

## **CITY OF RYE**

### **NOTICE**

There will be a regular meeting of the City Council of the City of Rye on Wednesday, December 4, 2013, at 8:00 p.m. in Council Chambers at City Hall. *The Council will convene at 7:00 p.m. and it is expected they will adjourn into Executive Session at 7:01 p.m. to discuss attorney/client matters related to contract negotiations.*

### **AGENDA**

1. Pledge of Allegiance
2. Roll Call
3. General Announcements.
4. Draft unapproved minutes of the Budget Workshop held November 18, 2013, the Regular Meeting/Budget Workshop held November 20, 2013, and the Special Meeting of the City Council held November 25, 2013.
5. Mayor's Management Report
  - Update on General Code Revision Project
  - Flood Mitigation Update
  - Capital Projects Update
  - Legal Update
6. Mayor and Council amendments to the proposed 2014 City of Rye Budget.  
Roll Call.
7. Public hearing on the proposed 2014 Budget.
8. Continuation of Public Hearing to amend local law Chapter 197, Zoning, of the Rye City Code, Section §197-1, "Definitions and Usage", to amend the definition of "STORY, HALF", and Section §197-43.2, Subsection B, "Attics" to amend the Calculation of Attics in Gross Floor Area.
9. Continuation of Public Hearing to adopt a local law to amend Chapter 197 Article IV "Use Regulations" and Article VI "Appeals" to establish regulations regarding outdoor fire pits and outdoor kitchens.
10. Continuation of Public Hearing to add a new article to the Rye City Code to provide tax exemptions for improvements to historic properties.
11. Authorization for the City Manager to enter into a Master Federal-Aid Local Project Agreement with the New York State Department of Transportation (NYSDOT) for the Rye City School District Pedestrian Improvements (SRTS) project under PIN 8761.10.  
Roll Call.

12. Acceptance of Grant Award from the Westchester County District Attorney's Office in the amount of \$3,130 to purchase equipment for the video recording of statements.  
Roll Call.
13. Consideration of a request by the Westchester County chapter of the National Alliance on Mental Illness (NAMI) to have a ribbon initiative in the Central Business District during the month of May 2014.
14. One appointment to the Conservation Commission/Advisory Council for a three-year term, by the Mayor with Council approval.
15. Residents may be heard on matters for Council consideration that do not appear on the agenda.
16. Miscellaneous communications and reports.
17. Old Business.
  - Update the City's Resolution to Televis
18. New Business.
  - Discussion on process to fill two City Council vacancies
19. Adjournment.

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The next regular meeting of the City Council will be held on Wednesday, December 18, 2013 at 8:00 p.m.

\*\* City Council meetings are available live on Cablevision Channel 75, Verizon Channel 39, and on the City Website, indexed by Agenda item, at [www.ryeny.gov](http://www.ryeny.gov) under "RyeTV Live".

\* Office Hours of the Mayor by appointment by emailing [dfrench@ryeny.gov](mailto:dfrench@ryeny.gov).



# CITY COUNCIL AGENDA

NO. 4

DEPT.: City Clerk

DATE: December 4, 2013

CONTACT: Dawn Nodarse

**AGENDA ITEM** Draft unapproved minutes of the Budget Workshop held November 18, 2013, the Regular Meeting/Budget Workshop held November 20, 2013, and the Special Meeting of the City Council held November 25, 2013, as attached.

**FOR THE MEETING OF:**

December 4, 2013

**RYE CITY CODE,**

CHAPTER  
SECTION

**RECOMMENDATION:** That the Council approve the draft minutes.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

**BACKGROUND:** Approve the minutes of the Budget Workshop held November 18, 2013, the Regular Meeting/Budget Workshop held November 20, 2013, and the Special Meeting of the City Council held November 25, 2013, as attached.

***DRAFT UNAPPROVED MINUTES*** of the  
Special Meeting/Budget Workshop of the City  
Council of the City of Rye held in City Hall on  
November 18, 2013 at 8:00 P.M.

PRESENT:

DOUGLAS FRENCH Mayor  
LAURA BRETT  
RICHARD FILIPPI  
PETER JOVANOVICH  
JULIE KILLIAN  
CATHERINE F. PARKER  
JOSEPH A. SACK  
Councilmembers

ABSENT:     None

1.     Pledge of Allegiance

Mayor French called the meeting to order and invited the Council to join in the Pledge of Allegiance.

2.     Roll Call

Mayor French asked the City Clerk to call the roll; a quorum was present to conduct official city business.

3.     Discussion of the FY 2014 Budget

- Rye Golf Club Budget Review

Prior to the Budget Review Peter Marshal presented a brief update on a walk-through that had been held at the Club for potential responders to the RFP that had been attended by 15 viable operators the previous week. They were provided with an overview of the operations of the Club, given a tour of the facility and were also provided an opportunity to ask questions. City Manager Pickup said that proposals are due back on December 27<sup>th</sup> and there could be an agenda item for Council approval in February.

Pat Dooley of the Golf Club Commission made the presentation on the 2014 Budget. He called 2013 a “building and reexamination year” for the Club and provided an overview of accomplishments for the year in such areas as increasing membership, outreach to members, staffing, food and beverage operation and experience, marketing and physical improvements to the golf course and Castle. He said that areas of focus for 2014 would include the RFP proposal which will determine the management and operational structure for Whitby Castle going forward; an optimum management structure for the pool; the expansion of financial reporting of

operations; review of City level revenue and expense items; marketing; long-term budgeting and capital projects; expenses; and possible insurance recovery for money lost. The basic assumption for the 2014 Budget is to keep things status quo for the most part. It assumes the same membership and membership categories and the dues structure remains the same except for an increase in the House Membership. The \$300 food minimum remains, as does the 10% discount for purchases made by members at Whitby Castle. There will be a 3% charge implemented for use of credit cards for payment of annual dues. A profit of \$84,000 for 2014 is projected. There was also a brief discussion of capital projects and the possibility of allocating money for a separate audit of the Club.

4. Authorization for the City Manager to enter into an agreement with the International City/County Management Association (ICMA) for an amount not to exceed \$40,000 for professional consulting services to conduct an Executive Search for a Police Commissioner for the City of Rye  
Roll Call

City Manager Pickup summarized the process that would be utilized by ICMA under the proposed agreement as being a collaborative process which will produce a candidate profile that can be used in the search process. There was a discussion about whether the decision to go forward with the agreement should be made at this time or if it would be better to defer it until January when the next Council will be in place and can decide if this is the process they want to utilize for the search for a new Police Commissioner.

Councilman Jovanovich made a motion, seconded by Councilwoman Parker, to adopt the following Resolution:

**RESOLVED** that the City Council of the City of Rye hereby authorizes the City Manager to enter into an agreement with the International City/County Management Association (ICMA), for an amount not to exceed \$40,000, for professional consulting services to conduct an Executive Search for a Police Commissioner for the City of Rye.

**ROLL CALL:**

AYES:	Mayor French, Councilmembers Brett, Filippi, Jovanovich and Killian
NAYS:	Councilmembers Parker and Sack
ABSENT:	None

The Resolution was adopted by a 5-2 vote.

5. Adjournment

There being no further business to discuss Councilman Filippi made a motion, seconded by Councilman Jovanovich and unanimously carried, to adjourn the meeting at 9:50 p.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk

***DRAFT UNAPPROVED MINUTES*** of the  
Regular Meeting of the City Council of the City of  
Rye held in City Hall on November 20, 2013 at 8:00  
P.M.

PRESENT:

DOUGLAS FRENCH Mayor  
LAURA BRETT  
RICHARD FILIPPI  
PETER JOVANOVIH (left at approximately 11:35 p.m.)  
JULIE KILLIAN  
CATHERINE F. PARKER  
JOSEPH A. SACK  
Councilmembers

ABSENT:     None

The Council convened at 7:35 p.m. Mayor French made a motion, seconded by Councilwoman Killian and unanimously carried to immediately adjourn into executive session to discuss attorney/client matters. Councilman Filippi arrived at 7:50 p.m. Councilwoman Brett made a motion, seconded by Councilwoman Killian and unanimously carried, to adjourn the executive session at 7:59 p.m.

1.     Pledge of Allegiance

Mayor French called the meeting to order and invited the Council to join in the Pledge of Allegiance.

2.     Roll Call

Mayor French asked the City Clerk to call the roll; a quorum was present to conduct official city business.

3.     General Announcements

The Land Use Center of Pace University Affordable Housing meeting was canceled due to scheduling conflicts and will probably be rescheduled to a date in December.

4.     Approval of the election of one new member to the Rye Fire Department

Councilwoman Parker made a motion, seconded by Councilman Filippi and unanimously carried, to adopt the following Resolution:

**RESOLVED**, that the City Council of the City of Rye hereby approves the election of Connor Stetler to the Poningo Hook and Ladder Company as approved by the Board of Fire Wardens at their November 5, 2013 meeting.

5. Draft unapproved minutes of the regular meeting of the City Council held November 6, 2013 and the Budget Workshop held November 13, 2013

Councilman Filippi made a motion, seconded by Councilman Jovanovich and unanimously carried, to approve the minutes of the regular meeting of the City Council meeting held on November 6, 2013, as submitted.

Councilman Filippi made a motion, seconded by Councilwoman Brett and unanimously carried, with Mayor French and Councilwoman Killian recusing themselves, to approve the minutes of the Budget Workshop of the City Council held on November 13, 2012, as submitted.

6. Mayor's Management Report

- Update on General Code Revision Project

This item was deferred.

- Capital Projects Update

City Manager Pickup reported that the Blind Brook Lodge parking lot should be completed before Thanksgiving. There will be temporary lighting due to issues with the delivery of the permanent lighting but the space will be able to be occupied

- Legal Update
- Kirby Lane Sewer Meeting – the mediator was present and explained the process to those present. Both districts have been asked to appoint representatives to come and participate in a mediation process in order to come back to the Council with an apportionment recommendation in 2014.
- Beaver Swamp Brook – a conference call was held the week with the Administrative Law Judge (ALJ), who asked if the parties were amenable to trying mediation on the discovery disputes. An initial meeting will be held in mid-December with another ALJ who would act as a mediator over these disputes. If and when these disputes are resolved, the matter would proceed to the Adjudicatory Hearing in January or February.

7. Discussion of the FY 2014 Budget

- Police Department Budget Review



A presentation on the 2014 Police Department Budget was made by Police Commissioner William Connors and Thomas Scappaticci. The budget is flat other than salary and benefits. The Police Department is made up of five departments: Administrative; Patrol; Investigative Unit; Marine Unit; and Parking Enforcement Unit. They department is also responsible for crossing guards. The total budget is approximately \$9,399,000 for 2014. Total salaries and benefits for 2014 are \$7.5 million. The portion of the budget under the control of the department is \$1.3 million (about 15%), which covers overtime and seasonal salaries; PBA contractual obligations (education and uniform maintenance allowances); and variable expenses that include such things as service contracts, computers and systems, patrol expenses, education and training office supplies, postage, etc. There is a \$400,000.00 change from the 2013 to 2014 budget, which is primarily due to salaries and benefits. There were also brief discussions regarding specific aspects of the budget including the change over to the new crossing guard service; parking revenues; education costs; police overtime; and the impacts of the recent arbitration award.

- Rye Free Reading Room Budget Review

Chris Shoemaker, Director of the Rye Free Reading Room, made the presentation regarding the Library. He said there is a continued demand for library services and the library is on track to meet or exceed their goals. The Library has requested \$1.17 million in funding from the City, which is a \$60,000 increase. Hours of operation will be increased by 2.5 hours per week in 2014. They are working on upgrading their collections and network access and have been working with Harrison on coordinating programming efforts. Mr. Shoemaker also provided the Council with information comparing the Rye Free Reading Room with other libraries in the Westchester Library System.

8. Continuation of Public Hearing to amend local law Chapter 197, Zoning, of the Rye City Code, Section §197-1, "Definitions and Usage", to amend the definition of "STORY, HALF", and Section §197-43.2, Subsection B, "Attics" to amend the Calculation of Attics in Gross Floor Area

Councilwoman Brett provided a brief summary of a workshop that had been held the previous evening with representatives from the land use boards, homeowners and representatives of the development community in connection with the proposed legislation. She said it was a productive discussion that touched on four areas aesthetic impacts; issues of non-conformity; financial impacts; and, other possible options for the City to consider. Ms. Brett said the Council needs to reach a consensus of how they want to proceed: to enact the law as proposed; enact only half of it; or, "grandfathering" old houses.

*Paul Benowitz* said that it is prudent to do something, but existing houses should not be included in any legislation that is adopted by the Council

Councilwoman Brett made a motion, seconded by Councilwoman Parker and unanimously carried to keep the public hearing open until the December 4<sup>th</sup> Council meeting.

9. Continuation of Public Hearing to adopt a local law to amend Chapter 197 Article IV "Use Regulations" and Article VI "Appeals" to establish regulations regarding outdoor fire pits and outdoor kitchens

City Manager Pickup said that information was still pending from the Building Department.

Councilman Filippi made a motion, seconded by Councilwoman Brett and unanimously carried, to keep the public hearing open until the December 4, 2013 City Council meeting.

10. Public Hearing to add a new article to the Rye City Code to provide tax exemptions for improvements to historic properties

Councilwoman Brett made a motion, seconded by Councilman Filippi and unanimously carried, to open the public hearing on a draft local law to amend Chapter 177 "Taxation" by adding Article XII "Exemption for Historic Districts."

Councilwoman Brett summarized the purpose of the proposed law as a proposal to provide a tax incentive to property owners who renovate and restore older houses and buildings rather than tearing down and rebuilding them and would require the City, working with the Landmarks Committee, to designate Historic Districts in order for properties to qualify for the incentive. Taxes on any renovation would be phased in over a ten year period with no increase in the first five years. Ms. Brett also explained the difference between creating a Historic District and "landmarking" a building.

Members of the public who spoke on the proposed local law included *Jack Zahringer and Mario Sax* of the Landmarks Committee, *Sheri Jordan*, Director of the Rye Historical Society, and *Doug Carey*. They all spoke in favor of the proposed local law saying it was a good way to preserve the historic character of the City and certain areas of the City; and, could encourage people to landmark their properties.

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to keep the public hearing open until the December 4, 2013 City Council meeting.

11. Authorization for the City Manager to execute, on behalf of the City of Rye, a Payment in Lieu of Tax Agreement (PILOT) between Rye Manor, LLC and the Westchester County Industrial Development Agency (IDA)  
Roll Call.

Councilman Jovanovich made a motion, seconded by Councilman Filippi and unanimously carried, to defer this agenda item and schedule a special meeting of the City Council to consider it on November 25, 2013 at 8:00 a.m.

12. Residents may be heard on matters for Council consideration that do not appear on the agenda

*Ken Ball* made a presentation in opposition to the proposed Field House that is included in the SPI Plan. The presentation touched on the areas of building in a flood zone; the size of the proposed structure; the SEQRA process; impact on sewers; and recreation costs in the County Budget. Councilwoman Parker provided an update on issues related to the SPI proposal before the Board of Legislators. She also said that the City needs to have more of a role in the decision process and that the Playland Advisory Committee is willing to take a more active role and will attend the SPI meeting on December 11<sup>th</sup>. Ms. Parker will also be meeting with the County Executive. Corporation Counsel Wilson said she is working on a letter to the County requesting that the City be considered an involved agency under SEQRA.

*Mack Cunningham* spoke about documents received by the City in connection with the SEQRA process for the SPI Plan for Playland. He said the report is 85-pages long and includes comments on parking management, impact to property values, flooding, and quality of life. He urged the Council to set up a committee regarding the field house structure and noted that no taxes will be paid to the City although the City's Police and Fire will be the first responders.

*George Szczerba* announced that the American Legion Rye Post and Women's Auxiliary are working on bringing back the Memorial Day parade. It would be held on May 26, 2014. He also noted that for approximately two weeks after Super Storm Sandy, Robert Martin and Jim Griffin worked directing traffic at the intersection of Forest Avenue and Playland Parkway and requested that they be given some sort of recognition by the Council.

13. Authorization for City Manager to enter into a Memorandum of Understanding with the County of Westchester to provide access to Westchester Records Online: the County Clerk's land records and legal files  
Roll Call.

Councilwoman Brett made a motion, seconded by Councilman Filippi, to adopt the following Resolution:

**RESOLVED**, that the City Council of the City of Rye hereby authorizes the City Manager to enter into a Memorandum of Understanding with the County of Westchester to provide access to Westchester Records Online: the County Clerk's land records and legal files.

**ROLL CALL:**

AYES: Mayor French, Councilmembers Brett, Filippi, Killian, Parker and Sack  
NAYS: None  
ABSENT: Councilman Jovanovich

The Resolution was adopted by a 6-0 vote.

14. Authorization for City Manager to enter into an agreement with the New York State Bureau of Marine Services for reimbursement of the cost of tow vehicles for Marine Patrol use  
Roll Call.

This Agenda item was deferred and the City Manager was asked to provide the Council with more information on the history of the current vehicle and its utilization and the cost involved.

15. Acceptance of donation to the Rye Police Department of a twenty-foot overseas shipping container from Vincent Service Station, Inc. of Mamaroneck, New York  
Roll Call.

Councilman Filippi made a motion, seconded by Councilwoman Park, to adopt the following Resolution:

WHEREAS, Vincent Service Station, Inc. desires to donate a twenty-foot overseas shipping container to the Rye Police Department; and

WHEREAS, the container will be used for the storage of equipment that has been acquired as part of the Police Department's emergency preparedness efforts; and

WHEREAS, the donation will enhance the Police Department's emergency management capabilities; now, therefore, be it

RESOLVED, that the City Council of the City of Rye accepts the aforementioned donation.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Killian, Parker and Sack  
NAYS: None  
ABSENT: Councilman Jovanovich

The Resolution was adopted by a 6-0 vote.

16. One appointment to the Technology Committee for a three-year term, by the Mayor with Council approval

Councilwoman Parker made a motion, seconded by Councilman Filippi and unanimously carried to appoint Arthur Henderson to the Technology Committee for a three-year term expiring on January 1, 2016.

17. Appeal of denial of FOIL requests by Timothy Chittenden

Corporation Counsel Wilson said that the basis of the appeal is that the requestor believes that additional records exist.

Councilman Filippi made a motion, seconded by Councilwoman Brett, to adopt the following Resolution:

**RESOLVED**, that the Appeal of the response to a FOIL request submitted by Timothy Chittenden seeking “All records of all salary increases and bonuses received by Rye City Manager Pickup since January 1, 2009, and all W-2 issued to Pickup since January 1, 2009” is hereby denied.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi and Killian  
NAYS: Councilmembers Parker and Sack  
ABSENT: Councilman Jovanovich

The Resolution was adopted by a 4-2 vote.

Corporation Counsel Wilson said that the requestor received the calendars, but not the records on the second side of the calendar, which is considered a separate record by the Police Department.

Councilwoman Brett made a motion, seconded by Councilman Sack, to adopt the following Resolution:

**RESOLVED**, that the Appeal of the response to a FOIL requested submitted by Timothy Chittenden seeking “Copies of all employee calendars for Police Officer Incalcaterra and Compagnone during their careers” is hereby granted and the additional records will be provided with the appropriate redactions.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Killian, Parker and Sack  
NAYS: Councilman Filippi  
ABSENT: Councilman Jovanovich

The Resolution was adopted by a 5-1 vote.

18. Miscellaneous Communications and Reports

Mayor French said that the audited 2012 numbers from Rye Town Park show a surplus of \$1,300.

19. Old Business

Councilwoman Brett said that there will be a flood meeting at the Airport on Monday, November 25 with County and Airport officials and the City's flood consultant.

20. New Business

Councilwoman Killian reported that the Sustainability Committee would like the City to join SWEAC (Sustainable Westchester Energy Action Consortium).

21. Adjournment

There being no further business to discuss Councilman Filippi made a motion, seconded by Councilwoman Parker and unanimously carried, to adjourn the meeting at 12:13 a.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk

***DRAFT UNAPPROVED MINUTES*** of the  
Special Meeting of the City Council of the City of  
Rye held in City Hall on November 25, 2013 at 8:00  
P.M.

PRESENT:

DOUGLAS FRENCH Mayor  
LAURA BRETT  
RICHARD FILIPPI  
JULIE KILLIAN  
JOSEPH A. SACK  
Councilmembers

ABSENT: PETER JOVANOVICH  
CATHERINE F. PARKER  
Councilmembers

1. Pledge of Allegiance

Mayor French called the meeting to order and invited the Council to join in the Pledge of Allegiance.

2. Roll Call

Mayor French asked the City Clerk to call the roll; a quorum was present to conduct official city business.

3. Authorization for the City Manager to execute, on behalf of the City of Rye, a Payment in Lieu of Tax Agreement (PILOT) between Rye Manor, LLC and the Westchester County Industrial Development Agency (IDA).  
Roll Call.

Also present for the discussion of this item were Laura Slack and Katy Keohane Glassberg, representing the School Board, and John Madeo, representing Rye Manor LLC. Corporation Counsel Wilson said that the Council would be authorizing four separate actions in connection with this Agenda item: (1) a Payment in Lieu of Taxes (PILOT) Agreement; (2) Consent to the Sale and Termination of the Restrictive Covenants; (3) acceptance of the Municipal Impact Fee Agreement; and (4) an Intermunicipal Agreement (IMA) with the School District. There was a discussion regarding proposed changes to the PILOT Agreement that have been discussed since the document was published with the Agenda Packet on Friday. Ms. Wilson summarized the changes which relate to the ability to recover attorney's fees and the number of units designated as affordable senior housing. *Councilmember-elect Terry McCartney* spoke in favor of the proposals but raised concerns regarding potential repercussions from the

County. John Madeo said that the County is fully aware of the proposed PILOT agreement and has not raised any questions about distribution. He also noted that the County held a public hearing in Rye in connection with this matter. *John Carey* raised several concerns regarding the proposals, and suggested, along with *Joseph Murphy*, that the City Council should hold a public hearing. Changes were also suggested to the IMA with the School Board in order to clarify areas where the City might make capital improvements.

Councilman Filippi made a motion, seconded by Councilwoman Killian, to adopt the following Resolution:

**RESOLVED**, that the City Council of the City of Rye hereby authorizes the City Manager to execute, on behalf of the City of Rye, a Payment in Lieu of Taxes (PILOT) Agreement, as amended, between the City of Rye, HONY Housing Development Fund Corp. and Rye Manor LLC.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Killian and Sack  
NAYS: None  
ABSENT: Councilmembers Jovanovich and Parker

The Resolution was adopted by a 5-0 vote.

Councilman Filippi made a motion, seconded by Councilwoman Brett, to adopt the following Resolution:

**RESOLVED**, that the City Council of the City of Rye hereby authorizes the City Manager to execute, on behalf of the City of Rye, a Consent and Termination of Restrictive Covenants and Reverter.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Killian and Sack  
NAYS: None  
ABSENT: Councilmembers Jovanovich and Parker

The Resolution was adopted by a 5-0 vote.

Councilman Filippi made a motion, seconded by Councilwoman Brett, to adopt the following Resolution:

**RESOLVED**, that the City Council of the City of Rye hereby authorizes the City Manager to



execute, on behalf of the City of Rye, a Municipal  
Impact Fee Agreement with Rye Manor LLC.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Killian and Sack  
NAYS: None  
ABSENT: Councilmembers Jovanovich and Parker

The Resolution was adopted by a 5-0 vote.

Councilman Filippi made a motion, seconded by Councilwoman Killian, to adopt the following Resolution:

**RESOLVED**, that the City Council of the City of Rye hereby authorizes the City Manager to execute, on behalf of the City of Rye, an Intermunicipal Agreement (IMA), as amended, between the City of Rye and the Rye City School District for the apportionment of the PILOT payments and the use of the Municipal Impact Fee.

ROLL CALL:

AYES: Mayor French, Councilmembers Brett, Filippi, Killian and Sack  
NAYS: None  
ABSENT: Councilmembers Jovanovich and Parker

The Resolution was adopted by a 5-0 vote.

4. Adjournment

There being no further business to discuss Councilman Filippi made a motion, seconded by Councilwoman Brett and unanimously carried, to adjourn the meeting at 9:10 a.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk



# CITY COUNCIL AGENDA

NO. 5

DEPT.: City Council

DATE: December 4, 2013

CONTACT: Mayor Douglas French

**AGENDA ITEM:** Mayor's Management Report

**FOR THE MEETING OF:**

December 4, 2013

**RYE CITY CODE,**

**CHAPTER**

**SECTION**

**RECOMMENDATION:** That the City Manager provide a report on requested topics.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:** The Mayor has requested an update from the City Manager on the following:

- Update on General Code Revision Project
- Flood Mitigation Update
- Capital Projects Update
- Legal Update



# CITY COUNCIL AGENDA

NO. 6

DEPT.: City Council

DATE: December 4, 2013

CONTACT: Mayor Douglas French

**ACTION:** Mayor and Council amendments to the proposed 2014 City of Rye Budget.

**FOR THE MEETING OF:**

December 4, 2013

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the Mayor and the Council review and act on the proposed Budget modifications.

**IMPACT:** ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:**



# CITY COUNCIL AGENDA

NO. 7

DEPT.: City Manager's Office

DATE: December 4, 2013

CONTACT: Scott Pickup, City Manager

**ACTION:** Public hearing on the proposed 2014 City Budget.

**FOR THE MEETING OF:**

December 4, 2013

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the Mayor and the Council conduct the Public Hearing on the proposed 2014 Rye City Budget.

**IMPACT:** ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:**

The City Manager presented the budget on November 6th. The Council held Workshops on November 13<sup>th</sup>, 18<sup>th</sup> and 20<sup>th</sup>.

The proposed 2014 Budget is available on the City website [www.ryeny.gov](http://www.ryeny.gov) under City News: 2014 Annual Budget.

The Budget adoption is scheduled for December 18, 2013.



# CITY COUNCIL AGENDA

NO. 8

DEPT.: City Manager's Office

DATE: December 4, 2013

CONTACT: Scott Pickup, City Manager

**ACTION:** Continuation of Public Hearing to amend local law Chapter 197, Zoning, of the Rye City Code, Section §197-1, "Definitions and Usage", to amend the definition of "STORY, HALF", and Section §197-43.2, Subsection B, "Attics" to amend the Calculation of Attics in Gross Floor Area.

**FOR THE MEETING OF:**

December 4, 2013

**RYE CITY CODE,**

CHAPTER 197  
SECTION 1, 43.2

**RECOMMENDATION:** That the Council hold a Public Hearing to amend the City Code.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:** Concerns were expressed to the City Council that some new residential construction is considered potentially out of scale in size, height, and or bulk. The City Planner drafted changes to Rye Local Law to address some of the bulk and height concerns associated with residential attics and provide greater consistency between the requirements of the City Zoning Code and the New York State Building Code. A workshop was held on November 19, 2013 to review the proposed changes.

See attached draft Local Law to amend Chapter 197, "Zoning" to amend the definition of "STORY, HALF" and the Calculation of Attics in Gross Floor Area.

Christian K. Miller, AICP  
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<http://www.ryeny.gov>

**CITY OF RYE**  
**Department of Planning**

**Memorandum**

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To: Scott Pickup, City Manager

From: Christian K. Miller, AICP, City Planner

cc: Rye City Planning Commission  
Kristen K. Wilson, Esq., Corporation Counsel

Date: November 27, 2013

Subject: **Revised Draft Local Law Address House Scale Concerns**

Attached hereto for the City Council's consideration is a revised draft local law amending the City Zoning Code modifying the definition of "Story, Half" and changing how attic space is included in the calculation of gross floor area of a residence. The attached local law was revised based on the comments raised at the November 19, 2013 public workshop requested by the City Council.

At the workshop there was considerable discussion regarding how and whether the revised law should apply to all properties or just new residential construction. The attached revised law strikes a balance between those differing points of view. As with the existing attic law, it applies to all properties but is less aggressive than the previous proposal in terms of how much floor area is counted in attics. The revised draft essentially preserves all elements of the existing attic law, but closes the collar tie "loophole" by requiring that the attic headroom dimension be measured from the attic floor to the bottom of the roof rafter. This was the intent of the original law and it would seem counter-productive to essentially exempt properties that took advantage of this loophole since the 2003 zoning changes from the proposed law.

In addition, the measured headroom height has been reduced from 7' 6" to 7' to be consistent with the minimum required headroom dimensions for habitable space under the New York State Building Code. As with the existing law all attic space meeting the specified dimensional criteria is counted at 50%, not 100% as with the previous proposal. The revised law (as with the existing law) does not require attic dormers to be included in the calculation of gross floor area for a residence.

**D R A F T**

**LOCAL LAW  
CITY OF RYE NO. \_\_\_\_\_ 2013**

**A Local law to amend Chapter 197 “Zoning”, of the  
Code of the City of Rye, New York  
to Amend the Definition of “Story, Half” and the  
Calculation of Attics in Gross Floor Area.**

Be it enacted by the City Council of the City of Rye as follows:

**Section 1. Article I, *Definitions*, Section 197-1, *Definitions and Usage*, of the Code of the City of Rye is hereby amended to amend the definition of “STORY, HALF” as follows<sup>1</sup>:**

STORY, HALF — A ~~story~~ space under a gable, hip or gambrel roof, the gross floor area of which (measured between the wall plates of which on at least two opposite exterior walls extending are not more than two (2) or more feet above the floor of such story) does not exceed, when not more than sixty (60) percent% of the floor area is ~~used for rooms, baths or toilets~~ of the next floor area immediately below.

**Section 2. Article V, *Lot, Floor Area, Height, Yard and Court Regulations*, Section 197-43.2.B, *Attics*, of the Code of the City of Rye is hereby amended as follows:**

B. Attics. Fifty (50) percent of the attic floor area shall be counted in the computation of gross floor area ~~only~~ where the headroom height measured from the finished or unfinished attic floor to the bottom of the roof rafters exceeds seven (7) feet, six inches and the distance between existing or theoretical five-foot-high knee walls exceeds seven (7) feet.

**Section 3. Severability**

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law that can be given effect without such invalid part or parts.

**Section 4. Effective Date**

This Local Law shall take effect ~~immediately~~ eight (8) months upon its adoption and filing with the Secretary of State.

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<sup>1</sup> All changes to the existing code are shown with underline for additions and ~~strikethrough~~ for deletions.



# CITY COUNCIL AGENDA

NO. 9

DEPT.: City Manager's Office

DATE: December 4, 2013

CONTACT: Scott Pickup, City Manager

**ACTION:** Continuation of Public Hearing to adopt a local law to amend Chapter 197 Article IV "Use Regulations" and Article VI "Appeals" to establish regulations regarding outdoor fire pits and outdoor kitchens.

**FOR THE MEETING OF:**

December 4, 2013

**RYE CITY CODE,**

CHAPTER        197  
SECTION

**RECOMMENDATION:** That the Council hold a Public Hearing to amend Chapter 197 of the City Code.

**IMPACT:**   ☐ Environmental   ☐ Fiscal   ☐ Neighborhood   ☒ Other:

**BACKGROUND:** A proposal has been put forward to amend changes to the Board of Architectural review process to amend the local law to add regulations regarding outdoor fire pits/kitchens

See attached Draft Local Law.



**CITY OF RYE**  
**LOCAL LAW NO. \_\_\_\_ 2013**

**A Local Law to amend Chapter 197 “Zoning” Article IV  
“Use Regulations” of the Rye City Code**

**Be it enacted by the City Council of the City of Rye as follows:**

**Section 1:** Chapter 197 Zoning; Article IV “Use Regulations”

§ 197-9. Accessory uses.

A. Residence districts.

**(1) Outdoor fireplaces may be permitted by the Architectural Review Board subject to the following conditions:**

- (a) Not be wood burning unless the chimney is attached to the residence.**
- (b) Not be located in a required front yard.**
- (c) Be set back from side and rear yards at least 20 feet in R.1 Districts and 15 feet in all other districts.**
- (d) The outdoor fireplace structure shall not be greater than 8’ in height, measured from grade, if it is freestanding. Attached chimneys shall comply with all other regulations for chimneys in the Rye City Code.**
- (e) Have no floodlighting, directly or indirectly, and all other lighting shall be arranged and shaded as to reflect light away from adjoining premises or a public street.**

**Section 2: Severability.**

If any clause, sentence, paragraph, section or part of any section of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

**Section 3: Effective date.**

This local law will take effect immediately on filing in the office of the Secretary of State.



# CITY COUNCIL AGENDA

NO. 10

DEPT.: Corporation Counsel

DATE: December 4, 2013

CONTACT: Kristen K. Wilson, Corporation Counsel

**ACTION:** Continuation of Public Hearing to add a new article to the Rye City Code to provide tax exemptions for improvements to historic properties.

**FOR THE MEETING OF:**

December 4, 2013

**RYE CITY CODE,**

**CHAPTER**

**SECTION**

**RECOMMENDATION:** That the Council hold a Public Hearing regarding the proposed tax exemption for improvements to historic properties.

**IMPACT:** ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:** A proposal has been made to add a new article to the Rye City Code to provide tax exemptions for improvements to historic properties. The law allows a property owner to seek a tax exemption (for a certain number of years) for any increase in assessed value as a result of rehabilitation and/or alteration to historic structures. The percent tax exemption decreases over a ten year period as set forth in the draft law. The proposed Draft Local Law will be referred to the Planning Commission, Board of Architectural Review, the Board of Appeals, and the Board of Assessment Review for review.

\*\* Rye has 288 homes that were built in 1904 or earlier, however this figure does not represent an accurate total of potentially historic dwellings since the age of some dwellings is unknown and they do not appear in the count. In addition, the year built for commercial structures does not appear in the database.

See attached:

- Draft Local Law
- Information on communities that have enacted a Historic Tax Exemption
- Information provided by NYS Tax and Finance on Historic Tax Exemption
- New York Real Property Tax Law section that provides the authority for municipalities to adopt laws providing for tax exemptions for historic properties
- Application that owners would have to fill out and provide to the City Assessor

**OF RYE**  
**LOCAL LAW NO. \_\_\_\_ 2013**

**CITY**

**A Local Law to add Chapter 177 “Taxation” Article XII  
“Exemption for Historic Districts” to the Rye City Code**

**Be it enacted by the City Council of the City of Rye as follows:**

**Section 1: Chapter 177 Taxation; Article XII  
“Exemption for Historic Districts”**

**§ 177-1. Legislative intent; review process; historic determination; rights of property owner.**

- A. This real property tax exemption for historic property is being enacted in order to achieve the following goals: to increase incentives for property owners in historic districts to invest in the upkeep and rehabilitation of properties; to provide an incentive for the restoration and rehabilitation of commercial structures which qualify as landmarks in order to provide financial advantages, not available elsewhere in the country at this time, which may help to attract and retain businesses in the City of Rye; to assist homeowners who are interested in restoring their own properties but may not be able to afford to do so when faced with potential increases in taxation as the result of alterations which would qualify for this exemption; and to provide a concrete benefit for restoring or improving historically or architecturally significant properties which are subject to the regulations of Chapter 117, Landmarks Preservation.
- B. The City of Rye real property tax exemption is intended to apply to alterations or rehabilitations of historic property as authorized pursuant to §§ 96-a and 119-aa through 119-dd of the General Municipal Law and § 444-a of the Real Property Tax Law and all other powers granted to the City of Rye to provide such exemptions.
- C. This article is intended to create a real property tax exemption that preserves or increases the historic character of real property located within the City of Rye.

**§ 177-2. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the following meanings.

**ALTERATION**

Only exterior work on a building that requires a building permit or demolition permit.

## CERTIFICATE OF APPROPRIATENESS

A certificate issued by the Board of Architectural Review authorizing a material change of appearance of a Protected Site or Structure or within a district, subject to other applicable permit requirements.

## DEMOLITION

The destruction of the exterior of a building, in whole or in part, whether or not the foundation is also destroyed pursuant to the requirements of a duly issued demolition permit.

## HISTORIC BUILDING

Any building that the Landmarks Advisory Committee has determined to be of an historic nature consistent with the criteria outlined in Chapter 117 of the Rye City Code and is located within an historic district. An historic building does not have to be designated as a Protected Site or Structure.

## LANDMARK

Any parcel or building or structure designated as a Protected Site or Structure not located in a Preservation District, which nonetheless meets one or more of the criteria enumerated in § 117-5 and is designated as a Protected Site or Structure pursuant to § 117-5E.

### **§ 177-3. Amount; criteria.**

Real property within the City of Rye altered or rehabilitated subsequent to the effective date of this article shall be exempt from City real property and special ad valorem levies, subject to and in accordance with the schedule set forth in § 177-3B and conditions outlined in § 177-3B and C.

- A. Historic property which shall be defined hereafter shall be exempt from taxation to the extent of any increase in value attributable to such alteration or rehabilitation pursuant to the following schedule:

<b>Year of Exemption</b>	<b>Percentage of Exemption</b>
1	100%
2	100%
3	100%
4	100%
5	100%
6	80%
7	60%

8	40%
9	20%
10	0%

B. No such exemption shall be granted for such alterations or rehabilitation unless all of the following criteria are met.

- (1) Such property must be “historic,” which means: 1) that the property has been designated as a landmark pursuant to Chapter 117 of the Rye City Code; or 2) that the structure has been found to meet the criteria of being an historic building by the Landmarks Advisory Committee and is part of a historic district;
- (2) Alterations or rehabilitation are consistent with the character of the historic building;
- (3) Such alterations or rehabilitation or reconstruction of the historic building are approved by the Landmarks Advisory Committee and the Board of Architectural Review prior to the commencement of work and a certificate of appropriateness issued;
- (4) The alterations or rehabilitation or reconstruction must otherwise result in an increase in the assessed valuation of the real property; and
- (5) Alterations or rehabilitation or reconstruction are commenced subsequent to the effective date of this article.

C. In the event an historic building is substantially demolished due to fire or other act of nature not caused by the property owner, the reconstruction of such building consistent with its historic character as reviewed and approved by the Board of Architectural Review shall qualify for the partial tax exemption, but in no event shall the assessment for the taxes to be paid be less than the assessment that existed prior to the substantial demolition.

**§ 177-4. Application for exemption; approval.**

A. The exemption may be granted only upon application of the owner or owners of such historic building on a form prescribed by the New York State Office of Real Property Services, or any successor agency.

- B. The application must be filed with the Assessor on or before the appropriate taxable status date.
- C. The exemption shall be granted where the Assessor is satisfied that the applicant is entitled to an exemption pursuant to this section.
- D. All of the terms, conditions and exceptions as set forth in § 444-a of the Real Property Tax Law of the State of New York, as amended, are adopted herein unless otherwise specified, as though fully set forth within this article.

**Section 2: Severability.**

If any clause, sentence, paragraph, section or part of any section of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

**Section 3: Effective date.**

This local law will take effect immediately on filing in the office of the Secretary of State.

## Historic Property Exemption

Municipality	# of Properties that Qualify	# of Properties That applied	Financial Impact
Cohoes	<p>7 properties</p> <p>To be eligible the property must be in an area designated as historical, meet the requirements and be approved by the Historical Committee.</p>	<p>7 buildings have qualified for this exemption.</p>	<p>It is considered a financial win for the city as many of the buildings were in need of total rehab. The exemption is the cost of improvements that qualify under the historical requirements.</p> <p>Example:            Current building assessed value \$45,000            Cost of Historic Rehab. \$100,000            New assessed value \$200,000            Less cost of Rehab -\$100,000 (10 year exemption) Years 1-5 100%, yr 6 80%, yr 7 60%, yr 8 40%, yr 9 20, yr 10-0            New assessed value \$100,000            This exemption is granted by the City of Cohoes and the Cohoes School District.</p> <p>The Assessor noted that they have been lucky that the people that took advantage of this exemption had buildings that were in need of rehab totaling \$100,000 to \$400,000. They currently have \$1,574,000 in exemptions on \$1,908,400 of assessed value. They currently have a 56% equalization rate.</p>
Ithaca	<p>575 properties</p>	<p>Abatement has been used five times since the local ordinance was adopted back in 1997 **</p>	<p>The 10-year abatement period has expired for two of the properties and is still running for the other three. The total financial impact for all five properties over the entire 10-year period of their abatements will be forgone taxes on a total of \$3,831,000 in taxable value, which represents \$50,108 in taxes forgone. This represents a negligible annual impact for the City.</p>

## Historic Property Exemption

North Castle	93 properties	None applied	n/a
Northport		<p>One property with a very small exemption for a porch.</p> <p>One property will be receiving the exemption upon completion of the renovations.</p>	
Seneca Falls	The exemption is very specific as to the type of renovation/restoration so that has limited property owners from applying.	1 property	The exemption only covers Town taxes so: if the restoration causes the assessment to rise by \$200,000 then the exemption would be computed as follows: 200.000 amount x 3.96 tax rate = \$792.00.

\*\* Ithaca noted that the likely reason for the low level of usage is that the City has a fairly stable tax base with reasonable high property values and not a lot of underutilized, vacant, or significantly deteriorated properties that would be eligible for the program. In a location where there were more depressed properties that would see a big assessment increase following renovation, Ithaca anticipated that the program might be used much more heavily.

### Five properties in Ithaca include:

- a large single-family home being converted for use as a bed-and-breakfast
- a former residence that had been used as office space that was renovated for use as a bed and breakfast
- a former residence that has been used commercially for many years and was being renovated for a retreat center
- a duplex that remained a duplex
- a single family home that remained a single family home.



MUNI_CODE	COUNTY_NM	MUNI_NM	VILLAGE_NM	SBL # (Section-Block-Lot)	PROP_CLASS
010100	Albany	Albany		76.31-4-24	210
010100	Albany	Albany		76.49-5-5	220
010100	Albany	Albany		76.24-5-37	210
010100	Albany	Albany		76.39-2-10	220
010100	Albany	Albany		76.26-3-1	481
010100	Albany	Albany		76.34-3-3	481
010100	Albany	Albany		76.49-1-6	230
010100	Albany	Albany		76.49-1-9	230
010100	Albany	Albany		76.24-2-42	481
010100	Albany	Albany		76.24-6-88	210
010100	Albany	Albany		76.34-3-2	481
010100	Albany	Albany		65.80-4-77	411
010300	Albany	Cohoes		10.59-1-21	482
010300	Albany	Cohoes		10.67-2-38	482
010300	Albany	Cohoes		10.67-2-5	481
010300	Albany	Cohoes		10.59-1-22	481
010300	Albany	Cohoes		10.59-3-45	482
010300	Albany	Cohoes		10.59-4-2	481
010300	Albany	Cohoes		10.59-3-44	482
050100	Cayuga	Auburn		116.54-1-18	210
050100	Cayuga	Auburn		116.77-1-17	210
050100	Cayuga	Auburn		123.21-1-28	210
050100	Cayuga	Auburn		116.61-1-28	210
050100	Cayuga	Auburn		116.77-1-6	210
050100	Cayuga	Auburn		116.61-1-30.2	210
050100	Cayuga	Auburn		123.21-1-41	210
130200	Dutchess	Beacon		5954-16-755455-0000	210
140200	Erie	Buffalo		100.27-2-35	210
140200	Erie	Buffalo		89.82-1-61	210
140200	Erie	Buffalo		99.84-7-10	230
140200	Erie	Buffalo		99.84-7-11	230
140200	Erie	Buffalo		89.82-4-69	210
140200	Erie	Buffalo		99.84-7-12	220
140200	Erie	Buffalo		89.66-4-30	210
140200	Erie	Buffalo		99.76-6-12	210
140200	Erie	Buffalo		111.21-3-6	411
140200	Erie	Buffalo		100.77-1-7	220
140200	Erie	Buffalo		100.78-4-26	411
142200	Erie	Amherst		67.20-6-37	210
261400	Monroe	Rochester		120.360-0001-003.000	210
261400	Monroe	Rochester		120.360-0002-040.000	280
261400	Monroe	Rochester		121.270-0001-017.000	220
261400	Monroe	Rochester		121.420-0001-025.000	210
261400	Monroe	Rochester		105.840-0002-025.000	442
261400	Monroe	Rochester		122.380-0001-016.001/0000	210
261400	Monroe	Rochester		122.470-0002-004.001/0002	210

261400	Monroe	Rochester		121.780-0001-004.001	210
261400	Monroe	Rochester		122.470-0002-004.001/0003	210
261400	Monroe	Rochester		122.470-0002-004.001/0001	210
261400	Monroe	Rochester		122.460-0001-028.000	210
261400	Monroe	Rochester		121.340-0002-045.000	280
262000	Monroe	Brighton		150.06-5-12	210
262000	Monroe	Brighton		123.09-1-80	210
262000	Monroe	Brighton		138.05-2-72	210
262000	Monroe	Brighton		150.06-5-16	210
262000	Monroe	Brighton		137.12-1-42	210
301600	Oneida	Utica		318.50-2-42	464
331100	Orange	Newburgh		45-5-23	210
331100	Orange	Newburgh		45-5-23	210
331100	Orange	Newburgh		45-6-7	230
331100	Orange	Newburgh		45-6-7	230
331100	Orange	Newburgh		45-6-1	220
331100	Orange	Newburgh		45-6-1	220
331100	Orange	Newburgh		11-1-22	220
331100	Orange	Newburgh		11-1-22	220
331100	Orange	Newburgh		39-5-20	220
331100	Orange	Newburgh		39-5-20	220
331100	Orange	Newburgh		45-6-13	220
331100	Orange	Newburgh		45-6-13	220
331100	Orange	Newburgh		39-5-15.1	481
331100	Orange	Newburgh		39-5-15.1	481
331100	Orange	Newburgh		18-6-43	220
331100	Orange	Newburgh		18-6-43	220
331100	Orange	Newburgh		4-9-2	220
331100	Orange	Newburgh		4-9-2	220
331100	Orange	Newburgh		40-2-1.12	710
331100	Orange	Newburgh		40-2-1.12	710
343400	Orleans	Ridgeway	Medina	80.37-1-3	457
343400	Orleans	Ridgeway	Medina	80.37-2-47	481
343400	Orleans	Ridgeway	Medina	80.37-1-16.1	481
343400	Orleans	Ridgeway	Medina	80.37-1-34	481
343400	Orleans	Ridgeway	Medina	80.37-1-34	481
343400	Orleans	Ridgeway	Medina	80.37-1-34	481
411500	Saratoga	Saratoga Springs		165.66-2-62	483
411500	Saratoga	Saratoga Springs		165.74-2-31	483
411500	Saratoga	Saratoga Springs		165.68-2-52	210
421500	Schenectady	Schenectady		39.63-2-15	220
421500	Schenectady	Schenectady		39.63-3-38	411
421500	Schenectady	Schenectady		60.38-2-1.21	411
460300	Steuben	Corning		318.37-01-052.000	481
460300	Steuben	Corning		317.44-02-026.000	481
460300	Steuben	Corning		318.37-01-013.000	481
460300	Steuben	Corning		318.37-01-045.000	481

473400	Suffolk	Smithtown	Nissequogue	12.-2-13.1	210
500700	Tompkins	Ithaca		8.-5-1	220
500700	Tompkins	Ithaca		11.-1-1	210
500700	Tompkins	Ithaca		69.-2-19	414
555400	Westchester	Yorktown		70.13-1-36	210

TOTAL ASSESSED VALUE	PRIMARY_OWNER	EX_CD	EX_APPLICA	EXEMPTION_AMOUNT
96100	GILHOOLY, MICHAEL	4196	3	71100
128800	TOOMEY, MATTHEW	4196	3	30180
150000	YATES STREET REALTY, LLC	4196	3	74000
150000	GILHOOLY, MICHAEL	4196	3	140000
159600	DAVISON, RONALD C	4196	3	28140
168600	Truman INC., Paul	4196	3	15720
170000	Madison Place Properties LLC	4196	3	72000
188000	Moneymaker, Richard W	4196	3	101400
200000	DIRTY HARRY'S LLC	4196	3	73920
220000	IANNELLI, LAURA A	4196	3	140000
257100	73 N PEARL STREET LLC.	4196	3	31420
396700	The McLaughlin Limited	4196	3	192780
145800	1000 Davis, LLC	4196	6	100000
196700	Derry, M. Scott	4196	6	125000
245000	Trinity Place	4196	6	200000
261900	Planet Development LLC	4196	6	200000
285000	R&B Properties of NY LLC	4196	6	175000
375000	East Ridge Associates LLC	4196	6	425000
399000	East Ridge Associates LLC	4196	6	500000
136000	Selvek, Stephen M	4196	6	10001
149999	Clark, William	4196	6	12510
158400	Chamberlain, Michael	4196	6	17408
216700	Champion, Maxsen D	4196	6	35038
262700	Hoey, Kevin Sr	4196	6	17507
278600	Guinn, Randall D	4196	6	89182
326600	Shellenberger, Alan	4196	6	45574
616000	Lee, Yuan	4196	3	250000
49900	Davis, Cozette	4196	0	26940
50000	Spigner, Deborah	4196	0	35000
50000	Purtell, Christopher E	4196	0	12000
52000	Burkhardt, Adam E	4196	0	16740
55000	Sales, Elvira	4196	0	30000
60000	Bordonaro, Louis P	4196	0	21600
65000	Burton, David	4196	0	12160
95000	Holdaway, Holly	4196	0	56000
140000	Nickel City Development LLC	4196	0	39761
250000	Delaware Properties LLC	4196	0	192000
275000	Franklin Street Properties LLC	4196	0	200000
276000	Duax, William L &	4196	0	152000
48000	Crawford Delois	4196	6	38000
84500	Warfield Michael	4196	6	64500
185000	Mastrodonato Andrea L	4196	6	63700
250000	Habza Daniel J & Laura O	4196	6	22380
283000	Quarterman Todd	4196	6	84900
415000	Weaver-Catalana Bernadett	4196	6	59100
460000	Valenti Frank P & Mary	4196	6	254200

473000 Janofsky Rosemary	4196	6	18750
597500 Griffiths Clifford H &	4196	6	433000
635500 Kavey Rae-Ellen/friedman	4196	6	475800
900000 Parker Jane Trustee Of	4196	6	365000
1150000 Tait Robert C & Amy L	4196	6	713500
175000 Press, Vincent L	4196	3	25000
195000 Apetz, Leslie J	4196	3	80000
210000 Nearpass, Gregory R	4196	3	16000
298000 Berkner, Jonathan	4196	3	28900
970000 Chessin, Daniel J	4196	3	68800
60000 Homestead Enterprises Two, LLC	4196	6	20000
88000 Bluestone Developers Inc	4196	3	44800
88000 Bluestone Developers Inc	4196	4	44800
99800 Bluestone Developers	4196	3	49900
99800 Bluestone Developers	4196	4	49900
111000 Bluestone Developers	4196	3	43000
111000 Bluestone Developers	4196	4	43000
118800 Majeed, Rafiq	4196	3	100000
118800 Majeed, Rafiq	4196	4	100000
125100 Bluestone Developers Inc	4196	3	114200
125100 Bluestone Developers Inc	4196	4	114200
127300 Bluestone Developers Inc	4196	3	115300
127300 Bluestone Developers Inc	4196	4	115300
146000 Liberty Street Development LLC	4196	3	129500
146000 Liberty Street Development LLC	4196	4	129500
158500 Arrabito, Edward	4196	3	100400
158500 Arrabito, Edward	4196	4	100400
350000 Majeed, Mohammad S	4196	3	300000
350000 Majeed, Mohammad S	4196	4	300000
1506100 Newburgh Brewing Co LLC	4196	3	490000
1506100 Newburgh Brewing Co LLC	4196	4	490000
36000 Cooper, Timothy D	4196	5	15600
51800 Thurston , Fred R	4196	5	33000
57500 Thomas Development, LLC	4196	5	14800
207800 ReNewell, LLC	4196	5	28440
207800 ReNewell, LLC	4196	5	66100
207800 ReNewell, LLC	4196	5	74500
249300 Luciano, Grace H	4196	3	119450
255000 Gasser, George H	4196	3	128400
285000 Kelley, Wm Jr	4196	3	21427
143400 White, Robin T	4196	0	20000
355000 White, Robin T	4196	0	30000
1465200 Excelsior Development LLC	4196	0	779600
300000 Tshmoo Riley LLC	4196	0	115000
450000 Sorge Property Development	4196	0	412100
1000000 Klugo Partners LP LLC	4196	0	535000
1500000 Centerway Commerce Bldg LLC	4196	0	973000

11500 Pittella, Joseph	4196	1	675
330000 Augustinos, Robert	4196	1	140000
450000 Stuart McDougal Revoc Trust	4196	3	65000
950000 Unity Inn, LLC	4196	1	650000
15250 LINDBERG, LARS & BRONNER,	4196	3	285

## N.Y. RPT. LAW § 444-a : NY Code - Section 444-A: Historic property

### 1.Real property altered or rehabilitated

subsequent to the effective date of a local law or resolution adopted pursuant to this section shall be exempt from taxation and special ad valorem levies as herein provided. After a public hearing, the governing body of a county, city, town or village may adopt a local law and a school district, other than a school district governed by the provisions of article fifty-two of the education law, may adopt a resolution to grant the exemption authorized pursuant to this section. A copy of such law or resolution shall be filed with the state board and the assessor of such county, city, town or village who prepares the assessment roll on which the taxes of such county, city, town, village or school district are levied.

2. (a) Historic property shall be exempt from taxation to the extent of any increase in value attributable to such alteration or rehabilitation pursuant to the following schedule:

year of exemption	percent of exemption
1	100
2	100
3	100
4	100
5	100
6	80
7	60
8	40
9	20
10	0

(b) No such exemption shall be granted for such alterations or rehabilitation unless:

(i) Such property has been designated as a landmark, or is a property that contributes to the character of an historic district, created by a local law passed pursuant to section ninety-six-a or one hundred nineteen-dd of the general municipal law;

(ii) Alterations or rehabilitation must be made for means of historic preservation;

(iii) Such alterations or rehabilitation of historic property meet guidelines and review standards in the local preservation law;

(iv) Such alterations or rehabilitation of historic property are approved by the local preservation commission prior to commencement of work;

(v) Alterations or rehabilitation are commenced subsequent to the effective date of the local law or resolution adopted pursuant to this section.

3. Such exemption shall be granted only by application of the owner or owners of such historic real property on a form prescribed by the state board. The application shall be filed with the assessor of the county, city, town or village having power to assess property for taxation on or before the appropriate taxable status date of such county, city, town or village.

4. Such exemption shall be granted where the assessor is satisfied that the applicant is entitled to an exemption pursuant to this section. The assessor shall approve such application and such property shall thereafter be exempt from taxation and special ad valorem levies as herein provided commencing with the assessment roll prepared on the basis of the taxable status date referred to in subdivision three of

this section. The assessed value of any exemption granted pursuant to this section shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

5. A county, city, town or village by local law or a school district by resolution may:

(a) Reduce the per centum of exemption otherwise allowed pursuant to this section; and

(b) Limit eligibility for the exemption to those forms of alterations or rehabilitation as are prescribed in such local law or resolution.





**NYS DEPARTMENT OF TAXATION & FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES**

RP-444-a (9/08)

**APPLICATION FOR PARTIAL EXEMPTION FOR ALTERATION OR  
REHABILITATION OF HISTORIC REAL PROPERTY**

(General information and instructions for completing this form are on back.)

1. Name and telephone no. of owner (s)

2. Mailing address of owner(s)

Day no. ( )

Evening no. ( )

E-mail (optional)

3. Location of property

Street address

Village (if any)

City/Town

School district

Parcel identification no. (see tax bill or assessment roll)

Tax map number or section/block/lot

4. General description of property:

5. Use(s) of property:

6a. Date construction of alteration or rehabilitation was commenced:

b. Date completed (attach certificate of occupancy or other documentation of completion):

7. Cost of alteration or rehabilitation:

8. Describe how alteration or rehabilitation made to property accomplishes the purposes of historic preservation:

9. Attach proof of landmark or historic district designation. For property in a historic district, explain how property contributes to the district's historic character:

10. Attach approval of local preservation commission for alteration or rehabilitation.

I certify that all statements made above are true and correct.

Signature of Owner

Date

### INSTRUCTIONS FOR APPLICATION FOR PARTIAL EXEMPTION FOR ALTERATION OR REHABILITATION OF HISTORIC REAL PROPERTY

**Authorization for exemption:** Section 444-a of the Real Property Tax Law authorizes a partial exemption from real property taxation for the alteration or rehabilitation of historic property. Counties, cities, towns, and villages may enact local laws authorizing the exemption; school districts may do so by resolution. Municipalities authorizing the exemption may limit eligibility to forms of alteration or rehabilitation prescribed in the local law or resolution.

**Criteria for exemption:** Assuming local authorization for the exemption, to qualify, (1) the improved property must be designated as a landmark or be property which contributes to the character of a locally created historic district; (2) the alteration or rehabilitation must be made for purposes of historic preservation; (3) the alteration or rehabilitation must satisfy local guidelines and review standards in the local preservation law; (4) prior to the commencement of the alteration or rehabilitation, such change must be approved by the local preservation commission; and (5) the alteration or rehabilitation must be commenced after adoption of the local law resolution authorizing the exemption. Landmark designation, if any, and approval from the local preservation commission must be attached to the application.

**Duration and computation of exemption:** Generally, the amount of the exemption in the first year is 100% of the increase in the value attributable to the alteration or rehabilitation. The amount of the exemption remains the same for years two through five; thereafter the exemption is phased out over the next four years (that is, in year six, the exemption is 80 percent of the increase in value; then 60 percent in year seven, and so on). Municipalities authorizing the exemption, however, may reduce the percentages of exemption.

**Place of filing application:**

Application for exemption from city, town, or village taxes must be filed with the city, town, or village assessor. Application for exemption from county or school district taxes must be filed with the city or town assessor who prepares the assessment roll used to levy county or school taxes. In Nassau County, applications must be filed with the Nassau County Board of Assessors. In Tompkins County, applications for exemption from county, city, town or school district taxes must be filed with the Tompkins County Division of Assessment.

**Time of filing application:**

The application must be filed in the assessor's office on or before the appropriate taxable status date. In towns preparing their assessment roll in accordance with the schedule provided by the Real Property Law, the taxable status date is March 1. In Nassau County towns, taxable status date is January 2. Westchester County towns have either a May 1 or June 1 taxable status date; contact the assessor. In cities, the taxable status date is determined from charter provisions and the city assessor should be consulted to determine the appropriate date. Taxable status date for most villages which assess is January 1, but the village clerk should be consulted for variations.

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#### FOR ASSESSOR'S USE

---

1. Date application filed: \_\_\_\_\_
2. Applicable taxable status date: \_\_\_\_\_
3. Action on application: ☐ Approved ☐ Disapproved
4. Assessed valuation or parcel in first year of exemption: \$ \_\_\_\_\_
5. Increase in total assessed valuation in first year of exemption: \$ \_\_\_\_\_
6. Amount of exemption in first year:

	<u>Percent</u>	<u>Amount</u>
County	_____	_____
City/Town	_____	_____
Village	_____	_____
School District	_____	_____

---

 Assessor's signature

---

 Date

## **Benefits of Residential Historic District Designation for Property Owners**

Jonathan Mabry, Ph.D.  
Historic Preservation Officer  
Department of Urban Planning and Design  
City of Tucson  
(6-7-07)

Historic district designation has become an important tool for local governments in efforts to preserve the character of central-city neighborhoods. Designation of historic districts based on a national level of significance, called National Register Historic Districts, has occurred widely in the U.S. since the passage of the enabling legislation of the National Historic Preservation Act in 1966. In addition, some states have created state historic registers and many municipalities have established local historic registers and special zoning for local historic landmarks and districts. The number of local historic districts in the U.S. has grown from approximately 100 in 1966 to more than 2,000 in the late 1990s (Listokin et al. 1998).

National- and state-level designations convey more prestige to an individual property or historic district, and makes federal and state tax breaks available to owners of individually-listed properties and properties listed as contributing to the significance of a district. However, national- or state-level designation offers no real protections, as both listing and participation in tax abatement programs is voluntary, and owners can renovate or demolish a significant historic property to replace it with a “highest and best use” building that maximizes income or sale price.

In contrast, local-level historic designations typically require review of significant exterior alterations, demolitions, and new construction within historic districts in order to restrict incompatible development, and thereby maintain the historic character and integrity of designated structures and neighborhoods. Reviews are conducted by community commissions or neighborhood advisory groups, or both, composed of local residents, and are based on specific design standards and guidelines developed by the community.

The City of Tucson currently has 21 National Register Historic Districts. Six of the nationally- designated districts are also designated as local Historic Preservation Zones (districts), as enabled by a 1972 ordinance revising the Land Use Code. In the locally-designated districts, there are two levels of review of exterior renovations, demolitions, and new construction. The level of review is determined by whether the property is a contributing or noncontributing property in a National Register District, or whether the proposed changes are major or minor.

### Higher Property Values and Rates of Appreciation

Higher property values and rates of appreciation are important economic benefits of historic district designations of residential neighborhoods. Recent studies in Arizona document this effect of historic district status on property values. A study of the Speedway-Drachman National Register Historic District in Tucson showed that between 1987 and 2007, the average assessed value of homes in this district appreciated 15 percent higher than the average in a nearby neighborhood with housing stock of similar age, construction, and design (L’Orange 2007:4). A study of 25,975 single family homes sold in Phoenix in 2005, including 212 located in National Register historic districts, showed that historic designation increased the average marketable sales price of a house by 31%, or more than \$100,000 (Poppen 2007:7). A study in Mesa comparing house market value changes between 1997-2004 in the Mesa Evergreen National Register Historic District compared to those in two comparable, undesignated neighborhoods identified a +26% difference in the historic district (Bellavia 2007:3-4).

There is some data that national-level historic designation has a slightly greater positive effect on property values than local-level historic designation alone (Leichenko et al. 2001:1982-1983). However, this

difference is not statistically significant, and the same comparative data shows that properties that carry only local designation also tend to have higher values compared to similar, undesignated properties (Leichenko et al. 2001), and relative to the entire real estate market (Rypkema 2002).

Local land-marking and design review can actually boost property values by introducing certainty into the marketplace and improving the overall economic climate, which benefits all property owners (Clarion Associates of Colorado 2002). Comparison of a number of independent studies of local historic districts in New Jersey, Texas, Indiana, Georgia, Colorado, Maryland, North and South Carolina, Kentucky, and Virginia showed that this economic effect of local designation is typical across the country.

The results of these studies are remarkably consistent: property values in local historic districts appreciate significantly faster than the market as a whole in the vast majority of cases and appreciates at rates equivalent to the market in the worst case. Simply put—local historic districts enhance property values (Rypkema 2002:6).

Other data indicates that the greatest impact on rates of property appreciation occur with the addition of local designation (which usually includes a design review process and more restrictions on property renovations, demolitions, and new construction) on top of national designation. In a recent study conducted in Memphis, Tennessee, combined local/national designation added 18.6% to assessed property values over a four-year period compared to 13% added by national designation alone (Coulson and Lahr 2005:494-495). In Evansville, Indiana, the rate of appreciation between 1980 and 1995 was significantly greater within a locally designated portion of a larger National Register District (Rypkema 1997:7). Over the same period in Indianapolis, average property values appreciated faster in a district with combined local/national designation compared to a neighborhood with only a national designation (Rypkema 1997:9). Between 1976 and 1996 in Georgia, assessed property values in districts with both local and national designations increased at a rate of 47% compared to 23% for properties in districts with only the national designation (both figures adjusted for inflation) (Athens-Clarke County Planning Department 1996:4).

Table 1 summarizes the findings of 15 recent studies of the effect of historic district designation on property values over time. These studies were conducted in several different regions of the United States, and include both nationally and locally designated districts. These studies vary in the specific aspects of value over time examined, such as assessed value, sales value, and rate of appreciation. However, all of the studies in Table 1 can be compared in terms of average property values in historic districts relative to similar, undesignated neighborhoods.

**Table 1.** Property Values\* in Designated Historic Districts Compared to Similar Undesignated Neighborhoods in the Same Communities (Ave. Value Annual )

<u>Study Area</u>	<u>Data Interval</u>	<u>Diff. (%)</u>	<u>Rate (%)</u>	<u>Reference</u>
Athens, GA	1976-1996	+14	+.7	Leithe & Tigue 1999
Denver, CO	1993-2000	+3-6	+.4-1.2	Clarion Assoc. of CO 2002
Durango, CO	1993-2000	+.7	+.1	Clarion Assoc. of CO 2002
Galveston, TX	1975-1991	+85-360	+5.3-22.5	Govt. Fin. Res. Center 1991
Memphis, TN	1998-2002	+14-23	+3.5-5.7	Coulson and Lahr 2005
Mesa, AZ	1997-2004	+26	+3.7	Bellavia 2007
New Jersey		+5	—	New Jersey Hist. Trust 1997
New York, NY	1975-2002	+13	+.5	NYC Ind. Budget Office 2003
Phoenix, AZ	2005	+31	—	Poppen 2007
Rome, GA	1980-1996	+10	+.6	Leithe and Tigue 1999
San Diego, CA	2000-2005	+16	+3.2	Narwold 2006

Savannah, GA	1974-1997	+264-588	+11.5-25.6	Leithe and Tigue 1999
Texas (9 cities)	(variable)	+5-20	—	Leichenko et al. 2001
Tifton, GA	1983-1996	+2	+.2	Leithe and Tigue 1999
Tucson, AZ	1987-2007	+15	+.7	L'Orange 2007

\* Phoenix and Mesa studies used sales values; all other studies used assessed values.

A few of the designated districts experienced extremely high rates of appreciation, or very modest rates, but most saw property values increase by 5-35% per decade over the values in similar, undesignated neighborhoods.

Within these data, another important pattern is that newer properties within historic districts benefit just as much as older properties. In Memphis, both older and newer (less than 10 years old) buildings in a local/national historic district appreciated to levels higher than similar properties in undesignated neighborhoods (Coulson and Lahr 2005:502-504).

#### Insulation from Extreme Market Fluctuations

Local historic district designation has proven to insulate property values from wild swings in the housing market, including both downturns tied to larger economic trends, and “bubbles” caused by cycles of real estate speculation. This stability is related to investor confidence that, because there are explicit design limits in the zoning code, home investments in historic districts will not be adversely affected by construction of an inappropriate, out-of-scale building next door. It is also due to the fact that neighborhoods with stable values do not offer opportunities for “flipping” (purchase followed by quick resale at a high profit margin). In these ways, local historic district designation reduces the uncertainty facing the buyer regarding the future value of the investment.

In short, it may be that historic districts are more likely to experience a certain indemnification from extremely modulating property values, perhaps because of a higher degree of investor confidence in these officially recognized and protected areas (Gale 1991:8).

#### Tax Breaks

Increasing property taxes associated with rising property values in nationally designated and state-designated historic districts can be offset by state and federal tax reduction programs. In Arizona, contributing properties in a National Register District are eligible for the State Historic Property Tax Reclassification program. This program reduces the taxes of listed properties by up to 50 percent over 15 years, and reduces assessments of improvements to commercial properties to 1 percent of their full value over 10 years. The Federal Investment Tax Credit program provides a 20 percent tax credit and accelerated depreciation for rehabilitated investment properties listed as contributors in National Register Districts. The reductions in property taxes available in National Register Districts provide needed economic relief for moderate-income neighborhoods experiencing rising property taxes during real estate boom cycles. The tax incentives also provide alternatives to demolition of historic homes, thereby providing stability to the built environments of neighborhoods.

#### Stabilization of Residence

Designation as a historic district raises the value of investments, promoting increased levels of home ownership and longer residence. This stabilizing effect on residence patterns has been documented by a study conducted in Indiana, which found that designated historic districts have higher rates of owner-

occupation, and longer durations of residence by both homeowners and renters, than do similar, undesignated neighborhoods (Rypkema 1997:2, 6, 10).

#### Increased Connections among Neighbors and Community Involvement

Neighborhoods with a significant proportion of owner-occupied homes tend to have higher rates of participation in neighborhood associations and improvement projects, which protects shared spaces from decline (Rypkema 2005:51-52). All proposed exterior modifications, new construction, and demolitions in locally designated historic districts require review by neighborhood advisory groups and historical commissions, thereby ensuring community involvement in neighborhood planning.

#### Summary

The findings of recent comparative studies of the effects of historic district designations over time, conducted in many different regions of the U.S., converge on a few key findings:

- Historic district designation typically increases residential property values by 5-35% per decade over the values in similar, undesignated neighborhoods.
- Both nationally- and locally- designated historic districts outperform similar, undesignated neighborhoods, but districts that carry both local and national designation experience the highest relative increases in property values.
- The values of newer properties within designated historic districts increase along with those of older properties.
- Local historic district designation decreases investor uncertainty and insulates property values from wild swings in the housing market.
- Increasing property taxes due to rising property values in historic districts designated at the national or state levels can be offset by state and federal tax reduction programs.
- The tax incentives also provide alternatives to demolition of historic homes, thereby providing stability to the built environments of neighborhoods.
- Historic district designation leads to increased levels of home ownership and longer residence by both homeowners and renters.
- Designated historic districts tend to have higher rates of participation in neighborhood associations and improvement projects, which protects shared spaces from decline.
- Proposed exterior renovations, demolitions, and new construction in locally-designated historic districts are reviewed by neighborhood advisory groups and historical commissions, thereby ensuring community involvement in neighborhood planning.

#### References Cited

Athens-Clarke County Planning Department, 1996. Economic Benefits of Historic Preservation in Georgia, A Study of Three Communities: Athens, Rome, and Tifton. Historic Preservation Division of the Georgia Department of Natural Resources, Atlanta.

Bellavia, Cara, 2007. Economic Impacts of Historic Designation (Mesa, Arizona). Research paper prepared for the course "Historic Preservation Planning Practice" (PUP 526). Planning Department of the College of Environmental Design and Architecture, Arizona State University.

Clarion Associates of Colorado, 2002. The Economic Benefits of Historic Preservation in Colorado. Colorado Historical Foundation, Denver.

Coulson, N., and M. Lahr, 2005. Gracing the Land of Elvis and Beale Street: Historic Designation and Property Values in Memphis. *Real Estate Economics* 33(3):487-507.

Gale, Dennis E., 1991. The Impacts of Historic District Designation in Washington, D.C, Occasional Paper No. 6. Center for Washington Area Studies, George Washington University, Washington, D.C.

Government Finance Research Center, 1991. The Economic Benefits of Preserving Community Character: A Case Study from Galveston, Texas. Government Finance Research Center, Chicago.

Leichenko, R., N. Coulson, and D. Listokin, 2001. Historic Preservation and Residential Property Values: An Analysis of Texas Cities. *Urban Studies* 38(11):1973-1987

Leithe, Joni, and Patricia Tigie, 1999. Profiting from the Past: The Economic Impact of Historic Preservation in Georgia. Athens-Clarke County Unified Government and the Historic Preservation Division, Georgia Department of Natural Resources.

Listokin, D. B. Listoken, and M. Lahr, 1998. The Contributions of Historic Preservation to Housing and Economic Development. *Housing Policy Debate* 9:431-478.

L'Orange, H. Peter, 2007. The Economic Impact of Historic Preservation: The Speedway-Drachman Historic District, Tucson, Arizona. Research paper prepared for the course "Historic Preservation Planning Practice" (PUP 526). Planning Department of the College of Environmental Design and Architecture, Arizona State University.

Narwold, Andrew, 2006. Historical Designation and Residential Property Values. Conference papers of the European Regional Science Association. <http://www.ersa.org/ersaconfs/ersa06/papers/245.pdf>

New Jersey Historic Trust and Center for Urban Policy Research, 1997. Economic Impacts of Historic Preservation. New Jersey Historic Trust, Trenton, New Jersey.

New York City Independent Budget Office, 2003. The Impact of Historic Districts on Residential Property Values. Independent Budget Office, New York.

Poppen, Matt, 2007. Does the Phoenix Market Value Historic Designation? A Spatial Hedonic Analysis of 2005 Phoenix Home Sales and Historic Designation. Research paper prepared for the course "Historic Preservation Planning Practice" (PUP 526). Planning Department of the College of Environmental Design and Architecture, Arizona State University.

Rypkema, Donovan D., 1997. Preservation & Property Values in Indiana. Historic Landmarks Foundation of Indiana, Indianapolis.

2002 The (Economic) Value of National Register Listing. *CRM* 25(1):6-7.

# CONNECTICUT LOCAL HISTORIC DISTRICTS AND PROPERTY VALUES



Prepared for: Connecticut Trust for Historic Preservation

Prepared by: *PlaceEconomics*, Washington, DC, October 2011



Funded by the Connecticut Department  
of Economic and Community Development  
with funds from the Community Investment Act



# Introduction

Connecticut is a state with a wealth of historic resources. Every corner of the state contains sites, structures, artifacts and landscapes that are today the physical manifestation of our rich heritage. It is the mission of the Connecticut Trust for Historic Preservation to nurture and protect those resources. One of the most effective means of assuring that our built history is available for generations to come is through the creation of local historic districts. Today in Connecticut there are 133 historic districts in 72 towns covering in excess of 8,000 buildings.

In addition, there are National Register of Historic Places districts which provide a wonderful means of identifying the importance of a neighborhood's architectural, cultural and historical importance. However National Register listing alone provides almost no protection for the properties within the district. Those protections come through the creation of a local historic district under CGS § 7-147. These local historic districts will include a board of volunteer citizens who review applications for architectural changes visible from a public right-of-way, new construction, and demolition. It is through this review and approval process that the underlying character of a neighborhood is maintained over time.

While the primary goal of a local historic district is to identify, protect and enhance historic resources, those actions surely must have economic consequences. Since one's house is usually the largest family asset, it is legitimate to ask, "What effect does being in a local historic district have on property values?" It was to help answer that question that the Connecticut Trust, with funding from the State Historic Preservation Office, commissioned this study – *Connecticut Local Historic Districts and Property Values*.

To get a broad understanding of the issue, we chose to look at four very different towns and cities in Connecticut: Canton, Milford, Norwich and Windsor. These communities vary widely in size, geography, demographics and economic condition. What they have in common, however, are inventories of wonderful historic buildings and local commissions to oversee the historic districts as they change and evolve.

We are very pleased by the results of this analysis. In no case was there evidence that being in a local historic district reduced property values. In fact, in three of the four communities, properties within historic districts have had an annual increase in value greater than that of properties in the community as a whole. This is perhaps not surprising in times of rapid real estate appreciation. But what about in the recent years where property values around the country have fallen? The study looked at patterns of foreclosures in each

of the four cities and found that in every case the rate of foreclosure was less in the historic district than in the local market – good news indeed for historic homeowners and their bankers.

Everything wasn't good news, however. We have learned that in the four communities there are more than 3,500 homes over a century old, but 92% of them have no protections through a local historic district. For us at the Connecticut Trust this means that stewarding historic resources for future generations requires an ongoing commitment.

The positive economic lessons from *Connecticut Local Historic Districts and Property Values* will be one more tool to assist us and the citizens of our state to meet that commitment.

Helen Higgins, Executive Director  
Connecticut Trust for Historic Preservation

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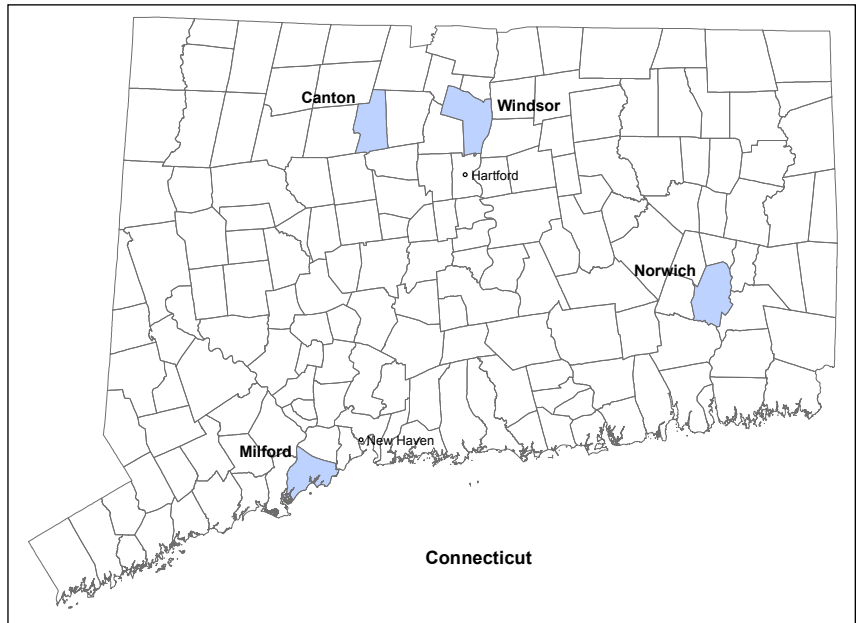
The State Historic Preservation Office is pleased to partner with the Connecticut Trust for Historic Preservation to produce this publication, which will become a valuable addition to every local historic district commission's preservation tool kit. There have been many good studies conducted across the country, in towns and cities large and small, analyzing the comparative values of properties within historic districts and without. While this analysis is a good reference point, people want specifics about Connecticut and their own town. Thanks to this excellent report, we can now provide more pertinent information and statistics for local historic district residents and commissioners here in Connecticut.

The conclusions that can be drawn from this report point to the importance of continued dedication to identifying and protecting the historic resources that tell the unique story of each of our cities and towns. By providing evidence that local historic district and property designation can offer assurances of economic stability and the promise of certain protections against unmanaged change, this report provides an effective response to the question so often asked: "what is the benefit of historic preservation?"

David Bahlman  
State Historic Preservation Officer

# Executive Summary

The relationship between property values and local historic districts was measured in four Connecticut communities – Canton, Milford, Norwich and Windsor. Included in the analysis were two local historic districts in Canton and Norwich and one district each in Milford and Windsor. The base comparison was the change in values of properties reflected in two revaluations for property tax purposes by the local assessor. In three of the cases those valuations were five years apart; in the fourth case, six years. In total data from more than 25,000 properties was examined.



The major findings, detailed on the pages that follow, were these:

- **Property values in every local historic district saw average increases in value ranging from 4% to over 19% per year.**
- **In three of the four communities the rate of value increase for properties within local historic districts was greater than for properties with no such protection.**
- **In “head to head” square-foot comparisons based on age and style, properties within local historic districts were worth more than similar properties not within the districts.**
- **Overall there appears to be a 2-4% value premium resulting from location within a local historic district.**
- **On a composite basis, the rate of foreclosure of properties within the historic districts was half the rate outside the districts.**
- **The comparative value increase is least where there are significant commercial and multifamily structures within the same neighborhood as single-family residences.**
- **In spite of these positive indicators, the vast majority of historic homes in these communities are not subject to the protection of local historic districts.**

# CANTON



## BACKGROUND

Founded in 1806, Canton is a small and prosperous country town 14 miles west of Hartford. It is part of the capital region but has a strong sense of being an independent community. Part of the town's identity is intertwined with the Collins Axe Company factory that prospered from 1826 to 1966. Many of the buildings in the mill area, called Collinsville, were built to house and support the factory's employees. The preservation and adaptive reuse of several downtown buildings resulted in *Budget Travel* ranking Collinsville among its 2007 "Ten Coolest Small Towns in Connecticut." The town was constructed along the Farmington River and today is the center of many outdoor sporting activities.

Canton has two local historic districts – Collinsville Historic District, established in 1988, and Canton Center Historic District, established in 1975. Collinsville Historic District is centered around the Collins Axe factory and includes remaining downtown buildings although not the factory itself. The district is a small historic manufacturing village with a mix of residential, commercial and industrial structures that are still in their original configuration, located just off State Route 169. Canton Center Historic District is north of Collinsville and generally runs linearly along Route 179, including properties 100 feet to either side of the road. The district is primarily residential and fairly rural, representing Canton's original town settlement as a rural agricultural community.

## STATISTICS

**County:** Hartford County

**Local Historic Districts:** 2

**National Register Districts:** 2

**Population:** 10,292

**Median Age:** 43

**Ethnic Makeup:**

White: 96%

African American: 1%

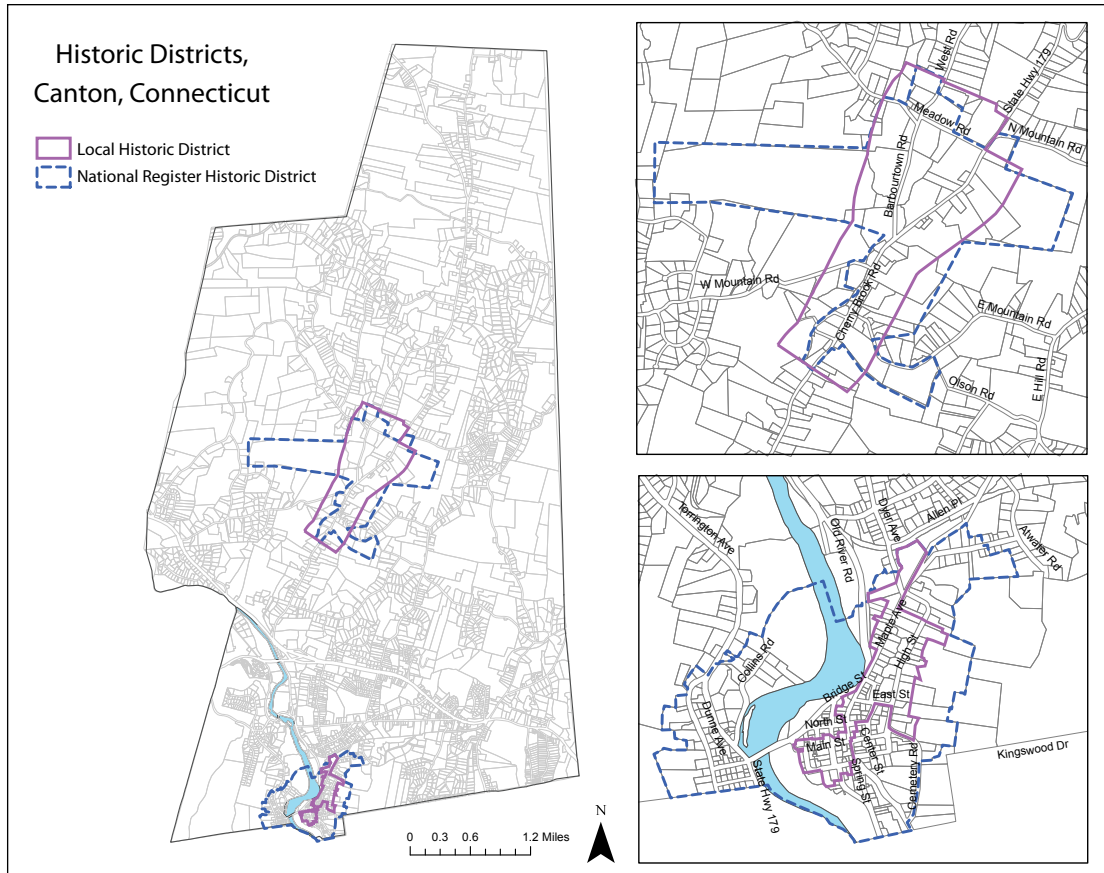
Latino: 2.6%

Asian: 2%

**Median Household Income:** \$86,912

**Owner-occupied Housing Units:** 3,394

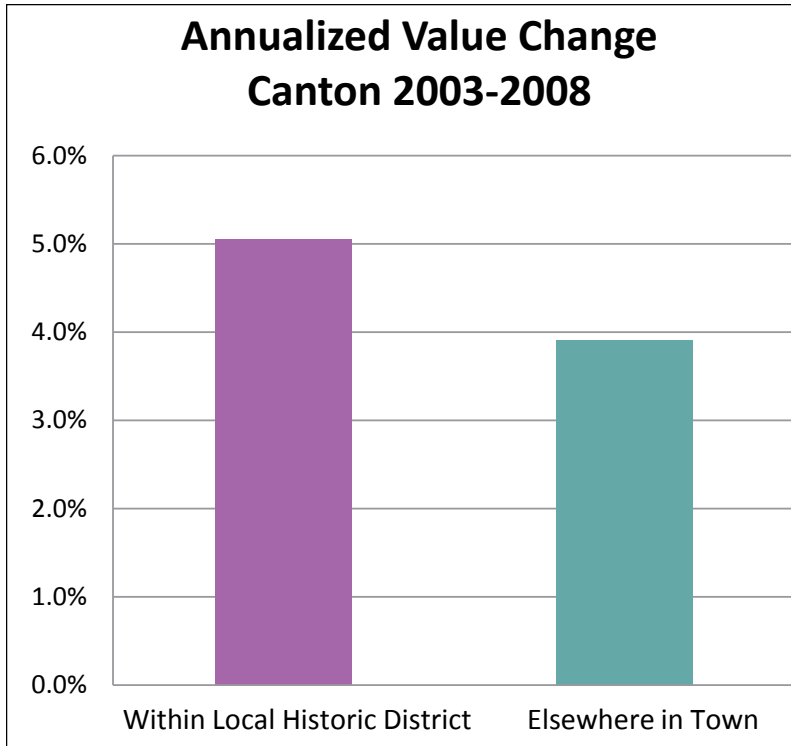
**Renter-occupied Housing Units:** 756



## FINDINGS

The base comparison for each of the communities was the change in value on a square-foot-of-living-area basis between the two most recent revaluations by the local assessor. In the case of Canton those revaluations took place in 2003 and 2008. The annual rate of value change for single-family residences within the two local historic districts was compared with similar properties not within the districts. An average property within the local historic district increased in value 5.05% each year between the revaluations while properties not within the historic districts increased 3.91% per year.

Canton has a considerable number of houses built prior to the 20<sup>th</sup> century, some of which are included within one of the two local historic districts while others are not. When comparisons were made of these houses, it was found that the value of the historic district house was \$28,000 (8.8%) more, the value per square foot was



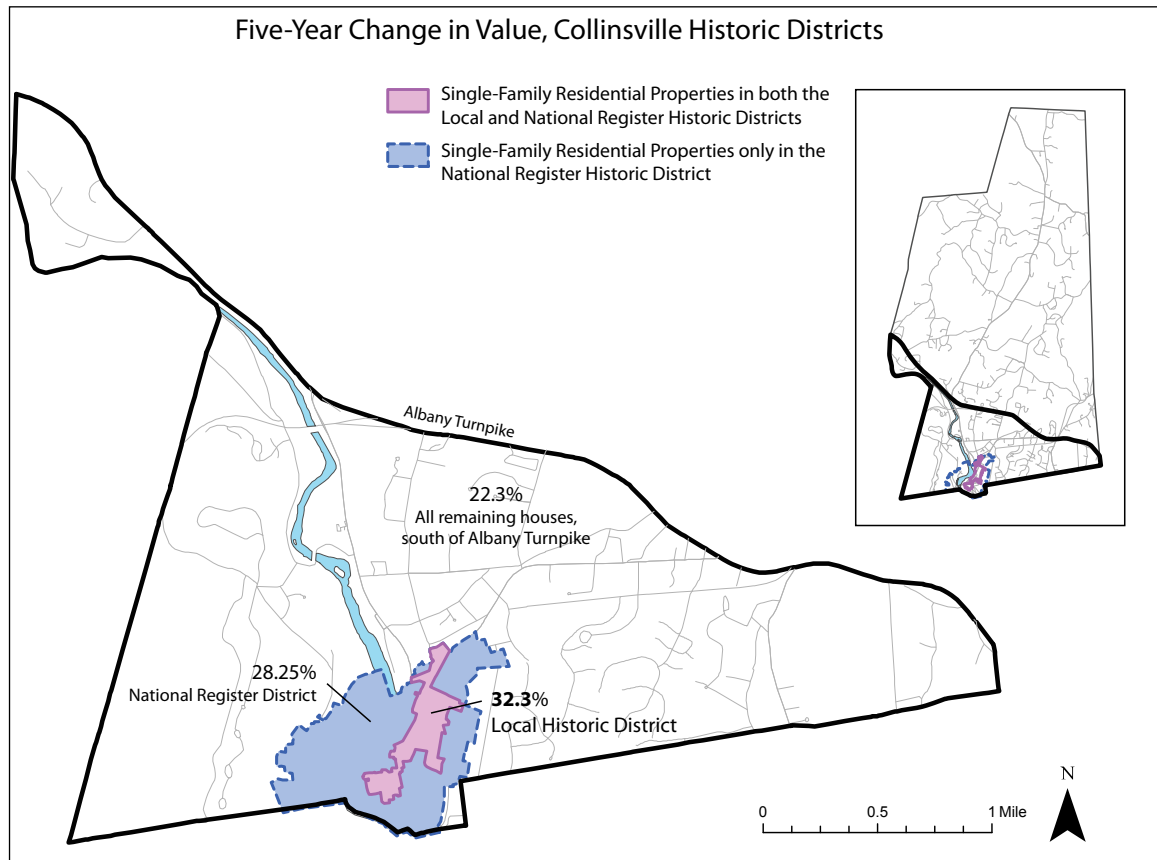
\$6.40 (4.2%) more, and the annual value change was approximately .6% higher.

These value comparisons were made with properties within the two local historic districts. However, Canton also has two National Register historic districts. Inclusion on the National Register does not place the same limitations on a property owner that local historic district/property designation does. Owners are free to make changes and alternations, although proposed demolitions of a property listed on the National Register can be challenged under CGS § 22a-15 to 22a-19a. It is only

in a local district that there is any review and approval process. As can be seen in the map on page 4, most properties that are in the local historic districts are also in National Register districts, but many National Register district buildings are not included in a local district and are, therefore, not subject to any design review and approval process.

This situation makes the Collinsville local historic district a particularly interesting example to evaluate. The entire local district is within the National Register district, but perhaps two-thirds of the National Register district is not included in the local district. And most of the area of Canton south of the Albany Turnpike is in

Pre-20 <sup>th</sup> -Century Homes in Canton			
	Value	Value/Square Foot	Annual Value Change ('03-'08)
Within Local Historic District	\$344,624	\$157.47	5.47%
Not Within Historic District	\$316,839	\$151.07	4.85%



neither district. So a comparison was made of the value changes in all three sectors: 1) within both the local and national district; 2) within the national district only; and 3) within neither historic district. The results can be seen in the map above: properties within the local district increased in value 32.3% over the five-year period between revaluations. Properties within the National Register district, but not within local oversight, increased by 28.25%. Finally properties in the neighborhood but in neither district increased 22.3%. What this appears to show, at least in this instance, is that around 70% of the value increase is attributable to overall market forces, 18% comes from the designation and recognition as a historic asset, and 12% is the share of value increase that local protections provide.



# MILFORD



## BACKGROUND

Founded in 1639, Milford is located along 17 miles of the Long Island Sound coastline between Bridgeport and New Haven and has strong connections to both cities. The town's main industries were shipbuilding, oystering and trade from the harbor. Milford was also home to numerous grist and saw mills. Milford's history is strongly tied to some of our nation's most significant historical figures and events, providing a resting place for George Washington and being part of the Underground Railroad. In the early 19<sup>th</sup> century, Milford became known as a popular beach resort for nearby New Haven and Bridgeport residents. During the early 1900s, the leather industry thrived with the making of boots, hats and shoes, while agricultural sectors, particularly apple harvesting, continued to influence the town's economy. However in the 1950s shopping centers began replacing Milford's farmlands. Today Milford is a growing town that has become a center of industry, home to the corporate headquarters of Subway, Schick and Bic (until 2008).

The majority of Milford retains its Colonial-era layout, though few Colonial homes remain in their original state. The Milford Historic District was established in 1976 and extends north of City Hall on either side of the Wepawaug River. It contains many stately homes, the earliest of which dates back to 1650. The South of the Green Historic District was created in 2007 as a collection of 18<sup>th</sup>- and 19<sup>th</sup>-century vernacular homes near the town's harbor. As of September 2011, a third local historic district in the Gulf Street area is under creation; the new district would protect approximately 400 historic homes.

## STATISTICS

**County:** New Haven County

**Local Historic Districts:** 2

**National Register Districts:** 1

**Population:** 51,271

**Median Age:** 45

**Ethnic Makeup:**

White: 89%

African American: 2.6%

Latino: 5.3%

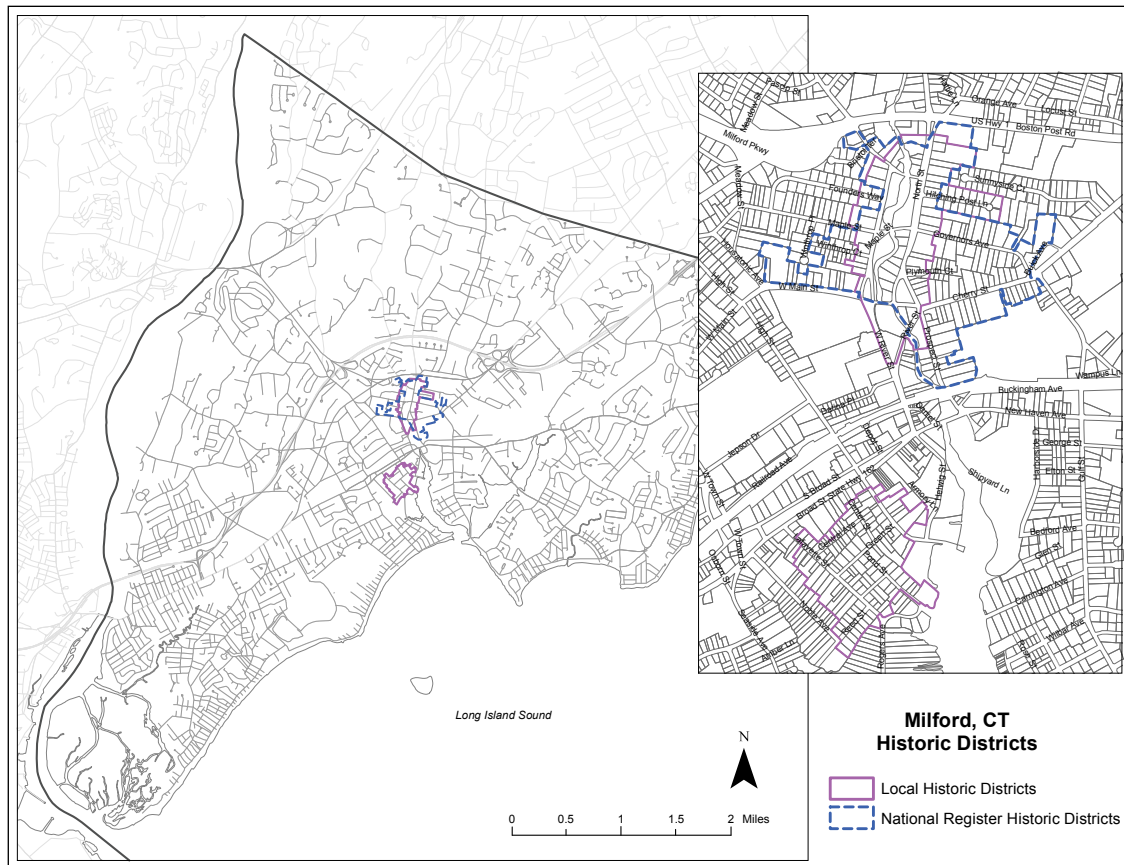
Asian: 5.5%

**Median Household Income:** \$75,995

**Owner-occupied Housing Units:** 16,054

**Renter-occupied Housing Units:** 4,963

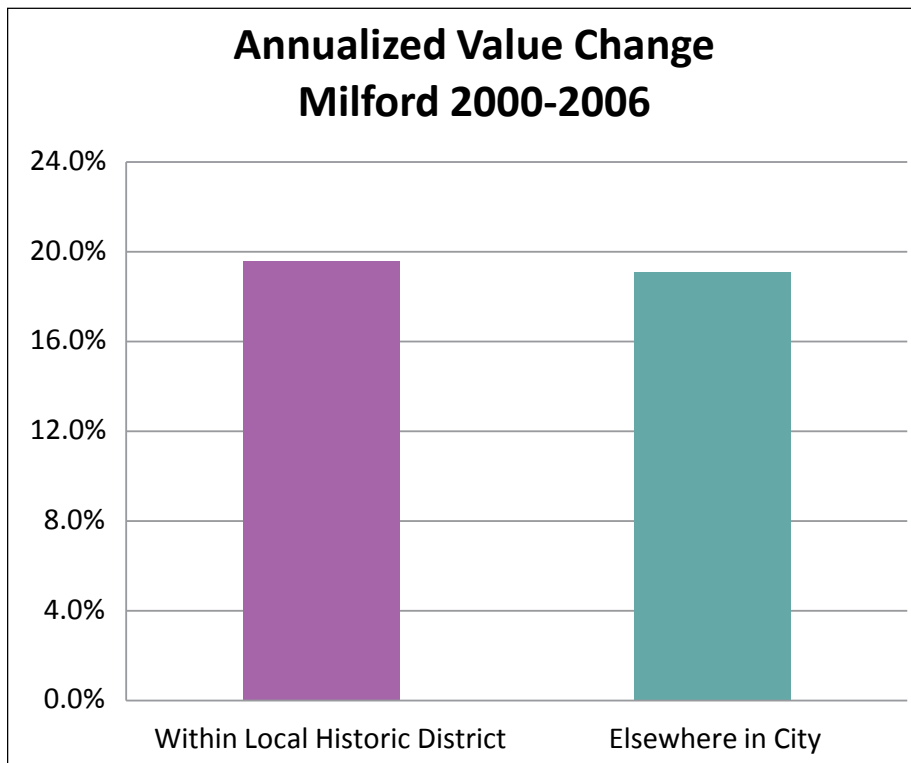




Although Milford has two local historic districts, only one – the Milford Historic District – was considered in this analysis. The reason is this: the second, the South of the Green District, was not established until 2007. The dates of the two revaluations (2000 and 2006) both predated the creation of the South of the Green District. Therefore it would be unreasonable to attribute any value changes in that neighborhood to the existence of a local historic district.

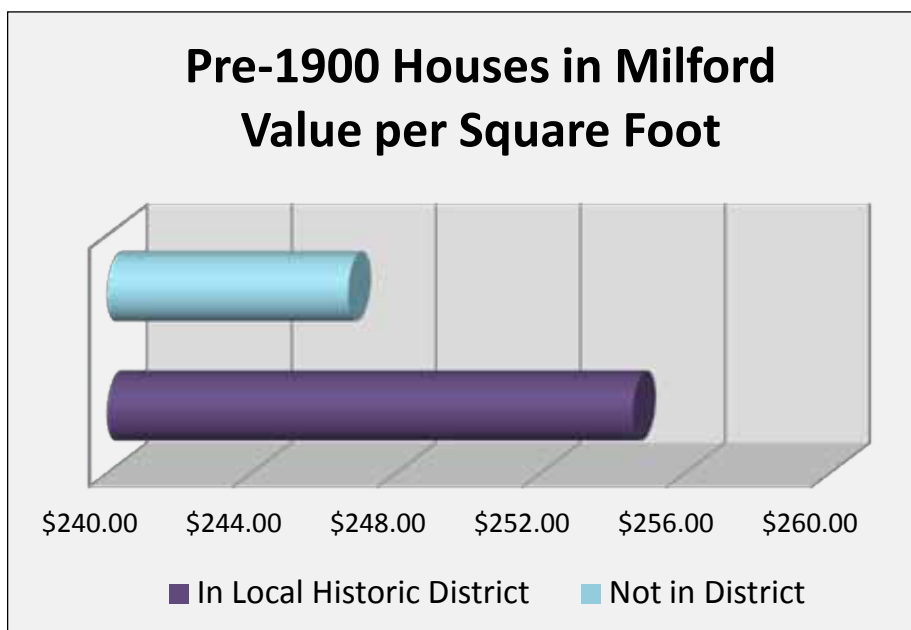
## FINDINGS

The comparison between properties within the Milford Historic District and single-family residences elsewhere in the community showed a slightly greater increase in average value. The annualized increase was 19.57% per year as compared to 19.08% for houses not within the historic district. While that differ-



ence was slight, it was still positive and, because of relatively high property values in Milford, meant an additional increase in value of historic district properties in excess of \$3,000 per year on average.

Another factor accounting for this more-modest differential was first identified for the researchers by the local assessor, Daniel Thomas, and subsequently confirmed in evaluating the data. In the first half of the decade Milford experienced an exceptionally high demand for oceanfront properties, which appreciated at rates far exceeding the very aggressive property market overall. Since the Milford Historic District contains no oceanfront property, the value changes to the comparative properties were statistically affected by the very high rate of value increases of these high-demand houses. Over the



six-year period between revaluations the value increase for oceanfront properties averaged in excess of 25% per year. Much of this demand has proven to be extremely volatile and would likely be moderated if the timeframe were extended.

When the comparison is made on more directly comparable historic houses – those built prior to the 20<sup>th</sup> century – the impact of being in a local historic district becomes more apparent. When oceanfront properties are excluded, houses constructed before 1900 and within the local historic district averaged about 1% more each year in value increase and were worth around \$8 per square foot more than like houses not in the historic district. In the case of Milford, it is both the quality of the historic neighborhood and the confidence that there is less likelihood of significant adverse changes that create this historic district value premium of slightly more than 3%.

# WINDSOR



## BACKGROUND

Located approximately 8 miles north of Hartford, Windsor is a commuter community with close ties to the capital. Founded in 1633 by settlers from Plymouth, Massachusetts, the town has the distinction of being one of Connecticut's first settlement. The First Church of Windsor, located at the center of the palisade, was founded around the same time and is the oldest Congregational church in Connecticut and among the oldest in the US. Between the 17<sup>th</sup> and 19<sup>th</sup> centuries, the town's primary industries included tobacco farming, brick making and paper making. Windsor's location along the Farmington River also fostered the growth of commercial shipping in the late 18<sup>th</sup> century, with local businessmen importing and exporting agricultural goods to the Caribbean and importing sugar and molasses. Today Windsor is composed of its historic core and outlying corporate areas that are headquarters for various industrial companies.

The Palisado Historic District, created in 1963, is north of the town center and generally runs 250 feet from either side of Palisado Avenue, between the Farmington River and Bissell's Ferry Road. It is a well-marked, primarily residential district, with examples of vernacular 18<sup>th</sup>- and 19<sup>th</sup>-century homes that are connected to the town's first settlers. Many of these houses were built by sea captains and other successful businessmen.

## FINDINGS

When the change of value for properties within Windsor's local historic district are compared with residential properties elsewhere, the result is consistent with what has been found in most other places. The

## STATISTICS

**County:** Hartford County

**Local Historic Districts:** 1

**National Register Districts:** 2

**Population:** 29,044

**Median Age:** 41

**Ethnic Makeup:**

White: 54%

African American: 34%

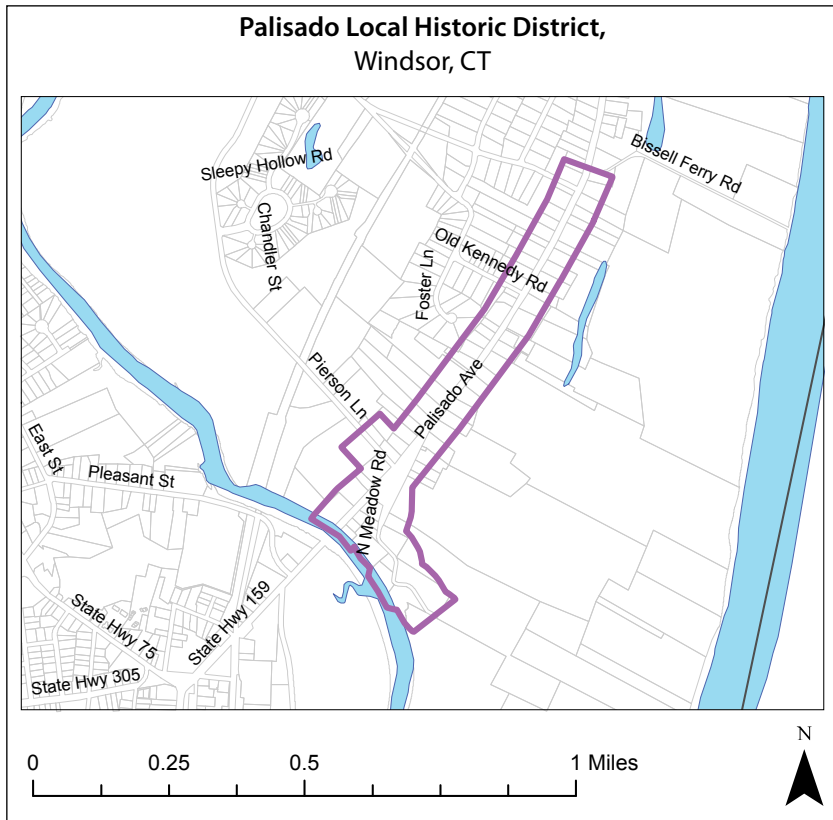
Latino: 5%

Asian: 3%

**Median Household Income:** \$79,294

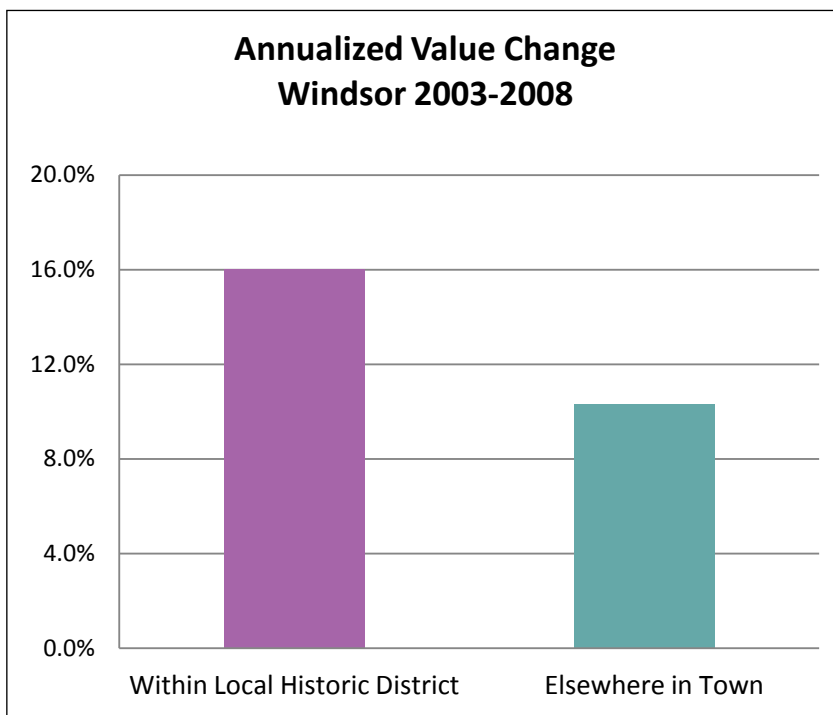
**Owner-occupied Housing Units:** 8,886

**Renter-occupied Housing Units:** 1,866

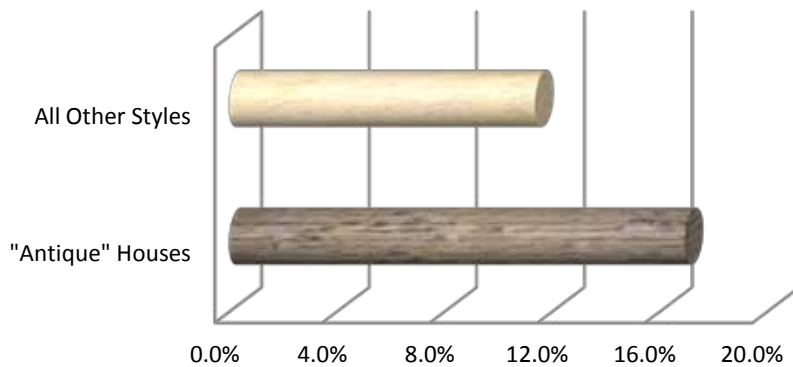


annual value change between 2003 and 2008 was 16.04% per year in the Palisado Historic District as compared to 10.33% in the rest of Windsor.

The historic charm of Windsor is obviously why many people choose to live there. And homes considered "antique" houses are in high demand. This is reflected in the annual increase in value of that type of dwelling. Over the five-year period the value growth of "antique" houses was 16.9% versus 11.4% for all other styles.



### Annualized Value Change by Style Windsor



But in Windsor, not all antique houses are in a local historic district. Is there a premium attached to houses that are not only antique but also in a neighborhood protected by a local historic district? In Windsor the answer is decidedly yes. Antique houses in a local historic district are worth, on average, \$30,000 more than antique houses found elsewhere in the community. On a square-foot basis the premium paid for a house in a historic district is about 4.5%.

### Average Value "Antique" Houses in Windsor



# NORWICH



## BACKGROUND

Norwich was founded in 1659 along the Norwich Harbor, which is formed by the convergence of the Yantic, Shetucket and Quinebaug Rivers. In the late 18<sup>th</sup> and early 19<sup>th</sup> centuries, Norwich grew into a thriving mill town and prosperous shipping center, with successful paper and textile companies. The arrival of the railroad solidified the town's connection to New York City and other major commercial cities on the east coast. In the 19<sup>th</sup> and 20<sup>th</sup> centuries, Norwich's manufacturing industries continued to prosper, expanding to include firearms, clock-making, furniture-making, foundries and Thermos bottles. It is also rumored that in 1860, Abraham Lincoln stayed at the Wauregan Hotel, now rehabilitated as mixed residential and commercial spaces. In the 1940s, several of the surrounding mill and factory villages were consolidated into modern-day Norwich. There are numerous remnants of Norwich's prosperous past scattered throughout the city's various neighborhoods and villages, ranging from grand homes to smaller farmhouses.

Norwichtown Historic District, created in 1967, is composed of the town's original Green and first settlement, represented by a collection of large 18<sup>th</sup>-century homes. The district boundaries are irregular. Little Plains Historic District, created in 1970, is on the border of downtown Norwich and includes a variety of late 18<sup>th</sup>- and 19<sup>th</sup>-century homes. Similar to the Norwichtown Historic District, the majority of buildings in Little Plains are remnants of Norwich's prosperous shipping and manufacturing past.

## STATISTICS

**County:** New London County

**Local Historic Districts:** 2

**National Register Districts:** 12

**Population:** 40,493

**Median Age:** 38

**Ethnic Makeup:**

White: 70%

African American: 10%

Latino: 13%

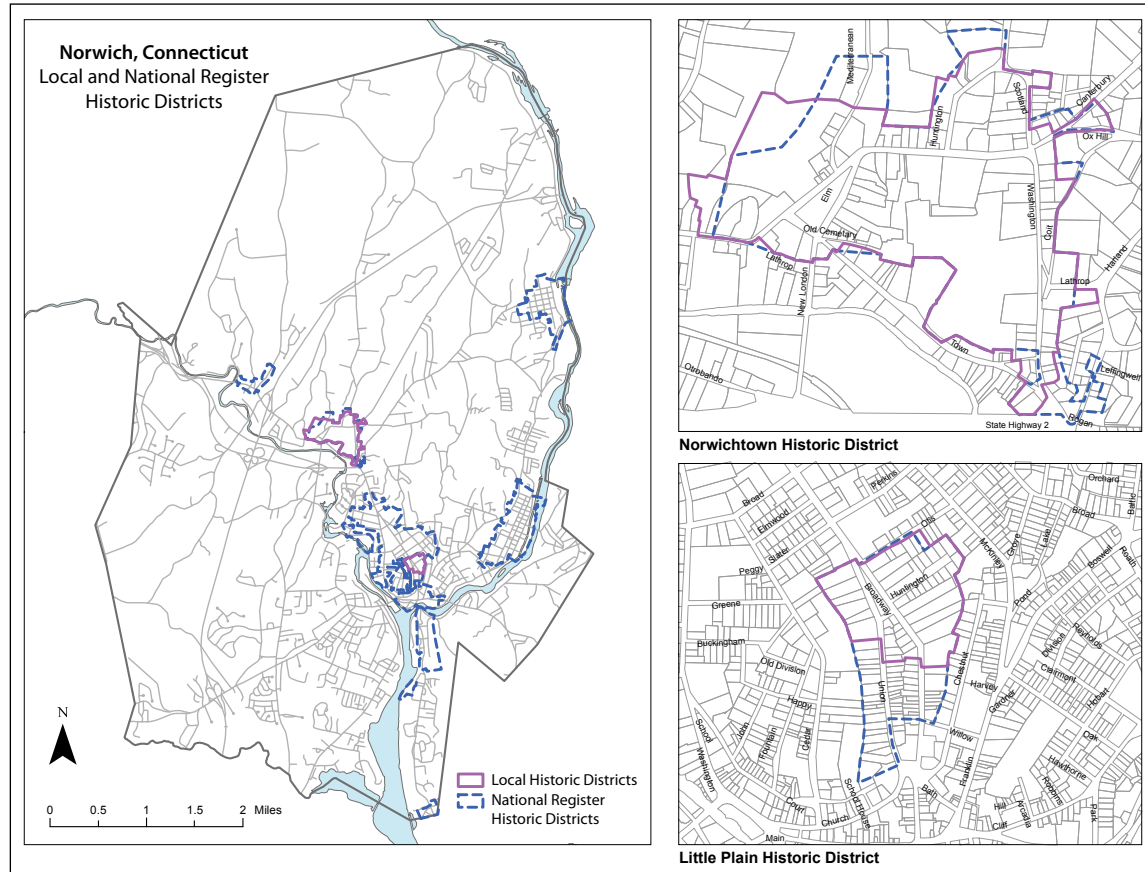
Asian: 8%

**Median Household Income:** \$50,381

**Owner-occupied Housing Units:** 8,614

**Renter-occupied Housing Units:** 7,985



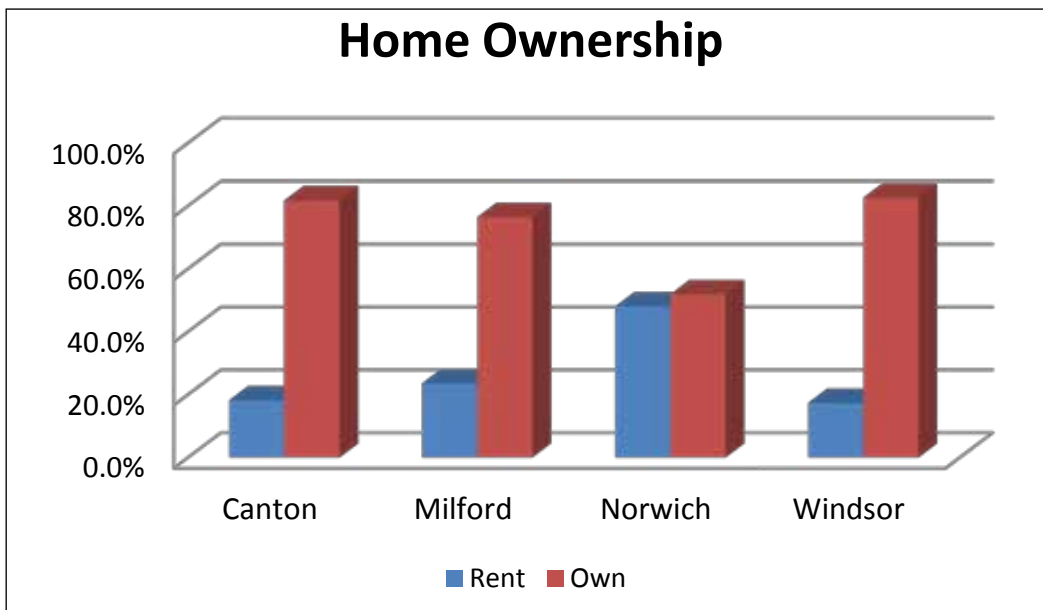
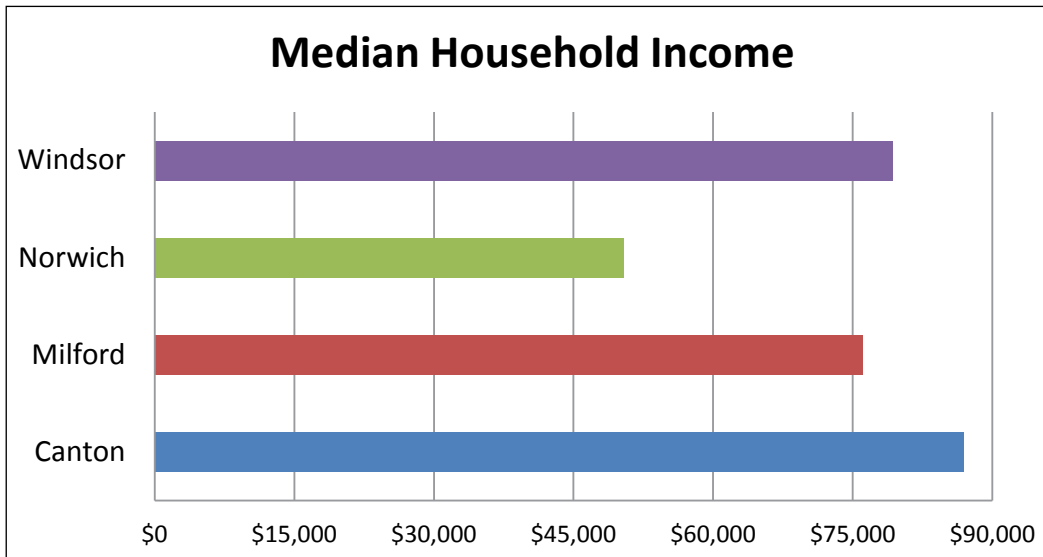


## FINDINGS

Norwich was chosen as a case study to answer slightly different questions than the others, specifically:

- Can historic neighborhoods provide affordable housing in less economically prosperous communities?
- In times of economic downturns, how do houses in local historic districts fare?
- What is the effect on single-family property values where they are within districts with sizable numbers of commercial and multi-family properties?

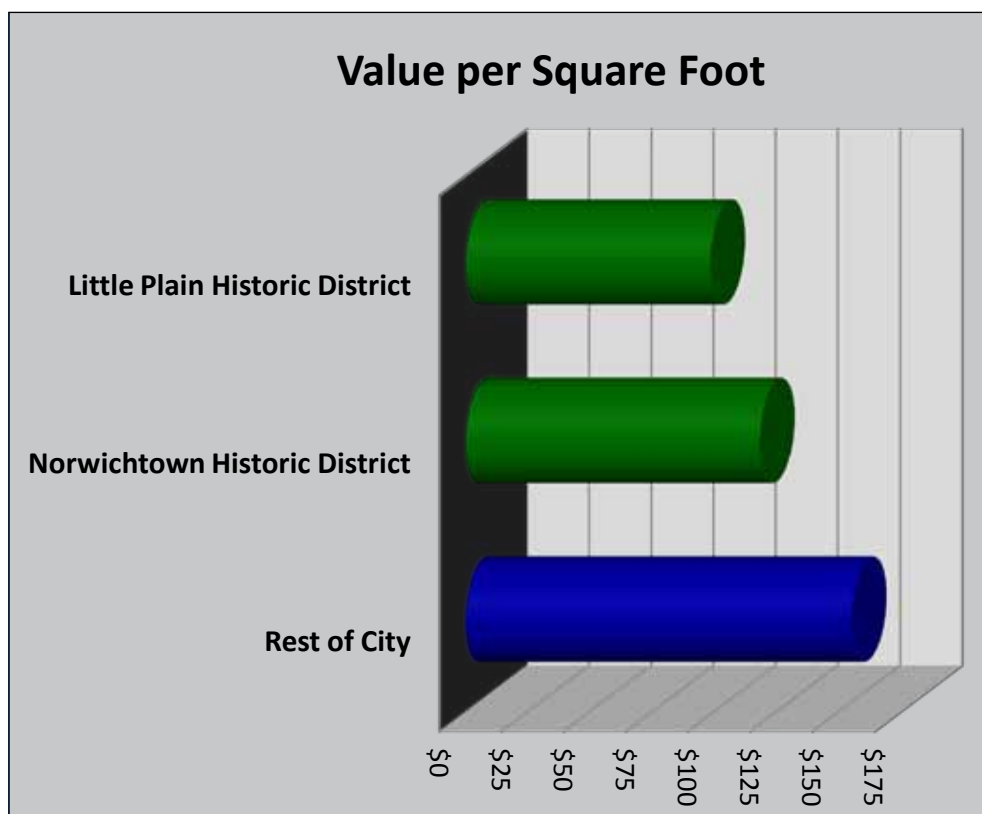




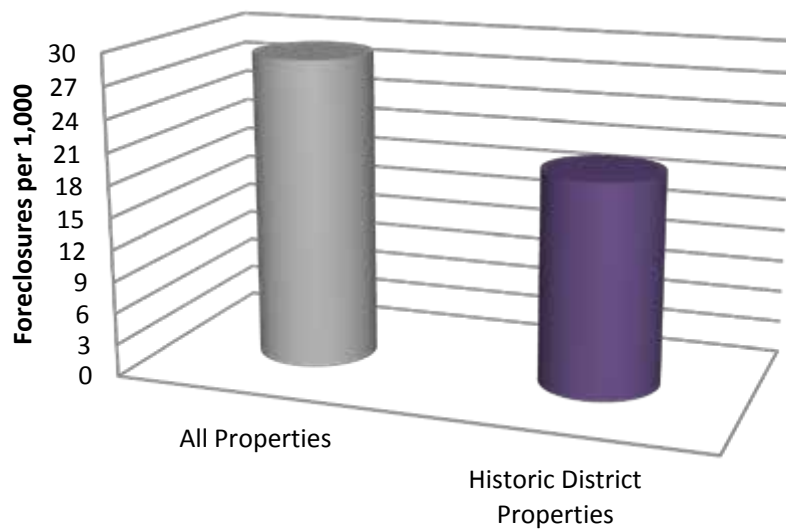
In Norwich simple economics certainly play a role. Two significant indicators – household income and rates of home ownership – are decidedly different in Norwich than in the other three communities studied. While the median household income in Canton, Milford and Windsor ranges between \$75,000 and \$85,000 per year, in Norwich it is \$50,000.

Rate of home ownership is another significant difference. Nationally around 65% of all households own their own homes. That rate is exceeded in Canton, Milford and Windsor where, combined, the rate of home ownership exceeds 80%. In Norwich, by contrast, the rate of home ownership is just over half.

It can certainly be argued that in a city with economic challenges, providing affordable housing ought to be a public policy priority. Local historic districts in Norwich are helping to meet that need. Historic houses in historic neighborhoods are providing not poor quality housing, but value-for-money housing. The square-foot value of the average house in the Little Plain Historic District is a third less than the average in the rest of Norwich. In the Norwichtown Historic District per-foot values are \$35 per square foot less than the citywide average.



### Foreclosures per 1,000 Properties Norwich 2008-2011



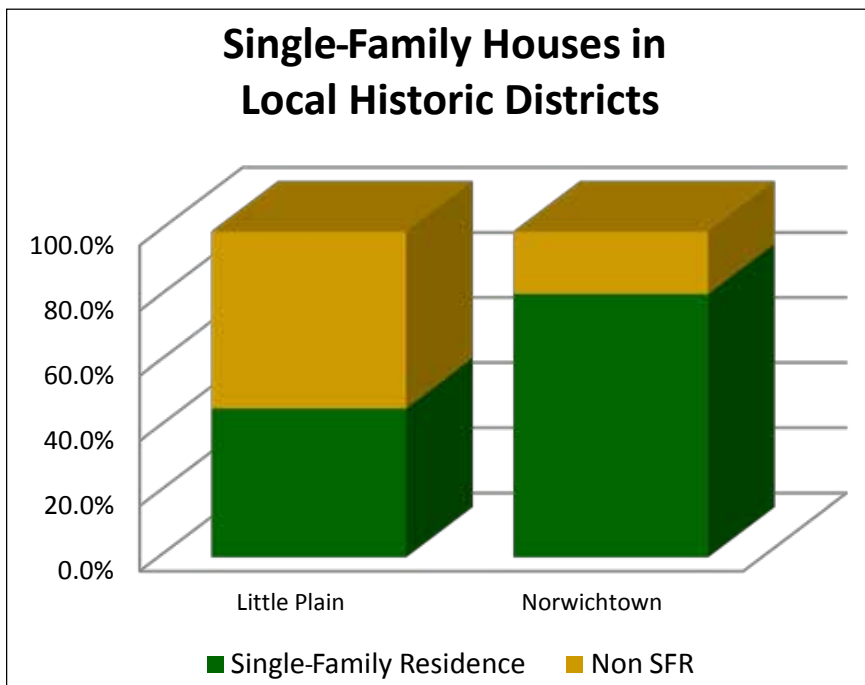
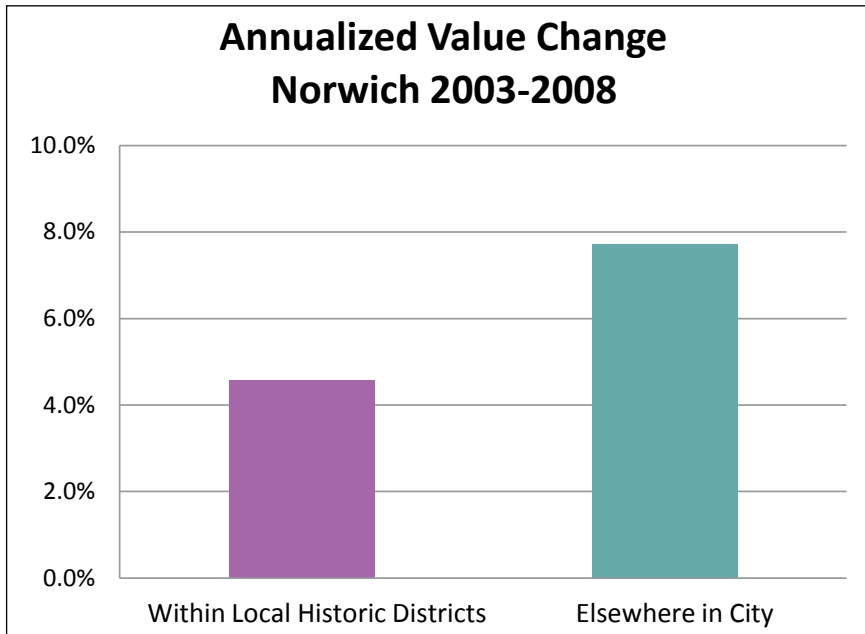
While historic neighborhoods are often criticized as being enclaves of affluence, in Norwich, historic districts have the distinction of providing a diverse economic population access to reasonably priced, quality real estate.

In economic downturns foreclosures are a major concern, particularly in communities of households with more modest incomes. Norwich has certainly seen foreclosures in recent years. But in spite of the economic challenges in Norwich, the foreclosure rate for houses within the local historic districts

(19.9 per 1,000 properties) is significantly less than for the city as a whole (28.9 per 1,000).

Norwich is the only one of the four communities studied where the rate of value change in the local historic districts was less than single-family houses elsewhere in the community. Over the five-year period between revaluations, single-family houses in the Norwichtown Historic District saw value increases of 4.09% per year and the Little Plain Historic District 6.64% per year while single-family houses elsewhere in Norwich experienced annual increases of 7.73% per year. The rate for the two local districts combined is 4.58% annually. The local historic district properties certainly increased in value, but at a rate less than elsewhere in the community.

Why is Norwich an exception to the pattern evidenced in all the other communities? The answer may lie in the character of the neighborhoods themselves. This study particularly focused on the impact of local historic districts on the property values of single-family residences. While a certain degree of mixed use can have a positive effect on residential property values, when high percentages of the nearby properties are multi-



family residential and/or commercial, this can have a dampening effect on values. This may be the case in Norwich.

While in Norwichtown around 80% of all properties are still single-family residential, in Little Plain well over half are either multifamily residential or commercial. The commercial and multifamily properties in Little Plain saw value increases greater than the citywide average.

So what are the lessons from Norwich? Local historic districts are providing affordable housing in a community with modest incomes. Homes in local historic districts are less likely to have faced foreclosure than elsewhere in the city. And property values have increased in spite of the challenge of the immediate proximity of commercial and multi-family buildings.

## Conclusion

The findings from this analysis were both consistent and convincing. Not only do local historic districts not reduce property values, but in most cases provide a “historic premium” to the houses within the district. Why is that the case? It is sometimes suggested that an additional layer of regulation (which, in fact, historic district commissions enact) must have an adverse impact on values. But this study and others before it amply demonstrate that this is not the case.

In some cases sophisticated buyers may consciously pay more simply due to having the confidence that the character of the neighborhood they are buying into will not be subject to dramatic, adverse changes because there is a public body that reviews and then approves or denies proposals.

In March 2011 the National Association of Realtors released its *Community Preference Survey*, a comprehensive analysis of why people make the housing choice they make. One of the more interesting findings was that while 12% said the size of the house was most important, 88% said that the neighborhood within which the house is located is more important. What local historic districts do is maintain the character and quality of the neighborhood – the major reason people bought there to begin with. So individual buyers may not even know that a historic district commission exists, but the evidence of the commission’s work is all around them.

The individual lessons learned from each of the communities are found in their respective sections. But two important findings emerged from looking at the data in total – one good and one a cause for concern.

For the last four years the United States has been in a recession in residential real estate, whether economists call it that or not. As a result, from an analytical perspective, looking at property value issues is problematic. There are far fewer sales than in typical years and many of the sales that do take place are not a reflection of the “fair market value” standard that a researcher would look for.

So as a substitute for current sales, we looked at foreclosure patterns in each of the communities, and the results were revealing. The rate of foreclosures in local historic districts was half that of neighborhoods that were not historic districts. This is not a statistical fluke. It is not that there were no homeowners in historic districts who faced financial difficulties. Rather it appears that the downside volatility in historic districts was less than in the community at large, therefore homeowners in financial trouble could sell their property prior to reaching the foreclosure process.

Foreclosures per 1,000 Properties		
	Overall	In Local Historic Districts
Canton	10.0	6.4
Milford	14.7	0.0
Norwich	28.9	19.9
Windsor	17.7	16.1
Total	19.70	9.96

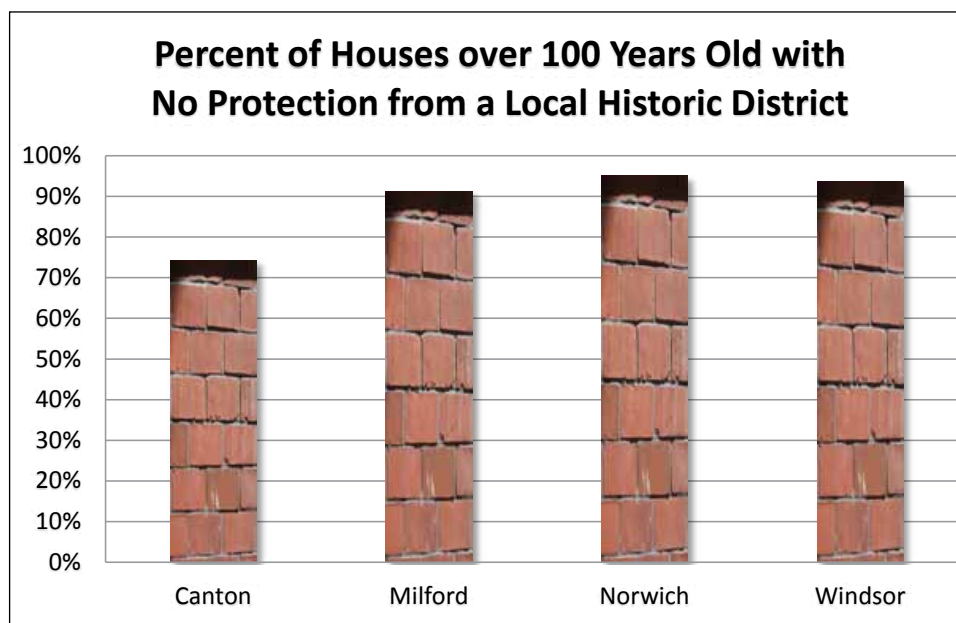
While the foreclosure story is a good one, there's another finding that, if not bad, is at least cause for concern. Because of its long history and generations of stewardship, Connecticut has an abundance of historic buildings. These structures have served the citizens of Connecticut for generations and can do so for years into the future. As is demonstrated throughout this report, establishing local historic districts is perhaps the most effective means of assuring the future of historic buildings.

But even in these four towns and cities rich in built heritage, the vast majority of historic buildings have no protection whatsoever. Even limiting the concern to houses more than a century old, in the four communities studied, between 75% and 95% of these properties are outside the boundaries of local historic districts.

It isn't that every one of these houses can, or even should, be preserved forever. But unless and until more communities take advantage of the state enabling statute to identify and designate local historic district

and properties, much of the architectural wealth of Connecticut remains at risk.

Local historic districts have proven their worth, socially, culturally and economically. But if the historic resources of Connecticut are to be available for tomorrow's citizens, the work of those historic district commissions has only just begun.



# Methodology

This study was conducted using as the primary database the property tax records of the four communities – Canton, Milford, Norwich and Windsor. In three of the cases the property record database was provided in electronic form by the local assessors. In each case this included both the most recent revaluation and the revaluation five (and in one case six) years earlier. In one instance electronic data was not available so we entered the pertinent information from printed records. All of the data was consolidated into Excel spreadsheets which could then be sorted for any particular analysis.

At the beginning of this project it was decided by the client and the researchers that there would be a relatively straightforward analysis done consistently in all four locations. This process was as follows:

1. Calculate the total change in value from the first revaluation to the second for every single-family residential property in each of the communities.
2. Convert that dollar amount to a percentage.
3. Annualize the percentage.
4. Sort all of the properties as being either in or out of local historic districts.
5. Compare the average value change of properties within the local historic districts to properties not within the historic districts.

A major reason for this approach was that the client (Connecticut Trust for Historic Preservation) wanted a methodology that could be employed locally by communities that were not part of this study, using an approach that could be done periodically without the necessity of complex mathematical modeling and without needing to hire outside consultants.

From an analytical standpoint, however, this was also a useful approach for several reasons:

1. The data is a composite of all properties.
2. The high level of competence and expertise of Connecticut assessors meant that the data was reliable.
3. By their nature these appraised values are a reflection of the aggregated preferences of individual buyers and sellers.

4. While no doubt there are occasionally erroneous valuations included in the records, the sheer number of data points minimizes the skewing potential for those errors.
5. This approach greatly diminishes the “small sample error” problem that often occurs when property value analysis is done solely on sales transactions.
6. This approach mitigates the problems of using sales data alone, which are exacerbated because of an unprecedented volatility of real estate prices over the last decade.

After doing the base analysis for each community, the researchers looked at the data from each location that could tell an interesting “story” about the relationship between historic districts and property values. Again it was the assessment data upon which these secondary analyses were based.

Finally for the foreclosure analysis we purchased a database of foreclosures in the four cities from Realty-Trac ([www.realtytrac.com](http://www.realtytrac.com)), a private firm that maintains the most comprehensive foreclosure base in the country. The period of the foreclosures was from January 2008 through July 2011.



# Acknowledgements

The authors would like to acknowledge the following people and organizations for their help and input during the research for this report. The project could not have been accomplished without the support of the Connecticut Trust for Historic Preservation. Special thanks to Helen Higgins, Gregory Farmer and Brad Schide.

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Canton

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Assessor's Office  
Canton

David Leff  
Collinsville Historic District  
Commission  
Canton

Neil Pade  
Planning and Community  
Development  
Canton

Erik Snowden  
GIS Services, Capitol Region  
Council of Governments  
Canton

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Historic District Commission  
Milford

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Milford Preservation Trust  
Milford

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### **State Historic Preservation Office**

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[www.ct.gov/cct](http://www.ct.gov/cct)

### **Connecticut Trust for Historic Preservation**

940 Whitney Avenue  
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(203) 562-6312  
[www.cttrust.org](http://www.cttrust.org)

Visit the **Connecticut Trust website for local historic districts** at [www.historicdistrictsct.org](http://www.historicdistrictsct.org) or [www.lhdct.org](http://www.lhdct.org) and the **CT Trust website for town greens** at [www.towngreens.com](http://www.towngreens.com)

## About the Authors

The report was prepared and written by Donovan D. Rypkema and Caroline Cheong. Rypkema is principal of PlaceEconomics, a Washington D.C.-based real estate and economic development consulting firm. He is the author of *The Economics of Historic Preservation: A Community Leader's Guide* and an adjunct professor in the Historic Preservation Program at the University of Pennsylvania. Cheong is Director of Research at PlaceEconomics. She holds a master's degree in historic preservation from the University of Pennsylvania, and an undergraduate degree in anthropology from the University of Chicago. She recently held a one-year research appointment at the Getty Conservation Institute in Los Angeles. Field research and data gathering was conducted by Kim Broadbent and Kevin McMahon. Both are recent graduates of the Historic Preservation Program at the University of Pennsylvania and are currently employed in the preservation field in Philadelphia.

The report was designed by Kim Broadbent.





# CITY COUNCIL AGENDA

NO. 11

DEPT.: City Manager's Office

DATE: December 4, 2013

CONTACT: Scott Pickup, City Manager

**ACTION:** Authorization for the City Manager to enter into a Master Federal-Aid Local Project Agreement with the New York State Department of Transportation (NYSDOT) for the Rye City School District Pedestrian Improvements (SRTS) project under PIN 8761.10.

**FOR THE MEETING OF:**

December 4, 2013

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Mayor and Council authorize the City Manager to enter into the NYSDOT/Local Project Agreement for the Safe Routes to School Pedestrian Improvements project.

**IMPACT:** ☐ Environmental ☒ Fiscal ☒ Neighborhood Other:

**BACKGROUND:** In order to proceed with the Safe Routes to School Pedestrian Improvements project, the NYS Department of Transportation requires that the City Manager execute the attached Local Project Agreement and supply a Resolution attesting to Rye City Council approval and appropriation of funding.

The Safe Routes to School Project includes the following improvements:

- 1) Installation of Rectangular Rapid Flash Beacons (RRFBs) at the following intersections: Boston Post Rd at Old Post Road, Hewlett Avenue at Forest Avenue, Apawamis Avenue at Forest Avenue, and Forest Avenue at Eve Lane.
- 2) Extend existing curbs, increase landing area, provide ADA ramps and replace deteriorated sidewalk the intersection of Theall road and Osborn Road.
- 3) Extend existing curbs at the Grace Church Street and Midland Avenue intersection and modify center Island.
- 4) Elevate existing sidewalk and install 6" curb on Hewlett Avenue.

See attached Agreement, Resolution, and Project Locations Map.

## Federal-Aid Local Project Agreement

COMPTROLLER'S CONTRACT NO \_\_\_\_\_

This Agreement is by and between:

the New York State Department of Transportation ("NYSDOT"), having its principal office at  
50 Wolf Road, Albany, NY 12232, on behalf of New York State ("State");

and,

City of Rye (the "Municipality/Sponsor")  
acting by and through the City Manager  
with its office at 1051 Boston Post Road, Rye, Westchester County, New York.

This Agreement covers eligible costs incurred on or after \_\_\_\_\_

This Agreement identifies the party responsible for administration, and establishes the method or provision for funding, of applicable phases of a Federal-aid project for the improvement of a street or highway not on the State highway system, as such project and phases are more fully described by Schedule A annexed to this Agreement or one or more Supplemental Schedule(s) A to this Agreement duly executed and approved by the parties hereto. The phases that are potentially the subject of this Agreement, as further enumerated below, are: Preliminary Engineering ("PE") and Right-of-Way Incidental ("ROW Incidentals") work; Right-of-Way Acquisition; Construction; and/or Construction Supervision and Inspection. The Federal-aid project shall be identified for the purposes of this Agreement as PIN 8761.10, Rye City School District Pedestrian Improvements, City of Rye, Westchester County (as more specifically described in such Schedule A, the "Project").

### WITNESSETH:

WHEREAS, the United States has provided for the apportionment of Federal-aid funds to the State for the purpose of carrying out Federal-aid highway projects pursuant to the appropriate sections of Title 23 U.S. Code as administered by the Federal Highway Administration ("FHWA"); and

WHEREAS, the New York State Highway Law authorizes the Commissioner of Transportation (hereinafter referred to as "Commissioner") to use Federal aid available under the Federal-aid highway acts and provides for the consent to and approval by the Municipality/Sponsor of any project under the Federal-aid highway program which is not on the State highway system before such Project is commenced; and

WHEREAS, pursuant to Highway Law §10(34-a) and section 15 of Chapter 329 of the Laws of 1991 as amended by section 9 of Chapter 330 of the Laws of 1991, the State established the "Marchiselli" Program, that provides State aid for Federal aid highway projects not on the State highway system; and

WHEREAS, pursuant to Chapters 329, 330 and 331 of the Laws of New York of 1991, Highway Law §80-b and Public Authorities Law §380 funding of the "State share" of projects under the Marchiselli Program is provided from the proceeds of Local Highway and Bridge Service Contract Bonds issued by the New York State Thruway Authority ("Thruway Authority Bonds"); and

WHEREAS, the continuing legislative authorization for the funding of eligible costs of Federal aid Municipal/Sponsor streets and highway projects from the proceeds of Thruway Authority Bonds is pursuant to a chapter or chapters of the laws of New York State providing appropriations pursuant to Public Authorities Law §380(1); and

WHEREAS, projects eligibility for Marchiselli Program funds is determined by NYSDOT; and

WHEREAS, pursuant to authorizations therefore, NYSDOT and the Municipality/Sponsor are desirous of progressing the Project under the Federal-aid and, if applicable, Marchiselli-aid Programs; and

WHEREAS, the Legislative Body of the Municipality/Sponsor by Resolution No. \_\_\_\_\_ adopted at meeting held on \_\_\_\_\_ approved the Project, the Municipality/Sponsor's entry into this Agreement, has appropriated necessary funds in connection with any applicable Municipal/Sponsor Deposit identified in applicable Schedules A and has further authorized the \_\_\_\_\_ of the Municipality/Sponsor to execute this Agreement and the applicable Schedule A on behalf of the Municipality/Sponsor and a copy of such Resolution is attached to and made a part of this Agreement.

NOW, THEREFORE, the parties agree as follows:

1. *Documents Forming this Agreement.* The Agreement consists of the following:

- Agreement Form - this document titled "Federal Aid Local Project Agreement";
- Schedule "A" - Description of Project phase, Funding and Deposit Requirements;
- Schedule "B" - Phases, Subphase/Tasks, and Allocation of Responsibility
- Appendix "A" - Standard Clauses for New York State Contracts
- Appendix "A-1" – Supplemental Title VI Provisions (Civil Rights Act)
- Appendix "2" – Iran Divestment Act
- Appendix "B" – U.S. government Required Clauses
- Municipal/Sponsor Resolution(s) – duly adopted Municipal/Sponsor resolution authorizing the appropriate Municipal/Sponsor official to execute this Agreement on behalf of the Municipality/Sponsor and appropriating the funding required therefore.

2. *General Description of Work and Responsibility for Administration and Performance.* Subject to the allocations of responsibility for administration and performance thereof as shown in Schedule B (attached), the work of the Project may consist generally of the categories of work marked and described in Schedule B for the scope and phase in effect according to Schedule A (attached) or one or more Supplemental Schedule(s) A as may hereafter be executed and approved by the parties hereto as required for a State contract, and any additions or deletions made thereto by NYSDOT subsequent to the development of such Schedule(s) A for the purposes of conforming to New York State or to Federal Highway Administration requirements.

The Municipality/Sponsor understands that funding is contingent upon the Municipality/Sponsor's compliance with the applicable requirements of the Procedures for Locally Administered Federal Aid Projects (PLAFAP) Manual (available through NYSDOT's web site at: <https://www.dot.ny.gov/plafap>, and as such may be amended from time to time.

3. *Municipal/Sponsor Deposit.* Where the work is performed by consultant or construction contract entered by NYSDOT, or by NYSDOT forces, and unless the total non-Federal share of the Project phase is under \$5,000, the Municipality/Sponsor shall deposit with the State Comptroller, prior to the award of NYSDOT's contract or NYSDOT's performance of work by its own forces, the full amount of the non-Federal share of the Project costs due in accordance with Schedule A.

**4. Payment or Reimbursement of Costs.** For work performed by NYSDOT, NYSDOT will directly apply Federal aid and the required Municipal/Sponsor Deposit for the non-Federally aided portion, and, if applicable, shall request Thruway Authority funding of Marchiselli aid to the Municipality/Sponsor as described below. For work performed by or through the Municipality/Sponsor, NYSDOT will reimburse the Municipality/Sponsor with Federal aid and, if applicable, Marchiselli aid as described below. NYSDOT will make reimbursements periodically upon request and certification by the Sponsor. The frequency of billing must be in conformance with that stipulated in the *NYSDOT Standard Specifications; Construction and Materials (section 109-06, Contract Payments)*. NYSDOT recommends that bills not be submitted more frequently than monthly for a typical project. In all cases, bills must be submitted at least once every six months.

**4.1. Federal Aid.** NYSDOT will administer Federal funds for the benefit of the Municipality /Sponsor for the Federal share and will fund the applicable percentage designated in Schedule A of Federal-aid participating costs incurred in connection with the work covered by this Agreement, subject to the limitations set forth on Schedule A. For work performed by or through the Municipality/Sponsor, NYSDOT will reimburse Federal-aid-eligible expenditures in accordance with NYSDOT policy and procedures.

**4.1.1 Participating Items.** NYSDOT shall apply Federal funds only for that work and those items that are eligible for Federal participation under Title 23 of U.S. code, as amended, that requires Federal-aid-eligible projects to be on the Federal Aid Highway System ("FAHS"), except for bridge and safety projects that can be off the FAHS. Included among the Federal participating items are the actual cost of employee personal services, and leave and fringe benefit additives. Other participating costs include materials and supplies, equipment use charges or other Federal Participating costs directly identifiable with the eligible project.

**4.2. Marchiselli Aid (if applicable).** NYSDOT will request Thruway Authority reimbursement to the Municipality/Sponsor of the upset amount and designated percentage in Schedule A of the non-overmatched non-Federal share of Federal participating cost, (the "State share"), incurred in connection with the work covered by this Agreement, subject to the limitations set forth in Schedule A. Not all Federal-aid-eligible participating costs are eligible for Marchiselli aid. Only "Eligible Project Costs" (as defined in Marchiselli Program instructions issued by NYSDOT) incurred after April 1, 1991 are reimbursable.

**4.2.1 Marchiselli Eligible Project Costs.** To be eligible for Marchiselli Aid Project costs must: (a) be eligible for Federal participation as described under §4.1; (b) be for work which, when completed, has a certifiable service life of at least 10 years; and (c) be for a work type that relates directly and exclusively to a municipally-owned highway, bridge or highway-railroad crossing off the State Highway System.

**4.3.** In no event shall this Agreement create any obligation to the Municipality/Sponsor for funding or reimbursement of any amount in excess of:

- (a) the amount stated in Schedule A for the Federal Share or;
- (b) the amount stated in Schedule A as the State (Marchiselli) share or the amount determined eligible by NYSDOT, whichever is lower.

**4.4.** All items included by the Municipality/Sponsor in the record of costs shall be in conformity with accounting procedures acceptable to NYSDOT and the FHWA. Such items shall be subject to audit by the State, the federal government or their representatives.

**4.5.** If Project-related work is performed by NYSDOT, NYSDOT will be paid for the full costs thereof. To effect such payment, the reimbursement to the Municipality/Sponsor provided for in sections 4.1 and 4.2 above may be reduced by NYSDOT by the amounts thereof in excess of the Municipal/Sponsor Deposit available for such payment to NYSDOT.



5. *Supplemental Agreement or Supplemental Schedule A.* Supplemental Agreements or Supplemental Schedule(s) A may be entered into by the parties, and must be executed and approved in the manner required for a State contract. A Supplemental Schedule A is defined as a Supplemental Agreement which revises only the Schedule A of a prior Agreement or Supplemental Agreement. In the event Project cost estimates increase over the amounts provided for in Schedule A, no additional reimbursement shall be due to the Municipality/Sponsor unless the parties enter into a Supplemental Agreement or Supplemental Schedule A for reimbursement of additional Eligible Project Costs.

6. *State Recovery of Ineligible Reimbursements.* NYSDOT shall be entitled to recover from the Municipality/Sponsor any monies paid to the Municipality/Sponsor pursuant to this Agreement which are subsequently determined to be ineligible for Federal Aid or Marchiselli Aid hereunder.

7. *Loss of Federal Participation.* In the event the Municipality/Sponsor withdraws its approval of the project, suspends or delays work on the Project or takes other action that results in the loss of Federal participation for the costs incurred pursuant to this Agreement, the Municipality/Sponsor shall refund to the State all reimbursements received from the State, and shall reimburse the State for 100% of all preliminary engineering and right-of-way incidental costs incurred by NYSDOT. The State may offset any other State or Federal aid due to the Municipality/Sponsor by such amount and apply such offset to satisfy such refund.

8. *Municipal/Sponsor Liability.*

8.1 If the Municipality/Sponsor performs work under this Agreement with its own forces, it shall be responsible for all damage to person or property arising from any act or negligence performed by or on behalf of the Municipality/Sponsor, its officers, agents, servants or employees, contractors, subcontractors or others in connection therewith. The Municipality/Sponsor specifically agrees that its agents or employees shall possess the experience, knowledge and character necessary to qualify them individually for the particular duties they perform.

8.2 The Municipality/Sponsor shall indemnify and save harmless the State for all damages and costs arising out of any claims, suits, actions, or proceedings resulting from the negligent performance of work by or on behalf of the Municipality/Sponsor its officers, agents, servants, employees, contractors, subcontractors or others under this Agreement. Negligent performance of service, within the meaning of this section, shall include, in addition to negligence founded upon tort, negligence based upon the Municipality/Sponsor's failure to meet professional standards and resulting in obvious or patent errors in the progression of its work.

8.3 The Municipality/Sponsor shall at all times during the Contract term remain responsible. The Municipality/Sponsor agrees, if requested by the Commissioner of Transportation or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organization and financial capacity.

8.4 The Commissioner of Transportation or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this contract, at any time, when he or she discovers information that calls into question the responsibility of the Municipality/Sponsor. In the event of such suspension, the Municipality/Sponsor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Municipality/Sponsor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of Transportation or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

8.5 Upon written notice to the Municipality/Sponsor, and a reasonable opportunity to be heard with appropriate Department of Transportation officials or staff, the Contract may be terminated by the Commissioner of Transportation or his or her designee at the Municipality's/Sponsor's expense where the Municipality/Sponsor is determined by the Commissioner of Transportation or his or her designee to be *non-responsible*. In such event, the Commissioner of Transportation or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.



**9. Maintenance.** The Municipality/Sponsor shall be responsible for the maintenance of the project at the sole cost and expense of the Municipality/Sponsor. If the Municipality/Sponsor intends to have the project maintained by another, any necessary maintenance Agreement will be executed and submitted to NYSDOT before construction of the Project is begun. Upon its completion, the Municipality/Sponsor will operate and maintain the Project at no expense to NYSDOT; and during the useful life of the Project the Municipality/Sponsor shall not discontinue operation and maintenance of the Project, nor dispose of the Project, unless it receives prior written approval to do so from NYSDOT.

9.1 The Municipality/Sponsor may request such approved disposition from NYSDOT where the Municipality/Sponsor either causes the purchaser or transferee to assume the Municipality/Sponsor's continuing obligations under this Agreement, or agrees immediately to reimburse NYSDOT for the pro-rata share of the funds received for the project, plus any direct costs incurred by NYSDOT, over the remaining useful life of the Project.

9.2 If a Municipality/Sponsor fails to obtain prior written approval from NYSDOT before discontinuing operation and maintenance of the Project or before disposing of the project, in addition to the costs provided, above in 9.1, Municipality/Sponsor shall be liable for liquidated damages for indirect costs incurred by NYSDOT in the amount of 5% of the total Federal and non-Federal funding provided through NYSDOT.

9.3 For NYSDOT-administered projects, NYSDOT is responsible for maintenance only during the NYS administered construction phase. Upon completion of the construction phase, the Municipality/Sponsor/s maintenance obligations start or resume.

**10. Independent Contractor.** The officers and employees of the Municipality/Sponsor, in accordance with the status of the Municipality/Sponsor as an independent contractor, covenant and agree that they will conduct themselves consistent with such status, that they will neither hold themselves out as, nor claim to be an officer or employee of the State by reason hereof, and that they will not by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the State, including, but not limited to, Workers Compensation coverage, Unemployment Insurance benefits, Social Security or Retirement membership or credit.

**11. Contract Executory; Required Federal Authorization.** It is understood by and between the parties hereto that this Agreement shall be deemed executory only to the extent of the monies available to the State and no liability on account thereof shall be incurred by the State beyond monies available for the purposes hereof. No phase of work for the project shall be commenced unless and until NYSDOT receives authorization from the Federal government.

**12. Assignment or Other Disposition of Agreement.** The Municipality/Sponsor agrees not to assign, transfer, convey, sublet or otherwise dispose of this Agreement or any part thereof, or of its right, title or interest therein, or its power to execute such Agreement to any person, company or corporation without previous consent in writing of the Commissioner.

**13. Term of Agreement.** As to the Project and phase(s) described in Schedule A executed herewith, the term of this Agreement shall begin on the date of this Agreement as first above written. This Agreement shall remain in effect so long as Federal aid and Marchiselli aid funding authorizations are in effect and funds are made available pursuant to the laws controlling such authorizations and availabilities. However, if such authorizations or availabilities lapse and are not renewed, continued or reenacted, as to funds encumbered or available and to the extent of such encumbrances or availabilities, this Agreement shall remain in effect for the duration of such encumbrances or availabilities. Although the liquidity of encumbrances or the availability of funds may be affected by budgetary hiatuses, a Federal or State budgetary hiatus will not by itself be construed to cause a lapse in this Agreement, provided any necessary Federal or State appropriations or other funding authorizations therefore, are eventually enacted.

14. *NYSDOT Obligations.* NYSDOT's responsibilities and obligations are as specifically set forth in this contract, and neither NYSDOT nor any of its officers or employees shall be responsible or liable, nor shall the Municipality/Sponsor assert, make, or join in any claim or demand against NYSDOT, its officers or employees, for any damages or other relief based on any alleged failure of NYSDOT, its officers or employees, to undertake or perform any act, or for undertaking or performing any act, which is not specifically required or prohibited by this Agreement.

15. *Offset Rights.* In addition to any and all set-off rights provided to the State in the attached and incorporated Appendix A, Standard Clauses for New York Contracts, NYSDOT shall be entitled to recover and offset from the Municipality/Sponsor any ineligible reimbursements and any direct or indirect costs to the State as to paragraph 6 above, as well as any direct or indirect costs incurred by the State for any breach of the term of this agreement, including, but not limited to, the useful life requirements in paragraph 9 above. At its sole discretion NYSDOT shall have the option to permanently withhold and offset such direct and indirect cost against any monies due to the Municipality/Sponsor from the State of New York for any other reason, from any other source, including but not limited to, any other Federal or State Local Project Funding, and/or any Consolidated Highway and Local Street Improvement Program (CHIPS) funds.

16. *Reporting Requirements.* The Municipality/Sponsor agrees to comply with and submit to NYSDOT in a timely manner all applicable reports required under the provisions of this Agreement, the "Procedures for Locally Administered Federal Aid Projects" manual and in accordance with current Federal and State laws, rules, and regulations.

17. *Notice Requirements.*

17.1. All notices permitted or required hereunder shall be in writing and shall be transmitted either:

- (a) Via certified or registered United States mail, return receipt requested;
- (b) By facsimile transmission;
- (c) By personal delivery;
- (d) By expedited delivery service; or
- (e) By e-mail.

Such notices shall be addressed as follows or to such different addresses as the parties may from time-to-time designate:

New York State Department of Transportation (NYSDOT)

Name: Carolyn M. Ryan  
Title: Local Projects Manager  
Address: Eleanor Roosevelt State Building  
4 Burnett Boulevard, Poughkeepsie, NY 12603  
Telephone Number: 845-431-5788  
Facsimile Number: 845-431-5988  
E-Mail Address: [carolyn.ryan@dot.ny.gov](mailto:carolyn.ryan@dot.ny.gov) or [doreen.holsopple@dot.ny.gov](mailto:doreen.holsopple@dot.ny.gov)

(Municipality/Sponsor): City of Rye  
Name: Scott Pickup  
Title: City Manager  
Address: 1051 Boston Post Road, Rye, NY 10549  
Telephone Number: (914) 967-7404  
Facsimile Number: (914) 967-4604  
E-Mail Address: [spickup@ryeny.gov](mailto:spickup@ryeny.gov)

17.2. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States Mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or e-mail, upon receipt. The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in

accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

18. **Electronic Contract Payments.** Municipality/Sponsor shall provide complete and accurate supporting documentation of eligible local expenditures as required by this agreement, NYSDOT and the State Comptroller. Following NYSDOT approval of such supporting documentation, payment for invoices submitted by the Municipality/Sponsor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The contracting local Municipality/Sponsor shall comply with the State Comptroller's procedures for all Federal and applicable State Aid to authorize electronic payments. Authorization forms are available at the State Comptroller's website at [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm), or by email at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us). When applicable to State Marchiselli and other State reimbursement by the NYS Thruway, registration forms and instructions can be found at the NYSDOT [Electronic Payment Guidelines](#) website. The Municipality/Sponsor herein acknowledges that it will not receive payment on any invoices submitted under this agreement if it does not comply with the applicable State Comptroller and/or NYS Thruway Authority's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

19. **Compliance with Legal Requirements.** Municipality/Sponsor must comply with all applicable federal, State and local laws, rules and regulations, including but not limited to the following:

19.1 Title 49 of the Code of Federal Regulations Part 26 (49 CFR 26), *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*; Title 23 Code of Federal Regulations Part 230 (23 CFR 230), *External Programs*; and, Title 41 of the Code of Federal Regulations Part 60 Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, including the requirements there under related to utilization goals for contracting opportunities for disadvantaged business enterprises (DBEs) and equal employment opportunity.

19.1.1 If the Municipality/Sponsor fails to monitor and administer contracts funded in whole or in part in accordance with Federal requirements, the Municipality/Sponsor will not be reimbursed for ineligible activities within the affected contracts. The Municipality/Sponsor must ensure that the prime contractor has a Disadvantaged Business Enterprise (DBE) Utilization Plan and complies with such plan. If, without prior written approval by NYSDOT, the Municipality/Sponsor's contractors and subcontractors fail to complete work for the project as proposed in the DBE Schedule of Utilization, NYSDOT at its discretion may (1) cancel, terminate or suspend this agreement or such portion of this agreement or (2) assess liquidated damages in an amount of up to 20% of the pro rata share of the Municipality/Sponsor's contracts and subcontracts funded in whole or in part by this agreement for which contract goals have been established.

19.2 New York State Environmental Law, Article 6, the State *Smart Growth Public Infrastructure Policy Act*, including providing true, timely and accurate information relating to the project to ensure compliance with the Act.

20. **Compliance with Procedural Requirements** The Municipality/Sponsor understands that funding is contingent upon the Municipality/Sponsor's compliance with the applicable requirements of the Procedures for Locally Administered Federal Aid Projects (PLAFAP) Manual, which, as such, may be amended from time to time.

Locally administered Federal-aid transportation projects must be constructed in accordance with the current version of *NYSDOT Standard Specifications; Construction and Materials*, including any and all modifications to the Standard Specifications issued by the Engineering Information Issuance System, and NYSDOT-approved Special Specifications for general use. (Cities with a population of 3 million or more may pursue approval of their own construction specifications and procedures on a project by project basis.)

NYSDOT # \_\_\_\_\_

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officials as of the date first above written.

**Municipality/Sponsor**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Municipality/Sponsor Attorney**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 2013 before me personally came \_\_\_\_\_ to me known, who, being by me duly sworn did depose and say that s/he resides at \_\_\_\_\_; that s/he is the \_\_\_\_\_ of the Municipal/Sponsor Corporation described in and which executed the above instrument; that it was executed by order of the \_\_\_\_\_ of said Municipal/Sponsor Corporation pursuant to a resolution which was duly adopted on \_\_\_\_\_ and which a certified copy is attached and made a part hereof; and that s/he signed his/her name thereto by like order.

\_\_\_\_\_  
Notary Public

**Approved for NYSDOT:**

By: \_\_\_\_\_  
For Commissioner of Transportation

Agency Certification: In addition to the acceptance of this contract I also certify that original copies of this signature page will be attached to all other exact copies of this contract.

DATE: \_\_\_\_\_

**Approved as to Form:**

STATE OF NEW YORK ATTORNEY GENERAL

By: \_\_\_\_\_  
Assistant Attorney General

**COMPTROLLER'S APPROVAL:**

By: \_\_\_\_\_  
For the New York State Comptroller  
Pursuant to State Finance Law §112.

04/2013 dh

**A. Summary of allocated MARCHISELLI Program Costs FOR ALL PHASES** For each PIN Fiscal Share below, show current costs on the rows indicated as "Current." Show the old costs from the previous Schedule A on the row indicated as "Old." To compute Total Current Costs in the last row, right click in each field and select "Update Field."

PIN Fiscal Share	"Current" or "Old" entry Indicator	Federal Funding Program	Total Costs	FEDERAL Participating Share and Percentage	STATE MARCHISELLI Match	LOCAL Matching Share	LOCAL DEPOSIT AMOUNT (Required only if State Administered)
. .	Current		\$	\$	\$	\$	\$
	Old		\$	\$	\$	\$	\$
. .	Current		\$	\$	\$	\$	\$
	Old		\$	\$	\$	\$	\$
. .	Current		\$	\$	\$	\$	\$
	Old		\$	\$	\$	\$	\$
. .	Current		\$	\$	\$	\$	\$
	Old		\$	\$	\$	\$	\$
. .	Current		\$	\$	\$	\$	\$
	Old		\$	\$	\$	\$	\$
. .	Current		\$	\$	\$	\$	\$
	Old		\$	\$	\$	\$	\$
. .	Current		\$	\$	\$	\$	\$
	Old		\$	\$	\$	\$	\$
<b>TOTAL CURRENT COSTS:</b>			\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

## NYSDOT/State-Local Agreement – Schedule A

**B. Summary of Other (including Non-allocated MARCHISELLI) Participating Costs FOR ALL PHASES** For each PIN Fiscal Share, show current costs on the rows indicated as "Current.". Show the old costs from the previous Schedule A on the row indicated as "Old." To compute Total Current Costs in last row, right click in each field and select "Update Field."

Other PIN Fiscal Shares	'Current' or 'Old' entry indicator	Funding Source	TOTAL	Other FEDERAL	Other STATE	Other LOCAL
8761.10.NPS	Current	100% Local	\$40,000.00	\$0.00	\$0.00	\$40,000.00
	Old		\$	\$	\$	\$
	Current		\$	\$	\$	\$
	Old		\$	\$	\$	\$
	Current		\$	\$	\$	\$
	Old		\$	\$	\$	\$
	Current		\$	\$	\$	\$
	Old		\$	\$	\$	\$
	Current		\$	\$	\$	\$
	Old		\$	\$	\$	\$
	Current		\$	\$	\$	\$
	Old		\$	\$	\$	\$
	Current		\$	\$	\$	\$
	Old		\$	\$	\$	\$
<b>TOTAL CURRENT COSTS:</b>			\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

**C. Total Local Deposit(s) Required for State Administered Projects:**

\$0.00

**D. Total Project Costs** To compute Total Costs in the last column, right click in the field and select "Update Field."

Total FEDERAL Cost	Total STATE MARCHISELLI Cost	Total Other STATE Cost	Total LOCAL Cost	Total Costs (all sources)
\$0.00	\$0.00	\$0.00	\$40,000.00	\$40,000.00

**E. Point of Contact for Questions Regarding this Schedule A (Must be completed)**

Name: Doreen Holsopple  
Phone No: 845-431-5977

See Agreement (or Supplemental Agreement Cover) for required contract signatures.

[illegible]

## SCHEDULE B: Phases, Subphase/Tasks, and Allocation of Responsibility

PIN 8761.10

**Instructions:** Enter an "X" to indicate the appropriate Phase, then assign the responsibility for each applicable Subphase task by entering a "X" in either the NYSDOT column to allocate the task to State Labor Forces or a State Contract, or enter an "X" in the other appropriate column to indicate a task allocated to Non-State Labor Forces or a Locally Administered Contract.

PHASE/SUBPHASE	Allocation of Responsibility	
	NYSDOT	Sponsor
<b>A1. Preliminary Engineering ("PE") Phase</b>		
1. <u>Scoping</u> : Prepare and distribute all required project reports, including an Expanded Project Proposal (EPP) or Scoping Summary Memorandum (SSM), as appropriate.		X
2. Perform data collection and analysis for design, including traffic counts and forecasts, accident data, land use and development analysis and forecasts.		X
3. <u>Preliminary Design</u> : Prepare and distribute Design Report/Design Approval Document (DAD), including environmental analysis/assessments, and other reports required to demonstrate the completion of specific design subphases or tasks and/or to secure the approval/authorization to proceed.		X
4. Review and Circulate all infrastructure project reports, plans, and other project data on the State or National Highway System to obtain the necessary review, approval, and/or other input and actions required of other NYSDOT units and external agencies, if appropriate.		X
5. Obtain aerial photography and photogrammetric mapping.		X
6. Perform all surveys for mapping and design.		X
7. <u>Detailed Design</u> : Perform all project design, including preparation of plan sheets, cross-sections, profiles, detail sheets, specialty items, shop drawings, and other items required in accordance with the Highway Design Manual, including all Highway Design, including pavement evaluations, including taking and analyzing cores; design of Pavement mixes and applications procedures; preparation of bridge site data package, if necessary, and all Structural Design, including hydraulic analyses, if necessary, foundation design, and all design of highway appurtenances and systems (e.g., Signals, IVHS facilities), and maintenance protection of traffic plans. FRA criteria will apply to rail work.		X
8. Perform landscape design (including erosion control).		X
9. Design environmental mitigation, where appropriate, in connection with: Noise readings, projections, air quality monitoring, emissions projections, hazardous waste, asbestos, determination of need of cultural resources survey.		X



10. Prepare demolition contracts, utility relocation plans/contracts, and any other plans and/or contract documents required to advance, separate, any portions of the project which may be more appropriately progressed separately and independently.	NA SRTS ONLY	NA SRTS ONLY
11. Compile PS&E package, including all plans, proposals, specifications, estimates, notes, special contract requirements, and any other contract documents necessary to advance the project to construction.		X
12. Conduct any required soils and other geological investigations.	NA SRTS ONLY	NA SRTS ONLY
13. Obtain utility information, including identifying the locations and types of utilities within the project area, the ownership of these utilities, and plot on detailed Design Plans to check for conflicts.		X
14. Determine the need and apply for any required permits, including U.S. Coast Guard, U.S. Army Corps of Engineers, Wetlands (including identification and delineation of wetlands), SPDES, NYSDOT Highway Work Permits, and any permits or other approvals required to comply with local laws, such as zoning ordinances, historic districts, tax assessment and special districts.		X
15. Prepare and execute any required agreements, including: —Maintenance agreements for sidewalks, lighting, signals, betterments		X
16. Provide overall supervision/oversight of design to assure conformity with Federal and State design standards or conditions, including final approval of PS&E by NYSDOT.		XX
<b>A2. Right-of-Way (ROW) Incidentals</b>		
1. Prepare ARM or other mapping, showing preliminary taking lines.	NA SRTS ONLY	NA SRTS ONLY
2. Right-of-Way (ROW) mapping and any necessary ROW relocation plans.	NA SRTS ONLY	NA SRTS ONLY
3. Obtain abstracts of title and certify those having an interest in Right-of-Way to be acquired.	NA SRTS ONLY	NA SRTS ONLY
4. Secure Appraisals.	NA SRTS ONLY	NA SRTS ONLY
5. Perform Appraisal Review and establish an amount representing just compensation.	NA SRTS ONLY	NA SRTS ONLY

6. Determination of exemption from public hearing that is otherwise required by the Eminent Domain Procedure Law, including "de minimis" determination, as may be applicable. If NYSDOT is responsible for acquiring the right-of-way, this determination may be performed by NYSDOT only. If NYSDOT is responsible for the Preliminary Engineering Phase under Phase A1 of this Schedule B.	NA SRTS ONLY	NA SRTS ONLY
7. Conduct any public hearings and/or informational meetings as may be required by the Eminent Domain Procedures Law, including the provision of stenographic services, preparation and distribution of transcripts, and response to issues raised at such meetings.	NA SRTS ONLY	NA SRTS ONLY
<b>B. Right-of-Way (ROW) Acquisition</b>		
1. Perform all Right-of-Way (ROW) Acquisition work, including negotiations with property owners, acquisition of properties and accompanying legal work, payments to and/or deposits on behalf of property owners; Prepare, publish, and pay for any required legal notices; and all other actions necessary to secure title to, possession of, and entry to required properties. If NYSDOT is to acquire property on behalf of the Sponsor, the Sponsor agrees to accept and take title to any and all permanent property rights so acquired which form a part of the completed Project.	NA SRTS ONLY	NA SRTS ONLY
2. Provide required relocation assistance, including payment of moving expenses, replacement supplements, mortgage interest differentials, closing costs, mortgage prepayment fees.	NA SRTS ONLY	NA SRTS ONLY
3. Conduct condemnation proceedings, court and any other legal actions required to acquire properties.	NA SRTS ONLY	NA SRTS ONLY
4. Monitor all ROW Acquisition work and activities, including review and processing of payments of property owners.	NA SRTS ONLY	NA SRTS ONLY
5. Provide official right-of-way certification that all right-of-way required for the construction is in the public domain or has been acquired in compliance with applicable Federal, State or Local requirements and is available for use.		X
6. Conduct any property management activities, including establishment and collecting rents, building maintenance and repairs, and any other activities necessary to sustain properties and/or tenants until the sites are vacated, demolished, or otherwise used for the construction project.	NA SRTS ONLY	NA SRTS ONLY
7. Subsequent to completion of the Project, conduct ongoing property management activities in a manner consistent with applicable Federal, State and Local requirements including, as applicable, the development of any ancillary uses, establishment and collection of rent, property maintenance and any other related activities.	NA SRTS ONLY	NA SRTS ONLY

PHASE/SUBPHASE	Allocation of Responsibility	
	NYSDOT	Sponsor
<b>C. Construction, Construction Support (C/S) and Construction Inspection (C/I) Phase</b>		
1. Advertise contract lettings and distribute contract documents to prospective bidders.		X
2. Conduct all contract lettings, including receipt, opening, and analysis of bids, evaluation/certification of bidders, notification of rejected bids/bidders, and awarding of the construction contract(s).		X
3. Receive and process bid deposits and verify any bidder's insurance and bond coverage that may be required.		X
4. Compile and submit Contract Award Documentation Package.		X
5. Review and approve any proposed subcontractors, vendors, or suppliers.		X
6. Conduct and control all construction activities in accordance with the plans and proposal for the project. Maintain accurate, up-to-date project records and files, including all diaries and logs, to provide a detailed chronology of project construction activities. Procure or provide all materials, supplies and labor for the performance of the work on the project, and insure that the proper materials, equipment, human resources, methods and procedures are used.		X
7(A). For non-NHS or non-State Highway System Projects: Test and accept materials, including review and approval for any requests for substitutions.  7(B). For NHS or State Highway System Projects: Inspection and approval of materials such as bituminous concrete, Portland cement concrete, structural steel, concrete structural elements and/or their components to be used in a federal aid project will be performed by, and according to the requirements of NYSDOT. The Sponsor shall make or require provision for such materials inspection in any contract or subcontract that includes materials that are subject to inspection and approval in accordance with the applicable NYSDOT design and construction standards associated with the federal aid project.	Inspection by NYSDOT	X  Contractual reqs. of contractor and subs.
8. Design and/or re-design the project or any portion of the project that may be required because of conditions encountered during construction.	X	
9. Administer construction contract, including the review and approval of all contractor requests for payment, orders-on-contract, force account work, extensions of time, exceptions to the plans and specifications, substitutions or equivalents, and special specifications.		X
10. Review and approve all shop drawings, fabrication details, and other details of structural work.		X
11. Administer all construction contract claims, disputes or litigation.		X
12. Perform final inspection of the completed work to determine and verify final quantities, prices, and compliance with plans specifications, and such other construction engineering supervision and inspection work necessary to conform to Municipal, State and FHWA requirements, including the final acceptance of the project by NYSDOT.	X	XX

xx= Lead in task.

**APPENDIX A**

**STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS**

**PLEASE RETAIN THIS DOCUMENT  
FOR FUTURE REFERENCE.**

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## **STANDARD CLAUSES FOR NYS CONTRACTS**

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

**1. EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

**2. NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

**4. WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this

contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**6. WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of

any State approved sums due and owing for work done upon the project.

**7. NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

**8. INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation, has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

**9. SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this

contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

**12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.** In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00,

whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment

opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

**13. CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**14. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

**16. NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

**17. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.



In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS).** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**20. OMNIBUS PROCUREMENT ACT OF 1992 (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS).** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: [opa@esd.ny.gov](mailto:opa@esd.ny.gov)

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
633 Third Avenue  
New York, NY 10017  
212-803-2414  
email: [mwbecertification@esd.ny.gov](mailto:mwbecertification@esd.ny.gov)  
<http://esd.ny.gov/MWBE/directorySearch.html>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable,

Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

**21. RECIPROCITY AND SANCTIONS PROVISIONS (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS).** Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

**22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

**23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.** If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal,

legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

**24. PROCUREMENT LOBBYING.** To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

**25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.**

To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

## **APPENDIX A-1: SUPPLEMENTAL TITLE VI PROVISIONS (CIVIL RIGHTS ACT)**

### *To be included in all contracts*

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- (1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.
- (4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by NYSDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to NYSDOT's Office of Civil Rights or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NYSDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - (a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
  - (b.) cancellation, termination or suspension of the contract, in whole or in part.
- (6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract or procurement as NYSDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

**APPENDIX B**  
**REQUIREMENTS FOR FEDERALLY-AIDED TRANSPORTATION PROJECTS**  
*(March 2013)*

There is a substantial body of requirements attached to the use of Federal highway or transportation aid. These requirements create or overlay processes, procedures, documentation requirements, authorizations, approvals and certifications that may be substantially greater or different from those that are not funded with Federal-aid and proceed under applicable State and local laws, customs and practices. Under Title 23 of the United States Code, the New York State Department of Transportation (NYSDOT) is responsible for the administration of transportation projects in New York State to which NYSDOT provides Federal highway or transportation-related aid. Through this Agreement, which provides or is associated with such funding, NYSDOT delegates various elements of project and funding administration as described elsewhere in this Agreement. In undertaking a Federally aided project, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement with Federal-aid funding or project administration agrees to proceed in compliance with all the applicable Federal-aid requirements.

NYSDOT, in cooperation with FHWA, has assembled the body of Federal-aid requirements, procedures and practices in its "Procedures for Locally Administered Federal-Aid Projects" (available through NYSDOT's web site at: [www.dot.ny.gov/plafap](http://www.dot.ny.gov/plafap)). In addition, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement for Federal-aid funding or project administration that enters into Federally aided project construction contracts is required to physically incorporate into all its Federally aided construction contracts and subcontracts there under the provisions that are contained in Form FHWA-1273 (available from NYSDOT or electronically at: [www.fhwa.dot.gov/programadmin/contracts/1273.htm](http://www.fhwa.dot.gov/programadmin/contracts/1273.htm)).

In addition to the referenced requirements, the attention of Municipality/Sponsor hereunder is directed to the following requirements and information:

**NON DISCRIMINATION/EEO/DBE REQUIREMENTS**

The Municipality/Sponsor and its contractors agree to comply with Executive Order 11246, entitled "Equal Employment Opportunity" and United States Department of Transportation (USDOT) regulations (49 CFR Parts 21, 23, 25, 26 and 27) and the following:

1. **NON DISCRIMINATION.** No person shall, on the ground of race, color, creed, national origin, sex, age or handicap, be excluded from participation in, or denied the benefits of, or be subject to, discrimination under the Project funded through this Agreement.
2. **EQUAL EMPLOYMENT OPPORTUNITY.** In connection with the execution of this Agreement, the Municipality/Sponsor's contractors or subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, age, color, sex or national origin. Such contractors shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, national origin or age. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

3. **DISADVANTAGED BUSINESS ENTERPRISES.** In connection with the performance of this Agreement, the Municipality/Sponsor shall cause its contractors to cooperate with the State in meeting its commitments and goals with regard to the utilization of Disadvantaged Business Enterprises (DBEs) and will use its best efforts to ensure that DBEs will have opportunity to compete for subcontract work under this Agreement. Also, in this connection the Municipality or Municipality/Sponsor shall cause its contractors to undertake such actions as may be necessary to comply with 49 CFR Part 26.

As a sub-recipient under 49 CFR Part 26.13, the Municipality/Sponsor hereby makes the following assurance.

The Municipality/Sponsor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any United States Department of Transportation (USDOT)-assisted contract or in the administration of its Disadvantaged Business Enterprise (DBE) program or the requirements of 49 CFR Part 26. The Municipality/Sponsor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of the United States Department of Transportation-assisted contracts. The New York State Department of Transportation's DBE program, as required by 49 CFR Part 26 and as approved by the United States Department of Transportation, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

### **FEDERAL SINGLE AUDIT REQUIREMENTS**

Non-Federal entities that expend \$500,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations". Non-Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non-Federal entities that expend less than \$500,000 in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in Sec. 215 (a) of OMB Circular A-133 Subpart B--Audits, records must be available for review or audit by appropriate officials of the cognizant Federal agency<sup>1</sup> the New York State Department of Transportation, the New York State Comptroller's Office and the U.S. Governmental Accountability Office (GAO).

Non-Federal entities are required to submit a copy of all audits, as described above, within 30 days of issuance of audit report, but no later than 9 months after the end of the entity's fiscal year, to the New York State Department of Transportation, Contract Audit Bureau, 50 Wolf Road, Albany, NY 12232. Unless a time extension has been granted by the cognizant Federal Agency and has been filed with the New York State Department of Transportation's Contract Audit Bureau, failure to comply with the requirements of OMB Circular A-133 may result in suspension or termination of Federal award payments.

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<sup>1</sup> The designated cognizant agency for audit shall be the federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB changes it.

## **THE CATALOG OF FEDERAL DOMESTIC ASSISTANCE**

The Catalog of Federal Domestic Assistance (CFDA<sup>2</sup>), is an on-line database of all Federally-aided programs available to State and local governments (including the District of Columbia); Federally recognized Indian tribal governments; Territories (and possessions) of the United States; domestic public, quasi-public, and private profit and nonprofit organizations and institutions; specialized groups; and individuals.

## **THE CFDA IDENTIFICATION NUMBER**

OMB Circular A-133 requires all Federal-aid recipients to identify and account for awards and expenditures by CFDA Number. The Municipality/Sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

The most commonly used CFDA number for the Federal Aid Highway Planning and Construction program is 20.205.

Additional CFDA numbers for other transportation and non-transportation related programs are:

20.216	Highway Training and Education
20.219	Recreational Trails Program
20.XXX	Highway Planning and Construction - Highways for LIFE;
20.XXX	Surface Transportation Research and Development;
20.500	Federal Transit-Capital Investment Grants
20.505	Federal Transit-Metropolitan Planning Grants
20.507	Federal Transit-Formula Grants
20.509	Formula Grants for Other Than Urbanized Areas
20.600	State and Community Highway Safety
23.003	Appalachian Development Highway System
23.008	Appalachian Local Access Roads

## **PROMPT PAYMENT MECHANISMS**

In accordance with 49 CFR 26.29, and NY State Finance Law 139-f or NY General Municipal Law 106-b(2) as applicable:

(a) You must establish, as part of your DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 7 calendar days from receipt of each payment you make to the prime contractor.

(b) You must ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 7 calendar days after the subcontractor's work is satisfactorily completed. You must use one of the following methods to comply with this requirement:

(1) You may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.

(2) You may decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime

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<sup>2</sup> [www.cfda.gov/](http://www.cfda.gov/)

contractor to the subcontractor within 7 calendar days after the subcontractor's work is satisfactorily completed.

(3) You may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 7 calendar days after your payment to the prime contractor.

(c) For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

(d) Your DBE program must provide appropriate means to enforce the requirements of this section. These means may include appropriate penalties for failure to comply, the terms and conditions of which you set. Your program may also provide that any delay or postponement of payment among the parties may take place only for good cause, with your prior written approval.

(e) You may also establish, as part of your DBE program, any of the following additional mechanisms to ensure prompt payment:

(1) A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes. You may specify the nature of such mechanisms.

(2) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

(3) Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

## **APPENDIX 2 IRAN DIVESTMENT ACT**

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date, at which time it will be posted on the OGS website.

By entering into this Contract, Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list. Additionally, Contractor agrees that after the list is posted on the OGS website, should it seek to renew or extend the Contract, it will be required to certify at the time the Contract is renewed or extended that it is not included on the prohibited entities list. Contractor also agrees that any proposed Assignee of the Contract will be required to certify that it is not on the prohibited entities list before the New York State Department of Transportation (NYSDOT) may approve a request for Assignment of Contract

During the term of the Contract, should NYSDOT receive information that a person is in violation of the above-referenced certification, NYSDOT will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then NYSDOT shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

NYSDOT reserves the right to reject any request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.



## **CITY OF RYE**

**Resolution authorizing the implementation, and funding in the first instance 100% of the federal-aid and State “Marchiselli” Program-aid eligible costs, of a transportation federal-aid project, and appropriating funds therefore.**

**WHEREAS**, a Project for the **Rye City School District Pedestrian Improvements in the City of Rye, Westchester County, PIN 8761.10** (the “Project”) is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 0% Federal funds and 100% non-federal funds; and

**WHEREAS**, the City of Rye desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of preliminary engineering.

**NOW, THEREFORE**, the City of Rye duly convened does hereby;

**RESOLVE**, that the Rye City Council hereby approves the above-subject project; and it is hereby further;

**RESOLVED**, that the Rye City Council hereby authorizes the City of Rye to pay in the first instance 100% of the federal and non-federal share of the cost of preliminary engineering work for the Project or portions thereof; and it is further;

**RESOLVED**, that the sum of \$40,000 was appropriated pursuant to City Council Resolution at their meeting on October 9, 2013 and made available to cover the cost of participation in the above phase of the Project; and it is further;

**RESOLVED**, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the Rye City Council shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the City Manager, thereof, and it is further;

**RESOLVED**, that the Rye City Manager be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or applicable Marchiselli Aid on behalf of the City of Rye with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality’s first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible; and it is further;

**RESOLVED**, that in addition to the City Manager, the following municipal titles: Mayor, City Engineer, and City Comptroller are also hereby authorized to execute any necessary Agreements or certifications on behalf of the Municipality, with NYSDOT in connection with the advancement or approval of the project identified in the State/Local Agreement;

**RESOLVED**, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and it is further;

**RESOLVED**, this Resolution shall take effect immediately.

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

I, Dawn F. Nodarse, Clerk of the City of Rye, New York, do hereby certify that I have compared the foregoing copy of this Resolution with the original on file in my office, and that the same is a true and correct transcript of said original Resolution and of the whole thereof, as duly adopted by said Rye City Council at a Rye City Council meeting duly called and held at the Rye City Hall on December 4, 2013 by the required and necessary vote of the members to approve the Resolution.

WITNESS My Hand and the Official Seal of the City of Rye, New York, this 5th day of December, 2013.

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Clerk, City of Rye

# Safe Routes to School

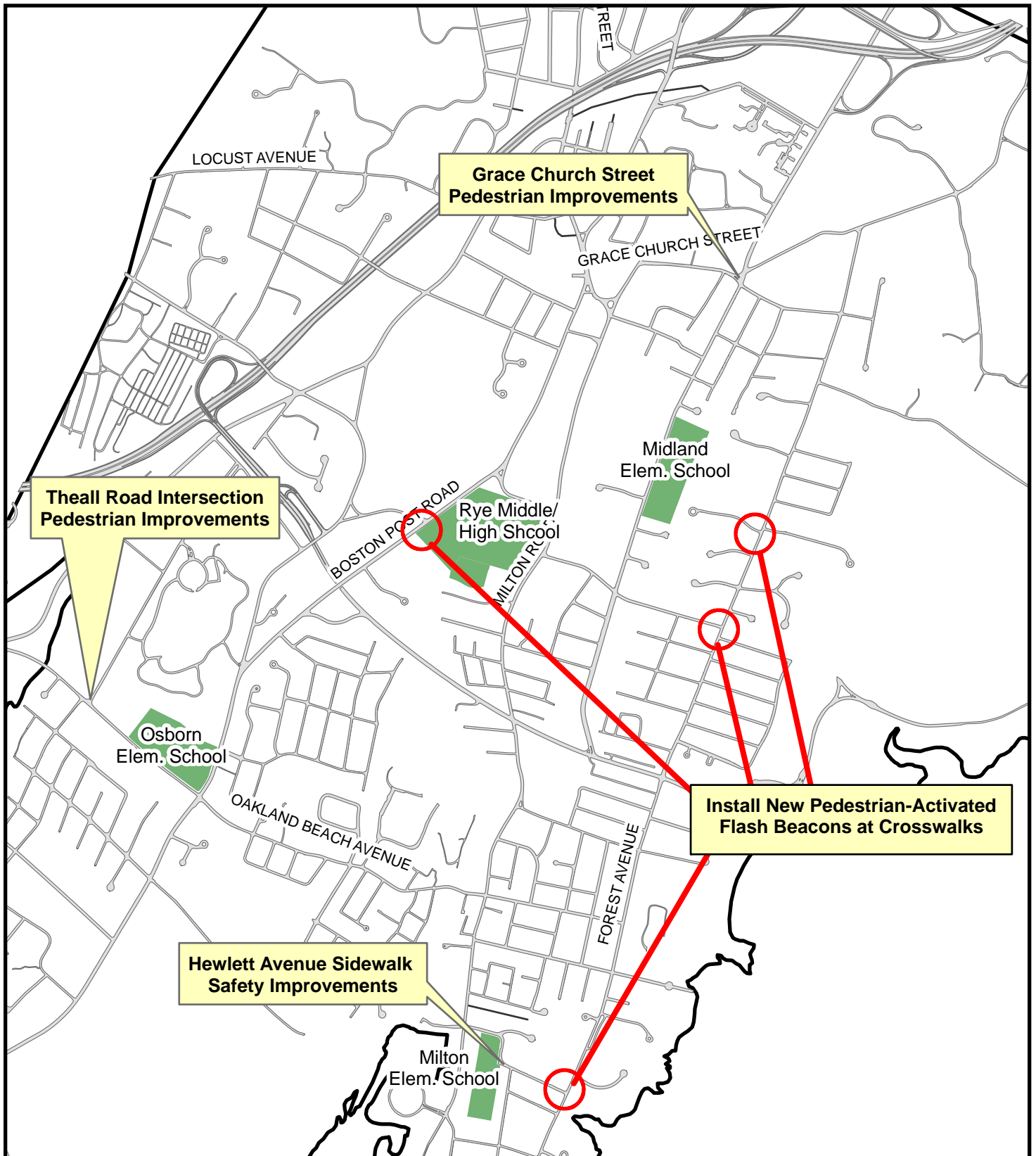
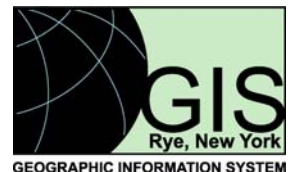


Figure:

## Project Locations City of Rye, New York

August 2012

1,000 500 0 Feet





# CITY COUNCIL AGENDA

NO. 12

DEPT.: Police

DATE: December 4, 2013

CONTACT: Commissioner William R. Connors

**AGENDA ITEM:** Acceptance of Grant Award from the Westchester County District Attorney's Office in the amount of \$3,130 to purchase equipment for the video recording of statements.

**FOR THE MEETING OF:**

December 4, 2013

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the City Manger be authorized to accept the Grant Award from the Westchester County District Attorney's Office in the amount of \$3,130.

**IMPACT:** ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:** The City of Rye Police Department has been awarded a grant of \$3,130 from the Westchester County District Attorney's Office to purchase equipment for the video recording of statements. Requirements of the final contract conditions include:

- Grantees must submit quarterly progress reports and vouchers within 30 days of the completion of each quarter.
- Grant recipients must demonstrate good faith efforts to promote opportunities and the employment of minority and women-owned businesses in the performance of DCJS contracts.

See attached.



William R. Connors  
Police Commissioner

## POLICE DEPARTMENT

City of Rye, New York  
21 McCullough Place  
Rye, N. Y. 10580  
Phone: (914) 967-1234  
FAX: (914) 967-8341



November 19, 2013

Memorandum for: Scott D. Pickup, City Manager

Subject: **GRANT AWARD – VIDEO RECORDING OF STATEMENTS**

I am pleased to report that the City of Rye Police Department is one of several communities that will share in a grant obtained by the Westchester County District Attorney's Office to purchase equipment for the video recording of statements. The program's goal is to enable participating law enforcement agencies to enhance the outcome of prosecutions by video taping interviews and interrogations.

The Department has been awarded \$3,130.00 under this grant. Detective John Wood coordinated the application process with the District Attorney's office.

A copy of the grant award letter is attached for your information.

WRC/wrc

William R. Connors  
Police Commissioner

cc: Joseph Fazzino, Interim Comptroller  
Lt. Reichert  
Det. Wood  
Mr. Scappaticci



STATE OF NEW YORK  
DIVISION OF CRIMINAL JUSTICE SERVICES

Alfred E. Smith Office Building  
80 South Swan Street  
Albany, New York 12210  
<http://criminaljustice.ny.gov>

ANDREW M. CUOMO  
GOVERNOR

MICHAEL C. GREEN  
EXECUTIVE DEPUTY COMMISSIONER

November 15, 2013

The Honorable Janet DiFiore  
District Attorney  
Westchester County District Attorney's Office  
111 Dr. Martin Luther King Jr. Boulevard  
White Plains, NY 10601

Dear District Attorney DiFiore:

I am pleased to advise you that the Westchester County District Attorney's Office has been awarded \$32,920 to support Westchester County with the purchase of equipment for the Video Recording of Statements. The following local law enforcement agencies have been approved to participate in the initiative:

- Ardsley Village Police Department (\$3,130)
- Briarcliff Manor Village Police Department (\$3,130)
- Buchanan Village Police Department (\$3,280)
- Hastings-on-Hudson Village Police Department (\$3,130)
- Irvington Village Police Department (\$3,660)
- Larchmont Village Police Department (\$3,960)
- Mamaroneck Town Police Department (\$3,130)
- Pelham Manor Village Police Department (\$2,960)
- Rye Brook Village Police Department (\$3,410)
- Rye City Police Department (\$3,130)

**We also wanted to make you aware that a press release is scheduled to be issued about these awards, so it is possible you may get inquiries from local reporters on the award.**

The goal of the Video Recording of Statements initiative is to enhance law enforcement efforts and prosecution outcomes through videotaping of interviews and interrogations *from beginning to end*. Participating law enforcement agencies will be expected to produce substantiated information, both statistical and programmatic, on the effectiveness of the initiatives implemented by the grant program. This information is essential to demonstrate the successful outcomes of the Video Recording of Statements initiative.



In the very near future, an Office of Program Development and Funding (OPDF) Criminal Justice Program Representative (CJPR) will contact your office to assist you in the development of the grant contract. In the event that an approved participant declines to participate in the initiative with your office the CJPR will guide you on how to proceed in submitting your budget.

Please note the following requirements are part of the final contract conditions:

- **Reports and Vouchers:** Grantees are required to submit quarterly progress reports and vouchers within 30 days of completion of each quarter.
- **M/WBE:** Effective April 1, 2013, all NYS grant recipients must demonstrate good faith efforts to promote opportunities for minority- and women-owned businesses and the employment of minority group members and women in the performance of DCJS contracts. Grantees receiving in excess of \$25,000 must submit a M/WBE Equal Employment Opportunity Staffing Plan (DCJS-3300), a Local Assistance M/WBE Subcontractor/Supplier Utilization Proposal Form (DCJS-3301) and a Local Assistance M/WBE NPS Discretionary Budget Determination Worksheet (DCJS-3309). Your program representative will advise you if the forms submitted during the application process are acceptable, or will assist you if revisions are needed. M/WBE forms 3300, 3301 and 3309 may be found on the DCJS public website at <http://www.criminaljustice.ny.gov/ofpa/mwbe/mwbe-forms.htm>.

DCJS looks forward to working with you on this important initiative during the coming year. Should you have any questions, please have a member of your staff contact the CJPR indicated in the Grants Management System (GMS) assigned to this project.

On behalf of DCJS, congratulations on your Video Recording of Statements award! The Division looks forward to working with your office in developing and adopting methods that will enhance the integrity of the criminal justice system and improve public safety.

Very truly yours,



Michael C. Green  
Executive Deputy Commissioner

MCG:ams:pr

cc: Susan Pollet, Grant Administrator  
Westchester County District Attorney's Office



# CITY COUNCIL AGENDA

NO. 13

DEPT.: City Manager

DATE: December 4, 2013

CONTACT: Scott D. Pickup

**AGENDA ITEM:** Consideration of a request by the Westchester County chapter of the National Alliance on Mental Illness (NAMI) to have a ribbon initiative in the Central Business District during the month of May 2014.

**FOR THE MEETING OF:**

December 4, 2013

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Council consider granting the request.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:** Since 1949, May has been designated as mental Health Awareness Month. The National Alliance on Mental Illness (NAMI) will be holding a NAMI WESTCHESTER walk on Saturday, May 17, 2014. To further raise awareness they will launch a Mental Health Awareness ribbon initiative during the month of May 2014.

NAMI is requesting that the City of Rye again participate in the awareness ribbon campaign by tying ribbons on the trees in the Central Business District during the month of May 2014. NAMI will be responsible for the installation and removal of the ribbons.

See attached sample ribbon.



**Mental Health  
Awareness Month**  
*Support, Education, Advocacy*  
[www.nami.org](http://www.nami.org)



***Find Help  
Find Hope***





# CITY COUNCIL AGENDA

NO. 14

DEPT.: City Council

DATE: December 4, 2013

CONTACT: Mayor French

**ACTION:** One appointment to the Conservation Commission/Advisory Council for a three-year term expiring on January 1, 2016, by the Mayor with Council approval.

**FOR THE MEETING OF:**

December 4, 2013

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Council approve the appointment of Birgit Townley.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

**BACKGROUND:**

Current Committee Members

Expiration Date

Carolyn Cunningham, Chair

1-1-16

Melissa Grieco

1-1-17

C. Nicholas Hodnett

1-1-15

Christopher Mignone

1-1-15

Jim Nash

1-1-14

Erik Nimlos

1-1-16

Tracy Stora

1-1-15



# CITY COUNCIL AGENDA

NO. 17

DEPT.: Mayor

DATE: December 4, 2012

CONTACT: Mayor Douglas French

**AGENDA ITEM:** Update the City's Resolution to Televis

**FOR THE MEETING OF:**

December 4, 2012

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the City Council update the City protocol for filming public meetings.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

**BACKGROUND:**

See attached Resolution.

## **RESOLUTION TO TELEWISE MEETINGS**

WHEREAS, the City's Cable Committee in 1997 established and funded cameras to be installed in City Council Chambers, and;

WHEREAS, all of the "regular" public meetings of the Rye City Council have always been televised on the Rye City government access cable television channel ("Rye TV") since that practice was adopted, and;

WHEREAS, the practice has enabled residents to be better informed and to more actively participate in its government, and;

WHEREAS, the recording of meetings allows for both a digital historical record as well as convenient access for residents to view via the Internet at any time, and;

WHEREAS, surrounding local municipalities have since adopted such a practice of televising and even extended the policy to include all Boards and Commissions, now, therefore,

BE IT RESOLVED it will be the policy of the City Council that all publicly noticed meetings of the City of Rye City Council, Boards and Commissions will be held in City Council Chambers and will be televised live on RTV, excluding executive sessions that deal with personnel, real estate or litigation matters, and be recorded for subsequent rebroadcast on RTV, and for streaming on the Rye City website and;

BE IT FURTHER RESOLVED, that, consistent with past practice, the staffing for broadcasting meetings will be determined by the City Manager subject to staff availability, and;

BE IT FURTHER RESOLVED, when staff is not available, the meetings will be audio taped and made available to the public through the same media as video recorded meetings.



# CITY COUNCIL AGENDA

NO. 18

DEPT.: Mayor

DATE: December 4, 2012

CONTACT: Mayor Douglas French

**AGENDA ITEM:** Discussion on the process to fill two City Council vacancies

**FOR THE MEETING OF:**

December 4, 2012

**RYE CITY CODE**

CHAPTER  
SECTION

**RECOMMENDATION:**

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

**BACKGROUND:**

Two City Council seats will be vacated in 2014 as current Councilmember Joseph Sack assumes the role of Mayor and current Councilwoman Catherine Parker leaves to assume her position on the Westchester County Board of Legislators.

Corporation Counsel Kristen Wilson will review the process to fill these seats as outlined in the Rye City Charter.