12 (whether required or optional);
- (b) to add a dissemination agent for the information required to be provided hereby and to make any necessary or desirable provisions with respect thereto;
- (c) to evidence the succession of another person to the Issuer and the assumption of any such successor of the duties of the Issuer hereunder;

- (d) to add to the duties of the Issuer for the benefit of the Holders, or to surrender any right or power herein conferred upon the Issuer;
- (e) to cure any ambiguity, to correct or supplement any provision hereof which may be inconsistent with any other provision hereof, or to make any other provisions with respect to matters or questions arising under this Undertaking which, in each case, comply with Rule 15c2-12 or Rule 15c2-12 as in effect at the time of such amendment or change;

provided that no such action pursuant to this Section 5 shall adversely affect the interests of the Holders in any material respect. In making such determination, the Issuer shall rely upon an opinion of nationally recognized bond counsel.

Section 6. Termination. This Undertaking shall remain in full force and effect until such time as all principal, redemption premiums, if any, and interest on the Securities shall have been paid in full or the Securities shall have otherwise been paid or legally defeased in accordance with their terms. Upon any such legal defeasance, the Issuer shall provide notice of such defeasance to the EMMA System. Such notice shall state whether the Securities have been defeased to maturity or to redemption and the timing of such maturity or redemption.

Section 7. Undertaking to Constitute Written Agreement or Contract. This Undertaking shall constitute the written agreement or contract for the benefit of Holders of Securities, as contemplated under Rule 15c2-12.

Section 8. Governing Law. This Undertaking shall be governed by the laws of the State of New York determined without regard to principles of conflict of law.

IN WITNESS WHEREOF, the undersigned has duly authorized, executed and delivered this Undertaking as of August 10, 2023.

CITY OF NEWBURGH

By \_\_\_\_\_  
City Manager and Director of Finance

**APPENDIX F**

**CITY OF NEWBURGH FISCAL RECOVERY ACT**



## S T A T E   O F   N E W   Y O R K

8367

I N   S E N A T E

June 25, 2010

Introduced by Sen. STEWART-COUSINS -- (at request of the Governor) --  
read twice and ordered printed, and when printed to be committed to  
the Committee on Rules

AN ACT to authorize the city of Newburgh, in the county of Orange, to  
issue bonds for the purpose of liquidating certain deficits and impos-  
ing standards and requirements as to budgetary operations and fiscal  
management designed to restore such city to fiscal integrity; and  
providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1    Section 1. Short title. This act shall be known and may be cited as  
2    the "city of Newburgh fiscal recovery act".  
3    S 2. Legislative findings. The legislature hereby finds and declares  
4    that the fiscal condition of the city of Newburgh has severely deteri-  
5    orated in recent years as a result of serious local economic and demo-  
6    graphic challenges, the city's inability to ensure proper financial  
7    accounting procedures, improvident budgeting and taxing practices, and  
8    significant turnover in positions responsible for the management of city  
9    finances. These factors have led to a substantial structural imbalance  
10   between revenues and expenditures, with a projected cumulative deficit  
11   of approximately one-quarter of the city's budgeted revenues. The abil-  
12   ity of the city to regain fiscal stability is impaired by a recent  
13   decline in the city's tax base and continuing weakness in the local  
14   economy. These circumstances have caused an independent bond rating  
15   service to lower the city's bond rating below investment grade, thereby  
16   making the city's ability to access the credit market uncertain.  
17   It is hereby found and declared that the city of Newburgh is in a  
18   state of fiscal crisis, and that a combination of enhanced budgetary  
19   discipline and short-term budgetary relief is necessary to assist the  
20   city in returning to fiscal and economic stability, while ensuring  
21   adequate funding for the provision of essential services.  
22   It is hereby acknowledged that a home rule message recommended by the  
23   city manager of the city of Newburgh, approved by the city council and  
24   endorsed by the mayor of the city, requests the enactment of all of the

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD12292-03-0

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1    provisions of this act as necessary and in the public interest to accom-  
2    plish the objective of improving market reception for the necessary sale  
3    of bonds and other obligations of the city by establishing standards and  
4    requirements as to budgetary operations and fiscal management to restore  
5    the city to fiscal integrity while retaining the city's right to operate  
6    independently as a municipal corporation of the state of New York.  
7    S 3. Exclusivity of act. Based upon the foregoing findings, the legis-  
8    lature through this act hereby imposes on the city certain requirements  
9    as to budgetary operations and fiscal management, including the elimi-  
10   nation of accumulated deficits of the city, and hereby declares that to

11 the extent the provisions of this act are inconsistent with any general,  
12 special or local law, this act shall apply.

13 S 4. Definitions. As used in this act, the following words and terms  
14 shall have the following meanings respectively, unless the text shall  
15 indicate another or different meaning or intent:

16 (a) "Budget" means a current operating budget of the city prepared or  
17 adopted pursuant to general, special or local law, being the annual  
18 budget and estimate of expenditures to be made during a fiscal year for  
19 the general support and current expenses of the government of the city  
20 to be paid from taxes or assessments or other current revenues of the  
21 city for such year.

22 (b) "City" means the city of Newburgh, in the county of Orange.

23 (c) "City comptroller" means the comptroller of the city.

24 (d) "City council" means the city council of the city.

25 (e) "City manager" means the city manager of the city.

26 (f) "City taxes" means and includes all taxes on real property levied  
27 and assessed by the city, based on valuation thereof and shall not mean  
28 any rent, rate, fee, special assessment or other charge based on benefit  
29 or use.

30 (g) "Collecting officer" means the officer empowered to collect and  
31 receive city taxes.

32 (h) "Deficit bonds" means the bonds authorized to be issued by section  
33 five of this act.

34 (i) "Deficit notes" means bond anticipation notes issued in antic-  
35 ipation of the issuance of deficit bonds.

36 (j) "Financial plan" means the three-year financial plan required by  
37 section eleven of this act.

38 (k) "Fiscal year" means the fiscal year of the city.

39 (l) "Mayor" means the mayor of the city.

40 (m) "Outstanding", when used with respect to obligations of the city  
41 as of any particular date, means all obligations of the city theretofore  
42 issued and thereupon being issued except any obligation theretofore paid  
43 and discharged or for the payment of the principal of and interest on  
44 which money is held by or on behalf of the city, in trust solely and  
45 in all events only for the purpose and sufficient to pay in full the prin-  
46 cipal and redemption premium, if any, of and interest on such obli-  
47 gations.

48 (n) "Special debt service" means, with respect to a fiscal year, the  
49 amounts required for the timely payment of (i) all principal due or  
50 becoming due and payable in said year with respect to any serial bonds,  
51 tax anticipation notes, capital notes or budget notes of the city, and  
52 all principal amortization for said year required by law with respect to  
53 bond anticipation notes or other securities of the city, and not specif-  
54 ically mentioned in paragraph (ii) of this subdivision, (ii) all inter-  
55 est due or becoming due and payable in said year with respect to any  
56 serial bonds, bond anticipation notes, tax anticipation notes, revenue  
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1 anticipation notes, capital notes, budget notes or other securities of  
2 the city not specifically mentioned herein, and (iii) all sinking fund  
3 contributions required in said year with respect to any sinking fund  
4 bonds.

5 (o) "Special debt service fund" means the fund which is held by the  
6 state comptroller and is described and provided for in section fifteen  
7 of this act.

8 (p) "State aid" means all aid and incentives for municipalities pursu-  
9 ant to section 54 of the state finance law, any successor type of aid  
10 and any new aid appropriated by the state as local government assistance  
11 for the benefit of the city.

12 (q) "State comptroller" means the comptroller of the state, pursuant  
13 to his or her authority to supervise the accounts of any political  
14 subdivision of the state.

15 Unless the context specifically provides otherwise, any terms used in

16 this act such as revenues, expenditures or expenses shall be construed  
17 as such term is construed under applicable accounting principles incor-  
18 porated in the uniform system of accounts prescribed by the state comp-  
19 troller.

20 S 5. Deficit bond and deficit note issuance authorization. The city is  
21 hereby authorized to issue bonds, subject to the provisions of this act,  
22 on or before December 31, 2011, in an aggregate principal amount not to  
23 exceed fifteen million dollars (\$15,000,000) (exclusive of the costs and  
24 expenses incidental to the issuance of the bonds authorized to be issued  
25 by this section) for the specific object or purpose of liquidating actu-  
26 al deficits in its general fund, the special revenue fund, and the capi-  
27 tal projects fund existing at the close of its 2010 fiscal year. In  
28 anticipation of the issuance of such bonds, deficit notes are hereby  
29 authorized to be issued.

30 S 6. Period of probable usefulness established. It is hereby deter-  
31 mined that the financing of the deficits described in section five of  
32 this act is an object or purpose of the city for which indebtedness may  
33 be incurred, the period of probable usefulness of which is hereby deter-  
34 mined to be fifteen years, computed from the date of such deficit bonds  
35 or from the date of the first deficit notes, whichever date is earlier.  
36 Such deficit bonds and deficit notes shall be general obligations of the  
37 city, to which the faith and credit of the city is pledged, and the city  
38 shall make an annual appropriation sufficient to pay the principal of  
39 and interest on such obligations as the same shall become due.

40 S 7. Certification of deficit. No deficit bonds may be issued unless  
41 and until the state comptroller shall first review and confirm the  
42 existence of the deficits described in section five of this act, as well  
43 as certify the amount of the deficits. As soon as practicable after the  
44 effective date of this act, but in no event prior to the close of the  
45 city's 2010 fiscal year, the city shall prepare a report detailing the  
46 amount and cause of the deficit and submit to the state comptroller such  
47 report, together with the independent audit report for its last  
48 completed fiscal year and such other information as the state comp-  
49 troller may deem necessary. Within thirty days after receiving all  
50 necessary reports and information, the state comptroller shall:

- 51 (a) perform such reviews as may be necessary;
- 52 (b) confirm the existence and certify the amount of the deficits; and
- 53 (c) provide notification to the city manager, the city comptroller,  
54 the mayor and the city council as to the existence and amount of any  
55 such deficits.

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1 S 8. Limit on amount of deficit bonds. Deficit bonds may not be issued  
2 in an amount exceeding the amount of such deficits as certified by the  
3 state comptroller. If the city issues deficit notes prior to a determi-  
4 nation by the state comptroller pursuant to section seven of this act in  
5 an amount in excess of the amount of such deficits as confirmed by the  
6 state comptroller, the city shall, from funds other than proceeds of  
7 bonds or bond anticipation notes, either redeem such deficit notes in  
8 the amount by which the amount of such deficit notes exceeds the amount  
9 of such deficits as confirmed by the state comptroller or deposit a sum  
10 equal to the amount by which such deficit notes exceed the amount of  
11 such deficits as confirmed by the state comptroller into the special  
12 debt service fund.

13 S 9. Quarterly budget reports and trial balances. For each fiscal year  
14 during the effective period of this act, the city comptroller shall  
15 monitor budgets of the city and, for each budget, prepare a quarterly  
16 report of summarized budget data depicting overall trends of actual  
17 revenues and budget expenditures for the entire budget rather than indi-  
18 vidual line items. Such reports shall compare revenue estimates and  
19 appropriations as set forth in such budget with the actual revenues and  
20 expenditures made to date. All quarterly reports shall be accompanied by  
21 a recommendation by the city manager setting forth any remedial action

22 necessary to resolve any unfavorable budget variance including the over-  
23 estimation of revenues and the underestimation of appropriations, and  
24 shall be completed within thirty days of the end of each quarter. The  
25 city comptroller shall also prepare, as part of such report, a quarterly  
26 trial balance of general ledger accounts. The above quarterly budgetary  
27 reports and quarterly trial balances shall be prepared in accordance  
28 with applicable accounting principles incorporated in the uniform system  
29 of accounts prescribed by the state comptroller. These reports shall be  
30 submitted to the city manager, the mayor, the city council, the state  
31 director of the budget, the state comptroller, the chair of the assembly  
32 ways and means committee, and the chair of the senate finance committee.

33 S 10. Budget review by state comptroller. During the effective period  
34 of this act, the city manager shall submit the proposed budget for the  
35 next succeeding fiscal year to the state comptroller no later than thir-  
36 ty days before the date scheduled for the city council's vote on the  
37 adoption of the final budget or the last date on which the budget may be  
38 finally adopted, whichever is sooner. The state comptroller shall exam-  
39 ine such proposed budget and make such recommendations as deemed appro-  
40 priate thereon to the city prior to the adoption of the budget, but no  
41 later than ten days before the date scheduled for the city council's  
42 vote on the adoption of the final budget or the last date on which the  
43 budget must be adopted, whichever is sooner. Such recommendations shall  
44 be made after examination into the estimates of revenues and expendi-  
45 tures of the city. The city council, no later than five days prior to  
46 the adoption of the budget, shall review any such recommendations and  
47 make adjustments to the proposed budget consistent with any recommenda-  
48 tions made by the state comptroller.

49 S 11. Multiyear financial plans. During the effective period of this  
50 act, the city manager shall prepare, along with the proposed budget for  
51 the next succeeding fiscal year, a three-year financial plan covering  
52 the next succeeding fiscal year and the two fiscal years thereafter. The  
53 financial plan shall, at a minimum, contain projected employment levels,  
54 projected annual expenditures for personal service, fringe benefits,  
55 non-personal services and debt service; appropriate reserve fund  
56 amounts; estimated annual revenues including projection of property tax  
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1 rates, the value of the taxable real property and resulting tax levy,  
2 annual growth in sales tax and non-property tax revenues; and the  
3 proposed use of one-time revenue sources. The financial plan shall also  
4 identify actions necessary to achieve and maintain long-term fiscal  
5 stability, including, but not limited to, improved management practices,  
6 initiatives to minimize or reduce operating expenses, and potential  
7 shared services agreements with other municipalities. Within thirty days  
8 following the adoption by the city council of the budget for the next  
9 succeeding fiscal year and upon the completion of each quarterly budget  
10 report pursuant to section nine of this act, the city manager shall  
11 update the financial plan consistent with such adopted budget or such  
12 quarterly budget report. Copies of the financial plan and any update  
13 shall be provided to the city comptroller, the mayor, the city council,  
14 the state director of the budget, the state comptroller, the chair of  
15 the assembly ways and means committee, and the chair of the senate  
16 finance committee.

17 S 12. State comptroller to comment on further debt issuance. During  
18 the effective period of this act, the city comptroller shall notify the  
19 state comptroller at least fifteen days prior to the issuance of any  
20 bonds or notes or entering into any installment purchase contract, and  
21 the state comptroller may review and make recommendations regarding the  
22 affordability to the city of any such proposed issuance or contract.

23 S 13. Private sale of bonds authorized. To facilitate the marketing of  
24 (a) deficit bonds, (b) any bonds issued to refund such deficit bonds,  
25 and (c) any other bonds to be issued on or before December 31, 2012, the  
26 city may, notwithstanding any limitation on the private sales of bonds

27 provided by law and subject to the approval of the state comptroller of  
28 the terms and conditions of such sales:

29 (1) arrange for the underwriting of such bonds at private sale through  
30 negotiated fees or by sale of such bonds to an underwriter; or

31 (2) arrange for the private sale of such bonds through negotiated  
32 agreement, with compensation for such sales to be provided by negotiated  
33 agreement and/or negotiated fee, if required.

34 The cost of such underwriting or private placement shall be deemed to  
35 be a preliminary cost for purposes of section 11.00 of the local finance  
36 law.

37 S 14. Exceptions to the local finance law. Except as provided in this  
38 act, all proceedings in connection with the issuance of such deficit  
39 bonds or deficit notes shall be had and taken in accordance with the  
40 provisions of the local finance law, provided, however, that any resol-  
41 ution or resolutions authorizing the issuance of such bonds or bond  
42 anticipation notes shall not be subject to (a) any mandatory or permis-  
43 sive referendum, (b) the provisions of section 107.00 of the local  
44 finance law with respect to any requirements for a down payment and (c)  
45 the provisions of section 10.10 of the local finance law.

46 S 15. Special debt service fund. (a) Upon the issuance of any deficit  
47 bonds or deficit notes, the city council shall establish and thereafter  
48 maintain a special debt service fund with the state comptroller for the  
49 purpose of paying the special debt service due or becoming due in subse-  
50 quent fiscal years. Such special debt service fund shall be discontinued  
51 upon the expiration of the effectiveness of this act, and any balance  
52 remaining in the special debt service fund at that time shall be paid by  
53 the state comptroller to the city comptroller for use by the city in the  
54 manner provided by law.

55 (b) The state comptroller shall deposit and pay into the special debt  
56 service fund any portion of state aid as the state comptroller deter-  
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1 mines necessary to ensure sufficient moneys are available to make sched-  
2 uled special debt service payments from the special debt service fund  
3 over the succeeding twelve month period taking account of the city's  
4 receipt of city taxes and state aid during such twelve month period and  
5 the availability of other amounts appropriated or set aside by the city  
6 to make such payments. Thereafter, the state comptroller shall, as soon  
7 as practicable, pay over the remainder of any such state aid to the city  
8 comptroller for use by the city in the manner provided by law.

9 (c) Not later than the first day of each fiscal year beginning after  
10 issuance of any deficit bonds or deficit notes, the city comptroller  
11 shall certify to the state comptroller the percentage obtained by divid-  
12 ing the balance obtained by subtracting the amount of the appropriation  
13 for such year for a reserve for uncollected taxes from the total amount  
14 of city taxes levied and assessed for such year, into the total appro-  
15 priation in the budget of such year for special debt service, and the  
16 percentage so certified shall constitute the debt service percentage for  
17 such fiscal year. Immediately upon receipt of any payment during such  
18 fiscal year of or on account of any city taxes, the city, its collecting  
19 officer and any agent receiving the same shall remit such payment to the  
20 state comptroller. Of each sum so received, the state comptroller shall  
21 deposit and pay into the special debt service fund the portion thereof  
22 equal to the debt service percentage of the total sum, and shall deposit  
23 and pay into the fund such additional amounts as the state comptroller  
24 determines necessary to ensure sufficient moneys are available to make  
25 scheduled special debt service payments from the special debt service  
26 fund over the succeeding twelve month period taking account of the  
27 timing of the city's receipt of city taxes and state aid during such  
28 twelve month period and the availability of other amounts appropriated  
29 or set aside by the city to make such payments. Thereafter, the state  
30 comptroller shall, as soon as practicable, pay over the remainder of  
31 such sum to the city comptroller for use by the city in the manner

32 provided by law.

33 (d) The moneys in the special debt service fund shall be invested in  
34 the manner provided by section 11 of the general municipal law,  
35 provided, however, that the investments shall be made for and on behalf  
36 of the city by the state comptroller upon instructions from the chief  
37 fiscal officer of the city which shall be consistent with the city's  
38 investment policy adopted pursuant to section 39 of the general municip-  
39 al law.

40 (e) The state comptroller shall from time to time during each fiscal  
41 year withdraw from the special debt service fund all amounts required  
42 for the payment as the same becomes due of all special debt service of  
43 such fiscal year and cause the amounts so withdrawn to be applied to  
44 such payments as and when due.

45 (f) The special debt service fund and all monies or securities therein  
46 or payable thereto in accordance with this section is hereby declared to  
47 be city property devoted to essential governmental purposes and accord-  
48 ingly, shall not be applied to any purpose other than as provided herein  
49 and shall not be subject to any order, judgment, lien, execution,  
50 attachment, setoff or counterclaim by any creditor of the city other  
51 than a creditor for whose benefit such fund is established and main-  
52 tained and entitled thereto under and pursuant to this act.

53 S 16. Agreement with the state. (a) The state does hereby pledge to  
54 and agree with the holders of any bonds, notes or other obligations  
55 issued by the city during the effective period of this act and secured  
56 by such a pledge that the state will not limit, alter or impair the  
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1 rights hereby vested in the city to fulfill the terms of any agreements  
2 made with such holders pursuant to this act, or in any way impair the  
3 rights and remedies of such holders or the security for such bonds,  
4 notes or other obligations until such bonds, notes or other obligations  
5 together with the interest thereon and all costs and expenses in  
6 connection with any action or proceeding by or on behalf of such hold-  
7 ers, are fully paid and discharged. The city is authorized to include  
8 this pledge and agreement of the state in any agreement with the holders  
9 of such bonds, notes or other obligations. Nothing contained in this act  
10 shall be deemed to (i) obligate the state to make any payments or impose  
11 any taxes to satisfy the debt service obligations of the city, (ii)  
12 restrict any right of the state to amend, modify, repeal or otherwise  
13 alter (A) section 54 of the state finance law or any other provision  
14 relating to state aid, or (B) statutes imposing or relating to taxes or  
15 fees, or appropriations relating thereto, or (iii) create a debt of the  
16 state within the meaning of any constitutional or statutory provisions.  
17 The city shall not include in any resolution, contract or agreement with  
18 holders of such bonds, notes or other obligations any provision which  
19 provides that an event of default occurs as a result of the state exer-  
20 cising its rights described in paragraph (ii) of this subdivision.

21 (b) Any provision with respect to state aid shall be deemed executory  
22 only to the extent of moneys available, and no liability shall be  
23 incurred by the state beyond the moneys available for that purpose, and  
24 any such payment by the state comptroller of state aid shall be subject  
25 to annual appropriation of state aid by the state legislature.

26 S 17. Rights of the state comptroller and bondholders. (a) In the  
27 event that the city shall fail to comply with any provision of this act,  
28 and such non-compliance shall continue for a period of 30 days, (1) the  
29 state comptroller acting alone, or (2) a duly appointed representative  
30 of the holders of at least 25 per centum in aggregate principal amount  
31 of (i) any series of deficit bonds or deficit notes, (ii) any series of  
32 bonds issued to refund such deficit bonds or deficit notes, or (iii) any  
33 other series of notes or bonds issued by the city during the effective  
34 period of this act, by instrument or instruments filed in the office of  
35 the clerk of Orange county and proved or acknowledged in the same manner  
36 as a deed to be recorded, may bring an action or commence a proceeding

37 in accordance with the civil practice law and rules to (A) require the  
38 city to carry out any of its obligations under this act or (B) enjoin  
39 any acts or things which may be unlawful or in violation of the obli-  
40 gations imposed on the city under this act. In addition, the duly  
41 appointed representative of the bondholders of any such series of notes  
42 or bonds may bring an action or commence a proceeding in accordance with  
43 the civil practice law and rules to enforce the rights of the holders of  
44 such series of notes or bonds.

45 (b) The supreme court in the county of Orange shall have jurisdiction  
46 of any action or proceeding by the state comptroller or the represen-  
47 tative of such bondholders.

48 S 18. Severability clause. If any clause, sentence, paragraph, section  
49 or part of this title shall be adjudged by any court of competent juris-  
50 diction to be invalid, such judgment shall not affect, impair or invali-  
51 date the remainder thereof, but shall be confined in its operation to  
52 the clause, sentence, paragraph, section or part involved in the contro-  
53 versy in which such judgment shall have been rendered. The provisions of  
54 this act shall be liberally construed to assist the effectuation of the  
55 public purposes furthered hereby.

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1 S 19. This act shall take effect immediately; and shall remain in full  
2 force and effect until the fifteenth anniversary of the date of first  
3 issuance of deficit bonds or deficit notes pursuant to this act, when  
4 upon such date the provisions of this act shall be deemed repealed; and  
5 provided, however, that the state comptroller shall notify the legisla-  
6 tive bill drafting commission upon the occurrence of this act in order  
7 that the commission may maintain an accurate and timely effective data  
8 base of the official text of the laws of the state of New York in furth-  
9 erance of effectuating the provisions of section 44 of the legislative  
10 law and section 70-b of the public officers law.

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- This bill is not active in this session.

Bill No.: A07442

 Summary
  Actions
  Votes
  Memo
  Text (*Printer friendly text*)
**A07442 Summary:**

BILL NO A07442A

SAME AS Same as S 4938-A

SPONSOR Kirwan

COSPNSR

MLTSPNSR

Amd S5, Chap 223 of 2010

Authorizes the city of Newburgh to issue deficit bonds and notes until December 31, 2012 pursuant to the city of Newburgh fiscal recovery act.

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**A07442 Actions:**

BILL NO A07442A

05/04/2011 referred to cities  
 05/24/2011 amend and recommit to cities  
 05/24/2011 print number 7442a  
 06/16/2011 reported referred to ways and means  
 06/17/2011 reported referred to rules  
 06/20/2011 reported  
 06/20/2011 rules report cal.485  
 06/20/2011 substituted by s4938a  
   S04938 AMEND=A LARKIN  
 05/02/2011 REFERRED TO LOCAL GOVERNMENT  
 05/23/2011 AMEND AND RECOMMIT TO LOCAL GOVERNMENT  
 05/23/2011 PRINT NUMBER 4938A  
 06/06/2011 1ST REPORT CAL.992  
 06/07/2011 2ND REPORT CAL.  
 06/13/2011 ADVANCED TO THIRD READING  
 06/14/2011 HOME RULE REQUEST  
 06/14/2011 PASSED SENATE  
 06/14/2011 DELIVERED TO ASSEMBLY  
 06/14/2011 referred to cities  
 06/20/2011 substituted for a7442a  
 06/20/2011 ordered to third reading rules cal.485  
 06/20/2011 home rule request  
 06/20/2011 passed assembly  
 06/20/2011 returned to senate  
 07/22/2011 DELIVERED TO GOVERNOR  
 08/03/2011 SIGNED CHAP.350

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## I N A S S E M B L Y

May 4, 2011

Introduced by M. of A. KIRWAN -- read once and referred to the Committee on Cities -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the city of Newburgh fiscal recovery act, in relation to extending the final authorized date of issuance of deficit bonds and notes by such city

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 5 of chapter 223 of the laws of 2010, constituting  
2 the city of Newburgh fiscal recovery act, is amended to read as follows:  
3 S 5. Deficit bond and deficit note issuance authorization. The city is  
4 hereby authorized to issue bonds, subject to the provisions of this act,  
5 on or before December 31, [2011]2012, in an aggregate principal amount  
6 not to exceed fifteen million dollars (\$15,000,000) (exclusive of the  
7 costs and expenses incidental to the issuance of the bonds authorized to  
8 be issued by this section) for the specific object or purpose of liqui-  
9 dating actual deficits in its general fund, the special revenue fund,  
10 and the capital projects fund existing at the close of its 2010 fiscal  
11 year. In anticipation of the issuance of such bonds, deficit notes are  
12 hereby authorized to be issued.  
13 S 2. This act shall take effect immediately, provided that the amend-  
14 ments to the city of Newburgh fiscal recovery act, made by section one  
15 of this act, shall not affect the expiration and repeal of such act, and  
16 shall expire and be deemed repealed therewith.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD11048-03-1

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