



COURTROOM  
1 MUNICIPAL PLAZA  
BEACON, NY 12508  
AND LIVE VIA ZOOM

Mayor Lee Kyriacou  
Councilmember Amber J. Grant, At Large  
Councilmember George Mansfield, At Large  
Councilmember Terry Nelson, Ward 1  
Councilmember Air Rhodes, Ward 2  
Councilmember Jodi M. McCredo, Ward 3  
Councilmember Dan Aymar-Blair, Ward 4  
City Administrator Chris White

**December 13, 2021  
7:00 PM  
City Council Agenda**

**Roll Call**

**Workshop Agenda Items**

1. Notice of Meeting Location December 13, 2021
2. Open Space Survey Results Presentation with Sean Carroll, Senior GIS / Environmental Educator of Cornell Cooperative Extension Dutchess County 10
3. Housing and Tenant Issues, Including Good Cause Eviction and Accessory Dwelling Units 20
4. Proposed Amendments to the 2021 City of Beacon Operating Budget 5
5. Proposed Appointment of Detective Kristopher Phillips to the Position of Sergeant 5
6. Proposed Agreement with the Civil Service Employees Association, Local 1000, AFSCME, AFL-CIO, City of Beacon Unit #66620, Dutchess County Local 814 5
7. Proposed Agreement with Hudson River Sloop Clearwater, Inc. for Use and Occupancy of the White House at the Settlement Camp 5
8. Proposed Agreement with Ambulnz NY2, LLC for Ambulance Transport Services 5
9. Proposed Agreement with Beacon Volunteer Ambulance Corps, Inc. for Ambulance Transport Services 5
10. Tax Certiorari Settlement - Mtr. of Allied Waste/Fishkill Avenue Beacon LLC 5
11. Proposed Community Facility Grant Program Final Awards 5

**City of Beacon City Council Agenda**  
**12/13/2021**

**Title:**

Notice of Meeting Location December 13, 2021

**ATTACHMENTS**

[Notice of Meeting Location December 13, 2021](#)



## NOTICE OF PUBLIC MEETING LOCATION

PLEASE TAKE NOTICE that the City of Beacon City Council will be holding the City Council Workshop of December 13, 2021 in the Courtroom at 1 Municipal Plaza, Beacon, NY 12508. The meeting will simultaneously be streamed via Zoom. The public can attend in the Courtroom, or access the meeting via Zoom at

<https://us02web.zoom.us/j/86028799569?pwd=WlhzMdNudFhkbmt4SjNNTmZtZENVUT09>

Webinar ID: 860 2879 9569 Passcode: 696527. To the extent internet access is not available, the public can attend via telephone by dialing + 1 929 205 6099 and entering the Webinar ID: 860 2879 9569 Passcode: 696527.

PLEASE TAKE FURTHER NOTICE, that the City Council Workshop of December 13, 2021 at 7:00 pm can be accessed live at <https://www.youtube.com/channel/UCvPpigGwZDeR7WYmw-SuDxg>

**City of Beacon City Council Agenda**  
**12/13/2021**

**Title:**

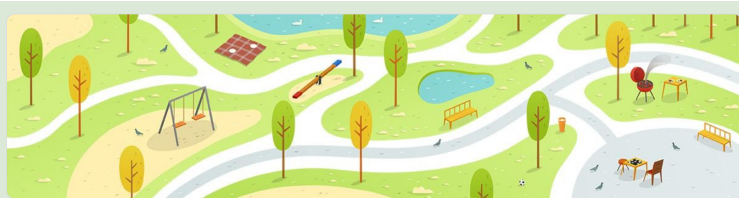
Open Space Survey Results Presentation with Sean Carroll, Senior GIS / Environmental Educator of Cornell Cooperative Extension Dutchess County

**ATTACHMENTS**

[Open Space Survey Results Presentation](#)

# City of Beacon Open Space Inventory Public Survey Results Report

Report by: Sean Carroll, Cornell Cooperative Extension Dutchess County – November 2021



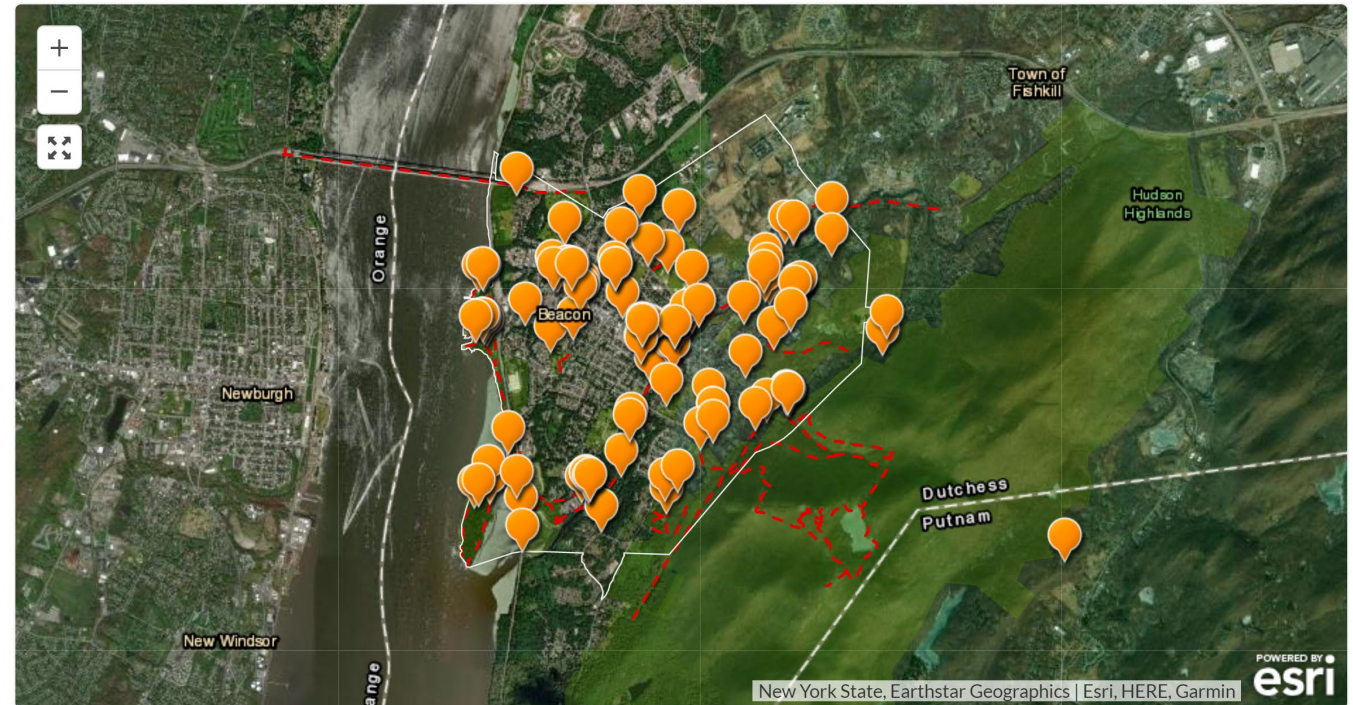
## Community Survey: Preserving Green and Open Space in Beacon

Greetings! We are the Conservation Advisory Committee for the City of Beacon. We are hosting a community survey to guide efforts to protect green and open spaces in Beacon. We want to hear from you. We value input from all Beaconites to ensure that everyone's voice is part of this conversation. Please complete the following survey, which will help us create a vision for green and open spaces in Beacon that reflects our city's cultural, ethnic, and scenic diversity and enhances the quality of life for all Beaconites.

### What is "green and open space?"

Green and open space is land that is not developed for residential, commercial, industrial or institutional use. Green and open space may be publicly or privately-owned, can serve many purposes, and can range in size. Some examples of green and open spaces are parks, playgrounds, ball courts, community gardens, mountains, and forests.

After submitting the survey, please visit the following map form to add any points/priorities as a pin on a publicly accessible and viewable map: <https://arcg.is/1fjybP0>



# Survey Goals & Logistics

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## Goals:

1. Solicit and receive community input to guide efforts to protect green and open spaces in Beacon
2. Strive to reach a diverse audience that reflects Beacon's cultural & ethnic diversity to promote and enhance the quality of life for all

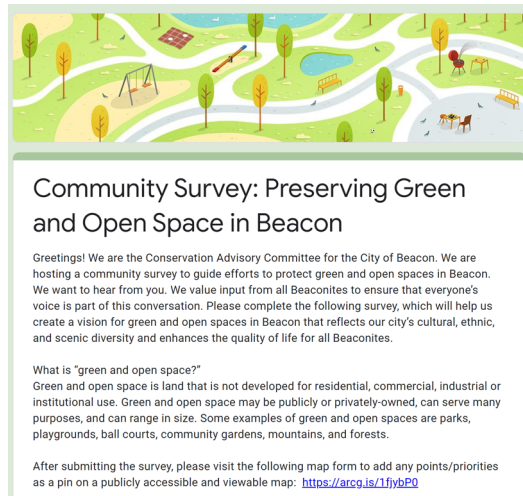
## Survey Period:

June 11, 2021 – November 1, 2021 (158 days)

# Survey Components & Overall Results

## Written Survey

- Done using Google Forms
- 22 questions
- 298 responses



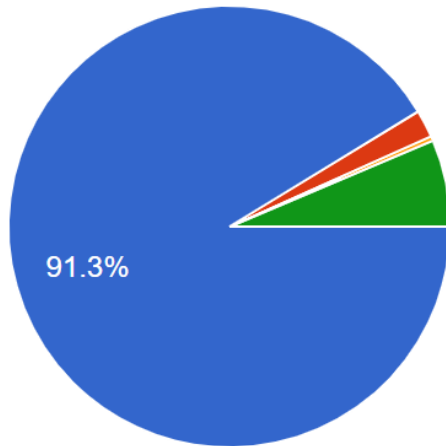
## Map Survey

- Done using ESRI ArcGIS Online
- Drop pin on map and enter information
- 115 responses/points



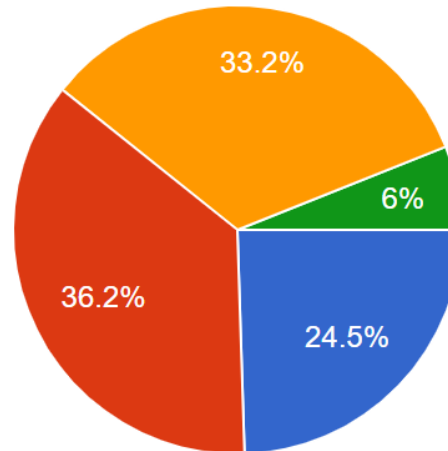
# Background of Respondents

## Beacon Residency



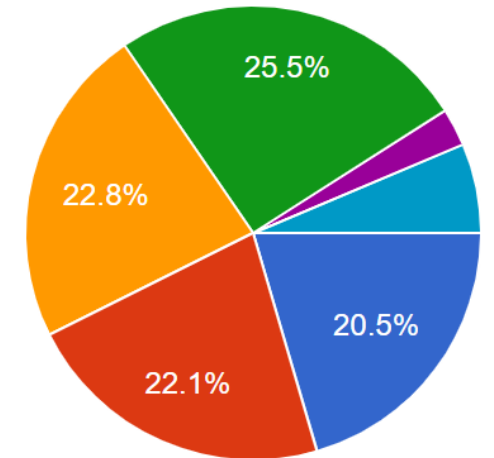
- Full-time Resident / Vivo en Beacon y ningún otro lugar
- Part-time Resident / Vivo en Beacon solo parte del tiempo
- Temporary Resident / Vivo en Beacon, pero es temporal
- I don't live in Beacon / No vivo en Beacon

## Residence Period



- 0-3 years/años
- 3-10 years/años
- 10 years/años or more/más
- I don't live in Beacon / No vivo en Beacon

## Geography



- Ward/Área 1
- Ward/Área 2
- Ward/Área 3
- Ward/Área 4
- I don't know / No sé en qué área vivo
- I don't live in Beacon / No vivo en Beacon

| Race/Ethnicity                         | Percentage (%) |
|----------------------------------------|----------------|
| White                                  | 78.8           |
| Prefer not to answer                   | 12.2           |
| Asian                                  | 5.6            |
| Hispanic/LatinX                        | 5.2            |
| Other                                  | 2.2            |
| Black/African American/Black Caribbean | 2.1            |
| Middle Eastern/North African           | 0.7            |

## Demographics

| <b>Gender</b>          | <b>Percentage (%)</b> |
|------------------------|-----------------------|
| Female                 | 58.1                  |
| Male                   | 28.7                  |
| Prefer not to answer   | 9.7                   |
| Genderqueer/Non-binary | 4.2                   |
| Transgender            | 0.7                   |
| Agender                | 0.3                   |

Demographics (cont.)

| <b>Age Group</b> | <b>Percentage (%)</b> |
|------------------|-----------------------|
| 40-49            | 34.8                  |
| 30-39            | 25.9                  |
| 50-59            | 14.3                  |
| 60-69            | 13.3                  |
| 70-79            | 6.1                   |
| 20-29            | 4.1                   |
| 80 or older      | 1.0                   |
| 19 or younger    | 0.3                   |

Demographics (cont.)



# Importance of Open & Green Space

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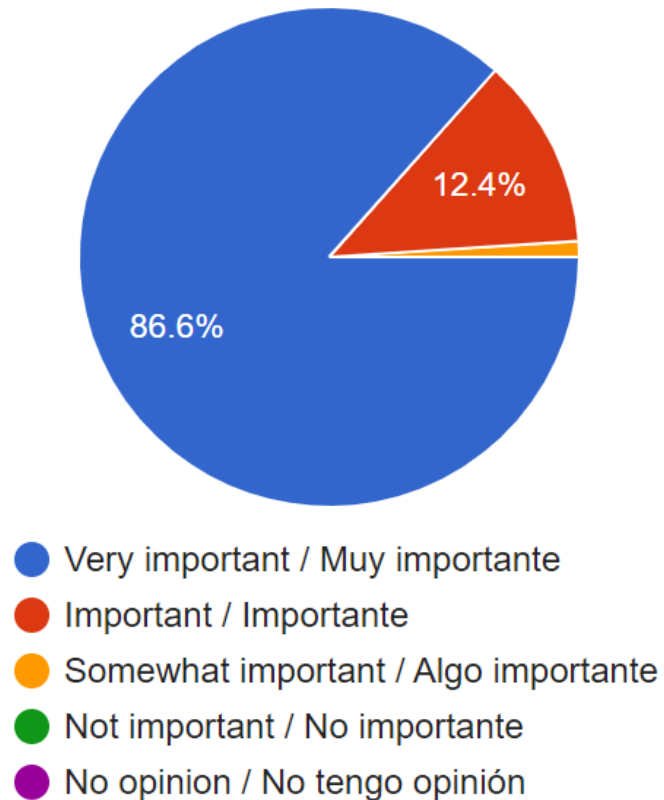
**When asked why open and green spaces were important to them, respondents answered (in order of number of responses):**

1. Natural beauty and scenic views (97.3%)
2. Exercise or physical/mental health (89.9%)
3. Wildlife habitat (88.9%)
4. Recreation (78.2%)
5. Clean water (74.8%)
6. Community gathering spaces (73.5%)
7. Other\* (10.8%)

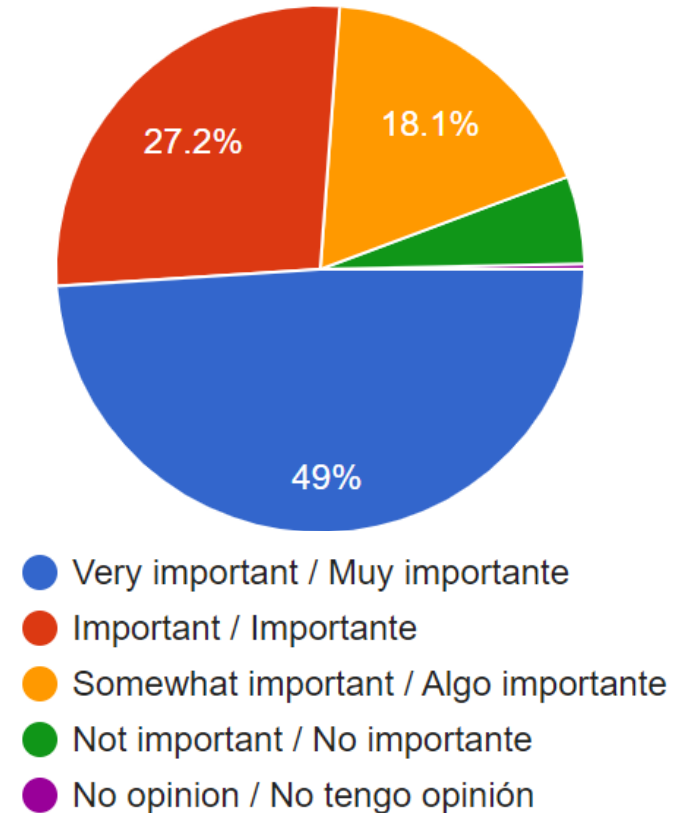
\*Other included (but wasn't limited to): quality of life, education, limiting development, economic value, climate resilience, spirituality, peace & quiet.

# How important are these spaces to Beacon residents?

## • Parks

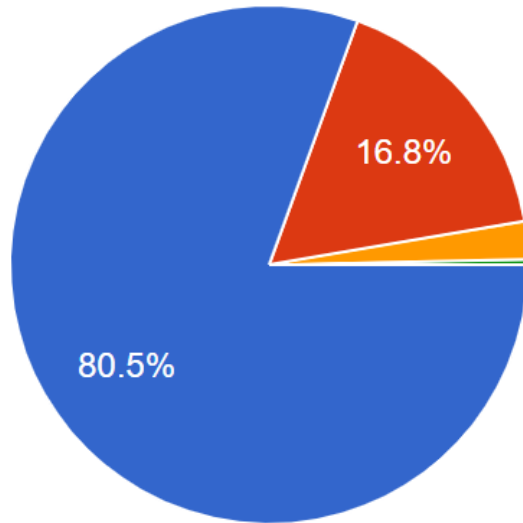


## • Playgrounds & Athletic Fields



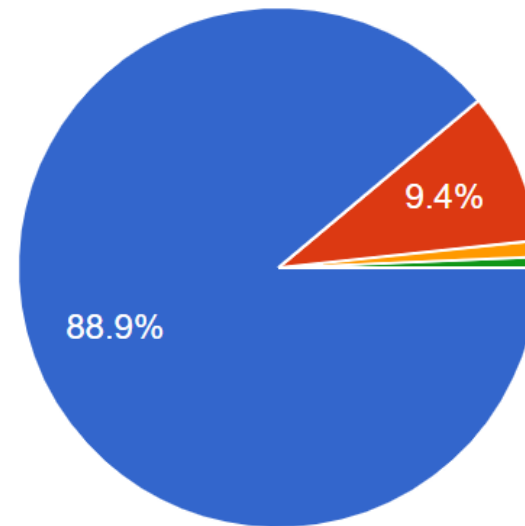
# How important are these spaces to Beacon residents?

## • Walking & Bike Paths



- Very important / Muy importante
- Important / Importante
- Somewhat important / Algo importante
- Not important / No importante
- No opinion / No tengo opinión

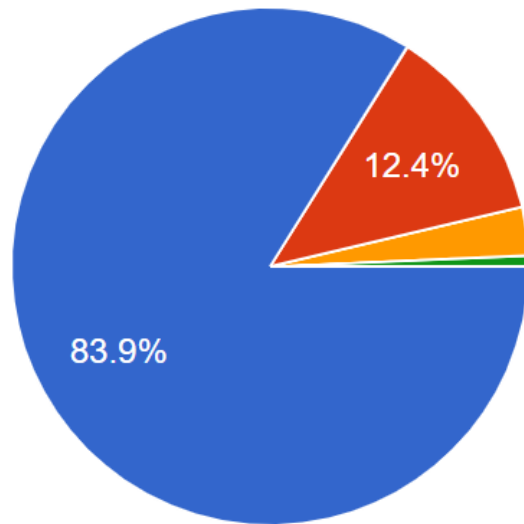
## • Water Resources (e.g. the river, streams, wetlands)



- Very important / Muy importante
- Important / Importante
- Somewhat important / Algo importante
- Not important / No importante
- No opinion / No tengo opinión

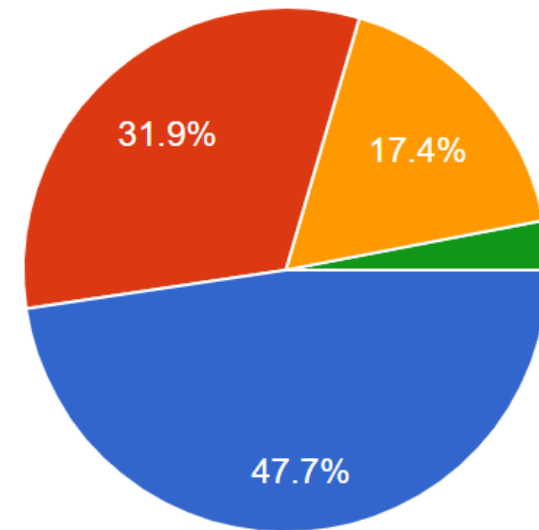
# How important are these spaces to Beacon residents?

## • Aquifers/Reservoirs (i.e. clean drinking water)



- Very important / Muy importante
- Important / Importante
- Somewhat important / Algo importante
- Not important / No importante
- No opinion / No tengo opinión

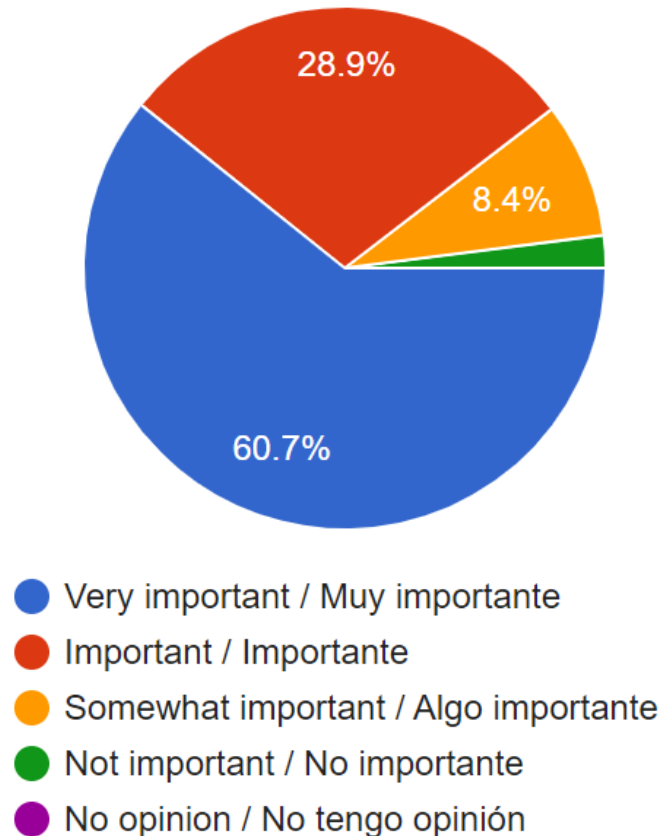
## • Historic & cultural sites



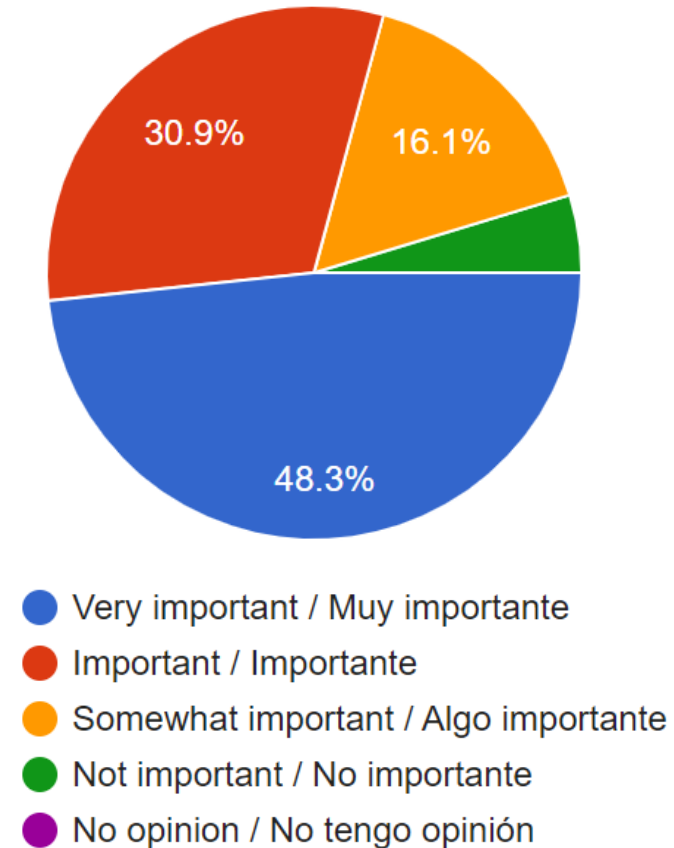
- Very important / Muy importante
- Important / Importante
- Somewhat important / Algo importante
- Not important / No importante
- No opinion / No tengo opinión

# How important are these spaces to Beacon residents?

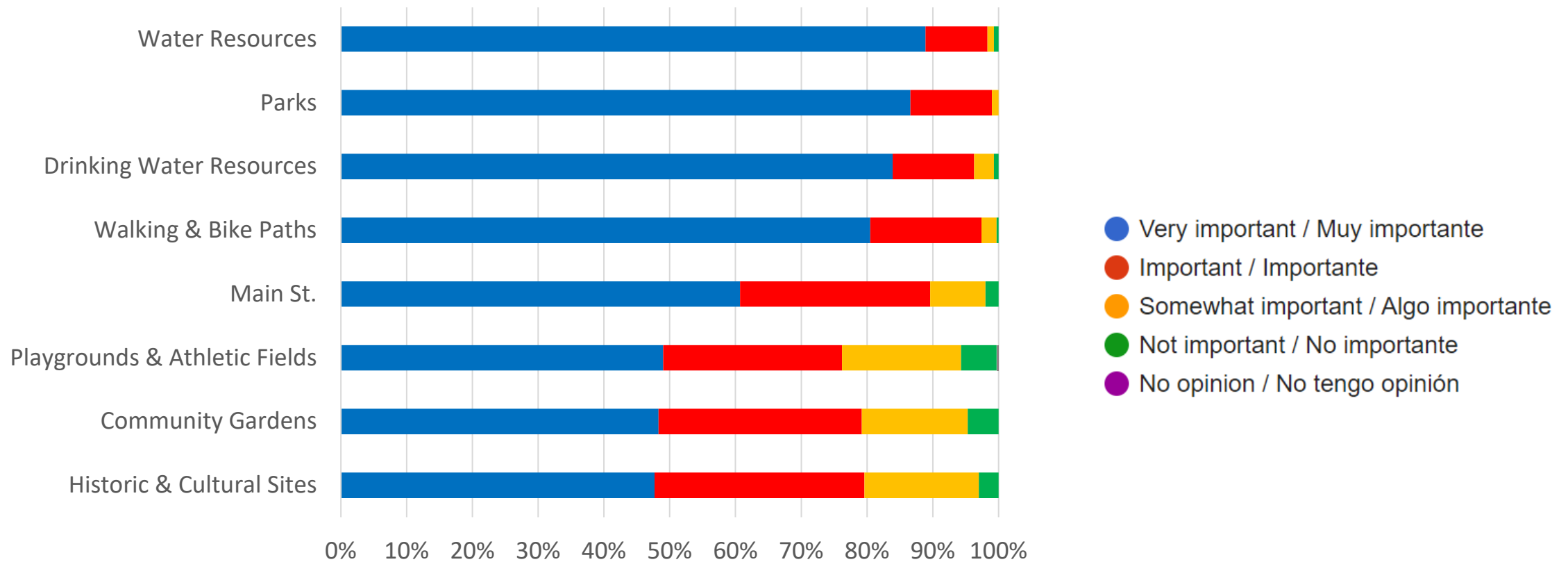
- Street trees & small parks on Main St.



- Urban agriculture/Community gardens



# In summary...





Other important green/open space concepts to Beaconites



# # 1 Green/Open Space Priority

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1. Conservation of natural areas (39.3%)
2. Walking & biking trails/paths (30.5%)
3. Updating & maintaining existing space (14.1%)
4. River access (4.7%)
5. Water protection (4.7%)
6. New parks (1.7%)
7. More athletic areas & playgrounds (0.7%)
8. Other (4.3%)

# Barriers to open space access

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46% of respondents  
answered  
**“no barriers”** to  
open space access

## Top 5 Barriers:

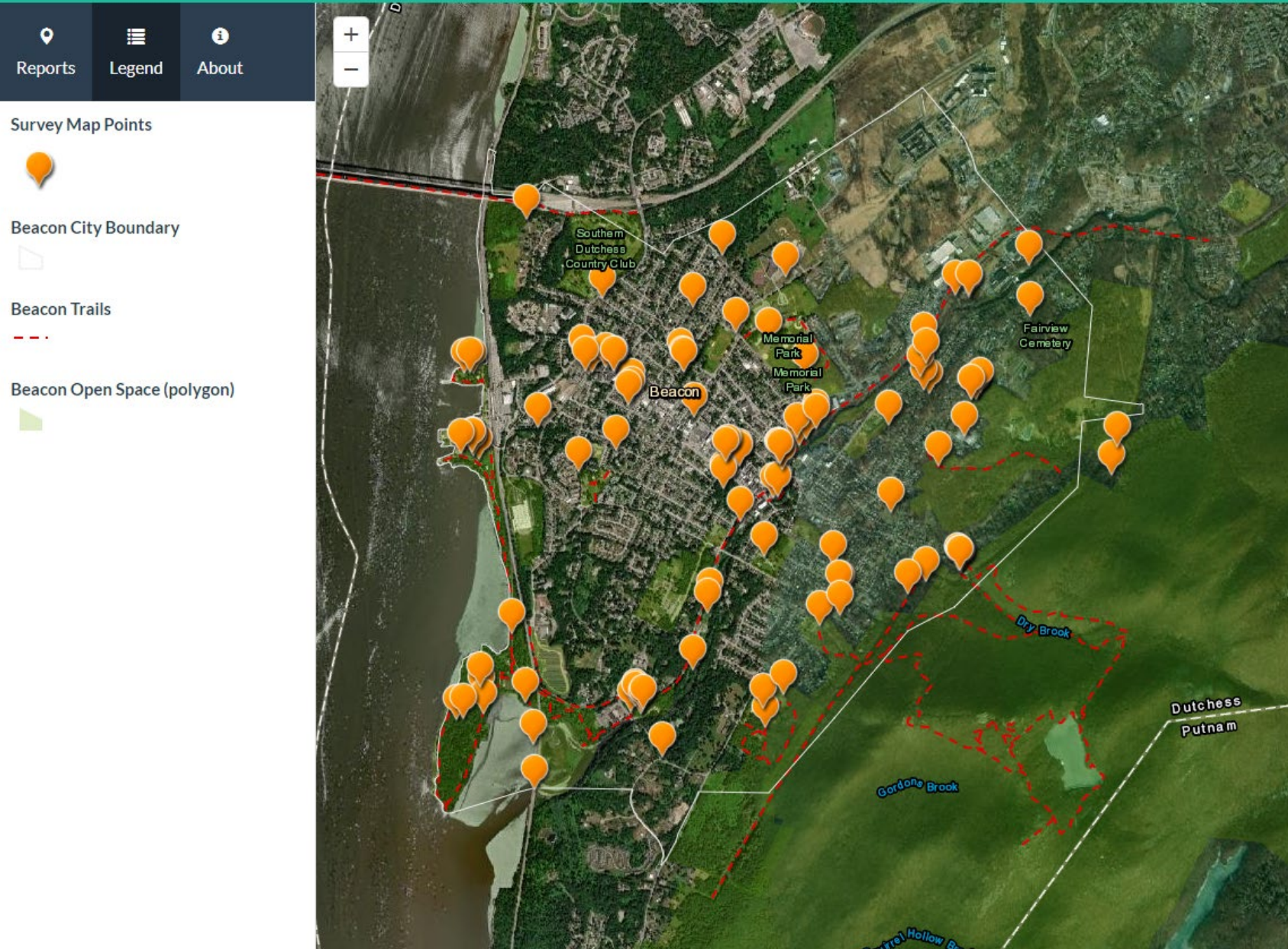
1. Lack of leisure time (27.9%)
2. Difficult to access (8.4%)
3. Safety concerns (8.1%)
4. No open space nearby (6.0%)
5. I don't feel welcome in them (3.7%)

# Improving accessibility, equity & inclusion

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## Top 10 Suggestions:

1. More walking & biking trails (including bike lanes)
2. Increased & improved parking
3. Increased public transportation routes to open space
4. Improved bathrooms in public areas
5. Increased signage & maps (i.e. wayfinding)
6. More community events & cultural awareness
7. Improved ADA compliance/accessibility
8. More parks on Main Street
9. Increased advertising & notification to residents
10. Improved sidewalks



# Map Survey

## 1. Enter Information

Name or description of green space feature" (e.g. "Dennings Point") - Optional

Existing Green/Open Space or Future Opportunity

Select... ▼

Green/Open Space Category

Select... ▼

Priority / Level of Interest

Select... ▼

Comment - Optional

# Map Survey

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**115 responses**

# Existing and Future Open Space

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## Existing

- 66 responses
- Examples:
  - Dennings Point
  - Madam Brett Park
  - Pocket Road
  - Mount Beacon
  - Fishkill Creek Greenway

## Future/Potential

- 49 responses
- Examples:
  - Rail Trail
  - Community gardens along Main St.
  - City Hall park
  - Trails to riverfront
  - Specific empty lots

# Questions?

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**Thank you!**

**Sean Carroll**

*Senior GIS/Environmental Resource Educator*

Cornell Cooperative Extension Dutchess County

smc427@cornell.edu | 845-677-8223 x147

**City of Beacon City Council Agenda**  
**12/13/2021**

**Title:**

Housing and Tenant Issues, Including Good Cause Eviction and Accessory Dwelling Units

**ATTACHMENTS**

Proposed Good Cause Eviction Local Law

Memorandum from the City Attorney's Office Regarding Good Cause Eviction

Proposed Local Law to Amend Chapter 223, Section 24.1 and Section 14, and Chapter 223 of the Code of the City of Beacon Regarding Accessory Dwelling Units

**LOCAL LAW # \_\_\_\_ OF [LOCALITY] TO PROHIBIT EVICTION WITHOUT GOOD CAUSE**

**JUSTIFICATION:**

**SUMMARY:**

A local law amending to prohibit the collection of rents during any period of noncompliance with [section of local law requiring registration and housing standards] and prohibiting evictions from occurring during any period of noncompliance with [section of local law requiring registration and housing standards] and further prohibiting evictions from occurring during any period of noncompliance with or unresolved cases concerning any local and state Housing Laws; and further adding a new article [local law requiring registration and housing standards] of [LOCALITY] prohibiting evictions without good cause.

**COLLECTION OF RENTS:**

No landlord, building manager, owner, agent, or other person in charge -- referred to as “landlord” hereafter -- shall collect rents during any period of noncompliance with [section of local law requiring registration and housing standards] which would otherwise be due and owing for the rental of premises unless and until the landlord shall have complied with the provisions herein. Nothing herein shall be construed to prevent a landlord, upon receipt of the rental property registration, from receiving the equitable value of the occupancy of the premises from the earliest date of occupancy, but in no event shall a landlord recover in excess of the agreed rent. Failure on the part of the tenant to pay the equitable value of the occupancy of the premises from the earliest date of occupancy until the landlord’s receipt of the rental property registration may not be used as a basis for eviction.

**Evictions**

Further, no landlord, building manager, owner, agent, or other person in charge -- referred to as “landlord” hereafter -- shall file for an eviction during any period of noncompliance with [section of local law requiring registration and housing standards]. A landlord of multiple rental properties or units in the [Locality] shall not file for an eviction of residents at any one property during any period of noncompliance with [section of local law requiring registration and housing standards] at any one of their rental properties. Failure on the part of the tenant to pay the equitable value of the occupancy of the premises during any period of landlord’s noncompliance with [section of local law requiring registration and housing standards] may not be used as a basis for eviction.

Further, any landlord with open/unresolved cases concerning hazardous or immediately hazardous housing code violations or immediately hazardous or major construction code violations in any of their rental properties, shall not file for an eviction of tenants at any one of their properties.

**Effective Date** This article shall take effect upon final passage, public hearing, and filing with the Secretary of State and shall apply to actions and proceedings commenced on or after such effective date.

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**LOCAL LAW # \_\_\_\_ OF [LOCALITY] ADDING A NEW SECTION TO [SECTION OF LOCAL LAW REQUIRING REGISTRATION AND HOUSING STANDARDS] OF THE CODE: [HOUSING STANDARDS] ENTITLED PROHIBITION OF EVICTIONS WITHOUT GOOD CAUSE**

**Short Title.** This article shall be cited as the “Prohibition of Eviction Without Good Cause Law.”

**DEFINITIONS**

- A. The term “housing accommodation,” as used in this article, shall mean any residential premises located in the [REDACTED].
- B. The term “landlord,” as used in this article, shall mean any owner, lessor, sublessor, assignor, or other person receiving or entitled to receive rent for the occupancy of any housing accommodation or an agent of any of the foregoing.
- C. The term “tenant” as used in this article shall mean a tenant, sub-tenant, lessee, sublessee, assignee, an occupant of a rooming house or hotel as defined in section seven hundred eleven of the Real Property Actions and Proceedings Law or any other person entitled to the possession, use or occupancy of any housing accommodation.
- D. The term “rent” as used in this article shall mean any consideration, including any bonus, benefit or gratuity demanded or received for or in connection with the possession, use or occupancy of housing accommodations or the execution or transfer of a lease for such housing accommodations.
- E. The term “disabled person” as used in this article shall mean a person who has any condition which substantially limits one or more of such person’s major life activities, and which are expected to be either permanent or to last for more than six months; or a person who is regarded to have such an impairment.

**APPLICABILITY:**

This article shall apply to all housing accommodations except:

- A. Owner-occupied premises with less than two units;
- B. Premises where the possession, use or occupancy of which is solely incident to employment and such employment is being lawfully terminated; and

C. Premises otherwise subject to regulation of rents or evictions pursuant to state or federal law to the extent that such state or federal law requires “good cause” for termination or non-renewal of such tenancies.

#### **NECESSITY FOR GOOD CAUSE:**

No landlord shall, by action to evict or to recover possession, by exclusion from possession, by failure to renew any lease, or otherwise, remove any tenant from housing accommodation except for good cause as defined in section [number here] of this article.

#### **GROUND FOR REMOVAL OF TENANTS**

A. No landlord shall remove a tenant from any housing accommodation, or attempt such removal or exclusion from possession, notwithstanding that the tenant has no written lease or that the lease or other rental agreement has expired or otherwise terminated, except upon order of a court of competent jurisdiction entered in an appropriate judicial action or proceeding in which the petitioner or plaintiff has established one of the following grounds as good cause for removal or eviction:

(1) The tenant has failed to pay rent due and owing, provided, however, that the rent due and owing, or any part thereof, did not result from a rent increase or pattern of rent increases which, regardless of the tenant's prior consent, if any, is unconscionable or imposed for the purpose of circumventing the intent of this article. In determining whether all or part of the rent due and owing is the result of an unconscionable rent increase or pattern of rent increases, the Court may consider, among other factors, i) the rate of the increase relative to the tenant's ability to afford said increase, ii) improvements made to the subject unit or common areas serving said unit, iii) whether the increase was precipitated by the tenant engaging in the activity described at section 223-b (1(a)-(c) of the Real Property Actions and Proceedings Law, iv) significant market changes relevant to the subject unit, and v) the condition of the unit or common areas serving the unit, and it shall be a rebuttable presumption that the rent for a dwelling not protected by rent regulation is unconscionable or imposed for the purpose of circumventing the intent of this article if said rent has been increased in any calendar year by a percentage exceeding five percent;

(2) The tenant is violating a substantial obligation of their tenancy, other than the obligation to surrender possession, and has failed to cure such violation after written notice that the violation cease within ten days of receipt of such written notice, provided however, that the obligation of tenancy for which violation is claimed was not imposed for the purpose of circumventing the intent of this article;

(3) The tenant is committing or permitting a nuisance in such housing accommodation, or is maliciously or by reason of negligence damaging the housing accommodation; or the tenant's

conduct is such as to interfere with the comfort of the other tenants or occupants of the same rental property;

(4) Occupancy of the housing accommodation by the tenant is in violation of or causes a violation of law and the landlord is subject to civil or criminal penalties therefore; provided however that the [LOCALITY'S BUILDINGS DEPARTMENT OR WHOEVER DOES HOUSING CODE INSPECTIONS] has issued an order requiring the tenant to vacate the housing accommodation. No tenant shall be removed from possession of a housing accommodation on such ground unless the court finds that the cure of the violation of law requires the removal of the tenant and that the landlord did not, through neglect or deliberate action or failure to act, create the condition necessitating the order to vacate. In instances where the landlord does not undertake to cure conditions of the housing accommodation causing such violation of the law, the tenant shall have the right to pay or secure payment in a manner satisfactory to the court, to cure such violation provided that any tenant expenditures shall be applied against rent to which the landlord is entitled. In instances where removal of a tenant is absolutely essential to their health and safety, the removal of the tenant shall be without prejudice to any leasehold interest or other right of occupancy the tenant may have and the tenant shall be entitled to resume possession at such time as the dangerous conditions have been removed. Nothing herein shall abrogate or otherwise limit the right of a tenant to bring an action for monetary damages against the landlord to compel compliance by the landlord with all applicable laws;

(5) The tenant is using or permitting the housing accommodation to be used for an illegal purpose;

(6) The tenant has unreasonably refused the landlord access to the housing accommodation for the purpose of making necessary repairs or improvements required by law or for the purpose of showing the housing accommodation to a prospective purchaser, mortgagee, or other person having a legitimate interest therein;

(7) The landlord seeks in good faith to recover possession of a housing accommodation located in a building containing fewer than twelve units because of immediate and compelling necessity for their own personal use and occupancy as their principal residence, or the personal use and occupancy as principal residence of their partner, spouse, parent, child, stepchild, father-in-law or mother-in-law, when no other suitable housing accommodation in such building is available. This paragraph shall permit recovery of only one housing accommodation and shall not apply to a housing accommodation occupied by a tenant who is sixty-two years of age or older or who is a disabled person;

(8) The landlord seeks in good faith to recover possession of any or all housing accommodations located in a building with less than five units to personally occupy such housing accommodations as their principal residence;

(9) Where the tenant has refused in bad faith to enter into a written lease which has been offered in good faith to the tenant by the landlord, subject to the following.

- a. The proposed written lease must have been offered to the tenant in writing on at least two occasions at least two weeks apart, which such written offer to include,
  - (i) an original and one copy of the proposed written lease, executed by the landlord or their designee;
  - (ii) notice of the landlord's intention to pursue eviction within 120 days pursuant to this article if the tenant rejects the proposed written lease and/or does not enter into said lease within forty-five days of the initial offer;
  - (iii) clear instructions to the tenant concerning the manner in which the tenant is to communicate to the landlord acceptance or rejection of the written lease; and
  - (iv) Notice of any proposed increase equal to or greater than 3.5% shall be provided in compliance with RPL sect 226-C
- b. The proposed written lease shall not supersede an existing, active lease to which the landlord and the tenant are parties;
- c. The terms of the proposed written lease may not;
  - (i) be unreasonable and/or mandate or proscribe activities not rationally related to the regulation of activities which would create a nuisance at the property or cause discomfort to the tenants or occupants of the same or adjacent buildings or structures as described at section A(3) above; or
  - (ii) substantially alter the terms any of any existing lease;
- d. The proposed written lease shall not be offered for the purposes of circumventing this article;
- e. The tenant shall be entitled to dismissal of any eviction petition brought for the tenant's refusal to enter into a lease according to these terms if
  - (i) the tenant consents to enter into the proposed written lease presented in the first offer pursuant to subsection 10(a) at any time prior to the execution of the warrant of eviction regardless of landlord's willingness to accept said consent at the time it is communicated; and/or
  - (ii) prior to the commencement of the eviction proceeding the tenant attempted in good faith to negotiate the terms of the proposed written lease and that the landlord refused in bad faith to engage in such negotiation; and/or
  - (iii) the tenant's failure to enter into the proposed written lease was due to a good faith failure to comprehend the terms of the proposed written lease;
  - (iv) the tenant is a victim of domestic violence as defined by NY Social Service Law §459-A and is unable to safely enter into the proposed written lease due to good faith concerns for the tenant's personal safety; and/or
  - (v) the proposed written lease includes an increase in rent or increase in the tenant's responsibility for recurring payments associated with the tenancy

which is unreasonable or imposed for the purposes of circumventing the intent of this article per subsection (A)(1), above.

f. That any proceeding for eviction pursuant to this subsection shall have been commenced within 120 days of the proposed written lease first having been offered to the tenant.

B. A tenant required to surrender a housing accommodation by virtue of the operation of paragraph (7), (8), or (9) of subsection (A) of this section shall have a cause of action in any court of competent jurisdiction for damages, declaratory, and injunctive relief against a landlord or purchaser of the premises who makes a fraudulent statement regarding a proposed use of the housing accommodation. In any action or proceeding brought pursuant to this provision a prevailing tenant shall be entitled to recovery of actual damages, and reasonable attorneys' fees.

C. Nothing in this section shall abrogate or limit the tenant's right, pursuant to section seven hundred fifty-one of the Real Property Actions and Proceedings Law, to permanently stay the issuance or execution of a warrant or eviction in a summary proceeding, whether characterized as a nonpayment, objectionable tenancy, or holdover proceeding, the underlying basis of which is the nonpayment of rent, so long as the tenant complies with the procedural requirements of section seven hundred fifty-one of the Real Property Actions and Proceedings Law.

## **INTIMIDATION**

A. It shall be a rebuttable presumption that the eviction is not for good cause if there is a history of landlord intimidation of the tenant.

B. For the purpose of this Section, intimidation shall be defined as the use of aggressive methods by the landlord in an attempt to pressure or harass a tenant. It can be, but is not limited, to:

- (1) **Illegal Entry:** Entering the premises occupied by a tenant without advance notice, tenant approval, or without prior warning, shall be considered intimidation. Emergencies are an exception to this rule;
- (2) **Discontinuing Essential Services and Utilities:** Discontinuing heat, hot water, sewage, and electricity violates the warranty of habitability, allowing the tenant to have the right to basic necessities, and shall be considered intimidation;
- (3) **Refusing to Make Repairs or Perform Maintenance:** A landlord may attempt to make living conditions at the property uncomfortable by refusing to make necessary repairs or perform maintenance furnaces, stoves, cooling system, roof, etc. Landlords may fail or delay to correct hazardous conditions including mold, lead paint, or dust and debris. It shall be considered intimidation to not address these issues;
- (4) **Unreasonable Rent Increases:** Unreasonably increasing rent, without proper notice, as described on Section B (3)(1) of this Local Law, shall be considered intimidation;

- (5) Changing the Locks: A landlord may change the locks on common area doors or on the actual entry doors to the tenant's unit to get the tenant to move out. It shall be considered intimidation from the landlord if these actions are taken.
- (6) Buyout: A landlord may try to have the tenant accept a sum of money in exchange for the tenant to move out of the premises. However, repeated attempts to buy out the tenant after the tenant's refusal shall be considered intimidation.
- (7) Verbal and/or Physical Threats: A landlord may attempt to intimidate a tenant over the phone, in person or in writing through texts, emails, or written letters. Additionally, a landlord may try to intimidate a tenant by physically blocking an exit from a room, shouting at the tenant, threatening to disclose the tenants status as an undocumented immigrant, or even putting their hands on the tenant. Verbal or physical threats shall be considered intimidation.
- (8) The tenant should document any alleged incident of intimidation that occurs including the date, time, and nature of the intimidation. The tenant should keep any evidence of the harassment, including a voicemail, text message, email, letter, photo, or video that captures the incident. The adjudicator may also rely on the credible testimony of the tenant if evidence is not available.

**Preservation of existing requirements of law.**

No action shall be maintainable and no judgment of possession shall be entered for housing accommodations pursuant to this article, unless the landlord has complied with any and all applicable laws governing such action or proceeding and has complied with any and all applicable laws governing notice to tenants including, without limitation, the manner and the time of service of such notice and the contents of such notice.

**Waiver of rights void.**

Any agreement by a tenant heretofore or hereinafter entered into in a written lease or other rental agreement waiving or modifying their rights as set forth in this article shall be void as contrary to public policy.

**SEVERABILITY**

If any provision of this act, or any application of any provision of this act, is held to be invalid, that shall not affect the validity or effectiveness of any other provision of this act, or of any other

## Good Cause Eviction Local Law Submitted by Council Member Dan Aymar-Blair

application of any provision of this act, which can be given effect without that provision or application; and to that end, the provisions and applications of this act are severable.

**Effective Date This** article shall take effect upon final passage, public hearing, and filing with the Secretary of State and shall apply to actions and proceedings commenced on or after such effective date.

■ **Main Office**

445 Hamilton Avenue  
White Plains, NY 10601  
Phone 914.946.4777  
Fax 914.946.6868

■ **Mid-Hudson Office**

200 Westage Business Center  
Fishkill, NY 12524  
Phone 845.896.0120

■ **New York City Office**

505 Park Avenue  
New York, NY 10022  
Phone 646.794.5747

**MEMORANDUM**

**TO: Mayor Lee Kyriacou and Members of the City Council  
of the City of Beacon**

**FROM: Keane & Beane, P.C.**

**RE: Good Cause Eviction Local Law**

**DATE: October 1, 2021 (Revised October 5, 2021)**

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Prior to the Council's September 27<sup>th</sup> Workshop, our office provided the Council with an attorney client privileged and not subject to FOIL memorandum regarding legal issues that have been raised concerning the ability of a municipality to adopt a Good Cause Eviction Local Law. At the advice of the City Attorney, the City Council tabled public discussion of this proposed law in order to get advice of counsel during Executive Session. The Council requested we prepare this memorandum that can be distributed to the public, explaining these concerns. After subsequent conversations we have included additional minor revisions which clarify the nature of the proposed Good Cause Eviction Local Law. These revisions are not material and do not change our position regarding the Good Cause Eviction Local Law.

Members of City Council expressed an interest in adopting a Good Cause Eviction Local Law for Beacon similar to those adopted in Albany and Hudson. However, after reviewing the Good Cause Eviction Local Laws adopted, speaking with municipal attorneys and officials at the NYS Conference of Mayors, and researching the authority granted to municipalities to adopt such legislation, it is our opinion that the City does not have the authority to enact a Good Cause Eviction Local Law and would be subject to litigation if adopted. Those reasons are explained in more detail below but can best be summarized as stating the State Legislature has preempted the ability of a municipality to regulate the Landlord/Tenant relationship in this manner. The State Legislature has adopted a statewide regulatory scheme which courts have interpreted prevent a municipality from enacting its own Landlord/Tenant statute. If this were permitted, then each municipality in the State could have its own unique regulatory scheme, some that might protect tenants and others that might grant more rights to landlords. Courts have held that is not permitted.

In response to the desire to enact additional tenant protections for tenants, our office has begun researching other avenues available to the City to enact additional tenant protections and other programs that inform tenants of the existing protections available. Persons interested in the Good Cause Eviction Law can reach out to their

State Legislators and voice their opinion regarding the Good Cause Eviction Law proposed as Bill Number S3082/A5573.

### **General Rule Regarding Preemption**

The laws of New York State, including the Municipal Home Rule Law and the New York State Constitution grant the City the authority to adopt laws regarding its jurisdiction provided that they are not preempted by the Constitution or State statute. Both the State and local governments may regulate the same subject matter, however, local laws that (i) permit conduct prohibited by the State; (ii) prohibit conduct permitted by the State; or **(iii) impose restrictions on rights granted by the State are held to be inconsistent with State law and are therefore preempted.** *Zorn v. Howe*, 276 A.D.2d 51, 55, 716 N.Y.S.2d 128, 131 (3d Dep’t 2000). (quoting NY Const, Art IX, § 2[c][i], [ii] and Municipal Home Rule Law § 10[1][i],[ii])(emphasis added).

### **Existing State Law Regulating the Landlord/Tenant Relationship**

The State regulates the Landlord/Tenant relationship regarding eviction proceedings pursuant to the NYS Real Property Actions and Proceedings Law (“RPAPL”). A Good Cause Eviction Law would restrict a property owner’s right to bring a summary proceeding to recover property pursuant to the RPAPL by requiring property owners to establish one of the enumerated causes in the Good Cause Eviction Law as an additional element during the summary proceeding in order to evict their tenant. This additional requirement would directly conflict with a property owner’s right to bring a summary proceeding in accordance with Article 7 of the RPAPL and evict their tenant upon making the requisite showing to the Court as granted by the State. **Therefore, a local law requiring good cause be shown in addition to the elements required by Article 7 of the RPAPL is inconsistent with State law and is preempted because it imposes restrictions on the rights granted by the State to property owners to recover property.** This additional requirement restricts a right (the landlord’s ability to evict a tenant and regain possession of property) by prohibiting a court from issuing an eviction warrant unless “good cause” is established to the court’s satisfaction.

### **Discussion of Court Cases Regarding State Preemption of the Landlord/Tenant Relationship**

Courts have determined that the RPAPL Article 7 procedure that governs eviction proceedings is a general State statute that cannot be supplanted by a more stringent local law. Municipal Home Rule Law §10 (1) explicitly provides that a local government has the power to adopt local laws not inconsistent with the provisions of the constitution or not inconsistent with any general law. An attempt to modify the operation of summary proceedings to recover property is an interference with the remedies and procedure provided by the Legislature for the entire state. *Gennis v. Milano*, 135 Misc. 209, 211, 237 N.Y.S. 432, 434 (1<sup>st</sup> Dep’t 1929); *see also Tartaglia v. McLaughlin*, 190 Misc. 266, 77 N.Y.S.2d 31 (Civil Practice Act Article 83, predecessor

to RPAPL Article 7, is a general State statute applicable to the civil practice in all courts and the “organization of courts and the procedure to be followed therein are matters exclusively of state concern.” *Tartaglia v. McLaughlin*, 190 Misc. 266, 77 N.Y.S.2d 31 (Sup. Ct. Kings Cty. 1947), *aff’d* 273 App. Div. 821, 76 N.Y.S.2d 305 (2d Dep’t 1948), *rev’d on other grounds* 297 N.Y. 419 (1948)).<sup>1</sup>

The *Tartaglia* and *Gennis* cases offer insight as to how the Courts would review a Good Cause Eviction Law and consider whether the adoption of such Local Law is preempted by State statute. In *Tartaglia*, New York City enacted a local law, during an emergency housing shortage, imposing restrictions on evictions from apartments by requiring that the Temporary City Housing Rent Commission first issue a certificate attesting to the existence of one or more grounds for eviction before evicting a tenant. The Court determined that the local law had the effect of abrogating State law by imposing restrictions upon the rights of landlords to bring actions in the courts to recover possession of dwelling space. The local law in *Tartaglia* is very similar to a Good Cause Eviction Local Law, as it imposed a preliminary requirement to establish grounds for eviction before commencing a summary proceeding in court, whereas here a Good Cause Eviction Local Law would establish an additional requirement during the summary proceeding to evict a tenant. Based upon the fact that the court in *Tartaglia* struck down a similar local law enacted during an emergency housing shortage it is unlikely that a court would uphold a Good Cause Eviction Local Law.

In *Gennis*, New York City enacted a local law that amended the Civil Practice Act regarding summary proceedings to abolish the right of landlords to recover possession of premises because of the expiration of a tenant’s term except in a few limited instances. The First Department overturned the local law and held that “the attempt to change the operation of ‘summary proceedings’ (Civil Practice Act §§1410-1447) is an interference with the remedies and procedures provided by the Legislature for the entire State ... [and] legislation of this type here under consideration has been expressly cited by the Court of Appeals as an example of matters of exclusively state concern...” The local law adopted in *Gennis* is practically interchangeable with a Good Cause Eviction Law. Like a Good Cause Eviction Law, it would prevent landlords from evicting tenants after the expiration of a tenant’s term unless the Landlord could establish certain criteria were met. Based upon the court’s treatment of the local law in *Gennis*, it is reasonable to expect that a court would find that a Good Cause Eviction Local Law is preempted due to its interference with the operation of summary proceedings.

In considering the validity of a Good Cause Eviction Law, we discussed the potential legal issues with other municipal attorneys and the NYS Conference of Mayors (“NYCOM”). There was a general recognition of the preemption issue. Those parties that believed a Good Cause Eviction Law would withstand a preemption challenge advocated that the Good Cause Eviction Law would *supplement* the existing RPAPL

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<sup>1</sup> The Court of Appeals reversed the underlying order regarding the summary proceeding for eviction because the State subsequently adopted legislation legalizing the local laws adopted by New York City regarding the emergency housing requirement to obtain a certificate from the Temporary City Housing Rent Commission.

procedure by further limiting the grounds upon which a property owner can evict their tenant.

Arguments that the Good Cause Eviction Law supplements RPAPL §711 by further limiting the grounds on which a landlord can bring a special eviction proceeding by requiring the presence of additional elements before a tenant can be removed is directly in conflict with Article IX, § 2[c][i] and [ii] of the Constitution and Municipal Home Rule Law § 10[1][i] and [ii]). Restrictions on rights granted by the State are held to be inconsistent with State law and are therefore preempted. *Zorn*, 276 A.D.2d at 55. The legislative history does not expressly state that the State Legislature intended to occupy the entire field thereby preempting the adoption of any local laws supplementing the State eviction laws, as cited in *Zorn*. However, the courts have held that the statutory eviction procedure grants property owners the right to bring an eviction proceeding as outlined in Article 7 and any additional requirement is preempted because it imposes restrictions upon the rights of property owners granted by the State.

A Good Cause Eviction Law would not supplement the existing RPAPL as was the case in *Zorn*, but would instead place additional restrictions on the procedure available to landowners to reclaim property pursuant to a summary proceeding. In *Zorn*, the City of Ithaca enacted a local law which ***expanded*** RPAPL §715, which allows a landlord to evict a tenant on the grounds that the tenant is using the property to operate an illegal brother, to include drug use and possession. The Third Department, in *Zorn*, distinguished the Ithaca local law from the New York City local law adopted in *Tartaglia*, and upheld the Ithaca local law authorizing evictions on the basis of illegal drug use on the property. **“In sharp distinction [of *Tartaglia*], the ordinance at issue here places no impediment upon landowners’ free access to the courts or to the remedies provided in the RPAPL. Rather, it merely supplements the State’s statutory scheme by providing an additional ground for eviction.”** *Id.* at 131 (emphasis added). In contrast to a Good Cause Eviction Law, the Ithaca local law in *Zorn* did not restrict the rights afforded to landlords by the RPAPL.

## **Conclusion**

In conclusion, based on this analysis, a Good Cause Eviction Law “place[s] an impediment upon landowner’s free access to the courts or to the remedies provided in the RPAPL” as it does not *supplement* the RPAPL by providing additional grounds for eviction (as set forth in the *Zorn* case), but rather, it *limits* the rights granted to landowners in recovering real property pursuant to a summary proceeding as outlined by Article 7 of the RPAPL. (as set forth in the *Tartaglia* and *Gennis* cases).

Nothing in the City of Beacon’s Charter, Municipal Home Rule Law, Constitution or any other State statute permits the City to enact a local law that preempts RPAPL Article 7. For the reasons outlined above, it is our opinion that the enactment of a

Good Cause Eviction Law by the City would be preempted by State statute and overturned. We understand that Council Members are eager to obtain additional protections for tenants and recommend that any persons interested in the Good Cause Eviction Law encourage adoption of a Good Cause Eviction Law at the State level by State Representatives. The State Legislature is currently reviewing the Good Cause Eviction Bill Number S3082/A5573, in judiciary committee, which would prohibit evictions without good cause for housing accommodations with more than four units if adopted. As requested, we will continue to work with the Council to identify ways the City can further protect Tenant's rights.

ecc: City Administrator Chris White

LOCAL LAW NO. \_\_\_\_ OF 2021

CITY COUNCIL  
CITY OF BEACON

PROPOSED LOCAL LAW TO AMEND CHAPTER 223, SECTION 24.1 AND  
SECTION 14, AND . CHAPTER 223 ATTACHMENT 2:2 OF THE CODE OF  
THE CITY OF BEACON

A LOCAL LAW to amend  
Chapter 223, Section 24.1 and  
Section 14, and . Chapter 223  
Attachment 2:2 of the Code of  
the City of Beacon concerning  
accessory apartments.

BE IT ENACTED by the City Council of the City of Beacon as follows:

**Section 1.** Chapter 223, Section 24.1 of the Code of the City of Beacon entitled “Accessory Apartments” is hereby amended as follows:

**§ 223-24.1 Accessory Apartments.**

- A. Purpose and intent. It is the purpose and intent of allowing accessory apartments on all existing single-family properties in all residence districts and the Transitional District ~~in all residence districts~~ to provide the opportunity and encouragement for the development of small, rental housing units designed to meet the special housing needs of single persons, couples, other small households, the young, the elderly, persons of low and moderate income and relatives of families presently living in Beacon. It is the further purpose and intent of this provision to allow the more efficient use of the City's existing stock of dwellings and accessory buildings, to provide economic support for present resident families of limited income and to otherwise help to protect and preserve property values.
- B. Owner occupancy required. The owner of the single-family lot upon which an accessory apartment is located shall occupy at least one of the dwelling units on said lot.
- C. Location on the lot. An accessory apartment may be located either in or attached to a detached single-family dwelling or in an accessory building on such a single-family lot.
- D. Apartment size. The floor area of an accessory apartment shall not exceed 50% of the

~~total floor area of the single-family dwelling in which it is located. In no case shall the total square footage of the accessory apartment exceed a maximum of 1,000 square feet or be less than a minimum of 200 square feet. Notwithstanding the foregoing, The minimum floor area for an accessory apartment within a detached single-family dwelling shall be 400 square feet. The maximum floor area shall be 650 square feet, but in no case shall the floor area of the apartment exceed 30% of the total floor area of the dwelling building in which it is located. For an accessory apartment located in an accessory building, the minimum floor area shall be 300 square feet, and the maximum shall be 600 square feet, except that the Planning Board may permit a smaller or larger accessory apartment where appropriate in an existing accessory building constructed prior to August 1, 1989. There shall be no more than one accessory apartment permitted per single-family lot. There shall be no more than one accessory apartment permitted per single-family lot. However, in the case of a lot which contains an existing accessory building or buildings that comply with the minimum required setbacks required for a principal building in the zoning district in which the lot is located and that were constructed prior to August 1, 1989, one accessory apartment shall be permitted in each such accessory building in addition to the one permitted in the detached single-family dwelling; the area of such lot shall be at least 100% larger than the minimum lot area required in the district in which the lot is located for each accessory apartment in excess of the first one.~~

- E. Exterior appearance. If an accessory apartment is located in a detached single-family dwelling, the entry to such unit and its design shall be such that, to the degree reasonably feasible, the exterior appearance of the building will remain that of a single-family residence.
- F. Off-street parking. A minimum of one off-street parking space shall be provided for each accessory apartment in addition to the off-street parking required for other uses existing on the lot. The Planning Board may, in its discretion, waive all parking requirements when deemed appropriate.
- G. The accessory apartment shall not be used for short term rentals as defined in § 223-26.5.
- H. An existing structure that does not conform to the yard requirements of Chapter 223 may be converted into an accessory apartment without a variance from the Zoning Board of Appeals if the proposed use will not enlarge or increase the dimensional nonconformity.

~~G. Renewal inspections. Each accessory apartment shall be inspected by the Building Department every two years in order to determine whether the apartment remains in compliance with this section. Upon a satisfactory inspection report, the accessory apartment owner shall be reissued a certificate of occupancy. In the event that the inspection indicates that the apartment is no longer in compliance, the certificate of occupancy shall be revoked until the violations are cured.~~

I. The Building Inspector shall have approval authority for accessory apartments entirely contained within an existing single-family dwelling and meeting all the provisions of this section. All other proposed accessory apartments, including any accessory apartments requiring exterior additions, conversions of existing accessory buildings, or new accessory buildings, shall require site plan approval from the Planning Board.

**Section 2.** Chapter 223, Section 14 of the Code of the City of Beacon entitled “Accessory buildings on residential lots” is hereby amended to add a new subsection (4) as follows:

§ 223-14 Landscaping, lighting, and miscellaneous regulations.

...

E. Accessory buildings on residential lots.

...

(4) This subsection shall not apply to accessory apartments.

**Section 3.** Chapter 223 Attachment 1 of the Code of the City of Beacon, entitled “§ 223-17. Schedule of Dimensional Regulations” shall be amended to (1) add a 40% maximum percent building coverage limit for the R1-5 and T Zoning Districts and (2) reduce the required front yard setbacks in all residential districts by five (5) feet.

**SEE ATTACHED CHART**

**Section 4.** Chapter 223 Attachment 2 of the Code of the City of Beacon, entitled “§ 223-17, City of Beacon Schedule of Use Regulations” shall be amended to permit accessory apartment as-of-right in all Residential Districts and the Transitional District in the City of Beacon, subject to site plan review by the City Planning Board.

**SEE ATTACHED CHART**

**Section 5.** Chapter 223 Attachment 3 of the Code of the City of Beacon, entitled “§ 223-17E, Schedule of Regulations for Accessory Buildings on Residential Lots” shall be amended to (1) eliminate the maximum cumulative square foot requirement for accessory buildings for all R1 Zoning Districts, (2) increase the maximum square footage permitted for each accessory building construction in connection with a single-family dwelling to be based on the total square footage of the principal building rather than the footprint of the principal building, and (3) increase the maximum square footage permitted for each accessory building constructed in connection with a single-family home from 40% to 50%.

**SEE ATTACHED CHART**

**Section 6.** Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein the Code of the City of Beacon is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

**Section 7.** Numbering for Codification

It is the intention of the City of Beacon and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the City of Beacon; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word “Local Law” shall be changed to “Chapter,” “Section” or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

**Section 8.** Severability. The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

**Section 9.** Effective Date

November 11, 2021

This local law shall take effect immediately filing with the Office of the Secretary of State.

DRAFT

**City of Beacon City Council Agenda**  
**12/13/2021**

**Title:**

Proposed Amendments to the 2021 City of Beacon Operating Budget

**ATTACHMENTS**

[Proposed Amendments to the 2021 City of Beacon Operating Budget](#)

Council Budget Amendments  
December 20, 2021 Meeting

1. Amend the 2021 General Fund Council & Mayor Budget to provide funding health insurance buy-outs. Below is the proposed budget amendment:

Transfer to:

|                                             |                  |
|---------------------------------------------|------------------|
| A -01-1010-120000- HEALTH INSURANCE BUY-OUT | \$ 7,500         |
| A -01-1210-120000- HEALTH INSURANCE BUY-OUT | 2,500            |
|                                             | <u>\$ 10,000</u> |

Transfer from:

|                                     |                  |
|-------------------------------------|------------------|
| A -01-1990-400001- CONTINGENCY FUND | <u>\$ 10,000</u> |
|-------------------------------------|------------------|

2. Amend the 2021 General Fund Police Budget to account for payment of unused accumulation of time for a Sergeant and a Patrol Officer upon retirement. Below is the proposed budget amendment:

Transfer to:

|                                             |                  |
|---------------------------------------------|------------------|
| A -03-3120-190000- SEVERANCE/RETIREMENT PAY | <u>\$ 89,559</u> |
|---------------------------------------------|------------------|

Transfer from:

|                                           |                  |
|-------------------------------------------|------------------|
| A -01-1990-400004- CONTINGENCY-RETIREMENT | <u>\$ 89,559</u> |
|-------------------------------------------|------------------|

3. Amend the 2021 General Fund Police Budget to account for the Police overtime due to staffing shortages and performing required training. Amounts are available in regular salaries as we have been unable to fill positions during the year. Below is the proposed budget amendment:

Transfer to:

|                             |                  |
|-----------------------------|------------------|
| A -03-3120-105000- OVERTIME | <u>\$ 50,000</u> |
|-----------------------------|------------------|

Transfer from:

|                                     |                  |
|-------------------------------------|------------------|
| A -03-3120-101000- REGULAR SALARIES | <u>\$ 50,000</u> |
|-------------------------------------|------------------|

4. Amend the 2021 General Fund Budget to provide for costs associated employee discipline beyond the budget to date. Below is the proposed budget amendment:

Transfer to:

|                                        |                  |
|----------------------------------------|------------------|
| A -01-1420-450454- EMPLOYEE DISCIPLINE | <u>\$ 45,900</u> |
|----------------------------------------|------------------|

Transfer from:

|                                              |                  |
|----------------------------------------------|------------------|
| A -01-1420-450436- IN REM & SALE OF PROPERTY | <u>\$ 45,900</u> |
|----------------------------------------------|------------------|

Respectfully submitted,  
Susan K. Tucker CPA

**City of Beacon City Council Agenda**  
**12/13/2021**

**Title:**

Proposed Appointment of Detective Kristopher Phillips to the Position of Sergeant

**ATTACHMENTS**

[Memorandum from the Chief of Police to the City Council Regarding the Proposed Promotion of Detective Kristopher Phillips](#)



**CHIEF OF POLICE  
SANDS FROST**

**CITY OF BEACON  
POLICE DEPARTMENT**

**1 MUNICIPAL PLAZA, SUITE 3  
BEACON, NY 12508  
(845)831-4111  
FAX: (845)838-5092**



**TO: Mayor Kyriacou and the City Council**

**FROM: Chief of Police Sands Frost**

**RE: Proposed Appointment of Detective Kristopher Phillips to Sergeant**

**DATE: December 6, 2021**

The City of Beacon Police Department would like to promote Detective Kristopher Phillips to fill the position of Sergeant which will be vacant in January 2022 when Sergeant Christian Allencastro retires. Detective Phillips has performed admirably during his eight years with the City of Beacon Police Department. He is hard-working, conscientious, and well-qualified for the position of Sergeant.

Detective Phillips attended Beacon High School and earned a Bachelor's Degree in Criminal Justice from the College of Saint Rose. He was hired by the City of Beacon Police Department in 2013. He displayed dedication and professionalism as a Police Officer and was promoted to Detective in 2018. He is currently a physical fitness instructor and Monadnock baton instructor for the Department. He has completed extensive training throughout his career, including Active Shooter Response, Crime Scene Technician, Basic Juvenile Officer, Basic Crime Scene Photography, Aquatic Death and Drowning Investigations, Street Gang Recognition, Interview and Interrogation, Trauma Informed Sexual Assault Investigations, Child Forensic Interviews, Evidence Room Management, Law Enforcement Background Investigations, and Monadnock Baton Instructor.

Detective Phillips has received several commendations from law enforcement officials at multiple agencies for his work as a Detective in Beacon. He has been instrumental in several investigations. His persistence and creativity led directly to the arrest of multiple suspects including those charged with larceny, domestic assault, and rape.

I respectfully request that the Council promote Detective Kristopher Phillips to the position of Sergeant based upon his qualifications, experience, and outstanding record with the Beacon Police Department. I will be happy to answer any questions you may have.

**City of Beacon City Council Agenda**  
**12/13/2021**

**Title:**

Proposed Agreement with the Civil Service Employees Association, Local 1000, AFSCME, AFL-CIO, City of Beacon Unit #66620, Dutchess County Local 814

**ATTACHMENTS**

Memorandum of Agreement with the Civil Service Employees Association, Local 1000, AFSCME, AFL-CIO, City of Beacon Unit #66620, Dutchess County Local 814

## MEMORANDUM OF AGREEMENT

**BETWEEN THE CITY OF BEACON, hereinafter referred to as “the City” and THE CIVIL SERVICE EMPLOYEES ASSOCIATION, LOCAL 1000, AFSCME, AFL-CIO, CITY OF BEACON UNIT #66620, DUTCHESS COUNTY LOCAL 814, hereinafter referred to as the “CSEA”;**

**IT IS HEREBY AGREED**, by and between the City and the CSEA, that the following shall constitute the successor to the terms and conditions of the January 1, 2021- December 31, 2021 agreement between the parties (the “Agreement.”)

1. **ARTICLE II- WORKDAY, WORKWEEK- SECTION 1- OFFICE PERSONNEL (CITY HALL AND POLICE DEPARTMENT)-** Effective January 1, 2022, modify language of this Agreement as follows, “The regular workweek, for other than part-time employees, is a regularly scheduled eight (8) consecutive hours per day, five (5) consecutive days per week, forty (40) hours per week, Monday through Friday, beginning between the hours 8:00 a.m. and 8:30 a.m., inclusive of one half (½) hour lunch period.”
  
2. **ARTICLE III- COMPENSATION SECTION 1- WAGE ADJUSTMENTS/ APPENDIX “D”-** Effective January 1, 2022, all employees, with the exception of full time Office Personnel (City Hall and Police Department) employees shall receive a 2.75% across the board wage increase.  
  
 Effective January 1, 2023, all employees shall receive a 2.50% across the board wage increase.  
  
 Effective January 1, 2024, all employees shall receive a 2.25% across the board wage increase.
  
3. **ARTICLE V– HOLIDAYS WITH PAY SECTION 1 HOLIDAYS-** add Juneteenth
  
4. **ARTICLE XIV-TERM OF AGREEMENT-** amend Agreement term to “January 1, 2022-December 31, 2024.”
  
5. **APPENDIX B- SUBSTANCE AND ALCOHOL ABUSE POLICY AND TESTING PROCEDURE –** The parties agree to negotiate a new drug and alcohol policy within 60 days of ratification of this agreement.

6. **APPENDIX D- SALARY SCHEDULES-** the following NEW title and hourly salary will be added to Appendix D:

**Accountant** Step 1: 31.75

Step 2: 33.58

Step 3: 35.51

Step 4: 37.55

Step 5: 39.71

**Municipal Secretary** Step 1: 23.36

Step 2: 24.59

Step 3: 25.90

Step 4: 27.20

Step 5: 29.04

7. **APPENDIX D- SALARY SCHEDULES-** Effective the date of ratification, the Working Supervisor salary schedule shall be increased to match the 2021 salary schedule for Senior Working Supervisor. All Working Supervisors shall receive the new rates.

Step 1: 28.32

Step 2: 29.14

Step 3: 31.66

Step 4: 33.56

Step 5: 35.47

8. **APPENDIX D- SALARY SCHEDULES-** Effective the date of ratification, the Senior Sewage Treatment Plant Operator rate of pay increase to the following:

Step 1: 29.86

Step 2: 31.57

Step 3: 33.37

Step 4: 35.35

Step 5: 37.40

9. **APPENDIX D- SALARY SCHEDULES-** The parties agree to conform contractual titles to their respective civil service titles as shown in the attachment titled Appendix D. The parties further agree no employee shall suffer a loss of pay as a result of this provision.
10. **CONTRACTUAL CLEANUP-** The parties agree to “clean-up” contractual language while incorporating the Memorandum of Agreement into the Collective Bargaining Agreement (“CBA”).
11. All other terms of the 2021 Agreement not expressly modified above shall remain unchanged in the new Agreement.
12. The Memorandum of Agreement is subject to ratification by the CSEA bargaining unit and approval by the City of Beacon Council.

Dated: December 7, 2021

BY:



Scott McHugh  
President Unit 66620, CSEA



Kathleen Fitzpatrick  
LRS, CSEA

BY:



Christopher White  
City Administrator  
City of Beacon

KF  
CW

| 2021<br>JOB TITLES PER CONTRACT   |         | ATTACHMENT "A"/APPENDIX D<br>ACTION/COMMENT/TITLE |  | 2021 RATES |        |        |        |        |
|-----------------------------------|---------|---------------------------------------------------|--|------------|--------|--------|--------|--------|
|                                   |         |                                                   |  | STEP 1     | STEP 2 | STEP 3 | STEP 4 | STEP 5 |
| ASSISTANT OPERATOR STP            | DELETE  | Does not exist with Civil Service                 |  | 23.52      | 24.91  | 26.31  | 27.86  | 29.42  |
| AUTOMOTIVE MECHANIC               |         |                                                   |  | -          | -      | -      | -      | -      |
|                                   |         |                                                   |  | 25.40      | 26.84  | 28.40  | 30.03  | 31.78  |
| AUTOMOTIVE MECHANIC II            | CHANGE  | SENIOR AUTOMOTIVE MECHANIC                        |  | -          | -      | -      | -      | -      |
|                                   |         |                                                   |  | 26.93      | 28.46  | 30.14  | 31.89  | 33.71  |
| CHIEF WATER PLANT OPERATOR        | CORRECT | CHIEF WATER TREATMENT PLANT OPERATOR GRADE 1      |  | -          | -      | -      | -      | -      |
|                                   |         |                                                   |  | 29.86      | 31.57  | 33.37  | 35.35  | 37.40  |
| CLEANER                           |         |                                                   |  | -          | -      | -      | -      | -      |
|                                   |         |                                                   |  | 20.64      | 21.82  | 23.05  | 24.38  | 25.77  |
| GROUNDSMAN                        | CORRECT | GROUNDSKEEPER                                     |  | -          | -      | -      | -      | -      |
|                                   |         |                                                   |  | 20.64      | 21.82  | 23.05  | 24.38  | 25.77  |
| HEAD AUTOMOTIVE MECHANIC          |         |                                                   |  | -          | -      | -      | -      | -      |
|                                   |         |                                                   |  | 28.32      | 29.14  | 31.66  | 33.56  | 35.47  |
| HEAVY MOTOR EQUIPMENT OPERATOR    |         |                                                   |  | -          | -      | -      | -      | -      |
|                                   |         |                                                   |  | 25.40      | 26.84  | 28.40  | 30.03  | 31.78  |
| LABORATORY TECHNICIAN             |         |                                                   |  | -          | -      | -      | -      | -      |
|                                   |         |                                                   |  | 25.98      | 27.43  | 29.02  | 30.70  | 32.45  |
| LABORER & WATER SEWER MTNC HELPER | SPLIT   | LABORER                                           |  | -          | -      | -      | -      | -      |
|                                   |         |                                                   |  | 20.64      | 21.82  | 23.05  | 24.38  | 25.77  |
|                                   |         | WATER & SEWER MAINTENANCE HELPER                  |  | 20.64      | 21.82  | 23.05  | 24.38  | 25.77  |
|                                   | ADD     | MAINTENANCE CARPENTER                             |  | 25.90      | 27.39  | 28.96  | 30.63  | 32.39  |
| MAINTENANCE MECHANIC              |         |                                                   |  | -          | -      | -      | -      | -      |
|                                   |         |                                                   |  | 26.93      | 28.46  | 30.14  | 31.89  | 33.71  |
| MAINTENANCE WORKER                |         |                                                   |  | -          | -      | -      | -      | -      |
|                                   |         |                                                   |  | 25.40      | 26.84  | 28.40  | 30.03  | 31.78  |
| MAINTENANCE HELPER                |         |                                                   |  | -          | -      | -      | -      | -      |
|                                   |         |                                                   |  | 23.90      | 25.26  | 26.71  | 28.24  | 29.82  |
| METER READER                      | DELETE  | PER 2020 MOA                                      |  | -          | -      | -      | -      | -      |
|                                   |         |                                                   |  | 24.85      | 26.29  | 27.80  | 29.35  | 31.07  |
| MOTOR EQUIPMENT OPERATOR          |         |                                                   |  | -          | -      | -      | -      | -      |
|                                   |         |                                                   |  | 23.90      | 25.26  | 26.71  | 28.24  | 29.82  |

cw

2021

JOB TITLES PER CONTRACT

ATTACHMENT "A"/APPENDIX D  
ACTION/COMMENT/TITLE

2021 RATES

STEP 1 STEP 2 STEP 3 STEP 4 STEP 5

|                                                |         |                                           |   |       |       |       |       |       |   |   |   |   |   |   |
|------------------------------------------------|---------|-------------------------------------------|---|-------|-------|-------|-------|-------|---|---|---|---|---|---|
| SCALE OPERATOR                                 | DELETE  | Does not exist with Civil Service         | - | 20.64 | -     | 21.82 | 23.05 | -     | - | - | - | - | - | - |
| SENIOR SEWAGE TREATMENT PLANT OPERATOR         |         |                                           |   | 26.93 | 28.46 | 30.14 | 31.89 | 33.71 |   |   |   |   |   |   |
| SENIOR METER READER                            | DELETE  |                                           |   | 26.93 | 28.46 | 30.14 | 31.89 | 33.71 |   |   |   |   |   |   |
| SENIOR WATER & SEWAGE MTNC FOREMAN             | DELETE  | Does not exist with Civil Service         |   | 28.32 | 29.14 | 31.66 | 33.56 | 35.47 |   |   |   |   |   |   |
| SENIOR WORKING SUPERVISOR                      | DELETE  | Does not exist with Civil Service         |   | 28.32 | 29.14 | 31.66 | 33.56 | 35.47 |   |   |   |   |   |   |
| SEWAGE TREATMENT MTNC WORKER                   | DELETE  | Does not exist with Civil Service         |   | 25.98 | 27.43 | 29.02 | 30.70 | 32.45 |   |   |   |   |   |   |
| SEWAGE TREATMENT PLANT OPERATOR                | CORRECT | WASTEWATER TREATMENT PLANT OPERATOR       |   | 26.93 | 28.46 | 30.14 | 31.89 | 33.71 |   |   |   |   |   |   |
| SLUDGE CONTROL OPERATOR                        |         |                                           |   | 24.85 | 26.29 | 27.80 | 29.35 | 31.07 |   |   |   |   |   |   |
| WASTEWATER TREATMENT PLANT MAINTENANCE HELPER  |         |                                           |   | 20.64 | 21.82 | 23.05 | 24.38 | 25.77 |   |   |   |   |   |   |
| WASTEWATER TREATMENT PLANT MAINTENANCE CORRECT |         | WASTEWATER PLANT MAINTENANCE MECHANIC     |   | 24.85 | 26.29 | 27.80 | 29.35 | 31.07 |   |   |   |   |   |   |
| WATER TREATMENT PLANT OPERATOR                 | CORRECT | WATER TREATMENT PLANT OPERATOR - GRADE II |   | 26.93 | 28.46 | 30.14 | 31.89 | 33.71 |   |   |   |   |   |   |
| WATER TREATMENT PLANT OPERATOR (TRAINEE)       |         |                                           |   | 24.54 | 25.80 | 27.27 | 28.82 | 30.49 |   |   |   |   |   |   |
| WATER & MAINTENANCE FOREMAN                    | CORRECT | WATER & SEWER MAINTENANCE FOREMAN         |   | 26.93 | 28.46 | 30.14 | 31.89 | 33.71 |   |   |   |   |   |   |
| WATER & SEWER MAINTENANCE MECHANIC             |         |                                           |   | 23.90 | 25.26 | 26.71 | 28.24 | 29.82 |   |   |   |   |   |   |
| WORKING FOREMAN                                | CORRECT | WORKING SUPERVISOR                        |   | 26.93 | 28.46 | 30.14 | 31.89 | 33.71 |   |   |   |   |   |   |

2021  
JOB TITLES PER CONTRACT

ATTACHMENT "A"/APPENDIX D  
ACTION/COMMENT/TITLE

2021 RATES  
STEP 1 STEP 2 STEP 3 STEP 4 STEP 5

|                                 |         |                      |       |       |       |       |       |
|---------------------------------|---------|----------------------|-------|-------|-------|-------|-------|
| ACCOUNT CLERK TYPIST I          | CORRECT | ACCOUNT CLERK TYPIST | 21.48 | 22.71 | 23.97 | 25.34 | 27.06 |
|                                 |         |                      | -     | -     | -     | -     | -     |
| SENIOR ACCOUNT CLERK TYPIST     |         |                      | 24.35 | 25.63 | 26.99 | 28.44 | 30.27 |
|                                 |         |                      | -     | -     | -     | -     | -     |
| ACCOUNT CLERK/DEPUTY CITY CLERK | SPLIT   | ACCOUNT CLERK        | 20.05 | 21.18 | 22.35 | 23.60 | 25.25 |
|                                 |         | DEPUTY CITY CLERK    | 20.05 | 21.18 | 22.35 | 23.60 | 25.25 |
| CLERK II                        | CORRECT | CLERK                | 18.99 | 20.05 | 21.18 | 22.35 | 23.92 |
|                                 |         |                      | -     | -     | -     | -     | -     |
| PAYROLL CLERK                   |         |                      | 24.35 | 25.63 | 26.99 | 28.44 | 30.27 |
|                                 |         |                      | -     | -     | -     | -     | -     |
| POLICE ASSISTANT                |         |                      | 20.51 | 21.70 | 22.93 | 24.25 | 25.94 |
|                                 |         |                      | -     | -     | -     | -     | -     |
| TYPIST I                        | CORRECT | TYPIST               | 18.99 | 20.05 | 21.18 | 22.35 | 23.92 |
|                                 |         |                      | -     | -     | -     | -     | -     |
| SENIOR TYPIST                   |         |                      | 23.36 | 24.59 | 25.90 | 27.20 | 29.04 |
|                                 |         |                      | -     | -     | -     | -     | -     |
| ASSESSOR AIDE                   |         |                      | 18.68 | 19.79 | 20.97 | 22.24 | 23.57 |
|                                 |         |                      | -     | -     | -     | -     | -     |
| RECREATION ASSISTANT            |         |                      | 17.15 | 18.19 | 19.27 | 20.42 | 21.64 |
|                                 |         |                      | -     | -     | -     | -     | -     |
| DEPUTY BUILDING INSPECTOR       |         |                      | 32.25 | 34.18 | 36.23 | 38.41 | 41.26 |
|                                 |         |                      | -     | -     | -     | -     | -     |
| OFFICE ASSISTANT                |         |                      | 23.36 | 24.59 | 25.90 | 27.20 | 29.04 |
|                                 |         |                      | -     | -     | -     | -     | -     |
|                                 | ADD     | ACCOUNTANT           | 31.75 | 33.58 | 35.51 | 37.55 | 39.71 |

**City of Beacon City Council Agenda**  
**12/13/2021**

**Title:**

Proposed Agreement with Hudson River Sloop Clearwater, Inc. for Use and Occupancy of the White House at the Settlement Camp

**ATTACHMENTS**

Proposed Agreement with Hudson River Sloop Clearwater, Inc. for Use and Occupancy of the White House at Settlement Camp

**AGREEMENT BETWEEN THE CITY OF BEACON AND HUDSON RIVER SLOOP  
CLEARWATER, INC. FOR THE USE AND OCCUPANCY OF THE WHITE HOUSE  
AT SETTLEMENT CAMP**

This Agreement (this "Agreement") entered into by and between the City of Beacon, a municipal corporation having its principal offices at One Municipal Plaza, Beacon, New York 12508 ("City"), and Hudson River Sloop Clearwater, Inc., a domestic "not for profit" corporation having its principal office at 724 Wolcott Avenue, Beacon, New York 12508 ("Clearwater")(together, the "Parties").

WITNESSETH:

**WHEREAS**, pursuant to the Cooperative Operation and Maintenance Agreement dated November 21, 2007 (the "Parks Agreement"), between the City and The People of the State of New York, acting by and through the Commissioner of Parks, Recreation and Historical Preservation ("Parks"), the City has the right to use, occupy and possess certain real property known as the Settlement Camp Park located at 724 Wolcott Avenue, Beacon, New York 12508, known and designated on the Tax Map of the City of Beacon as parcel 30200-6054-13-126252; and

**WHEREAS**, pursuant to the Parks Agreement, the City may, subject to the consent of Parks, sublease the area shown on Exhibit A, attached hereto and made a part hereof, the structure known as the White House facility (the "White House"), including the dining hall, driveway, parking areas, and approximately 0.75 acres surrounding the White House, but excluding the kitchen (the "Premises"), which Premises are located in the facility known as the Settlement Camp Park; and

**WHEREAS**, the City originally entered into an agreement with Clearwater on July 24, 2009 for the use and occupancy of the White House; and

**WHEREAS**, the City wishes to continue to allow Clearwater to use and occupy the White House subject to the terms set forth in this Agreement; and

**WHEREAS**, pursuant to Resolution No. 2021-\_\_\_\_, the City Council has authorized the City Administrator to execute this Agreement and any amendments and extensions, subject to review by the City Attorney as to form and substance.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties do hereby agree as follows:

1. **Termination of 2009 Agreement.** The Agreement, including any extensions and amendments, between the City and Clearwater dated July 24, 2009 is hereby terminated and agreed to no longer be in effect.

2. **Use and Occupancy Rights.** Subject to the covenants, agreements, terms, provisions, limitations and conditions set forth herein, Clearwater shall have a non-exclusive right to use and occupy the Premises shown on Exhibit "A" annexed hereto and made a part hereof, for general office and classroom use. In addition, the Premises may be used for any other lawful use to further Clearwater's mission, upon the covenants and conditions set forth herein and upon the written approval of the City Recreation Director and the City Administrator, which approval shall not be unreasonably withheld or delayed.
3. **Term.** The term of this Agreement shall commence on January 1, 2022 by the Parties hereto and shall continue for a period of one (1) year. This Agreement shall automatically renew for four (4) additional successive periods of one (1) year each unless one of the Parties decides not to renew and notifies the other Party ninety (90) days prior to the end of the term on December 31.
4. **Rent.** The rent (the "Rent") for the Premises shall be One Thousand Four Hundred and 00/100 Dollars (\$1,400.00) per month, payable to the City on the first day of each month during the Term. Clearwater shall be credited seven thousand four hundred twenty-five dollars (\$7,425.00) towards its 2022 Rent for expenditures it made repairs to the Premises in late 2021.
5. **Maintenance Obligations.**
  - (a) The City is responsible for all repairs to the Premises except as detailed below in paragraph 5(b).
  - (b) Clearwater shall be solely responsible, at its sole cost, for the operation and routine maintenance of the Premises, including; snow plowing, mowing, trimming, pest control, fire safety and detection, and general cleaning. Clearwater is responsible to maintain lighting and light bulbs. Clearwater shall maintain the Premises in good condition and free of clutter throughout the term of this Agreement and during any extensions thereof.
  - (c) Clearwater shall throughout the term of this lease, take good care of the Premises and the fixtures and appurtenances therein, to preserve them in good working order and condition. Reasonable wear and tear, obsolescence and damage from the elements, fire or other casualty, excepted.
  - (d) Clearwater shall be liable for and make repairs to the Premises, fixtures and appliances belonging thereto resulting from damage by misuse or neglect of Clearwater, its employees, invitees, officers, agents or volunteers.
  - (e) Clearwater shall give the City prompt notice of any defects in or accidents to the structures, plumbing, electrical wiring, heating or air conditioning apparatus or any

other part of the Premises in order that the same can be repaired by the City with due diligence. The provisions of this Paragraph with respect to the making of repairs shall not apply in the case of damage which are dealt with in Paragraph 17 hereof.

6. **Use and Operation of the Premises.**

- (a) Clearwater shall not use the Property, nor permit the Property to be used, for any disorderly or unlawful purposes or in any manner offensive to others and will comply with all applicable federal, State, County and local laws and ordinances.
- (b) Clearwater shall not use the Property or allow the Property to be used or any part thereof for any illegal, unlawful or improper purpose or for any activity, which will constitute a public or private nuisance to the Settlement Camp Park, adjacent properties or the adjacent neighborhood.

7. **Utilities.** Clearwater shall be responsible for the payment of all utilities related to the Premises, including electricity.

8. **Alterations and Improvements to the Premise.**

- (a) Clearwater shall make no alterations or improvements to the Premises or any other building in the Settlement Camp Park or construct any building or make any other improvements on the Premises (“Alternations”) without the prior written consent of the Recreation Director. Any and all Alterations shall become the property of City at the expiration of this Agreement.
- (b) Clearwater shall not erect any television or radio antenna or dish, flagpole or similar structure on the Premises.
- (c) Without the express written consent of the City, Clearwater shall not cause, permit or suffer any grading, alteration, excavation, subsoiling, drainage improvement, or other undertaking which would materially disturb the surface or subsurface of the ground on the Premises.

9. **Liens upon the Premises.** Clearwater has no authority to incur any debt or make any charge against the City or to create any lien upon the Premises, or any other portion of the Settlement, for any work or materials furnished to the Premises.

10. **Hazardous Materials.** Clearwater shall not keep on the Premises any item of a dangerous, flammable or explosive character that might unreasonably increase the danger of fire or explosion on the Premises or that might be considered hazardous or extra hazardous by any responsible insurance company, and shall comply with all laws, ordinances, rules and orders of boards or other authorities affecting the Premises.

11. **Right to Inspect Premises.** The City shall have the right to inspect the Premises and adjacent area upon 24 hours advance notice, except in emergencies, to assure compliance with health, safety and building codes and regulations before and during Clearwater's occupancy.
12. **Signage.** Clearwater shall be permitted to erect, install and/or maintain signs, awnings, marquees, canopies, harmers, flags, pennants, aerals or the like in connection with its business operations at the Premises, in accordance with all applicable laws and regulations.
13. **Location of Administrative Offices.** During the Term of this Agreement, Clearwater shall locate its primary administrative offices at the White House. The City may terminate this Agreement if Clearwater relocates its primary administrative offices.
14. **Parking Areas.** Clearwater and its employees, agents, invitees and licensees shall be permitted to park at the White House within the areas designated as "parking areas" on Exhibit A attached hereto.
15. **Use of the Settlement Camp Park Property.** Clearwater shall have the non-exclusive right to use additional facilities at the Settlement Camp subject to compliance with use requirements then applicable to City residents. Clearwater shall be charged the then "regular park-use fee" in connection with Clearwater's use of all Settlement Camp facilities for the Term of this Agreement.
16. **Compliance with Parks Agreement.** Clearwater acknowledges that (i) it has received and reviewed the Parks Agreement and (ii) this Agreement is subject to the terms of the Parks Agreement. Clearwater and the City each understand that the Parks Agreement shall govern if there is any conflict between the Parks Agreement and this Agreement, including the right of either Parks or the City to terminate the Parks Agreement in accordance with Paragraph 18 of the Parks Agreement.
17. **Damage to the Premises.**
  - (a) If the Premises or any part thereof shall be damaged, Clearwater shall give immediate notice thereof to the City and this lease shall continue in full force and effect except as hereinafter set forth.
  - (b) If the Premises are partially damaged or rendered partially unusable, the damages thereto shall be repaired by and at the expense of the City and the rent, until such repair shall be substantially completed, shall be apportioned from the day following the casualty according to the part of the premises which is usable.
  - (c) If the Premises are totally damaged or rendered wholly unusable, then the rent shall be proportionately paid up to the time of the damaged occurred and thenceforth shall cease until the date when the premises shall have been repaired and restored by the City, subject to the City's right to elect not to restore the same as hereinafter provided.

- (d) If the Premises are rendered wholly unusable or (whether or not the Premises are damaged in whole or part) if the building shall be so damaged that the City renders a determination to not make the necessary repairs, the City may elect to terminate this lease upon sixty (60) days written notice to Clearwater.
- (e) Nothing contained hereinabove shall relieve Clearwater from liability that may exist as a result of damage from fire or other casualty.

18. **Insurance.**

- (a) Upon signing this agreement and throughout the term of this Agreement, Clearwater shall obtain and maintain at Clearwater's sole cost and expense, and keep in full force for the benefit of Clearwater the following insurance policies:
  - i. Workers' Compensation as required by law.
  - ii. Property and casualty insurance covering the Premises.
  - iii. Commercial General Liability Insurance Policy covering its use of the Premises, the Additional Facilities, the White House and the Settlement Camp, with limits of not less than \$1,000,000 each occurrence and \$3,000,000 in the aggregate and
  - iv. Umbrella liability policy of not less than \$1,000,000 each occurrence and \$1,000,000 in the aggregate, for a total of \$2,000,000 each occurrence and \$4,000,000 in the aggregate.
- (b) Certificates shall provide that thirty (30) days written notice, by registered mail with return receipt requested, prior to cancellation or expiration be given to the City.
- (c) Policies that lapse and/or expire during term of work shall be recertified and received by the City no less than thirty (30) days prior to expiration or cancellation.
- (d) Clearwater shall furnish to the City Certificates of Insurance. Such Certificates shall name the City, its officers, officials, employees and agents as Additional Insureds.

19. **Indemnification.**

- (a) To the fullest extent permitted by law, Clearwater shall indemnify, hold harmless and defend the City and its respective elected officials, agents, officers, and employees from and against any and all losses, damages, detriments, suits, claims, demands, liabilities, costs and charges, including attorneys' fees and disbursement that (i) arise from or are in any way connected with this Agreement or any of Clearwater's activities on the Premises or any other portion of the Settlement Camp property; (ii) arise from or are in any way connected with any act or omission of Clearwater or Clearwater's employees or invitees; (iii) result from any default of this Agreement or

- any provision hereof by Clearwater; (iv) result from the presence of Clearwater or Clearwater's employees' or invitees' property or equipment on the Premises; or (v) result from injury to any person or property or loss of life sustained in or about the Premises caused by or arising out of Clearwater or Clearwater's acts or omissions, all regardless of whether such claims are asserted or incurred before, during, or after the term of this Agreement. Clearwater's obligations under this paragraph shall survive the revocation or termination of this Agreement. The obligation of the Clearwater to indemnify any party under this paragraph shall not be limited in any manner by any limitation of the amount of insurance coverage or benefits including worker's compensation or other employee benefit acts provided by the Clearwater.
- (b) Except to the extent set forth in (a) above or otherwise caused by an act or omission by Clearwater, its agents and/or employees, to the fullest extent permitted by law, the City shall indemnify, defend and hold harmless Clearwater and its agents, employees and invitees from and against all claims, damages, losses or expenses, including, but not limited to, reasonable attorney's fees, incurred by Clearwater, its agents, employees and/or invitees, arising out of or resulting from the gross negligence and/or willful misconduct of the City, its agents, employees and/or invitees.
20. **Agreement Non-Assignable.** Clearwater shall not assign this Agreement or grant any right to use the Premises or any part thereof. Clearwater shall have no right to sublease any portion of the Premises.
21. **Termination.** The City may terminate this Agreement for health and safety purposes upon thirty (30) days written notice.
22. **Default.** If the City determines that Clearwater is in default of this Agreement, the City shall provide Clearwater with a notice of default and Clearwater shall have seven (7) days to cure the default unless otherwise excepted. If Clearwater fails to cure the default within the required time frame, the City may terminate this Agreement upon thirty (30) days written notice. Upon termination, Clearwater shall immediately vacate the Premises and return the keys to City. However, if Clearwater's default is of a nature that Clearwater should not be given an opportunity to cure the default (including but not limited to destruction, damage, or misuse of the City's property by intentional act or a subsequent or continued unreasonable disturbance), the City may deliver a written notice to Clearwater specifying the default and the City's intent to terminate this Agreement. In such event, City may terminate this Agreement, and Clearwater shall have seven (7) days from the date the notice is delivered to vacate the Premises. In the event of termination, Clearwater shall pay City the sum of Fifty and 00/100 Dollars (\$50.00) per day until it vacates the Premises starting from the date of termination of this Agreement. In addition, if this Agreement is terminated pursuant to this paragraph, the City may, at City's option, exercise any and all rights and remedies available to City at law or in equity.

23. **Surrender of Possession.** Clearwater covenants, at the expiration or other termination of this Agreement, or upon the City's recovery of possession of the Premises, to remove all personal property from the Premises not the property of the City, and to yield up to the City the Premises and all keys, locks and other fixtures connected therewith (except furnishings belonging to Clearwater) in good repair, order and condition in all respects, except for reasonable wear and use thereof. All improvements made upon and fixtures installed upon the Premises will be the property of the City.

24. **Access.** Clearwater shall allow the City and the City's employees or agents to have access to the Premises at all reasonable times, during normal working hours for the purpose of inspection, or in the event of fire or other property damage, or for the purpose of performing any work which the City considers necessary or desirable, or for any other purpose for the reasonable protection of the Premises. The City shall provide reasonable notice to Clearwater of its need to access the Premises. Clearwater shall not alter or change the exterior locks installed to the Premises, and in the event of an approved change, shall provide the City with keys to the facility, said keys shall only be used by the City to obtain access to the Premises in emergency situations.

25. **Notice.** Any notice, request, demand, approval or consent given or required to be given under this Agreement shall be in writing and shall be given by a nationally recognized overnight delivery service, with all delivery and/or postage charges prepaid, and shall be deemed to have been given on the day such notice is actually received or refused, or if unclaimed, on the day following the day on which the same shall have been sent by a nationally recognized overnight delivery service and shall be addressed as follows:

To the City of Beacon:

City Administrator  
One Municipal Plaza  
Beacon, New York 12508

Recreation Director  
23 West Center Street  
Beacon, New York 12508

Nicholas Ward-Willis, Esq.  
Keane & Beane, P.C.  
445 Hamilton Avenue, 15th Floor  
White Plains, NY 10601

To Hudson River Sloop Clearwater, Inc.:

Executive Director  
Hudson River Sloop Clearwater, Inc.  
724 Wolcott Avenue  
Beacon, New York 12508

26. **Notice to Cure.** Upon written notice to the contact party set forth herein, any party may give any other party thirty (30) days written notice to cure any asserted non-compliance with the terms of this Agreement. If the noticed party fails to substantially cure the asserted non-compliance within thirty (30) days (or if such failure is of a nature that it cannot be completely cured within thirty (30) days following written notice by the other

party, failure by the non-complying party to commence to remedy such failure within thirty (30 ) days following written notice by the other party, and thereafter diligently prosecute to completion all steps necessary to remedy such failure), this Agreement shall be subject to cancellation upon no less than thirty (30) days' written notice to the non-complying party.

27. **Condition of the Property.** Clearwater accepts the Premises AS IS. The City shall not be required to perform any work, supply any materials or incur any expense to prepare the Premises for Clearwater's use and occupancy.
28. **Severability.** If any provision of this Agreement thereof shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Agreement nor the application of the provision to other persons, entities or circumstances shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.
29. **Non-Waiver.** No indulgence, waiver, election or non-election by the City under this Agreement shall affect Clearwater's duties and liabilities hereunder.
30. **Binding Effect.** The covenants, obligations and conditions herein contained shall be binding on and inure to the benefit of the heirs, legal representatives, and assigns of the parties hereto.
31. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with respect to the specific matters contained herein and supersedes all previous discussions, understandings, and agreements. Any amendments to or waivers of the provisions herein shall be made by the parties in writing. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either party hereto.
32. **Authority.** The Parties hereto warrant and represent that each such party has the necessary power and authority to enter into and perform this Agreement. It is understood and agreed that this Agreement is submitted to Clearwater for signature with the understanding that it shall not bind the City unless and until it has been fully executed by City and delivered to Clearwater. The Agreement shall be binding upon the Parties hereto, their successors and assigns.
33. **Counterparts.** This Agreement may be executed by the Parties individually in several separate counterparts, each of which shall be deemed an original, and all of the said counterparts taken together shall be deemed to constitute one and the same instrument. This Agreement is intended to be enforceable when executed and delivered by facsimile or by e-mail.

**SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date(s) indicated below.

HUDSON RIVER SLOOP  
CLEARWATER, INC.

CITY OF BEACON

\_\_\_\_\_  
Name: Stephen P. Stanne  
Title: Acting Executive Director  
  
Dated:

\_\_\_\_\_  
Name: Christopher White  
Title: City Administrator  
  
Dated:

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

On the \_\_ day of \_\_\_\_\_ in the year 2021 before me, the undersigned, personally appeared **Stephen P. Stanne**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as the Executive Director of Hudson River Sloop Clearwater, Inc., and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

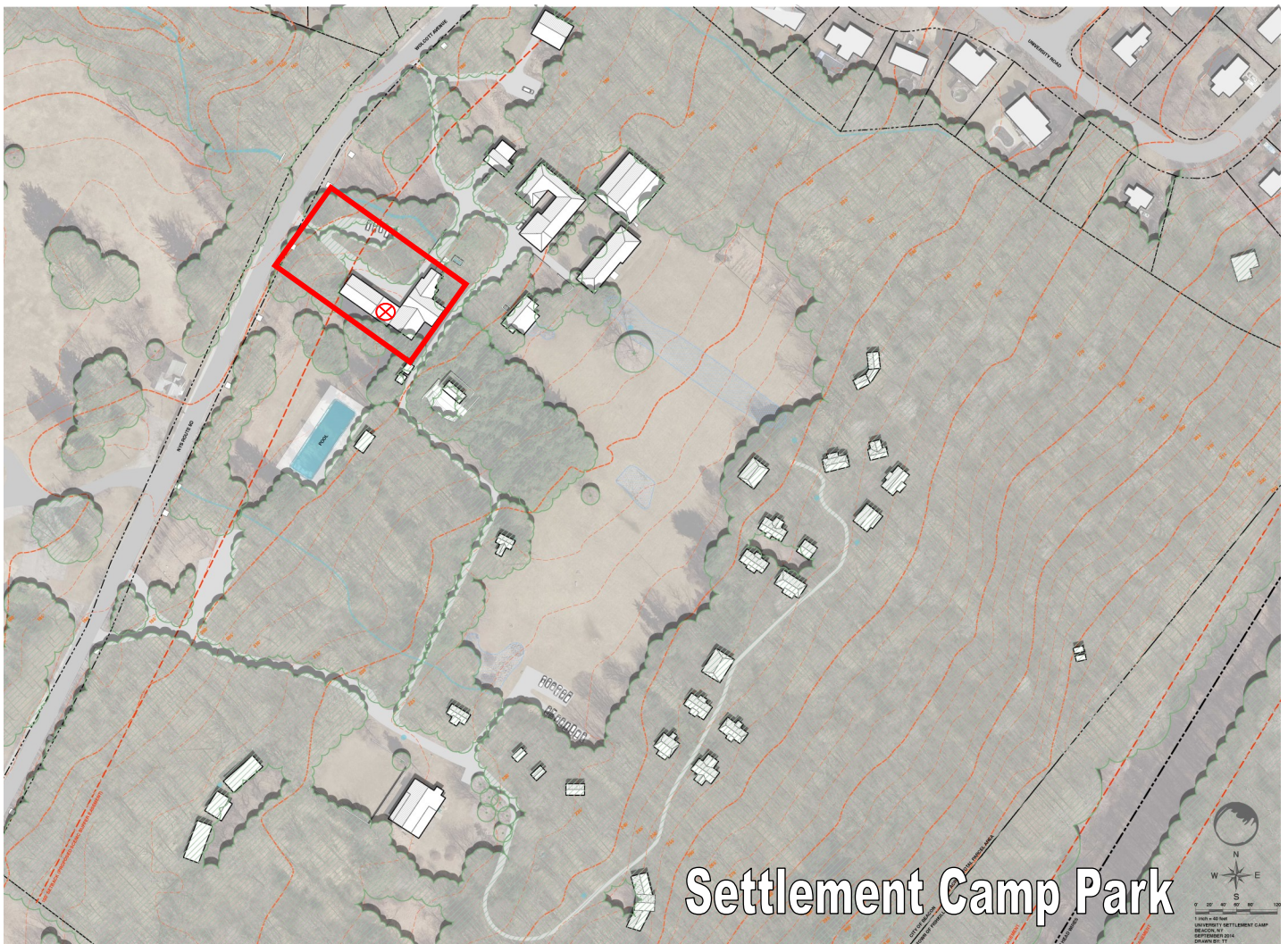
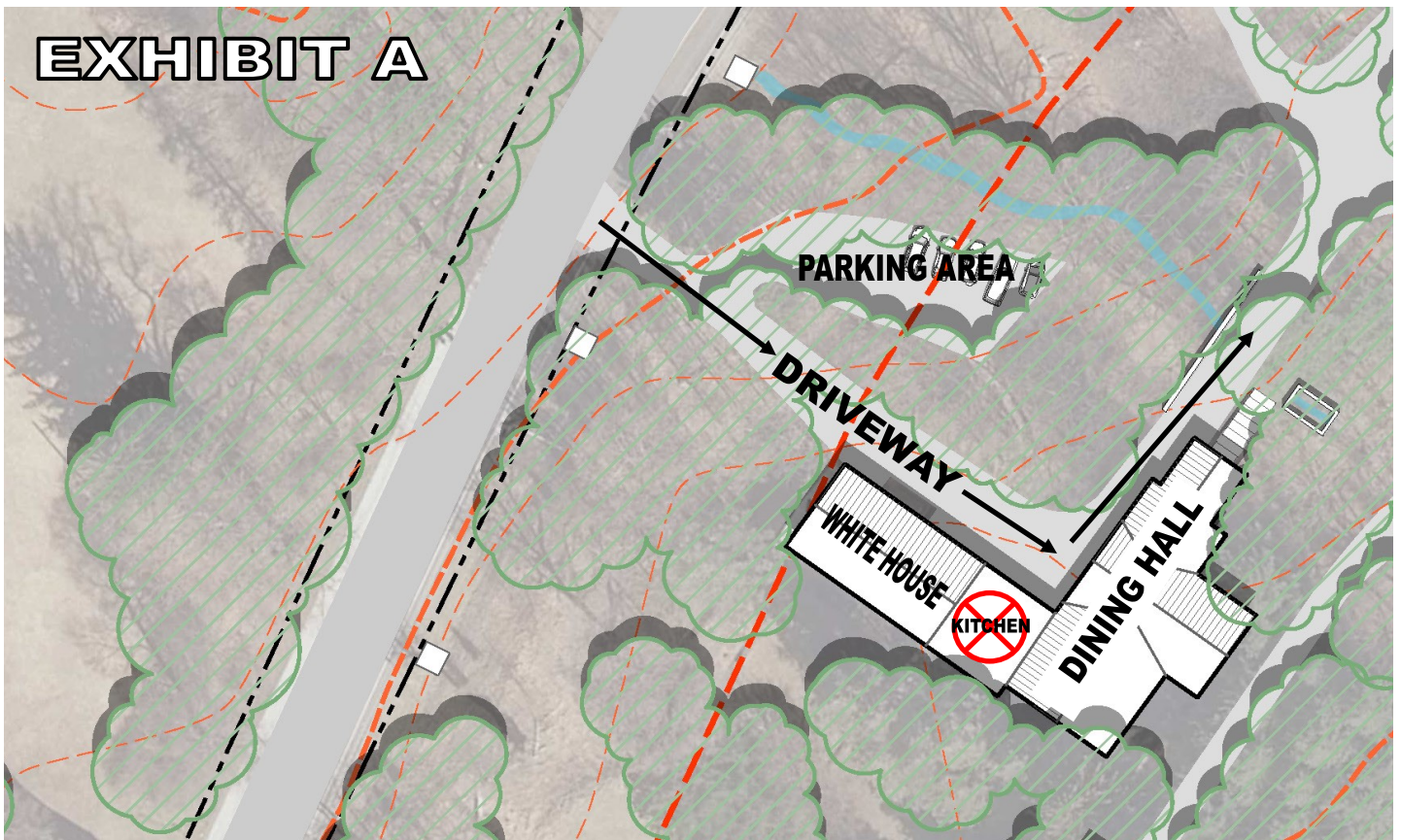
\_\_\_\_\_  
Signature and Office of individual taking  
acknowledgement

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

On the \_\_ day of \_\_\_\_\_ in the year 2021 before me, the undersigned, personally appeared **Christopher White**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his capacity as City Administrator of the City of Beacon, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Signature and Office of individual taking  
acknowledgement

# EXHIBIT A



**City of Beacon City Council Agenda**  
**12/13/2021**

**Title:**

Proposed Agreement with Ambulnz NY2, LLC for Ambulance Transport Services

**ATTACHMENTS**

[Proposed Agreement with Ambulnz NY2, LLC for Ambulance Transport Services](#)

## MASTER SERVICES AGREEMENT FOR AMBULANCE AND EMERGENCY MEDICAL SERVICES

This Master Services Agreement for Advanced Life Support Ambulance and Emergency Medical Services (“**Agreement**”), is dated as of January 1, 2022 (the “**Effective Date**”) between Ambulnz NY2, LLC, a Delaware limited liability company with offices located at 453 Robinson Avenue, Newburgh, NY 12550 (“**Ambulnz**”), and the City of Beacon, a municipal corporation with offices located at 1 Municipal Plaza, Beacon, New York 12508 (the “**City**”). Ambulnz and the City sometimes are referred to collectively as the “**Parties**” and individually as a “**Party**.”

### RECITALS

**WHEREAS**, the City is a duly constituted unit of government under New York State statutes; and

**WHEREAS**, Ambulnz provides emergency and non-emergency medical ground transportation services, including Advanced Life Support (“ALS”) and Basic Life Support (“BLS”) ambulance services as defined herein and in §3001 of the Public Health Law, and is licensed by applicable State authorities to provide those services; and

**WHEREAS**, the City desires to utilize Ambulnz as a provider of ground ambulance services for patients within the City’s boundaries; and

**WHEREAS**, Ambulnz desires to provide ground ALS and BLS support services for patients within the City’s boundaries in conjunction with the Beacon Volunteer Ambulance Corps, Inc. (“BVAC”); and

**WHEREAS**, pursuant to Resolution No. \_\_\_\_\_ of 2021, the Beacon City Council authorized the City Administrator to enter into this Agreement and execute any renewals and/or modifications of the Agreement as approved by the City Attorney.

**NOW, THEREFORE**, for consideration of the mutual covenants, conditions and agreements contained herein, the Parties to this Agreement agree as follows:

1. **Incorporation of Recitals.** The recitals set forth above are hereby incorporated by reference into this Agreement and made a part hereof as if set forth in their entirety.

2. **Services.**

a. Ambulnz shall provide emergency medical services (“**Emergency Medical Services**”), and also provide standby services upon request (“**Standby Services**”, and together with Emergency Medical Services, the “**Services**”). The Services shall be provided consistent with the terms of this Agreement and in accordance with all applicable governmental rules and regulations.

b. The Emergency Medical Services shall be performed within the boundaries of the City, which shall be deemed to be the “Primary Service Area” under this Agreement.

Ambulnz shall provide to the City one (1) Advanced Life Support (“ALS”) ambulance and crew, staffed with New York State Certified EMT and Paramedic, twenty-four (24) hours a day, seven (7) days a week dedicated exclusively to the City (“Dedicated Unit”). Ambulnz shall make every commercially reasonable effort to provide additional back up services to the City on an as-available basis. It is acknowledged that these back up services shall be available on a non-subsidized, fee-for-service platform at the request of the City. Ambulnz shall dedicate resources to the best of its ability under these circumstances. Ambulnz shall provide as much coverage as its system allows and shall advise Dutchess County “911” emergency dispatch system (“911 Dispatch”) regarding unit availability, in order to provide mutual aid coverage from other services for the Party beyond the dedicated unit. Ambulnz shall provide the City with a branded Dedicated Unit displaying the City’s Official Seal and lettered, “City of Beacon powered by Ambulnz.”

c. The City shall house the Dedicated Unit at no charge to Ambulnz at the City’s Fire Station located at 13 South Avenue in Beacon unless otherwise agreed to in writing by the Parties.

d. Emergency Medical Services shall supersede Standby Services in terms of priority, and Ambulnz shall respond to Emergency Medical Services calls regardless of whether it is engaged in Standby Services, not including Fire Scene or Police Scene Standby Services. Ambulnz shall provide Emergency Standby Services to the City for all Fire or Police incidents as requested. This service beyond the Dedicated Unit is subject to Ambulnz’s availability. Ambulnz shall provide ALS and BLS ambulance ambulances and crew, staffed with New York State Certified EMT and/or Paramedics, for standby events, as a maintenance rig, or for other service calls as agreed to by the Parties.

e. Ambulnz will participate in the Dutchess County EMS Mutual Aid Plan.

**3. Ambulance Dispatch.** Ambulnz shall use the 911 Dispatch provided by Dutchess County in order to respond to sick or injured persons needing emergency care within the boundaries of the City and transport said persons to the nearest hospital or requested proximate hospital, if patient condition allows. Ambulnz shall provide reports to the City on 911 Dispatch call data within the City on a monthly basis. The Parties shall collaborate to promptly address any issues that may arise relating to those matters.

**4. Management/Organization.** Ambulnz’s crew shall operate under the oversight of an EMS Medical Director licensed in the State of New York. The EMS Medical Director may maintain offices in the Hudson Valley Region, and any Medical Director fees shall be paid by Ambulnz. The EMS Medical Director may serve as Ambulnz’s representative in relation to its performance of Services hereunder.

## **5. Qualifications and Obligations.**

a. Licensure and Certification. Ambulnz covenants and agrees that at all times it and its crews performing Services hereunder shall remain licensed, certified, and enrolled in good standing with applicable State, federal, and local REMAC licensing authorities,

as well with all State and federal health care programs, and all required State or national accrediting organizations.

b. Services in Compliance with Laws and Regulations. Ambulnz shall provide all Services hereunder in accordance with applicable laws, regulations and standards of care, and on all ambulances providing Services hereunder, staff and equip said vehicles, in accordance with applicable laws and regulations.

c. Equipment. Ambulnz shall provide all vehicles, fuel, equipment, and personnel needed to provide the Services within the City. All vehicles shall be suitable for providing the level of care contemplated herein and shall meet approved medical protocols, be properly licensed and certified in accordance with applicable rules, regulations, and statutes. All ambulances must be owned by Ambulnz and be New York State certified Type II or Type III style ambulances. All units shall be well maintained, have New York State valid inspection stickers, be legally registered, and be properly insured pursuant to this Agreement. Ambulnz shall keep its ambulances maintained so that all mechanical features, including but not limited to heat, air conditioning, interior and exterior lighting, emergency lighting, and audible warning devices are in good working order at all times. The ambulances shall meet and maintain all of the standards as specified in the certification listing for New York State Ambulances and all Department of Transportation and Traffic Safety standards. Ambulnz shall equip all ambulances with GPS navigation devices and all ambulance crews with cellular communication devices to serve as a redundant backup for dispatchers and crews.

d. Personnel. Ambulnz shall provide sufficiently trained and experienced personnel capable of furnishing both BLS and ALS service to maintain, operate and administer the ambulance and emergency health services required under this Agreement. At a minimum, each ambulance must be staffed by at least one New York State certified Emergency Medical Technician (EMT) and one New York State certified Advanced Emergency Medical Technician (Paramedic). Ambulnz shall provide training and continuing education to its employees including such certification and re-certification as may be required by law. In addition, Ambulnz shall participate in necessary drills at times to be mutually agreed upon, as well as, provide community training, educational programs and seminars to educate the community in emergency health practices.

6. **Billing and Compensation.** Ambulnz shall bill patients, third-party insurance payors, and appropriate agencies as the case maybe, for the Services rendered to patients within the City. The billing rates for the Services rendered are hereto attached as Schedule A and shall not be modified without the prior written consent of the City. Further, the City shall pay compensate Ambulnz with a monthly subsidy as set forth in Schedule B attached hereto, for which Ambulnz shall invoice the City on a monthly basis. The City may reduce the monthly subsidy in the event that Ambulnz fails to meet the required Response Time Criteria as outlined in Schedule C.

7. **Term.** The City recognizes that in anticipation of performing the Services under this Agreement, Ambulnz will incur significant expenses to ensure that appropriate staff and equipment are available. The Parties agree, in light of the financial commitment made by Ambulnz, this Agreement shall be in effect for a term of five (5) years, commencing on the

Effective Date (the “**Initial Term**”). This Agreement is automatically renewed by the Parties annually thereafter (together with the Initial Term, the “**Term**”), unless one Party notifies the other Party, pursuant to Section 9, of its intent to terminate this Agreement. The Parties agree that the Agreement shall not be terminated during the Term except pursuant to Section 9.

8. **Anti-Kick Back Statute.** The Parties represent to the best of their knowledge that this Agreement complies with 42 USC 1320a-7b(B) commonly known as the “Anti-Kick Back Statute.” The Parties agree to periodically review the Agreement, at least on an annual basis, for the purposes of determining that this Agreement is in compliance with the Anti-Kick Back Statute. The Parties agree to exchange all necessary documentation evidencing the Services provided within the City boundaries. All documentation will be released in accordance with the provisions of the Health Insurance Portability and Accountability Act (HIPAA). The City shall assist Ambulnz in any manner in providing verification of resident status to facilitate proper billing.

9. **Termination.**

a. For Convenience. Ambulnz or the City may terminate the Agreement at the end of the current Term by providing written Notice to the other Party no less than sixty (60) days prior to the expiration of the current Term.

b. For Breach. If a Party believes that the other Party (the “**Breaching Party**”) is in breach of any of its obligations under this Agreement, it must provide Notice of Breach. The Breaching Party shall then have the opportunity to cure any alleged breach. In the event that the default is not cured within the thirty (30) day period, then the non-Breaching Party shall be entitled to immediately terminate this Agreement upon written Notice of Termination to the Breaching Party.

c. For Insolvency; Bankruptcy. In addition, either Party may immediately terminate this Agreement upon written Notice to the other Party if either Party (i) admits in writing its inability to pay its debts generally as they become due, or (ii) files a petition to be adjudicated a voluntary bankrupt in bankruptcy or a similar petition under any insolvency act, or (iii) makes an assignment for the benefit of its creditors, or (iv) consents to the appointment of a receiver of itself or of the whole or any substantial part of its property.

10. **Notices.** Notices required or permitted to be given under this Agreement (each, a “**Notice**”) shall be made to the Parties at the following addresses and shall be presumed to have been received by the other Party (i) five days after mailing by the Party when Notices are sent by First Class mail, postage prepaid; (ii) upon transmission (if sent via facsimile with a confirmed transmission report); or (iii) upon receipt (if sent by hand delivery or courier service) as follows:

**Ambulnz**

Attn: Michael Witkowski, Chief of Operations  
Ambulnz NY2, LLC  
35 West 35<sup>th</sup> Street, 6<sup>th</sup> Fl.  
New York, New York 10001

**City of Beacon**

Attn: Christopher White, City Administrator  
City of Beacon  
1 Municipal Plaza  
Beacon, New York 12508

11. **Insurance.** Ambulnz shall obtain and maintain the insurance coverages as detailed in Schedule D of this Agreement.

12. **Indemnification.** To the fullest extent permitted by law, Ambulnz hereby agrees to indemnify and to reimburse, defend, exonerate, pay and hold harmless the City, its officials, agents, officers and employees from and against any and all demands, claims, causes of action, losses, taxes, damages, judgments, liabilities, assessments, suits, actions, proceedings, interest, fines, penalties and expenses (including, without limitation, settlement costs and any reasonable legal, accounting and other expenses for investigating and defending any actions or threatened actions or for enforcing such rights of indemnity and defense) relating to or arising from, either directly or indirectly, damages or injuries to the extent caused by the negligence, recklessness, intentional conduct, breach of this Agreement or fault of Ambulnz, its officers, employees or agents. This obligation shall include, but shall not be limited to, the burden of defending all claims, suits, administrative proceedings, or investigations whenever they arise, even if such claims, suits or proceedings are groundless, false, fraudulent or relate to past acts, and of conducting all negotiations of any description, and paying and discharging when and as the same become due, any and all judgments, penalties or other sums due or which shall become due against the City. The obligation of the Ambulnz to indemnify any party under this Paragraph shall not be limited in any manner by any limitation of the amount of insurance coverage or benefits. This Section 12 shall survive any termination or expiration of this Agreement. Under no circumstances shall Ambulnz be liable for or indemnify the City for or against, the actions, inactions, errors or omissions of a responding law enforcement agency, and indemnification under this paragraph shall be limited to the services provided herein.

13. **Entire Agreement.** This Agreement, including the Schedules attached hereto, constitutes the sole and only Agreement of the Parties regarding its subject matter and supersedes any prior understandings or written or oral agreements between the Parties respecting this subject matter. Neither Party has received or relied upon any written or oral representations to induce it to enter into this Agreement except that each Party has relied only on any written representations contained herein.

14. **Amendments.** No agreement or understandings varying or extending this Agreement shall be binding upon the Parties unless it is memorialized in a written amendment signed by an authorized officer or representative of both Parties.

15. **Assignment.** Either Party may assign this Agreement upon the written approval of the other Party, which shall not be unreasonably withheld. Written approval is not required in the event a Party is sold or acquired by a successor entity or in the event of a change of ownership, although Notice of such a transaction shall be given to the other Party within thirty (30) days after the effective date of such transaction. This Agreement shall be binding upon all successors and assigns.

**16. Construction and Compliance.**

a. Severability. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held by any court or by the Office of Inspector General (OIG) of the United States Department of Health and Human Services to be invalid, illegal, or

unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

b. **Compliance.** The Parties shall comply fully with all applicable State and federal laws and regulations, including but not limited to all applicable State and federal fraud and abuse laws and rules. Insofar as any terms or conditions of this Agreement are determined by any court to be contrary to any such statutes or regulations, the Parties will promptly and in good faith confer and resolve any issues so as to make the performance of this Agreement consistent with all applicable statutes and regulations.

c. **Notification of Actual or Potential Violation of Law.** If either Party becomes aware of any actual or potential violations by the other Party, whether intentional or inadvertent, of any applicable State or federal statutes or regulations, it shall promptly notify the other Party.

**17. Force Majeure.** The Parties shall be excused for any performance obligation hereunder for the period of any delay in or impossibility of the performance of any obligations hereunder, when prevented from doing so by any cause or causes beyond a Party's control, which shall include without limitation: all labor disputes, civil commotion, war, nuclear disturbances, hostilities, sabotage, terroristic acts, governmental regulations or controls, fire, accident or other casualty, interruption in the supply of any utilities or fuel, inability to obtain any material or services, or through natural disasters.

**18. Independent Contractor Relationship.** The relationship of the Parties is that of independent contractors. Neither Party shall be deemed to be the agent nor partner nor fiduciary of the other, and neither Party is authorized to take any action binding upon the other.

**19. Governing Law; Jurisdiction.** This Agreement is made and shall be construed in accordance with, and governed by, the laws of the State of New York, without consideration of conflict of laws principles. The Parties consent to the exclusive jurisdiction of the State courts located in Orange or Dutchess Counties, New York in connection with any action or proceeding arising under, or relating to, this Agreement. By execution and delivery of this Agreement, each such Party hereby (i) accepts the jurisdiction of the aforesaid courts; (ii) waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the venue set forth above; and (iii) further waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

**20. Confidentiality.** Each Party agrees that if it has received trade secrets or confidential and proprietary information in the negotiation and execution of this Agreement, as designated by the other Party, it will not disclose any information so designated to any other person, organization, or entity during the Term or for a period of five (5) years thereafter. This provision shall survive termination of this Agreement.

**21. Access to Books and Records.** The City shall have the right to inspect all records, premises and equipment to ensure compliance with State and federal regulations, with the exception of those protected by confidentiality laws.

**22. Waiver and Consent.** The failure of either Party at any time to require performance by the other Party of any provision hereof shall not affect in any way the rights to require such performance of any other provision hereof, nor shall the waiver by either Party of a breach of any provision hereof be taken or held to be a waiver of the provision itself. If the consent of either Party is necessary pursuant to the terms of this Agreement, such consent shall not be unreasonably withheld.

**23. Regulatory Changes.** The Parties recognize that this Agreement is at all times subject to applicable state, local, and federal laws and shall be construed accordingly. The Parties further recognize that this Agreement may become subject to or be affected by amendments in such laws and regulations or to new legislation or regulations. Any provisions of law that invalidate, or are otherwise inconsistent with, the material terms and conditions of this Agreement, or that would cause one or both of the Parties hereto to be in violation of law, shall be deemed to have superseded the terms of this Agreement and, in such event, the Parties agree to utilize their best efforts to modify the terms and conditions of this Agreement to be consistent with the requirements of such law(s) in order to effectuate the purposes and intent of this Agreement. In the event that any such laws or regulations affecting this Agreement are enacted, amended or promulgated, either Party may propose to the other a written amendment to this Agreement to be consistent with the provisions of such laws or regulations. In the event that the Parties do not agree on such written amendments within thirty (30) days of receipt of the proposed written amendments, then either Party may terminate this Agreement without further notice, unless this Agreement would expire earlier by its terms.

**24. Non-Discrimination.** Ambulnz shall provide the Services in compliance with all applicable laws prohibiting discrimination and without regard to age, creed, disability, domestic violence victim status, gender identity or expression, familial status, payor source, marital status, military status, national origin, predisposing genetic characteristics, pregnancy-related condition, prior arrest or conviction record, race, color, sex, and/or sexual orientation.

**25. Authorization of Agreement.** Each Party represents and warrants, each to the other with respect to itself, that the execution and delivery of this Agreement has been duly authorized and the individual executing this Agreement on behalf of each Party respectively has full power and authority to do so.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written.

**Ambulnz NY2, LLC**

**City of Beacon**

By:

By:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Name: Michael S Witkowski  
Title: Chief Operations Officer

Name: Christopher White  
Title: City Administrator

## **SCHEDULE A**

### **COMMERICAL AMBULANCE RATES (2022)**

|                                                |                   |
|------------------------------------------------|-------------------|
| <b>A0429 Basic Life Support Emergency</b>      | <b>\$1,407.00</b> |
| <b>A0427 Advanced Life Support Emergency</b>   | <b>\$2,010.00</b> |
| <b>A0433 Advanced Life Support 2 Emergency</b> | <b>\$2,116.00</b> |
| <b>A0425 Mileage (Rate per Mile)</b>           | <b>\$25.00</b>    |
| <b>A0432 Paramedic Intercept</b>               | <b>\$365.00</b>   |

These rates above reflect the Commercial Insurances Rates charged. If the person has Medicare or Medicaid or is in a contracted insurance plan, then Ambulnz shall only bill for deductibles and co-payments. If the patient is uninsured, Ambulnz shall reduce the billing to the Medicare rate and set up a mutually agreeable payment plan.

## **SCHEDULE B**

### **SUBSIDY SCHEDULE**

#### **January 1, 2021-December 31, 2021:**

The City shall pay Ambulance the sum of one hundred fifty thousand dollars (\$150,000.00) per year, which shall be paid in twelve (12) equal monthly installments in the sum of twelve thousand five hundred dollars (\$12,500.00).

|                  |                                                                             |
|------------------|-----------------------------------------------------------------------------|
| January 1, 2022: | Subsidy shall increase by CPI* and be paid in 12 equal monthly installments |
| January 1, 2023: | Subsidy shall increase by CPI* and be paid in 12 equal monthly installments |
| January 1, 2024: | Subsidy shall increase by CPI* and be paid in 12 equal monthly installments |
| January 1, 2025: | Subsidy shall increase by CPI* and be paid in 12 equal monthly installments |

\*Consumer Price Index (“CPI”) is calculated as for all items based on the entire year as the percentage overall for the 12-month period preceding.

## **SCHEDULE C**

### **RESPONSE TIME CRITERIA**

Response Time Criteria is hereby defined as the Dedicated Unit arriving at the emergency scene in nine (9) minutes or less (“On Time Performance”) for ninety percent (90%) of calls dispatched to the Dedicated Unit by Dutchess County 911.

In the event that Ambulnz fails to meet the Response Time Criteria as set forth above, the monthly subsidy to Ambulnz shall be reduced as follows:

|                             |                                     |
|-----------------------------|-------------------------------------|
| 90-100% On Time Performance | Full Monthly Subsidy                |
| 80-89% On Time Performance  | Reduction of 10% in Monthly Subsidy |
| 70-79% On Time Performance  | Reduction of 20% in Monthly Subsidy |
| < 70% On Time Performance   | Reduction of 30% in Monthly Subsidy |

## **SCHEDULE D**

### **INSURANCE REQUIREMENTS**

- A. Ambulnz shall, at its sole cost and expense, maintain and keep in full force and effect during the Term of this Agreement the following types of insurance:
- i. **General Liability Insurance**, with limits of no less than ONE MILLION DOLLARS (\$1,000,000.00) each occurrence and TWO MILLION DOLLARS (\$2,000,000.000 annual aggregate limits. The City of Beacon shall be named as an additional insured on the policy. The insurance policy shall be written on a primary and non-contributing coverage basis, including any self-insured retentions. To the extent permitted by New York law, Ambulnz waives all rights of subrogation or similar rights against the City, its assigns, officers, employees, representatives and agents.
  - ii. **Workers' Compensation, Employers Liability Insurance and New York State Disability Insurance**, covering operations in New York State. Policy shall include all employees. Proof of coverage must be on the approved specific form, as required by the New York State Workers' Compensation Board. ACORD certificates are not acceptable. To the extent permitted by New York law, Ambulnz waives all rights of subrogation or similar rights against the City, its assigns, officers, employees, representatives and agents.
  - iii. **Comprehensive Automobile Policy**, with limits no less than ONE MILLION DOLLARS (\$1,000,000.00) Bodily Injury and Injury and Property Damage liability including coverage for owned, non-owned, and hired private passenger and commercial vehicles. The policy shall be written on a primary and non-contributing coverage basis. To the extent permitted by New York law, Ambulnz waives all rights of subrogation or similar rights against the City, its assigns, officers, employees, representatives and agents. The City of Beacon shall be named as an Additional Insured on the policy.
  - iv. **Professional Liability Insurance**, with limits no less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence and THREE MILLION DOLLARS (\$3,000,000.00) annual aggregate. The policy shall be written on a primary and non-contributing coverage basis. To the extent permitted by New York law, Ambulnz waives all rights of subrogation or similar rights against the City, its assigns, officers, employees, representatives and agents. The City of Beacon shall be named as an Additional Insured on the policy.
  - v. **Umbrella Liability**, with limits no less than FIVE MILLION DOLLARS (\$5,000,000.00), including coverage for General Liability and Automobile Liability. The City of Beacon shall be named as an Additional Insured on the policy. The insurance policy shall be written on a primary and non-contributing coverage basis, including any self-insured retentions. To the extent permitted by New York law, the

Ambulnz waives all rights of subrogation or similar rights against the City of Beacon, its assigns, officers, employees, representatives and agents.

- B. Certificates shall provide that thirty (30) days written notice, by registered mail with return receipt requested, prior to cancellation or expiration be given to the City of Beacon. Policies that lapse and/or expire during term of work shall be recertified and received by the City of Beacon no less than thirty (30) days prior to expiration or cancellation.
- C. Ambulnz shall furnish Certificates of Insurance to the City as evidence of coverage naming the City of Beacon as an Additional Insured by endorsement. The cost of furnishing the above insurance shall be borne by Ambulnz. Copies of the required insurance certificates shall be provided by January 15<sup>th</sup> of each year.

**City of Beacon City Council Agenda**  
**12/13/2021**

**Title:**

Proposed Agreement with Beacon Volunteer Ambulance Corps, Inc. for Ambulance Transport Services

**ATTACHMENTS**

[Proposed Agreement with Beacon Volunteer Ambulance Corps, Inc. for Ambulance Transport Services](#)

## AGREEMENT FOR AMBULANCE AND EMERGENCY MEDICAL SERVICES

This Agreement for Basic Life Support Ambulance and Emergency Medical Services (“**Agreement**”), is dated as of January 1, 2022 (the “**Effective Date**”) between Beacon Volunteer Ambulance Corps. Inc., a domestic not-for-profit corporation with offices located at 1 Arquilla Drive, Beacon, NY 12508 (“**BVAC**”), and the City of Beacon, a municipal corporation with offices located at 1 Municipal Plaza, Beacon, New York 12508 (the “**City**”). BVAC and the City sometimes are referred to collectively as the “**Parties**” and individually as a “**Party**.”

### RECITALS

**WHEREAS**, the City is a duly constituted unit of government under New York State statutes; and

**WHEREAS**, BVAC provides Basic Life Support (“BLS”) ambulance services as defined herein and in §3001 of the Public Health Law, and is licensed by applicable State authorities to provide those services; and

**WHEREAS**, the City desires to utilize BVAC as a provider of BLS ground ambulance services for patients within the City’s boundaries; and

**WHEREAS**, BVAC desires to provide ground BLS support services for patients within the City’s boundaries in conjunction with the Ambulnz NY2, LLC (“Ambulnz”); and

**WHEREAS**, pursuant to Resolution No. \_\_\_\_ of 2021, the Beacon City Council authorized the City Administrator to enter into this Agreement and execute any renewals and/or modifications of the Agreement as approved by the City Attorney.

**NOW, THEREFORE**, for consideration of the mutual covenants, conditions and agreements contained herein, the Parties to this Agreement agree as follows:

1. **Incorporation of Recitals.** The recitals set forth above are hereby incorporated by reference into this Agreement and made a part hereof as if set forth in their entirety.

2. **Services.**

a. BVAC shall continue to provide emergency medical services (“**Emergency Medical Services**”), and also provide standby services upon request (“**Standby Services**”, and together with Emergency Medical Services, the “**Services**”). The Services shall be provided consistent with the terms of this Agreement and in accordance with all applicable governmental rules and regulations.

b. The Emergency Medical Services shall be performed within the boundaries of the City, which shall be deemed to be the “Primary Service Area” under this Agreement. BVAC shall provide to the City one (1) Basic Life Support (“BLS”) ambulance and crew, staffed with New York State Certified EMT, twenty-four (24) hours a day, seven (7) days a week.

c. Emergency Medical Services shall supersede Standby Services in terms of priority, and BVAC shall respond to Emergency Medical Services calls regardless of whether it is engaged in Standby Services, not including Fire Scene or Police Scene Standby Services. BVAC shall provide Emergency Standby Services to the City for all Fire or Police incidents as requested.

d. BVAC will participate in the Dutchess County EMS Mutual Aid Plan.

3. **Ambulance Dispatch.** BVAC shall use the 911 Dispatch provided by Dutchess County in order to respond to sick or injured persons needing emergency care within the boundaries of the City and transport said persons to the nearest hospital or requested proximate hospital, if patient condition allows. BVAC shall provide reports to the City on 911 Dispatch call data within the City on a monthly basis. The Parties shall collaborate to promptly address any issues that may arise relating to those matters.

#### 4. **Qualifications and Obligations.**

a. Licensure and Certification. BVAC covenants and agrees that at all times it and its crews performing Services hereunder shall remain licensed, certified, and enrolled in good standing with applicable State, federal, and local REMAC licensing authorities, as well with all State and federal health care programs, and all required State or national accrediting organizations.

b. Services in Compliance with Laws and Regulations. BVAC shall provide all Services hereunder in accordance with applicable laws, regulations and standards of care, and on all ambulances providing Services hereunder, staff and equip said vehicles, in accordance with applicable laws and regulations.

c. Equipment. BVAC shall provide all vehicles, fuel, equipment, and personnel needed to provide the Services within the City. All vehicles shall be suitable for providing the level of care contemplated herein and shall meet approved medical protocols, be properly licensed and certified in accordance with applicable rules, regulations, and statutes. All ambulances must be owned by BVAC and be New York State certified Type II or Type III style ambulances. All units shall be well maintained, have New York State valid inspection stickers, be legally registered, and be properly insured pursuant to this Agreement. BVAC shall keep its ambulances maintained so that all mechanical features, including but not limited to heat, air conditioning, interior and exterior lighting, emergency lighting, and audible warning devices are in good working order at all times. The ambulances shall meet and maintain all of the standards as specified in the certification listing for New York State Ambulances and all Department of Transportation and Traffic Safety standards. BVAC shall equip all ambulances with GPS navigation devices and all ambulance crews with cellular communication devices to serve as a redundant backup for dispatchers and crews.

d. Personnel. BVAC shall provide sufficiently trained and experienced personnel capable of furnishing BLS service to maintain, operate and administer the ambulance and emergency health services required under this Agreement. At a minimum, each ambulance must be staffed by at least one New York State certified Emergency Medical Technician (EMT).

BVAC shall provide training and continuing education to its employees including such certification and re-certification as may be required by law.

5. **Billing and Compensation.** BVAC shall bill patients, third-party insurance payors, and appropriate agencies as the case maybe, for the Services rendered to patients within the City. Further, the City shall pay compensate BVAC with a monthly subsidy as set forth in Schedule 1 attached hereto, for which BVAC shall invoice the City on a monthly basis.

6. **Term.** This Agreement starts on January 1, 2022 and ends on December 31, 2022 (“Current Term”). The Agreement may be extended for four (4) additional one (1) year terms based on the mutual consent of the Parties (“Extension Term”).

7. **Anti-Kick Back Statute.** The Parties represent to the best of their knowledge that this Agreement complies with 42 USC 1320a-7b(B) commonly known as the “Anti-Kick Back Statute.” The Parties agree to periodically review the Agreement, at least on an annual basis, for the purposes of determining that this Agreement is in compliance with the Anti-Kick Back Statute. The Parties agree to exchange all necessary documentation evidencing the Services provided within the City boundaries. All documentation will be released in accordance with the provisions of the Health Insurance Portability and Accountability Act (HIPAA).

8. **Termination.**

a. For Convenience. BVAC or the City may terminate the Agreement at the end of the current Term, or Extension Term if the Agreement is extended, by providing written Notice to the other Party no less than sixty (60) days prior to the expiration of the current Term.

b. For Breach. If a Party believes that the other Party (the “**Breaching Party**”) is in breach of any of its obligations under this Agreement, it must provide Notice of Breach. The Breaching Party shall then have the opportunity to cure any alleged breach. In the event that the default is not cured within the thirty (30) day period, then the non-Breaching Party shall be entitled to immediately terminate this Agreement upon written Notice of Termination to the Breaching Party.

c. For Insolvency; Bankruptcy. In addition, either Party may immediately terminate this Agreement upon written Notice to the other Party if either Party (i) admits in writing its inability to pay its debts generally as they become due, or (ii) files a petition to be adjudicated a voluntary bankrupt in bankruptcy or a similar petition under any insolvency act, or (iii) makes an assignment for the benefit of its creditors, or (iv) consents to the appointment of a receiver of itself or of the whole or any substantial part of its property.

9. **Notices.** Notices required or permitted to be given under this Agreement (each, a “**Notice**”) shall be made to the Parties at the following addresses and shall be presumed to have been received by the other Party (i) five days after mailing by the Party when Notices are sent by First Class mail, postage prepaid; (ii) upon transmission (if sent via facsimile with a confirmed transmission report); or (iii) upon receipt (if sent by hand delivery or courier service) as follows:

**Beacon Volunteer Ambulance Corps. Inc.****City of Beacon**

Attn: Andrew Diluvio, President  
Beacon Volunteer Ambulance Corps. Inc.  
1 Arquilla Drive  
Beacon, NY 12508

Attn: Christopher White, City Administrator  
City of Beacon  
1 Municipal Plaza  
Beacon, New York 12508

10. **Insurance.** BVAC shall obtain and maintain the insurance coverages as detailed in Exhibit A of this Agreement.

11. **Indemnification.** To the fullest extent permitted by law, BVAC hereby agrees to indemnify and to reimburse, defend, exonerate, pay and hold harmless the City, its officials, agents, officers and employees from and against any and all demands, claims, causes of action, losses, taxes, damages, judgments, liabilities, assessments, suits, actions, proceedings, interest, fines, penalties and expenses (including, without limitation, settlement costs and any reasonable legal, accounting and other expenses for investigating and defending any actions or threatened actions or for enforcing such rights of indemnity and defense) relating to or arising from, either directly or indirectly, damages or injuries to the extent caused by the negligence, recklessness, intentional conduct, breach of this Agreement or fault of BVAC, its officers, employees or agents. This obligation shall include, but shall not be limited to, the burden of defending all claims, suits, administrative proceedings, or investigations whenever they arise, even if such claims, suits or proceedings are groundless, false, fraudulent or relate to past acts, and of conducting all negotiations of any description, and paying and discharging when and as the same become due, any and all judgments, penalties or other sums due or which shall become due against the City. The obligation of the BVAC to indemnify any party under this Paragraph shall not be limited in any manner by any limitation of the amount of insurance coverage or benefits. This Section 12 shall survive any termination or expiration of this Agreement. Under no circumstances shall BVAC be liable for or indemnify the City for or against, the actions, inactions, errors or omissions of a responding law enforcement agency.

12. **Entire Agreement.** This Agreement, including any Schedules and Exhibits attached hereto, constitutes the sole and only Agreement of the Parties regarding its subject matter and supersedes any prior understandings or written or oral agreements between the Parties respecting this subject matter. Neither Party has received or relied upon any written or oral representations to induce it to enter into this Agreement except that each Party has relied only on any written representations contained herein.

13. **Amendments.** No agreement or understandings varying or extending this Agreement shall be binding upon the Parties unless it is memorialized in a written amendment signed by an authorized officer or representative of both Parties.

14. **Assignment.** Either Party may assign this Agreement upon the written approval of the other Party, which shall not be unreasonably withheld. Written approval is not required in the event a Party is sold or acquired by a successor entity or in the event of a change of ownership, although Notice of such a transaction shall be given to the other Party within thirty (30) days after the effective date of such transaction. This Agreement shall be binding upon all successors and assigns.

## 15. Construction and Compliance.

a. Severability. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held by any court or by the Office of Inspector General (OIG) of the United States Department of Health and Human Services to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

b. Compliance. The Parties shall comply fully with all applicable State and federal laws and regulations, including but not limited to all applicable State and federal fraud and abuse laws and rules. Insofar as any terms or conditions of this Agreement are determined by any court to be contrary to any such statutes or regulations, the Parties will promptly and in good faith confer and resolve any issues so as to make the performance of this Agreement consistent with all applicable statutes and regulations.

c. Notification of Actual or Potential Violation of Law. If either Party becomes aware of any actual or potential violations by the other Party, whether intentional or inadvertent, of any applicable State or federal statutes or regulations, it shall promptly notify the other Party.

**16. Force Majeure.** The Parties shall be excused for any performance obligation hereunder for the period of any delay in or impossibility of the performance of any obligations hereunder, when prevented from doing so by any cause or causes beyond a Party's control, which shall include without limitation: all labor disputes, civil commotion, war, nuclear disturbances, hostilities, sabotage, terroristic acts, governmental regulations or controls, fire, accident or other casualty, interruption in the supply of any utilities or fuel, inability to obtain any material or services, or through natural disasters.

**17. Independent Contractor Relationship.** The relationship of the Parties is that of independent contractors. Neither Party shall be deemed to be the agent nor partner nor fiduciary of the other, and neither Party is authorized to take any action binding upon the other.

**18. Governing Law; Jurisdiction.** This Agreement is made and shall be construed in accordance with, and governed by, the laws of the State of New York, without consideration of conflict of laws principles. The Parties consent to the exclusive jurisdiction of the State courts located in Orange or Dutchess Counties, New York in connection with any action or proceeding arising under, or relating to, this Agreement. By execution and delivery of this Agreement, each such Party hereby (i) accepts the jurisdiction of the aforesaid courts; (ii) waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the venue set forth above; and (iii) further waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

**19. Confidentiality.** Each Party agrees that if it has received trade secrets or confidential and proprietary information in the negotiation and execution of this Agreement, as designated by the other Party, it will not disclose any information so designated to any other

person, organization, or entity during the Term or for a period of five (5) years thereafter. This provision shall survive termination of this Agreement.

**20. Access to Books and Records.** The City shall have the right to inspect all records, premises and equipment to ensure compliance with State and federal regulations, with the exception of those protected by confidentiality laws. Further, BVAC shall provide to the City copies of its annual financial statements for the prior year by April 1<sup>st</sup>, including the Statement of Financial Position (Balance Sheet), Statement of Activities, and Statement of Functional Expenses. The Parties may modify the required financial statements by mutual agreement.

**21. Waiver and Consent.** The failure of either Party at any time to require performance by the other Party of any provision hereof shall not affect in any way the rights to require such performance of any other provision hereof, nor shall the waiver by either Party of a breach of any provision hereof be taken or held to be a waiver of the provision itself. If the consent of either Party is necessary pursuant to the terms of this Agreement, such consent shall not be unreasonably withheld.

**22. Regulatory Changes.** The Parties recognize that this Agreement is at all times subject to applicable state, local, and federal laws and shall be construed accordingly. The Parties further recognize that this Agreement may become subject to or be affected by amendments in such laws and regulations or to new legislation or regulations. Any provisions of law that invalidate, or are otherwise inconsistent with, the material terms and conditions of this Agreement, or that would cause one or both of the Parties hereto to be in violation of law, shall be deemed to have superseded the terms of this Agreement and, in such event, the Parties agree to utilize their best efforts to modify the terms and conditions of this Agreement to be consistent with the requirements of such law(s) in order to effectuate the purposes and intent of this Agreement. In the event that any such laws or regulations affecting this Agreement are enacted, amended or promulgated, either Party may propose to the other a written amendment to this Agreement to be consistent with the provisions of such laws or regulations. In the event that the Parties do not agree on such written amendments within thirty (30) days of receipt of the proposed written amendments, then either Party may terminate this Agreement without further notice, unless this Agreement would expire earlier by its terms.

**23. Non-Discrimination.** BVAC shall provide the Services in compliance with all applicable laws prohibiting discrimination and without regard to age, creed, disability, domestic violence victim status, gender identity or expression, familial status, payor source, marital status, military status, national origin, predisposing genetic characteristics, pregnancy-related condition, prior arrest or conviction record, race, color, sex, and/or sexual orientation.

**24. Authorization of Agreement.** Each Party represents and warrants, each to the other with respect to itself, that the execution and delivery of this Agreement has been duly authorized and the individual executing this Agreement on behalf of each Party respectively has full power and authority to do so.

25.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written.

**Beacon Volunteer Ambulance Corps. Inc.**

**City of Beacon**

By:

By:

---

Signature

---

Signature

Name: Andrew Diluvio  
Title: President

Name: Christopher White  
Title: City Administrator

## **SCHEDULE 1**

### **SUBSIDY SCHEDULE**

The City shall pay BVAC the sum of fifty thousand dollars (\$50,000.00) per year, which shall be paid in eleven (11) equal monthly installments in the sum of four thousand one hundred sixty dollars and sixty-six cents (\$4,166.66) and one (1) final installment of four thousand one hundred sixty dollars and seventy-four cents (\$4,166.74). BVAC shall invoice the City on a monthly basis with the invoice submitted by the 15<sup>th</sup> of the month following the month of Services.

## **EXHIBIT A**

### **INSURANCE REQUIREMENTS**

- A. BVAC shall, at its sole cost and expense, maintain and keep in full force and effect during the Term of this Agreement the following types of insurance:
- i. **General Liability Insurance**, with limits of no less than ONE MILLION DOLLARS (\$1,000,000.00) each occurrence and TWO MILLION DOLLARS (\$2,000,000.000 annual aggregate limits. The City of Beacon shall be named as an additional insured on the policy. The insurance policy shall be written on a primary and non-contributing coverage basis, including any self-insured retentions. To the extent permitted by New York law, BVAC waives all rights of subrogation or similar rights against the City, its assigns, officers, employees, representatives and agents.
  - ii. **Workers' Compensation, Employers Liability Insurance and New York State Disability Insurance**, covering operations in New York State. Policy shall include all employees. Proof of coverage must be on the approved specific form, as required by the New York State Workers' Compensation Board. ACORD certificates are not acceptable. To the extent permitted by New York law, BVAC waives all rights of subrogation or similar rights against the City, its assigns, officers, employees, representatives and agents.
  - iii. **Comprehensive Automobile Policy**, with limits no less than ONE MILLION DOLLARS (\$1,000,000.00) Bodily Injury and Injury and Property Damage liability including coverage for owned, non-owned, and hired private passenger and commercial vehicles. The policy shall be written on a primary and non-contributing coverage basis. To the extent permitted by New York law, BVAC waives all rights of subrogation or similar rights against the City, its assigns, officers, employees, representatives and agents. The City of Beacon shall be named as an Additional Insured on the policy.
  - iv. **Professional Liability Insurance**, with limits no less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence and THREE MILLION DOLLARS (\$3,000,000.00) annual aggregate. The policy shall be written on a primary and non-contributing coverage basis. To the extent permitted by New York law, BVAC waives all rights of subrogation or similar rights against the City, its assigns, officers, employees, representatives and agents. The City of Beacon shall be named as an Additional Insured on the policy.
  - v. **Umbrella Liability**, with limits no less than FIVE MILLION DOLLARS (\$5,000,000.00), including coverage for General Liability and Automobile Liability. The City of Beacon shall be named as an Additional Insured on the policy. The insurance policy shall be written on a primary and non-contributing coverage basis, including any self-insured retentions. To the extent permitted by New York law, the

BVAC waives all rights of subrogation or similar rights against the City of Beacon, its assigns, officers, employees, representatives and agents.

- B. Certificates shall provide that thirty (30) days written notice, by registered mail with return receipt requested, prior to cancellation or expiration be given to the City of Beacon. Policies that lapse and/or expire during term of work shall be recertified and received by the City of Beacon no less than thirty (30) days prior to expiration or cancellation.
- C. BVAC shall furnish Certificates of Insurance to the City as evidence of coverage naming the City of Beacon as an Additional Insured by endorsement. The cost of furnishing the above insurance shall be borne by BVAC. Copies of the required insurance certificates shall be provided by January 15<sup>th</sup> of each year.

**City of Beacon City Council Agenda**  
**12/13/2021**

**Title:**

Tax Certiorari Settlement - Mtr. of Allied Waste/Fishkill Avenue Beacon LLC

**ATTACHMENTS**

Proposed Resolution Tax Certiorari Settlement - Mtr. of Allied Waste/Fishkill Avenue Beacon  
LLC

**RESOLUTION RE: TAX CERTIORARI SETTLEMENT -  
*Mtr. of Allied Waste/Fishkill Avenue Beacon LLC v.  
Assessor of the City of Beacon, et al.*  
(Sup. Ct. Dutchess Co. Index Nos. 52587/19, *et seq.*)  
SETTLEMENT OF 2019-2021 TAX CERTIORARI PROCEEDINGS**

**WHEREAS**, there are tax certiorari proceedings titled *Mtr. of Allied Waste/Fishkill Avenue Beacon LLC v. Assessor of the City of Beacon, et al.* (Sup. Ct. Dutchess Cty. Index Nos. 52587/19, *et seq.*), pending before the Supreme Court, County of Dutchess (Hon. James V. Brands, J.S.C., presiding); and

**WHEREAS**, these proceedings challenge the real property tax assessment of a parcel located at 508 Fishkill Avenue, which is identified as Parcel No. 6055-04-639223 on the Tax Map of the City of Beacon; and

**WHEREAS**, by way of these proceedings, the assessments established by the City of Beacon with respect to said parcel in 2019, 2020 and 2021 have been contested; and

**WHEREAS**, a settlement has been reached by and between Petitioner Fishkill Avenue Beacon LLC and the City of Beacon providing for a disposition of these proceedings; and

**WHEREAS**, a proposed Stipulation of Settlement and Order effectuating the settlement terms has been prepared, subject to the approval of the City Council; and

**WHEREAS**, the City Council has obtained the advice and assistance of City of Beacon counsel, Keane & Beane, P.C., with respect to the settlement terms and has duly considered same; and

**WHEREAS**, under the settlement terms, the City of Beacon will be liable for a City tax refund in the projected amount of Twenty-Five Thousand Nine Hundred Nineteen and 63/100 (\$25,919.63) Dollars;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council approves the settlement of these tax certiorari proceedings so that the following adjustments are made to the 2019, 2020 and 2021 assessments of the above-described tax parcel:

| <u>Year</u> | <u>Assessment</u> | <u>Revised<br/>Assessment</u> | <u>Reduction</u> |
|-------------|-------------------|-------------------------------|------------------|
| 2019        | \$ 5,050,000      | \$ 4,350,000                  | \$ 700,000       |
| 2020        | \$ 5,050,000      | \$ 4,263,000                  | \$ 787,000       |
| 2021        | \$ 5,050,000      | \$ 4,350,000                  | \$ 700,000       |

**BE IT FURTHER RESOLVED**, that counsel for the City of Beacon, Keane & Beane, P.C., and the City Administration are hereby authorized to undertake such actions as are necessary to confirm and effectuate this settlement, including execution of the Stipulation of Settlement incorporating the settlement terms.

**City of Beacon City Council Agenda**  
**12/13/2021**

**Title:**

Proposed Community Facility Grant Program Final Awards

**ATTACHMENTS**

[Memorandum from the City Administrator Regarding Proposed Community Facility Grant Program Awards](#)



# CITY OF BEACON New York

Christopher White  
City Administrator

OFFICE OF CITY ADMINISTRATOR

845-838-5000

To: Mayor Kyriacou and City Council  
From: Chris White, City Administrator  
Date: December 10, 2021  
Re: Community Facilities Grant Program

In August 2021, the City Council authorized the creation of the Community Facilities Grant Program using former federal Community Development funding, which amounted to approximately \$215,000. Since the establishment of the program, the City has awarded four grants to eligible applicants totaling \$115,000, leaving a remaining balance of approximately \$100,000.

Since the Council's last grant award, the City has received requests for six additional grants, which are attached along the grant program guidelines.

I am hereby proposing to award the remaining program funding to the six applicants as follows:

| <u>Applicant</u>                      | <u>Property/ Project</u>                    | <u>Request</u> | <u>Proposed</u> |
|---------------------------------------|---------------------------------------------|----------------|-----------------|
| Compass Arts Creativity Project, Inc. | Accessible Chairlifts at Classroom Facility | \$ 12,975      | \$ 12,000       |
| The Lindley Todd LLC                  | 139-141 Main Street- Façade Improvements    | \$ 50,000      | \$ 20,000       |
| The Lindley Todd LLC                  | 142 Main Street- Façade Improvements        | \$ 30,000      | \$ 20,000       |
| The Lindley Todd LLC                  | 150 Main Street- Façade Improvements        | \$ 20,000      | \$ 10,000       |
| The Hose Company, LLC                 | 162 Main Street- Façade Improvements        | \$ 20,275      | \$ 15,000       |
| 478 Main Street, LLC                  | 478-482 Main Street- Façade Improvements    | \$ 24,000      | \$ 18,000       |
| <b>TOTAL</b>                          |                                             | \$ 157,250     | \$ 95,000       |

Finally, I propose the City now close-out this grant program and transfer any remaining funding (approximately \$5,000) to a sidewalk reserve fund.

**CITY OF BEACON  
COMMUNITY FACILITIES GRANT PROGRAM GUIDELINES**

|                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Grant Amount:</u>          | \$10,000-\$50,000 per Application                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <u>Application Deadline:</u>  | Rolling Application Process                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <u>Eligibility:</u>           | Non-profit organizations with facilities located in City of Beacon.<br>Building owners on Main Street in the HDLO District                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <u>Eligible Uses:</u>         | <p>Capital improvements to community facility structures that serve a public purpose and are open and available to the public for those purposes. Funding for construction only. Engineering, planning, and design are not eligible. Façade improvements for Main Street buildings in HDLO list.</p> <p>Preferred uses include:</p> <ul style="list-style-type: none"><li>• Façade improvements and capital improvements to historic structures (including on Main Street for HDLO properties)</li><li>• ADA accessibility improvements (e.g., entrances, restrooms)</li><li>• Upgrades that create or enhance public access or public use</li><li>• Signage and interpretation</li></ul>                                                        |
| <u>Ineligible Facilities:</u> | <p>Properties owned by New York State or public agencies<br/>Facilities restricted in use for a limited membership and not generally open to the public without membership or fee<br/>School District properties<br/>Non-profit housing facilities<br/>Facilities owned by religious or faith-based organizations, unless property or distinct part of property is dedicated primarily to a public benefit</p>                                                                                                                                                                                                                                                                                                                                   |
| <u>Application Process:</u>   | <p>Eligible applicants should send a letter of interest with a concise description of the proposed project, requested funding amount, anticipated public benefit, and primary contact with any plans, photos, and/or budgets.</p> <p>Projects with matching funds from other public and private grants will be given preference. All grant recipients must sign a statement of non-discrimination to be eligible for City funding.</p> <p>The City reserves the right to reject applications for any reason or to work with applicants to revise proposals to maximize public benefit. All applications are subject to City Council approval</p> <p>Requests should be sent to: <a href="mailto:cwhite@beaconny.gov">cwhite@beaconny.gov</a></p> |

Gina Samardge  
Compass Arts Creativity Project, Inc.  
53 Russell Av.  
Beacon, NY 12508

November 29, 2021

Christopher White  
City Administrator  
One Municipal Plaza, Suite One  
Beacon, NY 12508

Dear Mr. White,

My name is Gina Samardge and I am the founder and director of Compass Arts Creativity Project, Inc., a 501(c)(3) non-profit operating their services in Beacon, NY. Our organization is requesting \$12,975 from the City of Beacon Community Facilities Grant Program for accessibility measures in our new commercial space located at 333 Fishkill Ave. This is an updated request per our email exchange, as the chairlift company has had an increase in their pricing.

The commercial building at 333 Fishkill Ave has a split level entrance with staircases going both up and down from the entrance. This is the only way to access our classroom spaces, making our programs and services inaccessible to non-ambulatory people within and beyond our community. We would like to install chairlifts on both staircases in order to make our space and our services fully accessible to all of our community regardless of their ability. Attached you will find an updated quote from Northeast Mobility Solutions, LLC for the purchase of 2 chairlifts and their installation on both staircases at 333 Fishkill Ave., as well as our 501(c)(3) determination letter from the IRS. If you have any further questions, please do not hesitate to reach out.

Thank you so much for providing this resource to organizations like ours so that we might better serve the City of Beacon.

Sincerely,  
Gina Samardge  
Founder and Director  
Compass Arts Creativity Project, Inc.  
917-648-4454  
Gina@CompassArts.org

Date: December 2, 2021

To: Christopher White, City Administrator

From: Joe and Jinny Donovan

Re: City of Beacon Community Facilities Grant Program

Christopher White,  
City Administrator  
1 Municipal Plaza  
Beacon, NY 12508

Dear Mr. White,

We are building owners of 139 Main Street in the HDLO District. This letter is our application for funds from the City of Beacon Community Facilities Grant Program for 'Facade Improvements and Capital Improvements to historic structures.'

We are requesting \$50,000 towards the cost of the 139 Main Street facade restoration, including:

- 50 foot granite facade restoration
- 35 foot entry windowed arch repair
- New installation of entry doors
- New entry at 141 Main Street (refer to approved ARB submission 11/9/2021, attached).
- Total exterior work on Main Street is expected to exceed \$100,000.

If this proposal is in keeping with the guidelines of the City Council, we are happy to provide project estimates and accompanying details. We are grateful to be considered for the grant program.

Thank you,

Joe and Jinny Donovan  
4 Cross Street  
Beacon, NY 12508  
646-284-3118

cc: Lee Kyriacou, Mayor and City Council  
[mayor@beaconny.gov](mailto:mayor@beaconny.gov)  
[cityofbeacon@beaconny.gov](mailto:cityofbeacon@beaconny.gov)  
[cwhite@beaconny.gov](mailto:cwhite@beaconny.gov)

Date: December 2, 2021

To: Christopher White, City Administrator

From: Joe and Jinny Donovan

Re: City of Beacon Community Facilities Grant Program

Dear Mr. White,

We are building owners on Main Street in the HDLO District. This letter is our application for funds from the City of Beacon Community Facilities Grant Program for 'Facade Improvements and Capital Improvements to historic structures.'

The buildings located at 142 Main Street and 150 Main Street both require a significant capital investment in new windows to maintain the long term integrity of the building. Both buildings are at highly visible locations and the installation of new windows will be a noticeable improvement to the appearance of the buildings from Main Street.

We are requesting \$50,000 towards the cost of the new windows, including:

\$30,000 is requested for 142 Main Street

20 windows (719 to 890. per window plus (approx) \$500 per installation)

Completed work has been estimated at \$37,294.

\$20,000 is requested for 150 Main Street

20 windows (776 per window plus (approx) \$500 per installation)

Completed work has been estimated at \$35,531.

If this proposal is in keeping with the guidelines of the City Council, we are happy to provide project estimates and accompanying details. We are grateful to be considered for the grant program.

Thank you,

Joe and Jinny Donovan

4 Cross Street

Beacon, NY 12508

646-284-3118

cc: Lee Kyriacou, Mayor and City Council

[mayor@beaconny.gov](mailto:mayor@beaconny.gov)

[cityofbeacon@beaconny.gov](mailto:cityofbeacon@beaconny.gov)

[cwhite@beaconny.gov](mailto:cwhite@beaconny.gov)

*Eye Zen, Inc.*



12 Wintergreen Avenue  
Newburgh, New York 12550  
914 299-0190  
howard@eyezeninc.com

10-30-2021

Hose Company LLC / Hudson Beach Glass  
162 Main St.  
Beacon, NY 12508

Attn: Michael Benzer & John Gilvey

**Estimate for work at the above address**

**North Elevation**

- |                                                                       |            |
|-----------------------------------------------------------------------|------------|
| - Labor to install owner supplied 1 <sup>st</sup> floor exterior door | \$850.00   |
| - Furnish & install 2 <sup>nd</sup> floor steel exterior door         | \$2,050.00 |

**East Elevation**

- |                                                                                                                                                              |            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| - Furnish and install 2 Weather Shield 3'-0" x 6'-8" exterior doors with mulled transoms to replace existing doors, including new interior and exterior trim | \$9,550.00 |
| - Repair and repoint masonry on 2 <sup>nd</sup> and 3 <sup>rd</sup> floor as required to mitigate damage from earthquake                                     | \$1,450.00 |
| - Labor and materials to install owner supplied sign                                                                                                         | \$550.00   |
| - Remove and replace failed 7/8" thick tempered insulated glass to replace existing panel that has a failed seal                                             | \$1,350.00 |

**South Elevation**

- |                                                                                                                  |            |
|------------------------------------------------------------------------------------------------------------------|------------|
| - Labor and materials to install owner supplied sign                                                             | \$550.00   |
| - Furnish and install new gutter above garage door                                                               | \$575.00   |
| - Remove and replace failed 7/8" thick tempered insulated glass to replace existing panel that has a failed seal | \$850.00   |
| - Remove sidewalk steel basement access doors, repair brick and masonry at stairs and reinstall steel doors      | \$1,950.00 |

**West Elevation**

- |                                                      |          |
|------------------------------------------------------|----------|
| - Labor and materials to install owner supplied sign | \$550.00 |
|------------------------------------------------------|----------|

**Notes**

- Building owner is responsible for furnishing materials as specified above.
- Building owner is responsible for any building permits and/or approvals from the City of Beacon

Note: Requested Total- \$20,275

Date: November 15, 2021

To: Christopher White, City Administrator

From: Paul & Gina DiPaterio

Re: City of Beacon Community Facilities Grant Program

Christopher White, City Administrator 1 Municipal Plaza Beacon, NY 12508

Dear Mr. White,

We are building owners on Main Street in the Historic District. This letter of intent is our application to apply for funds from the City of Beacon Community Facilities Grant Program. We have three beautiful store fronts that require capital façade improvements. Our building 478-82 Main Street which we acquired in 2018 needs painting and new windows. We are so happy to be included in this grant and very much appreciate every possible consideration.

Based on preliminary estimates and our own research, we are requesting the following funds to address these costs:

- Painting: Complete job is estimated at \$9,000. See attached invoice.

(13 gallons of paint x \$50. + hydraulic lift rental \$1,500.00)

- Windows: Complete job is estimated at \$24,000

16 large windows all 3' x 6' which is a custom size. (\$1000 per window and (approx.) \$500 per installation

If this proposal is in keeping with the guidelines of the city council, we would be happy to work with the city to provide exact details and estimates. We understand that our preliminary costs may need to be adjusted and we would work with the city in order provide whatever additional specifics are necessary.

Thank you for your consideration.

Warm Regards,

*Gina DiPaterio Paul DiPaterio*

Paul & Gina DiPaterio

478 Main St. LLC 4 Chardonnay Rd. Cortlandt Manor, NY 10567

914-954-4303 914-954-6023

cc. Lee Kyriacou, Mayor and City Council

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