

City Manager..... (802) 334-5136  
City Clerk / Treasurer..... 334-2112  
Public Works..... 334-2124  
Zoning Adm. / Assessor..... 334-6992  
Recreation / Parks..... 334-6345  
Fax..... 334-5632



City of Newport  
222 Main Street  
Newport, Vermont 05855  
[www.newportvermont.org](http://www.newportvermont.org)

**Newport City Council Meeting**  
**Regular Meeting Agenda**  
**Monday, April 20, 2020, beginning at 6:30 p.m.**

**REMOTE MEETING**

**The Municipal Building is Closed as part of the Stay Home/Stay Safe Measures**

**In Order to Participate Remotely:**  
**Phone 1- (978) 990-5000 and enter PIN: 185354#**

**or**

**by Computer go to <https://freeconferencecall.com> and join the meeting by using id:  
**cityofnewportremote****

City Council: Paul Monette, Mayor  
Dan Ross, Council President  
Kevin Charboneau  
Melissa Pettersson  
John Wilson

Laura Dolgin, City Manager  
James D. Johnson, City Clerk/Treasurer

1. Call the Regular Council Meeting to Order
2. Approve Minutes of April 6, 2020
3. Comments by Members of the Public
4. Self Contained Breathing Apparatus (SCBA) Resolution to Lease, Vote
5. Annual Adoption of Local Emergency Response Plan, Fire Chief John Harlamert, Vote
6. Executive session under 1 V.S.A. § 313(a)(2) (Real Estate),
7. Conveyance of Property for Eastside Water Tower Location, Vote
8. New Business
9. Old Business
10. Set next meeting: next Regularly Scheduled Council Meeting: May 4, 2020 @ 6:30pm
11. Adjourn

Non-confidential Materials Pertaining to this Agenda are Available for Viewing & Download on the City's Website at <https://www.newportvermont.org/> Commencing at 9:00 a.m., the Morning of the Meeting.

## Newport City Council Meeting Participation Guidelines

Newport City Council meetings are for the purpose of allowing Council members to conduct City business. Distinct from public hearings or town meetings, City Council meetings are held in public, but are not meetings of the public. City Council meetings are the only time the City Council members have to discuss, deliberate and decide upon City matters. In an effort to conduct orderly and efficient meetings, the Mayor kindly requests your cooperation and compliance with the following guidelines per the policy adopted on December 21, 2015 and ratified on January 23, 2017, April 1, 2019, and again on March 16, 2020.

1. Please be respectful of each other, Council members, city staff, and the public.
2. Please raise your hand to be recognized by the Mayor. Once recognized, please state your name and address or affiliation.
3. Please address only the Mayor and not members of the public, staff, or presenters.
4. Please abide by any time limits. Time limits will be used to ensure everyone is heard and that there is sufficient time for the Council to complete their agenda within a reasonable timeframe.
5. The Mayor will make a reasonable effort to allow everyone to speak once before speakers address the Council a second time per the limits adopted on March 16, 2020.
6. Once public comment has been heard, discussion will be limited to the City Council members.
7. Please do not interrupt or mock other speakers or otherwise exhibit disruptive behavior during the City Council meeting.
8. Please do not repeat the points made by others, except to indicate agreement or disagreement with other views.
9. Please use the hallway for side conversation. It is difficult to hear speaker remarks when side conversations are occurring in the Council Chamber.
10. Presentations to the Council are not open to public comment. However, per the policy adopted on December 21, 2015, matters on the agenda requiring a vote are open to public comment immediately prior to the Council vote.
11. Individuals who do not abide by these procedures will be asked to leave the Council Chamber.

DRAFT

## Council Minutes

April 6, 2020

A duly warned meeting of the Newport City Council was held on Monday, April 6, 2020. The meeting was held by conference call. Attending the meeting remotely were Mayor Paul Monette, Council President Daniel Ross, Council Members Melissa Pettersson, Kevin Charboneau and John Wilson, City Manager Laura Dolgin, City Clerk/Treasurer James Johnson, PW Director Thomas Bernier, Acting Police Chief LT. Travis Bingham, Recreation Director Jessica Booth, Zoning Administrator Charles Elliott, Fire Chief John Harlamert, Rebecca Therrien, Michael Welch, members of the Press and Public.

Mayor Monette read a statement regarding COVID-19 and tonight's meeting (attached)

Mayor Monette called the meeting to order at 6:36 PM and took a roll call of council members present.

### **Approval of Minutes**

Mr. Ross moved to approve the minutes of March 16, 2020. Seconded by Mr. Wilson, motion carried unanimously.

Mr. Charboneau moved to approve the minutes of March 18, 2020. Seconded by Mr. Wilson, motion carried unanimously.

### **Comments by the Public**

Robin Smith asked if the council would be discussing employee working conditions.

Anne Chiarello asked if the City was coordinating food security and if the Niles Fund was available to the public.

Judy Szych asked why the Farmer's Market wasn't on the agenda.

### **Planning Commission Appointments**

Mr. Charboneau moved to appoint Denis Chenette and Christopher Vachon to the Planning Commission. Seconded by Mr. Wilson.

Mr. Wilson asked what the term lengths were. Mr. Johnson felt the lengths of term should be part of the motion.

Mr. Wilson withdrew the second and Mr. Charboneau withdrew the motion.

Mr. Charboneau moved to appoint Denis Chenette to the Planning commission until March 2022 and Christopher Vachon to the Commission until March 2021. Seconded by Mr. Wilson, motion carried unanimously.

**911 Update, Street Renaming.** (attached)

Mr. Ross moved to change the street names per the memo from Mr. Elliott dated April 6, 2020. Seconded by Mr. Charboneau, motion carried unanimously.

**USDA Community Facilities Grant Request** (attached)

Mr. Ross moved to approve the request for a \$150,000 USDA Community Facilities Grant for the Waterfront Plaza/US Rte. 5/Gardner Park Intersection. Seconded by Mr. Charboneau, motion carried unanimously.

Mr. Charboneau moved to authorize the Mayor to sign the Resolution for the council members and initial each signature. Seconded by Mr. Ross, motion carried unanimously.

**USDA Community Facilities Grant Request** (attached)

Mr. Charboneau moved to approve the request for a \$16,500 USDA Community Facilities Grant for Fire Dept. Radios. Seconded by Mr. Wilson, motion carried unanimously.

**EPA Targeted Brownfields Assessment Application** (attached)

Mr. Wilson moved to proceed with the \$40,000 Targeted Brownfields Assessment Application. Seconded by Mr. Charboneau, motion carried unanimously.

**Executive Session Under 1 VSA sec 313(a)(2)**

None

**Conveyance of Property for Prouty Beach Connector Project**

Mr. Charboneau moved to approve the request by Vermont Land Trust. Seconded by Mr. Wilson.

Ms. Dolgin suggested a more detailed motion from the City Attorney.

Mr. Wilson withdrew the second, Mr. Charboneau withdrew the motion.

Mr. Charboneau then moved to approve the posting and publication of the notice of sale of Municipal Real Estate for the City's conveyance to Vermont Land Trust, Inc. of (1) permanent easements for the construction, operation, maintenance, repair and replacement of a concrete bridge abutment, bridge and wooden boardwalk pathway on the City's Prouty Beach property, and (2) a temporary construction easement for the construction of a sidewalk along the southerly side of Bluff Road connecting a recreation path to be constructed on Vermont Land Trust's Bluffside Farm property to the crosswalk westerly of the intersection of Bluff Road and Prouty Drive, and to authorize the Mayor to execute the Easement Deed and Temporary Construction Easement Deed conveying the aforesaid easements to Vermont Land Trust, Inc. if no petition is submitted objecting to said conveyance. Seconded by Mr. Wilson, motion carried unanimously.

### **Authorization to Sign Warrants**

Mr. Charboneau moved to authorize the Mayor or Mr. Ross to sign warrants. Seconded by Mr. Wilson, motion carried unanimously.

### **Gateway Rates & Fees (attached)**

Newport Natural LLC's lease at the Gateway expires April 30, 2020. To ensure continuity of service the Recreation Department will be taking over the Gateway operations as of May 1, 2020.

Mr. Ross moved to approve the Gateway rates and fees as presented. Seconded by Mr. Wilson, motion carried unanimously.

Mr. Charboneau moved to leave the Rotary Club at the \$30 per rental rate and to have Ms. Booth write up a MOU recognizing the difference from the standard rate. Seconded by Mr. Wilson, motion carried unanimously.

Mr. Charboneau moved to increase the rental rate for the Weight Watchers Club to \$75 per reservation effective July 1, 2020. Seconded by Mr. Wilson, motion carried unanimously.

### **Executive Session for Personnel**

Ms. Pettersson moved to enter executive session for personnel under 1 VSA sec. 313 (a)(3). Seconded by Mr. Charboneau, motion carried unanimously.

In open session, Mr. Charboneau moved to postpone the appointment of the Chief of Police indefinitely. Seconded by Mr. Wilson, motion carried unanimously.

DRAFT

**New Business**

Mayor Monette thanked the Health Care workers and the Grocery Store workers for doing their jobs during the COVID-19 Pandemic.

Mr. Wilson asked about changing the Property Tax due date. Ms. Dolgin said the legislature may be working on it. Mr. Johnson stated that the due dates are set by the voters at an Annual Meeting.

**Old Business**

None

**Next Meeting Date**

April 20, 2020

**Adjournment**

Mr. Charboneau moved to adjourn at 8:15 PM. Seconded by Mr. Wilson, motion carried unanimously.

Attested \_\_\_\_\_ This \_\_\_\_\_ Day of April 2020

\_\_\_\_\_  
Mayor

## Remote Public Meeting Script for Opening a Meeting

As Mayor and Chair of the Newport City Council, I find that, due to the State of Emergency declared by Governor Scott as a result of the COVID-19 pandemic and pursuant to Addendum 6 to Executive Order 01-20 and Act 92, this public body is authorized to meet electronically.

In accordance with Act 92, there is no physical location to observe and listen contemporaneously to this meeting. However, in accordance with the temporary amendments to the Open Meeting Law, I confirm that we are:

- a) Providing public access to the meeting by telephone, computer and smartphone applications. We are using Free Conference Call for this remote meeting.<sup>1</sup> All members of the City Council have the ability to communicate contemporaneously during this meeting through this platform and the public has access to contemporaneously listen to and participate via this platform.
- b) Providing public notice of instructions for accessing the meeting. We previously gave notice to the public of the necessary information for accessing this meeting, including how to access the meeting using telephone, computer and smartphone applications in our posted meeting agenda. Instructions have also been provided on the city website at: <https://www.newportvermont.org>.
- c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access. If anybody has a problem, please call 802.334.5136; and
- d) Continuing the meeting if necessary. In the event the public is unable to access this meeting, it will be continued to a time and place certain.

Please note that all votes taken during this meeting that are not unanimous will be done by roll call vote, in accordance with the law.

Let's start the meeting by taking a roll call attendance of all members participating in the meeting.

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<sup>1</sup> Many public bodies are using video teleconferencing technology, such as GoToMeeting, to ensure the remote meeting complies with the Open Meeting law. If you have any questions about the appropriateness of the technology you are using to conduct your meeting, please consult VLCT's Municipal Assistance Center (MAC) at 1-800-649-7915 or [info@vlct.org](mailto:info@vlct.org).

Memo

April 2, 2020

To: Newport City Council

Fr: Charles Elliott, Zoning Administrator

A handwritten signature in black ink, appearing to read 'C. Elliott', is written over the text 'Fr: Charles Elliott, Zoning Administrator'.

Re: Planning Commission Member Vacancies

At the Planning Commission meeting on March 24, 2020 the Commission interviewed applicants for the two vacancies on the Planning Commission and Historic Preservation Commission. The commission voted to recommend Dennis Chenette and Christopher Vachon to be appointed to membership on the Planning Commission and Historic Preservation Commissions. One appointment should expire in 2021 and the other in 2022. This fills the vacancies left by Ruth and Woody.

## MEMO

April 6, 2020 – City Council Meeting

To: Newport City Council

Fr: Charles Elliott, Zoning Administrator

Re: Road name changes and 9-1-1 renumbering for sections of Paddock Lane and Camp Elizabeth Way

Conclusion of project initiated in August 2019, see attached "Council Minutes, August 19, 2019, pages 1 and 2, reference "911 Update" on top of page 2.

This project was initiated last August as a result of complaints, from property owners living on the roads, of 9-1-1 responders (ambulances) becoming confused and going to the wrong places. This has occurred at least once on each road when responders were called for heart attack victims. Both roads were originally created as loop roads with an entrance on each end. Over time, for different reasons, both roads became blocked in the middle. Paddock Lane was blocked by terrain and wet land issues making the road impassable at that point. This resulted in two dead end roads with separate entrances but with the same name. Camp Elizabeth Way was blocked during the winter months as the road was not plowed all the way through.

Since August, I have been in contact with the property owners, primarily by email. The landowners are seasonal and live outside Vermont except two on Camp Elizabeth Way. We have not only discussed the problems with emergency responder access, potential problems with fire protection and fire engine access were also discussed. Former Fire Chief Jamie LaClair became involved and visited the sites with me. The one issue that Jamie insisted remain is that the Camp Elizabeth Way loop feature must remain to allow one way in-one way out access for fire equipment. He did not see any problem with renaming part of the road, if the continuous uninterrupted loop was maintained. As discussed later, this was agreed to and the loop will be maintained.

Paddock Lane: See attached Map showing final resolution.

Paddock Lane was created as a loop with primary access off Bluff Road and ending on Racetrack Road. The entrance from Bluff Road was retained as Paddock Lane and continues to serve the same three properties. The impassable section in the middle is being deleted from all property maps.

The Paddock Lane access from Racetrack Road serves five properties. The property owners agreed with the changes and were given, by me, the task of finding a new name for their road.

After many emails back and forth they did finally agree that "Lakeside Lane" was a fair compromise for a new name. The name was also reviewed by State 9-1-1 personnel who ran a comparison check, not only for Newport City but neighboring towns, to verify that there was no duplication in road names. They explained that our emergency responders serve more than one municipality and duplicate names can cause confusion. The road was also evaluated for fire truck access and determined that it is ok, there is room for trucks to turn around by properties 29 and 30 and the road is only approximately 300 feet in length.

Camp Elizabeth Way: See attached map showing final resolution.

Camp Elizabeth Way was created as a loop road through a summer camp area. The primary access was from Bigelow Bluff road and exited back on Bigelow Bluff Road a short distance later. This worked fine, except during the winter when the road was not plowed on the north end. This was complicated a bit by the relocation of a section of the road by an individual property owner. This was done without approval from the City prior to 2014. The original deleted section is shown on the map in yellow and the new section in green. A short spur road (Hayes Road) was built off from Camp Elizabeth Way to serve a few properties to the north.

The solution to solve the emergency responder issue was accomplished with three changes. The first was to accept the new relocated section on the north end as the new roadway. The second was to extend the spur road off Camp Elizabeth Way (Hayes Road) to Bigelow Bluff Road. The third change was to terminate Camp Elizabeth Way on the north end at the junction with Hayes Road. These three changes resulted in a single access to Camp Elizabeth Way from Bigelow Bluff Road, eliminating confusion for emergency responders. Second, the year-round residents live near the new primary access to Camp Elizabeth Way from Bigelow Bluff road, which means the road is always plowed in the winter eliminating seasonal issues. It also maintains the loop allowing one-way traffic in and out required by the fire department. This solution is also supported by the property owners affected.

This project has dragged on due to time constraints but primarily the time consumed to communicate with absent property owners to explain the problem, proposed solutions, address their concerns and gain their approval. Also, the fire department and emergency responders had issues to be addressed and with State 9-1-1 concerns and compliance with 9-1-1 system conventions.

Assuming approval by the City Council the changes will be implemented. For the City this will involve four new road signs, Lakeside Lane, Hayes Road, and two Camp Elizabeth Way.

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City of Newport  
 222 Main Street  
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 www.newportvermont.org

April 6, 2020

Rebecca Schrader  
 USDA-RD  
 Community Programs Specialist  
 481 Summer Street  
 St. Johnsbury, VT 05819

RE: City of Newport – Letter of Commitment – Local Match  
 USDA-RD Community Facility Grant Program  
 Waterfront Plaza/USRTE5/Gardner Park Rd Intersection Improvements

Dear Ms. Schrader,

On behalf of the City of Newport, VT, I would like to affirm the City's financial commitment to the Intersection Improvements proposed for the Waterfront Plaza/USRTE5/Gardner Park Road Intersection in Newport, VT.

The total estimated project cost:	\$613,500
Northern Border Regional Commission Grant Award	\$250,000 (41%)
USDA Community Facility Grant Request	\$150,000 (24.5%)
Newport In-Kind Equipment/Labor	\$ 35,000 ( 5.5%)
Newport Cash DPW Operating & Reserve	<u>\$178,500</u> (29%)

USDA-CF Grant Funds = 24.5%; Remaining Match all Sources = 75.5%

The City of Newport, VT commits to Local Cash Match (\$178,500) and In-Kind Match (\$35,000) toward the completion of this project, by vote of the City Council at their April 6, 2020 meeting. The source of Local Cash Match is the Department of Public Works operating budget, and reserve funds designated for public works improvements.

Respectfully submitted,

Laura F. Dolgin  
 Newport City Manager

ld

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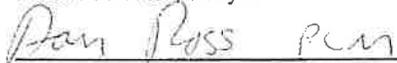
City of Newport  
 222 Main Street  
 Newport, Vermont 05855  
[www.newportvermont.org](http://www.newportvermont.org)

RESOLUTION

The Newport City Council, at their meeting held on Monday, April 6, 2020 by a majority vote of the council members authorized City Manager, Laura Dolgin, to submit and sign any and all forms relevant to the submission and award of a \$150,000 USDA Community Facilities grant application for upgrades to the intersection at Waterfront Plaza/US Route 5/Gardner Park Road. Improvements to include: replacement of traffic signals, intersection realignment, pedestrian improvements, and conduit for linking of traffic control signals at the I-91 Access Road, and at East Main Street/Union Street. The total estimated project cost is \$613,500. The City has been awarded a \$250,000 Northern Border Regional Commission Grant. The remaining local match of \$213,500 will come from the Department of Public Works Operating Budget, in-kind match of labor/equipment and Committed funds allocated for highway improvements.

Newport City Council  


Paul Monette, Mayor

 PCM

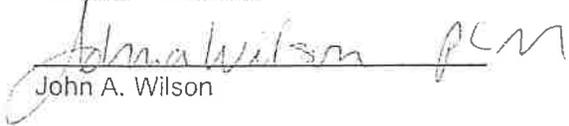
Dan Ross, Council President

 PCM

Kevin Charboneau

 PCM

Melissa Pettersson

 PCM

John A. Wilson

Dated Monday, April 6, 2020

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City of Newport  
 222 Main Street  
 Newport, Vermont 05855



## CERTIFIED RESOLUTION

The undersigned, James D. Johnson, City Clerk/Treasurer of the City of Newport, Vermont, hereby certifies as follows:

That at a meeting of the Newport City Council, duly warned and held on the 6<sup>th</sup> day of April, 2020, with a quorum present at all times, the following resolution was adopted by the affirmative vote of a majority of said City Councilors; and that said resolution has not been rescinded or amended in any way.

**RESOLVED:** The Newport City Council, at their meeting held on Monday, April 6, 2020 by a majority vote of the council members authorized City Manager, Laura Dolgin, to submit and sign any and all forms relevant to the submission and award of a \$150,000 USDA Community Facilities grant application for upgrades to the intersection at Waterfront Plaza/US Route 5/Gardner Park Road. Improvements to include: replacement of traffic signals, intersection realignment, pedestrian improvements, and conduit for linking of traffic control signals at the I-91 Access Road, and at East Main Street/Union Street. The total estimated project cost is \$613,500. The City has been awarded a \$250,000 Northern Border Regional Commission Grant. The remaining local match of \$213,500 will come from the Department of Public Works Operating Budget, in-kind match of labor/equipment and reserve funds allocated for highway improvements.

Dated at Newport, Vermont this 6th day of April, 2020.

City of Newport, Vermont

By: James D. Johnson  
 James D. Johnson  
 City Clerk/Treasurer

City Manager..... (802) 334-5136  
City Clerk / Treasurer..... 334-2112  
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City of Newport  
222 Main Street  
Newport, Vermont 05855  
www.newportvermont.org

April 6, 2020

Rebecca Schrader  
USDA-RD  
Community Programs Specialist  
481 Summer Street  
St. Johnsbury, VT 05819

RE: City of Newport – Letter of Commitment – Local Match  
USDA-RD Community Facility Grant Program  
Newport Fire Department – Portable Radios & Mobile Repeaters

Dear Ms. Schrader,

On behalf of the City of Newport, VT, I would like to affirm the City's financial commitment for Newport City Fire Department purchase of Portable Radios and Mobile Repeaters.

The total estimated project cost:	\$30,000
USDA Community Facility Grant Request	\$16,500 (55%)
Newport Cash Fire Dept. Operating & Reserve	<u>\$13,500</u> (45%)

The City of Newport, VT committed to a local cash match of \$13,500.00 to meet the total costs of \$30,000, by the vote of authorization of the City Council at their April 6, 2020 meeting. The source of the local cash match is the Fire Department Operating Budget, and the Committed Funds designated for grant match.

Respectfully submitted,

Laura F. Dolgin  
Newport City Manager

ld

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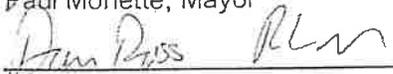
RESOLUTION

The Newport City Council, at their meeting held on Monday, April 6, 2020 by a majority vote of the council members authorized City Manager, Laura Dolgin, to submit and sign any and all forms relevant to the submission and award of up to \$16,500 from a USDA Community Facilities grant application for upgrades to the Fire Department portable radios and vehicle repeaters total estimated project cost of \$30,000. The required \$13,500 match will come from the Fire Department Operating Budget and the Committed Funds allocated for the Fire Department grant match.

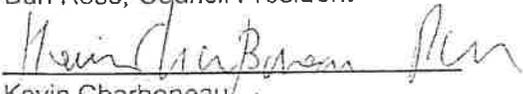
Newport City Council

  
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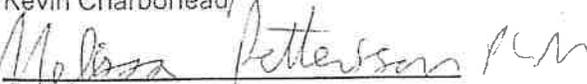
Paul Monette, Mayor

  
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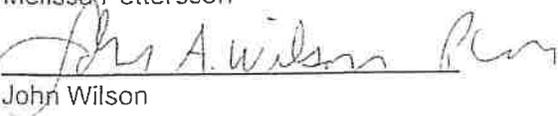
Dan Ross, Council President

  
 \_\_\_\_\_

Kevin Charboneau

  
 \_\_\_\_\_

Melissa Pettersson

  
 \_\_\_\_\_

John Wilson

Dated Monday, April 6, 2020

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## CERTIFIED RESOLUTION

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That at a meeting of the Newport City Council, duly warned and held on the 6<sup>th</sup> day of April, 2020, with a quorum present at all times, the following resolution was adopted by the affirmative vote of a majority of said City Councilors; and that said resolution has not been rescinded or amended in any way.

**RESOLVED:** The Newport City Council, at their meeting held on Monday, April 6, 2020 by a majority vote of the council members authorized City Manager, Laura Dolgin, to submit and sign any and all forms relevant to the submission and award of up to \$16,500 from a USDA Community Facilities grant application for upgrades to the Fire Department portable radios and vehicle repeaters total estimated project cost of \$30,000. The required \$13,500 match will come from the Fire Department Operating Budget and reserve funds allocated for Fire Department grant match.

Dated at Newport, Vermont this 6th day of April, 2020.

City of Newport, Vermont

By: James D. Johnson  
James D. Johnson  
City Clerk/Treasurer

# MEMO

**To:** Newport City Council  
Paul Monette, Mayor  
Laura Dolgin, City Manager

**From:** Jessica Booth, Parks & Recreation Director 

**Date:** April 3, 2020

**Re:** Gardner Memorial Park Environmental Study Update/ EPA Brownfields Targeted Assessment Application

The Gardner Memorial Park Playground and Splashpad Project is progressing into the permitting and design phase, which includes a thorough Environmental Site Assessment. Given the less glamorous historic land use of the property as a landfill, we expected that some environmental challenges would arise as the project moves closer to implementation. While the property has been active with recreation use for decades, acknowledging the past and being proactive to eliminate possible health risk is necessary to future users of the space when work is complete. Better understanding of soil contaminants may add complexity in the short-term, but also represents an opportunity to learn more about environmental conditions at our park and how we can improve this important community asset for the enjoyment of future generations.

The first step was a Phase I Environmental Site Assessment conducted by Stantec Consulting Services completed in September 2019. Their report concluded that the undocumented fill materials used to develop the Park in the 1930's and the potential dumping that occurred there prior, were environmental issues of concern. Stantec also suggested that the WasteWater Treatment Plant and Newport Car Wash were also areas of concern due to the potential presence of hazardous substances generated at these off-site facilities, and their ability to impact groundwater at the Park.

These findings prompted a limited Phase II Environmental Site Assessment which included field work to assess soil and water quality near the playground and skate shack. Results from samples taken in eight locations indicated the presence of the following:

- elevated arsenic concentrations in shallow soil (0-1 feet) at most sampled locations in the playground area
- elevated lead in soil at a depth of 8-9 feet at one sampled location in the playground
- elevated concentrations of arsenic at all four groundwater test locations
- elevated levels of naphthalene (a typical component of petroleum) at three of the four groundwater test locations
- elevated PFAS at one groundwater location

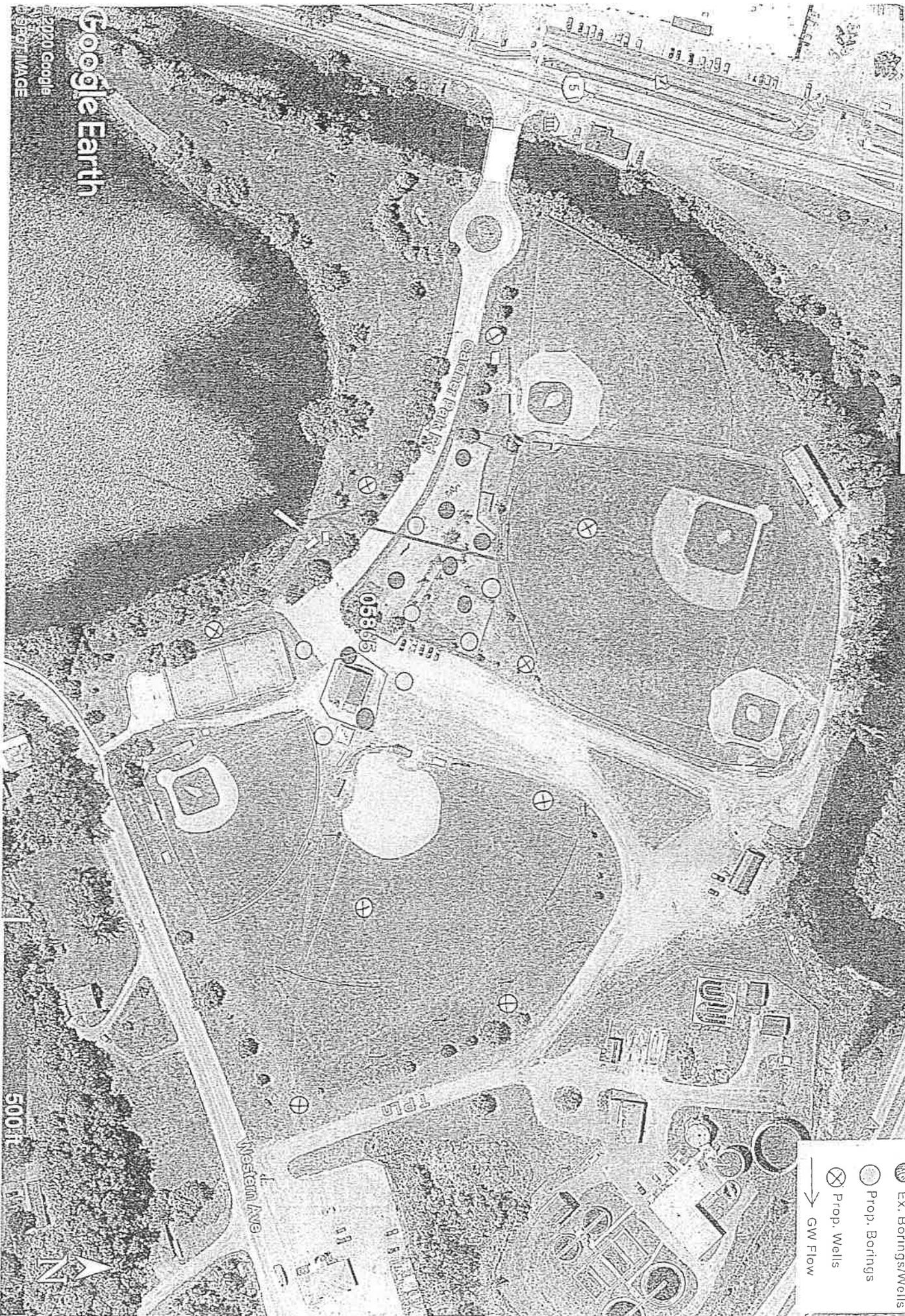
The report confirmed that possible sources of these contaminants included the previously placed fill at the site (metals, naphthalene, etc.) and the nearby Newport Wastewater Treatment Plant and the Newport Car Wash. Because the full extent of the soil and groundwater impacts could not be defined through initial testing, additional soil and groundwater sampling in other areas of the Park is now required before appropriate pre-construction mitigation measures can be evaluated.

The next step in the testing process will be to conduct a Supplemental Phase II Environmental Site Assessment that includes seven additional soil and nine additional water testing sites around the playground and surrounding ballfields. A \$50,000 cost estimate for the work has been provided by Stantec which includes field testing and proposed remediation recommendations that will be required as part of a Corrective Action Plan for the State of Vermont.

The additional testing represents an unanticipated project expense. NVDA has helped us identify two potential funding opportunities; the VT DEC's Brownfields Response Program and the EPA Brownfields Targeted Assessment Grant. There are no matching funds required for the EPA grant. At this time, we are requesting authorization to proceed with the Brownfields Targeted Assessment Grant Application. If awarded, assessment work could be underway in June, barring no COVID-19 surprises.

# Gardiner Memorial Park

## Proposed Supp Phll ESA Borings and Wells



- Legend**
- Ex. Borings/Wells
  - Prop. Borings
  - ⊗ Prop. Wells
  - GW Flow

Google Earth

© 2020 Google  
Aerial Image

500 ft



# MEMO

To: Newport City Council  
Paul Monette, Mayor  
Laura Dolgin, City Manager, James Johnson, City Clerk/Treasurer

From: Jessica Booth, Parks & Recreation Director

Date: April 1, 2020

Re: 2020 Rates Addendum - Gateway Center



Newport Natural LLC's five year lease at the Gateway Center expires on April 31st. To ensure continuity of service for the community, Parks & Recreation will resume duties to handle the reservation and maintenance of the facility beginning May 1. The following rates are recommend:

## Wedding & Events (60+ Guests)

\$400 - 1st Floor  
\$400 - 2nd Floor  
\$600 - Whole Building

## 4 Hours (includes set-up and break down) Meetings & Small Parties (60 Guests or less)

\$125 - 1st Floor  
\$125 - 2nd Floor  
\$200 - Whole Building

## Full Day Meetings & Small Parties (60 Guests or less)

\$200 - 1st Floor  
\$200 - 2nd Floor  
\$300 - Whole Building

Kitchen Use - \$100

Dance Floor - \$100

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## RECURRING RESERVATIONS

**Weight Watchers** - The Newport WW club meets every Thursday from 4-8PM at the Gateway Center. They are currently paying \$67 per reservation, which has remained the same for over five years. If the above rates are adopted, their fee would increase to \$75 per reservation after applying the standard 40% bulk discount for 25 bookings or more.

**The Rotary Club of Newport** - Rotary occupies the Gateway Center on Tuesday afternoons from 10AM-2PM for weekly meetings. They are currently paying \$1,500 per year, which breaks down to about \$30 per rental. Actual expenses for staff time to set up and break down equates to approximately \$50 per week. The Rotary Club has made contributions to the Gateway facility in the past, including a much appreciated donation to fund the elevator back in the late 1990's. To recognize the contribution, the Council may decide to keep the \$30 rate, or increase fees to cover some or all the cost for staff time. Whatever the Council decides, it would be helpful to have a separate MOU recognizing a difference from the standard rates and fees schedule.

**Memphremagog Community Maritime (MCM)** - We are reviewing a request from MCM to rent the second floor of the Gateway building for the entire 2020 season, and will follow up with the Council at a later meeting.

RESOLUTION – LEASE FINANCING

RESOLVED that the City Council (“Council”) of the City of Newport (“City”), in its regular meeting held April 20, 2020, which meeting was duly warned and noticed and at which a quorum of the Councilors was present and voting, determines that it is in the public interest that certain equipment, i.e., twenty-one SCBAs, forty-two cylinders and twelve voice amplifiers (the “Equipment”), be obtained by the City’s Fire Department to better protect and serve the residents and businesses in the City;

BE IT FURTHER RESOLVED that public interest and necessity demand that the Equipment be immediately available to the City but that the cost of the Equipment, \$155,727, is too great an expense to be paid from the City’s present cash flow and operations;

BE IT FURTHER RESOLVED that to avoid borrowing money to acquire the Equipment, the City’s interests and public good and necessity will be served by the City leasing the Equipment and reserving to itself the right to terminate the lease (without penalty) if funds are not appropriated to meet the lease payments in future years;

BE IT FURTHER RESOLVED that at said meeting the Council was provided a copy of the Master Equipment Lease Purchase Agreement and Exhibits A, B and D, a Bank Qualified Certification, a Notice of Assignment, an Escrow Agreement and Exhibit A thereto, a Tax Compliance certificate, and IRS Form 8038 (collectively, the “Lease Documents”) all of which were prepared by Community First National Bank (the “Bank”), as Lessor, and that it reviewed the same;

BE IT FURTHER RESOLVED that the Council adopts, confirms and approves the Lease Documents and authorizes the execution of the Lease Documents by the respective City officials designated in the particular document(s) as necessary signors, and further authorizes the delivery of the executed Lease Documents all in the form as presented to the Council at its meeting on April 20, 2020; and

BE IT FURTHER RESOLVED, that the Council approves the leasing of the Equipment on the terms stated above and authorizes the ordering of the Equipment for soonest delivery.

Duly Adopted this \_\_\_\_ day of April 2020.

ATTEST:

\_\_\_\_\_  
City Clerk/Treasurer



215 S. Seth Child Road  
Manhattan, KS 66502  
Phone: 888.777.7850  
Fax: 888.777.7875  
[www.clpusa.net](http://www.clpusa.net)

April 10, 2020

James Johnson  
City of Newport  
222 Main Street  
Newport, VT 05855

**RE: Financing for Twenty-One (21) SCBAs, Forty-Two (42) Cylinders, & Twelve (12) Voice Amplifiers**

Dear James,

Thank you for the opportunity to work with City of Newport on your financing project!

This package includes the documentation with instructions to complete financing of the equipment.

Community First National Bank is listed as Lessor to this Agreement. Community Leasing Partners is a division of Community First National Bank and is the exclusive marketing, origination and placement agent for the bank.

Please return all documents with original signatures by 4/13/2020 to avoid any potential change in the payments or interest rate.

**This Agreement requires three different signers from the City of Newport and an attorney's opinion letter.**

Signer 1 - Laura Dolgin, City Manager  
Signer 2 - Rebecca Therrien, Program Administrator  
Signer 3 - James Johnson, City Clerk/Treasurer

Upon receipt of all listed documents; delivery of the equipment and your approval of the equipment invoice; we will remit payment to the vendor. This transaction is subject to acceptance of the documentation and final review and approval by the Lessor.

If you have any questions regarding the documentation, please feel free to contact me at 888.777.7850.

Respectfully,

*Wanida*

Wanida Nondorf  
Documentation Associate

# Documentation Instructions

- ◇ **MASTER EQUIPMENT LEASE PURCHASE AGREEMENT**
  - Laura Dolgin -sign where indicated
- ◇ **Exhibit A – SCHEDULE OF EQUIPMENT**
  - Laura Dolgin -sign where indicated
- ◇ **Attachment 1 – EQUIPMENT DESCRIPTION**
  - Provide physical location where the equipment will be kept after delivery/installation
- ◇ **Attachment 2 –PAYMENT SCHEDULE**
  - Laura Dolgin -sign where indicated
- ◇ **Exhibit B – LESSEE RESOLUTION**
  - Print the date the Resolution is being signed
  - Print the date of the meeting in which the financing was approved
  - Laura Dolgin -sign as “Authorized Signer”
  - Complete the lessee’s fiscal year start and end months
  - Rebecca Therrien -attest the Resolution as “Attested By”
  - James Johnson -sign and print name as “Certified By”
- ◇ **Exhibit C - OPINION OF COUNSEL**
  - Request your legal counsel provide an Opinion of Counsel using the example provided; retyped on his/her letterhead with their signature (*If counsel would like changes, he/she must first contact CLP*)
- ◇ **Exhibit D - ACCEPTANCE CERTIFICATE**
  - Laura Dolgin -sign and date where indicated
- ◇ **BANK QUALIFIED CERTIFICATE**
  - Laura Dolgin -sign where indicated
- ◇ **INSURANCE COVERAGE REQUIRMENTS**
  - Provide Agent’s contact information
  - Laura Dolgin -sign where indicated
- ◇ **INVOICE INSTRUCTIONS**
  - Complete contact information for payment billing invoices
- ◇ **NOTICE OF ASSIGNMENT**
  - Laura Dolgin -sign where indicated
- ◇ **ESCROW AGREEMENT**
  - Laura Dolgin- sign where indicated
- ◇ **Exhibit A- PAYMENT REQUEST FORM/ SIGNATURE CARD**
  - Laura Dolgin- sign where indicated
- ◇ **TAX COMPLIANCE WITH NO ARBITRAGE**
  - Laura Dolgin- sign and date where indicated
- ◇ **8038 - IRS Form**
  - Verify employer identification number in Box 2
  - Complete Boxes 10a & 10b
  - Laura Dolgin -sign and date where indicated under “Signature and Consent”
- ◇ **ADDITIONAL DOCUMENTATION NEEDED PRIOR TO VENDOR PAYMENT (at delivery):**
  - Certificate of Insurance from your insurance provider
  - Serial numbers

## Conditions to Funding

*If, for any reason: (i) the required documentation is not returned by 4/13/2020, or has unresolved issues relating thereto, or (ii) on, or prior to the return of the documentation, there is a change of circumstances which adversely affects the expectations, rights or security of the Lessor or its assignees; then Lessor or its assignees reserves the right to adjust the quoted interest rate or withdraw/void its offer to fund this transaction in its entirety.*

*This contract is being issued based upon review of credit and financial materials provided by lessee that resulted in a credit approval decision. CLP is committed to working with the lessee on this transaction throughout the entire process. Failure to complete the lease in its entirety may result in a \$500 documentation fee being charged. This fee is for credit analysis, drafting of the contract, overnight services and expenses incurred in processing this agreement.*

# MASTER EQUIPMENT LEASE PURCHASE AGREEMENT

LESSEE: City of Newport

This Master Equipment Lease Purchase Agreement, including all exhibits and schedules hereto whether currently in existence or hereafter executed (the "Agreement"), dated as of 3/23/2020, and entered into between Community First National Bank 215 S. Seth Child Road, Manhattan, KS 66502 ("Lessor"), and City of Newport, 222 Main Street, Newport, VT 05855 a body corporate and politic duly organized and existing under the laws of the State of Vermont ("Lessee");

## RECITALS

WHEREAS, Lessee desires to lease from Lessor certain equipment described in the schedules to this Agreement, substantially in the form of Exhibit A hereto, that are executed from time to time by the parties hereto (such schedules are hereby incorporated herein and are hereinafter collectively referred to as the "Schedules", and the items of equipment leased to Lessee hereunder, together with all substitutions, proceeds, replacement parts, repairs, additions, attachments, accessories and replacements thereto, thereof or therefore, are hereinafter collectively referred to as the "Equipment") subject to the terms and conditions of and for the purposes set forth in this Agreement.

WHEREAS, the relationship between the parties shall be a continuing one and items of equipment may be added to or deleted from the Equipment from time to time by execution of additional Schedules by the parties hereto and as otherwise provided herein.

WHEREAS, Lessee is authorized under the constitution and laws of the State to enter into this Agreement for the purposes set forth herein.

NOW, THEREFORE, for and in consideration of the premises hereinafter contained, the parties hereby agree as follows:

## ARTICLE I. REPRESENTATIONS, WARRANTIES AND COVENANTS OF LESSEE

### Section 1.01. Lessee represents, covenants and warrants, for the benefit of Lessor and its assignees, as follows:

- (a) Lessee is a public body, corporate and politic, duly organized and existing under the Constitution and laws of the State.
- (b) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a body corporate and politic. Lessee is a political subdivision of the State within the meaning of Section 103(a) of the Code or a constituted authority authorized to issue obligations on behalf of a state or local governmental unit within the meaning of the regulations promulgated pursuant to said Section of the Code.
- (c) Lessee has full power and authority under the Constitution and laws of the State to enter into this Agreement and the transactions contemplated hereby, and to perform all of its obligations hereunder.
- (d) Lessee has duly authorized the execution and delivery of this Agreement by proper action by its governing body at a meeting duly called, regularly convened and attended throughout by the requisite majority of the members thereof, or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the enforceability of this Agreement.
- (e) Lessee has complied or will comply with such public bidding requirements as may be applicable to this Agreement and the acquisition by Lessee of the Equipment.
- (f) During the Lease Term, the Equipment will be used by Lessee only for the purpose of performing one or more essential governmental or proprietary functions of Lessee consistent with the permissible scope of Lessee's authority and will not be used in a trade or business of any person or entity other than Lessee.
- (g) During the Lease Term, Lessee will annually provide Lessor with current financial statements, budgets, proof of appropriation for the ensuing fiscal year and such other financial information relating to the ability of Lessee to continue this Agreement as may be reasonably requested by Lessor.
- (h) The Equipment will have a useful life in the hands of Lessee that is substantially in excess of the Original Term and all Renewal Terms.
- (i) The Equipment is, and during the Lease Term will remain personal property and when subjected to use by the Lessee, will not be or become fixtures.
- (j) The Equipment is essential to the function of the Lessee and the services provided to its citizens, and will be used throughout the period that this Agreement is in force for the purpose of performing one or more governmental or proprietary functions consistent with the permissible scope of its authority.
- (k) During the term of this Agreement, Lessee will not dispose of or sell any part of the Equipment.
- (l) Lessee has not terminated a lease, rental agreement, installment purchase contract, or any other such agreement in the past five (5) years as a result of insufficient funds being appropriated for payments due under such an agreement.
- (m) To the best of the Lessee's knowledge and belief this Agreement constitutes the legal, valid and binding obligation of Lessee enforceable in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally.
- (n) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists at the date hereof.
- (o) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the relevant fiscal year to make the Rental Payments scheduled to come due during the 2020-21 fiscal year and to meet its other obligations under this Agreement for the 2020-21 fiscal year, and such funds have not been expended for other purposes.
- (p) To the best of the Lessee's knowledge and belief there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting Lessee, nor to the best knowledge of Lessee is there any basis therefore, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by this Agreement or any other document, agreement or certificate which is used or contemplated for use in the consummation of the transactions contemplated by this Agreement or materially adversely affect the financial condition or properties of Lessee.
- (q) All authorizations, consents and approvals of governmental bodies or agencies required in connection with the execution and delivery by Lessee of this Agreement or in connection with the carrying out by Lessee of its obligations hereunder have been obtained.
- (r) To the best of the Lessee's knowledge and belief the entering into and performance of this Agreement or any other document or agreement contemplated hereby to which Lessee is or is to be a party will not violate any judgment, order, law or regulation applicable to Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance on any assets of Lessee or the Equipment pursuant to any indenture, mortgage, deed of trust, bank loan or credit agreement or other instrument to which Lessee is a party or by which it or its assets may be bound, except as herein provided.

## ARTICLE II. DEFINITIONS

### Section 2.01. The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"Agreement" means this Master Equipment Lease Purchase Agreement, including the Schedules and any other schedule, exhibit or escrow agreement made a part hereof by the parties hereto, whether currently in existence or hereafter executed, as the same may be supplemented or amended from time to time in accordance with the terms hereof.

"Code" means the Internal Revenue Code of 1986, as amended, and the United States Treasury Regulations in effect thereunder.

"Commencement Date" means, with respect to any Schedule, the date when the Lease Term of this Agreement with respect to that Schedule and Lessee's obligation to pay rent under that Schedule commence, which date will be the earlier of (i) the date of the Agreement, or (ii) the date on which sufficient moneys to purchase the Equipment are deposited for that purpose with an Escrow Agent.

"Equipment" means the property described in the Schedules and all replacements, substitutions, repairs, restorations, modifications, attachments, accessions, additions and improvements thereof or thereto. Whenever reference is made in this Agreement to Equipment listed in a Schedule, that reference shall be deemed to include all replacements, repairs, restorations, modifications and improvements of or to that Equipment.

"Event of Default" means, with respect to any Lease, an Event of Default described in Section 10.01.

"Escrow Agreement" means, with respect to a given Schedule, an escrow agreement in form and substance satisfactory to Lessor, between Lessee, Lessor and an escrow agent relating to the acquisition fund created thereunder.

"Lease" means, at any time, (i) if none of Lessor's interest in, to and under any Schedule has been assigned pursuant to Section 9.01, or if all of Lessor's interest in, to and under this Agreement and all Schedules have been assigned to the same assignee without any reassignment, this Agreement, or (ii) if Lessor's interest in, to and under any Schedule or Schedules has been assigned or reassigned pursuant to Section 9.01, all Schedules that have the same Lessor and this Agreement as it relates to those Schedules and the Equipment listed therein, which shall constitute a separate single lease relating to that Equipment.

"Lease Term" means, with respect to any Lease, the Original Term and all Renewal Terms of that Lease.

"Lessee" means the entity which is described in the first paragraph of this Agreement, its successors and assigns.

"Lessor" means, with respect to each Schedule and the Lease of which that Schedule is a part, (i) if Lessor's interest in, to and under that Schedule has not been assigned pursuant to Section 9.01, the entity described as such in the first paragraph of this Agreement or its successor, or (ii) if Lessor's interest in, to and under that Schedule has been assigned pursuant to Section 9.01, the assignee thereof or its successor.

"Net Proceeds" means the amount remaining from the gross proceeds of any insurance claim or condemnation award after deducting all expenses (including attorneys' fees) incurred in the collection of such claim or award.

"Original Term" means, with respect to any Lease, the period from the first Commencement Date for any Schedule under that Lease until the end of the fiscal year of Lessee in effect at that Commencement Date.

"Purchase Option Price" means, with respect to the Equipment listed on any Schedule, the amount set forth in that Schedule as the Purchase Option Price for that Equipment.

"Renewal Terms" means, with respect to any Lease, the automatic renewal terms of that Lease, as provided for in Article III of this Agreement, each having a duration of one year and a term co-extensive with the Lessee's fiscal year except the last of such automatic renewal terms which shall end on the due date of the last Rental Payment set forth in the Schedule.

"Rental Payments" means the basic rental payments payable by Lessee pursuant to Section 4.02.

"State" means the state in which Lessee is located.

"Vendor" means the manufacturer of the Equipment as well as the agents or dealers of the manufacturer from whom Lessor purchased or is purchasing the Equipment.

### ARTICLE III. LEASE TERM

**Section 3.01. Lease of Equipment.** Lessor hereby demises, leases and lets to Lessee, and Lessee rents, leases and hires from Lessor, the Equipment listed in each Schedule in accordance with this Agreement and that Schedule for the Lease Term for the Lease of which that Schedule is a part. The Lease Term for each Lease may be continued at the end of the Original Term or any Renewal Term for an additional Renewal Term; provided, however, that at the end of the Original Term and at the end of each Renewal Term, Lessee shall be deemed to have continued that Lease for the next Renewal Term unless Lessee shall have terminated that Lease pursuant to Section 4.05 or Section 5.04. The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Original Term, except that the Rental Payments shall be as provided in the Schedules. Lessor hereby covenants to provide Lessee during the Lease Term with quiet use and enjoyment of the Equipment, and Lessee shall during the Lease Term peaceably and quietly have and hold and enjoy the Equipment, without suit, trouble or hindrance from Lessor, except as expressly set forth in this Agreement.

**Section 3.02. Continuation of Lease Term.** Lessee currently intends, subject to Section 4.05, to continue the Lease Term for each Lease through the Original Term and all of the Renewal Terms and to pay the Rental Payments hereunder. Lessee reasonably believes that legally available funds in an amount sufficient to make all Rental Payments during the Lease Term for each Lease can be obtained. The responsible financial officer of Lessee shall do all things lawfully within his or her power to obtain and maintain funds from which the Rental Payments may be made, including making provision for the Rental Payments to the extent necessary in each proposed annual budget submitted for approval in accordance with applicable procedures of Lessee and to exhaust all available reviews and appeals in the event such portion of the budget is not approved. Notwithstanding the foregoing, the decision whether or not to budget or appropriate funds or to extend a Lease for any Renewal Term is solely within the discretion of the then current governing body of Lessee.

**Section 3.03. Return of Equipment on Termination.** Upon expiration or earlier termination of any Schedule under any provision of this Agreement at a time when Lessee does not exercise its option to purchase the Equipment described in that Schedule under the provisions of this Agreement, Lessee shall deliver, at such place within the United States as Lessor shall specify within 500 mile radius of the Lessee, at Lessee's expense, the Equipment described in that Schedule to Lessor in the same condition as existed at the Commencement Date, ordinary wear and tear expected, packaged or otherwise prepared in a manner suitable by shipment by truck or rail common carrier at a location specified by Lessor.

**Section 3.04. Conditions to Lessor's Performance under Schedules.** As a prerequisite to the performance by Lessor of any of its obligations pursuant to the execution and delivery of any Schedule, Lessee shall deliver to Lessor the following:

- (a) A Lessee Resolution executed by the Clerk or Secretary or other comparable officer of Lessee, in substantially the form attached hereto as Exhibit B, completed to the satisfaction of Lessor;
- (b) An Opinion of Counsel to Lessee in substantially the form attached hereto as Exhibit C respecting such Schedule and otherwise satisfactory to Lessor;
- (c) All documents, including financing statements, affidavits, notices and similar instruments, in form satisfactory to Lessor, which Lessor deems necessary or appropriate at that time;
- (d) Such other items, if any, as are set forth in such Schedule or are reasonably required by Lessor.

This Agreement is not a commitment by Lessor to enter into any Schedule not currently in existence, and nothing in this Agreement shall be construed to impose any obligation upon Lessor to enter into any proposed Schedule, it being understood that whether Lessor enters into any proposed Schedule shall be a decision solely within Lessor's discretion.

Lessee will cooperate with Lessor in Lessor's review of any proposed Schedule. Without limiting the foregoing, Lessee will provide Lessor with any documentation or information Lessor may request in connection with Lessor's review of any proposed Schedule. Such documentation may include, without limitation, documentation concerning the Equipment and its contemplated use and location and documentation or information concerning the financial status of Lessee and other matters related to Lessee.

### ARTICLE IV. RENTAL PAYMENTS

**Section 4.01. Rental Payments to Constitute a Current Expense of Lessee.** Lessor and Lessee understand and intend that the obligation of Lessee to pay Rental Payments hereunder shall constitute a current expense of Lessee and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by Lessee, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or monies of Lessee.

**Section 4.02. Payment of Rental Payments.** Lessee shall pay Rental Payments, from any and all legally available funds, in lawful money of the United States of America, exclusively to Lessor or, in the event of assignment by Lessor, to its assignee, in the amounts and on the dates set forth in each Schedule. Rental Payments shall be in consideration for Lessee's use of the Equipment during the applicable year in which such payments are due. The Rental Payments will be payable without notice or demand at the office of Lessor (or such other place as Lessor may from time to time designate in writing). If any

Rental Payment or other sum payable under any Schedule is not paid when due, Lessee shall pay to Lessor accrued interest on such delinquent amount from the date due thereof until paid at the lesser of 18% or the maximum rate allowed by law. In the event that it is determined that any of the interest components of Rental Payments may not be excluded from gross income for purposes of federal income taxation, as a result of any event or action by Lessee, Lessee agrees to pay to Lessor promptly after any such determination and on the date of each Rental Payment thereafter an additional amount determined by Lessor to compensate Lessor for the loss of such excludability (including without limitation, compensation relating to interest expense, penalties or additions to tax), which determination shall be conclusive absent manifest error.

**Section 4.03. Interest and Principal Components.** A portion of each Rental Payment is paid as, and represents payment of, interest, and the balance of each Rental Payment is paid as, and represents payment of, principal. Each Schedule will set forth the interest component and the principal component of each Rental Payment during the Lease Term.

**Section 4.04. Rental Payments to be Unconditional.** The obligations of Lessee to make payment of the Rental Payments required under this Article IV and other sections hereof, and to perform and observe the covenants and agreements contained herein, shall be absolute and unconditional in all events, except as expressly provided under this Agreement. Notwithstanding any dispute between Lessee and Lessor, any Vendor or any other dispute between Lessee and Lessor, any Vendor or any other person, Lessee shall make all payments of Rental Payments when due and shall not withhold any Rental Payments pending final resolution of such dispute, nor shall Lessee assert any right of set-off or counterclaim against its obligation to make such payments required under this Agreement. Lessee's obligation to make Rental Payments during the Original Term or the then-current Renewal Term for each Schedule shall not be abated through accident or unforeseen circumstances.

**Section 4.05. Non appropriation.** Lessee is obligated only to pay such Rental Payments under this Agreement (and any additional amounts due hereunder, if applicable) as may lawfully be made from funds budgeted and appropriated for that purpose during Lessee's then current fiscal year. Should Lessee fail to budget, appropriate or otherwise make available funds to pay Rental Payments under a Lease following the then current Original Term or Renewal Term, that Lease shall be deemed terminated at the end of the then current Original Term or Renewal Term. Lessee agrees to deliver written notice to Lessor of such termination at least 60 days prior to the end of the then current Original Term or Renewal Term, but failure to give such written notice shall not extend the term beyond such Original Term or Renewal Term.

## **ARTICLE V. TITLE TO EQUIPMENT; SECURITY INTEREST; OPTION TO PURCHASE**

**Section 5.01. Title to the Equipment.** Upon acceptance of the Equipment by Lessee, title to the Equipment and any and all additions, repairs, replacements or modifications shall vest in Lessee, subject to the rights of Lessor under this Agreement; provided that title to the Equipment that is subject to any Lease shall thereafter immediately and without any action by Lessee vest in Lessor, and Lessee shall immediately surrender possession of that Equipment to Lessor, upon (a) any termination of that Lease other than termination pursuant to Section 5.04, or (b) the occurrence of an Event of Default with respect to that Lease. It is the intent of the parties hereto that any transfer of title to Lessor pursuant to this Section shall occur automatically without the necessity of any bill of sale, certificate of title or other instrument of conveyance. Lessee shall, nevertheless, execute and deliver any such instruments as Lessor may request to evidence such transfer.

**Section 5.02. Security Interest.** To secure the payment of all Lessee's obligations under this Agreement, Lessee grants to Lessor a security interest constituting a first lien on (i) the Equipment and on all additions, attachments, accessions, that are considered to be an integral part of the equipment, and substitutions thereto, and on any proceeds there from, and (ii) the acquisition fund established under any Escrow Agreement entered into in connection therewith. Lessee agrees to execute such additional documents, in form satisfactory to Lessor, which Lessor deems necessary or appropriate to establish and maintain its security interest in the Equipment. Lessee hereby authorizes the filing of financing statements under the Uniform Commercial Code in connection with the security interest granted hereunder.

**Section 5.03. Personal Property.** Lessor and Lessee agree that the Equipment is and will remain personal property and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. Upon the request of Lessor, Lessee will, at Lessee's expense, furnish a waiver of any interest in the Equipment from any party having an interest in any such real estate or building.

**Section 5.04. Option to Purchase.** Lessee shall have the option to purchase Lessor's interest in all (but not less than all) of the Equipment described in any Schedule, upon giving written notice to Lessor at least 60 (but not more than 180) days before the date of purchase, at the following times and upon the following terms:

- (a) On the date of the last Rental Payment set forth in that Schedule (assuming this Agreement is renewed at the end of the Original Term and each Renewal Term), if the Agreement is still in effect on such day, upon payment in full to Lessor of the Rental Payments and all other amounts then due under that Schedule plus One Dollar;
- (b) On the last day of the Original Term or any Renewal Term then in effect, upon payment in full to Lessor of the Rental Payments and all other amounts then due under that Schedule plus the then applicable Purchase Option Price set forth in that Schedule; or
- (c) In the event of substantial damage to or destruction or condemnation of substantially all of the Equipment listed in that Schedule on the day specified in Lessee's written notice to Lessor of its exercise of the purchase option upon payment in full to Lessor of the Rental Payments and all other amounts then due under that Schedule, including, without limitation, interest accrued to the date of payment, plus the then applicable Purchase Option Price set forth in that Schedule.

## **ARTICLE VI. DELIVERY, MAINTENANCE; MODIFICATION; TAXES; INSURANCE AND OTHER CHARGES**

**Section 6.01. Delivery, Installation and Acceptance of Equipment.** Lessee shall order the Equipment, cause the Equipment to be delivered and installed at the locations specified in the Schedules and pay any and all delivery and installation costs in connection therewith. When the Equipment listed in any Schedule has been delivered and installed, Lessee shall immediately accept such Equipment and evidence said acceptance by executing and delivering to Lessor an Acceptance Certificate in the form attached hereto as Exhibit D.

**Section 6.02. Location; Inspection.** Once installed, no item of the Equipment will be moved from the location specified for it in the Schedule on which that item is listed without Lessor's consent, which consent shall not be unreasonably withheld. Lessor shall have the right at all reasonable times during regular business hours to enter into and upon the property of Lessee for the purpose of inspecting the Equipment.

**Section 6.03. Maintenance of Equipment by Lessee.** Lessee agrees that at all times during the Lease Term Lessee will, at Lessee's own cost and expense, maintain, preserve and keep the Equipment in good repair, working order and condition, and that Lessee will from time to time make or cause to be made all necessary and proper repairs, replacements and renewals. Lessor shall have no responsibility in any of these matters, or for the making of improvements or additions to the Equipment. Lessee shall not make material modifications to the Equipment without the prior consent of Lessor.

**Section 6.04. Liens, Taxes, Other Governmental Charges and Utility Charges.** Lessee shall keep the Equipment free of all liens, charges and encumbrances except those created by this Agreement. The parties to this Agreement contemplate that the Equipment will be used for a governmental or proprietary purpose of Lessee and, therefore, that the Equipment will be exempt from all taxes presently assessed and levied with respect to personal property. In the event that the use, possession or acquisition of the Equipment is found to be subject to taxation in any form (except for income taxes of Lessor), Lessee will pay, as the same respectively come due, all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Equipment and any equipment or other property acquired by Lessee in substitution for, as a renewal or replacement of, or a modification, improvement or addition to the Equipment, as well as all gas, water, steam, electricity, heat, power, telephone, utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Equipment; provided that, with respect to any governmental charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as have accrued during the Lease Term. Lessee will take no action that will cause the interest portion of any Rental payment to become includable in gross income of the recipient for purposes of federal income taxation under the Code, and Lessee will take, and will cause its officers, employees and agents to take, all affirmative action legally within its power to prevent such interest from being includable in gross income for purposes of federal income taxation under the Code. Lessee acknowledges that Lessor's yield with respect to this Agreement is dependent upon the interest component of each Rental Payment being excluded from Lessor's income pursuant to the Code.

Section 6.05. Provisions Regarding Insurance. At its own expense, Lessee shall maintain (a) casualty insurance insuring the Equipment against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State, and any other risks reasonably required by Lessor, in an amount at least equal to the replacement cost of the Equipment, (b) liability insurance that protects Lessor from liability in all events in form and amount satisfactory to Lessor and (c) workers' compensation coverage as required by the laws of the State; provided that, with Lessor's prior written consent, Lessee may self-insure against the risks described in clauses (a) and (b); provided further that, if Lessor provides such consent Lessee shall provide to Lessor information with respect to such self-insurance program as Lessor may request from time to time. All insurance proceeds from casualty losses shall be payable as hereinafter provided. Lessee shall furnish to Lessor certificates evidencing such coverage throughout the Lease Term. All such casualty and liability insurance shall be with insurers that are acceptable to Lessor, shall name Lessor as a loss payee and an additional insured, respectively, and shall contain a provision to the effect that such insurance shall not be canceled or modified materially without first giving written notice thereof to Lessor at least 30 days in advance of such cancellation or modification. All such casualty insurance shall contain a provision making any losses payable to Lessee and Lessor as their respective interests may appear.

Section 6.06. Advances. In the event Lessee shall fail to maintain the full insurance coverage required by this Agreement or shall fail to keep the Equipment in good repair and operating condition, Lessor may (but shall be under no obligation to) purchase the required insurance and pay the premiums on the same or may make such repairs or replacements as are necessary and provide for payment thereof; and all amounts so advanced therefore by Lessor shall constitute additional rent for the then-current Original Term or Renewal Term, and Lessee covenants and agrees to pay such amounts so advanced by Lessor with interest thereon from the date advanced until paid at the rate of 18% per annum or the maximum interest rate permitted by law, whichever is less.

## **ARTICLE VII. DAMAGE, DESTRUCTION AND CONDEMNATION: USE OF NET PROCEEDS**

Section 7.01. Risk of Loss. Lessee is responsible for the entire risk of loss of or damage or destruction to the Equipment. No such loss, damage or destruction shall relieve Lessee of any obligation under this Agreement or any Lease.

Section 7.02. Damage, Destruction and Condemnation. If (a) the Equipment listed on any Schedule or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty or (b) title to, or the temporary use of, the Equipment or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, Lessee and Lessor will cause the Net Proceeds of any insurance claim or condemnation award to be applied to the prompt replacement, repair, restoration, modification or improvement of that Equipment, unless Lessee shall have exercised its option to purchase that Equipment pursuant to Section 5.04. Any balance of the Net Proceeds remaining after such work has been completed shall be paid to Lessee.

Section 7.03. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any replacement, repair, restoration, modification or improvement referred to in Section 7.02, Lessee shall either complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds, unless Lessee, pursuant to Section 5.04, purchases Lessor's interest in the Equipment destroyed, damaged or taken and any other Equipment listed in the same Schedule. The amount of the Net Proceeds, if any, remaining after completing such repair, restoration, modification or improvement or after purchasing Lessor's interest in the Equipment shall be retained by Lessee. If Lessee shall make any payments pursuant to this Section, Lessee shall not be entitled to any reimbursement therefore from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Article IV.

## **ARTICLE VIII. DISCLAIMER OF WARRANTIES; VENDOR'S WARRANTIES; USE OF THE EQUIPMENT**

Section 8.01. Disclaimer of Warranties. LESSEE HAS SELECTED THE EQUIPMENT AND THE VENDORS. LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF THE EQUIPMENT, OR WARRANTY OR REPRESENTATION WITH RESPECT THERETO. In no event shall Lessor be liable for an incidental, indirect, special or consequential damage in connection with or arising out of this Agreement or the existence, furnishing, functioning or Lessee's use of any item or products or service provided for in this Agreement.

Section 8.02. Vendor's Warranties. Lessor hereby irrevocably appoints Lessee its agent and attorney-in-fact during the Lease Term, so long as Lessee shall not be in default hereunder, to assert from time to time whatever claims and rights, including warranties of the Equipment, which Lessor may have against the Vendor of the Equipment. Lessee's sole remedy for the breach of such warranty, indemnification or representation shall be against the Vendor of the Equipment, and not against Lessor, nor shall such matter have any effect, whatsoever on the rights and obligations of Lessor with respect to this Agreement, including the right to receive full and timely payments hereunder. Lessee expressly acknowledges that Lessor makes, and has made no representation or warranties whatsoever as to the existence or availability of such warranties of the Vendor of the Equipment.

Section 8.03. Use of the Equipment. Lessee will not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Agreement. Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of the Equipment. In addition, Lessee agrees to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each item of the Equipment) with all laws of the jurisdictions in which its operations involving any item of Equipment may extend and any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the items of the Equipment; provided, however, that Lessee may contest in good faith the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of Lessor, adversely affect the title of Lessor in and to any of the items of the Equipment or its interest or rights under this Agreement.

Section 8.04. Essential Nature of the Equipment. Lessee confirms and affirms that the Equipment is essential to the function of Lessee and the services provided to its citizens, that there is an immediate need for the Equipment which is not temporary or expected to diminish in the foreseeable future, and that Lessee will use substantially all the Equipment for the purpose of performing one or more governmental or proprietary functions consistent with the permissible scope of its authority.

## **ARTICLE IX. ASSIGNMENT, SUBLEASING, INDEMNIFICATION, MORTGAGING AND SELLING**

Section 9.01. Assignment by Lessor. Lessor's interest in, to, and under this Agreement; any Lease and the Equipment may be assigned and reassigned in whole or in part to one or more assignees by Lessor at any time subsequent to its execution. Lessee hereby agrees to maintain a written record of each such assignment in form necessary to comply with Section 149(a) of the Code. No such assignment shall be binding on Lessee until it has received written notice from Lessor of the assignment disclosing the name and address of the assignee. Lessee agrees to execute all documents, including chattel mortgages or financing statements that may be reasonably requested by Lessor or any assignee to protect its interests in the Equipment and in this Agreement. Lessee shall not have the right to and shall not assert against any assignee any claim, counterclaim, defense, set-off or other right Lessee may from time to time have against Lessor.

Section 9.02. Assignment and Subleasing by Lessee. None of Lessee's interest in, to and under this Agreement and in the Equipment may be sold, assigned, subleased, pledged or otherwise encumbered by Lessee without the prior written consent of Lessor.

Section 9.03. Release and Indemnification Covenants. To the extent permitted by law, Lessee shall indemnify, protect, hold harmless, save and keep harmless Lessor from and against any and all liabilities, obligations, losses, claims and damages whatsoever, regardless of cause thereof, and all expenses in connection therewith (including, without limitation, counsel fees and expenses, penalties connected therewith imposed on interest received) arising out of or as (a) result of the entering into of this Agreement, (b) the ownership of any item of the Equipment, (c) the manufacture, ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any item of the Equipment, (d) or any accident in connection with the operation, use, condition, possession, storage or return of any item of the Equipment resulting in damage to property or injury to or death to any person, and/or (e) the breach of any covenant herein or any material misrepresentation contained herein. The indemnification arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of the Lease Term for any reason.

## ARTICLE X. EVENTS OF DEFAULT AND REMEDIES

**Section 10.01. Events of Default Defined.** Subject to the provisions of Section 4.05, any of the following events shall constitute an "Event of Default" under any Lease:

- (a) Failure by Lessee to pay any Rental Payment or other payment required to be paid under that Lease at the time specified in that Lease;
- (b) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed under that Lease, other than as referred to in subparagraph (a) above, for a period of 30 days after written notice specifying such failure and requesting that it be remedied is given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; provided that, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected;
- (c) Any statement, representation or warranty made by Lessee in or pursuant to that Lease or its execution, delivery or performance shall prove to have been false, incorrect, misleading or breached in any material respect on the date when made;
- (d) Any provision of that Lease shall at any time for any reason cease to be valid and binding on Lessee, or shall be declared to be null and void, or the validity or enforceability thereof shall be contested by Lessee or any governmental agency or authority if the loss of such provision would materially adversely affect the rights or security of Lessor, or Lessee shall deny that it has any further liability or obligation under that Lease.
- (e) Lessee shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization or insolvency proceeding; or
- (f) An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator of Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of 30 consecutive days.

**Section 10.02. Remedies on Default.** Whenever any Event of Default under any Lease exists, Lessor shall have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

- (a) By written notice to Lessee, declare all Rental Payments and other amounts payable by Lessee under that Lease to the end of the then current Original Term or Renewal Term to be due;
- (b) With or without terminating that Lease, Lessor may, upon 5 days written notice to Lessee, enter the premises where any Equipment that is subject to that Lease is located and retake possession of that Equipment or require Lessee at Lessee's expense to promptly return any or all of the Equipment to the possession of Lessor at such place within the United States as Lessor shall specify within 500 mile radius of the Lessee, and sell or lease the Equipment or, for the account of Lessee, sublease the Equipment, continuing to hold Lessee liable for the difference between (i) the Rental Payments and other amounts payable by Lessee under that Lease plus the then-applicable Purchase Option Price for that Equipment and (ii) the net proceeds of any such sale, leasing or subleasing (after deducting all expenses of Lessor in exercising its remedies under this Agreement, including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing the Equipment and all brokerage, auctioneers' and attorneys' fees limited to expenses reasonably necessary and reasonably incurred) provided that the amount of Lessee's liability under this subparagraph (b) shall not exceed the Rental Payments and other amounts otherwise due under that Lease plus the remaining Rental Payments and other amounts payable by Lessee under that Lease to the end of the then current Original Term or Renewal Term; and
- (c) Lessor may take whatever action at law or in equity may appear necessary or desirable to enforce its rights under that Lease or as the owner of any or all of the Equipment that is subject to that Lease.

In addition, whenever an Event of Default exists with respect to any Rental Payment required by a particular Schedule or with respect to any other payment, covenant, condition, agreement, statement, representation or warranty set forth in that Schedule or applicable to that Schedule or the Equipment listed therein, Lessor shall have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

- (d) By written notice to Lessee, Lessor may declare all Rental Payments payable by Lessee pursuant to that Schedule and other amounts payable by Lessee under this Agreement to the end of the then current Original Term or Renewal Term to be due;
- (e) With or without terminating that Schedule, Lessor may, upon 5 days written notice to Lessee, enter the premises where the Equipment listed in that Schedule is located and retake possession of that Equipment or require Lessee at Lessee's expense to promptly return any or all of that Equipment to the possession of Lessor at such place within the United States as Lessor shall specify within 500 mile radius of the Lessee, and sell or lease that Equipment or, for the account of Lessee, sublease that Equipment, continuing to hold Lessee liable for the difference between (i) the Rental Payments payable by Lessee pursuant to that Schedule and other amounts related to that Schedule or the Equipment listed therein that are payable by Lessee hereunder plus the then applicable Purchase Option Price for that Equipment, and (ii) the net proceeds of any such sale, leasing or subleasing (after deducting all expenses of Lessor in exercising its remedies under this Agreement, including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing such Equipment and all brokerage, auctioneers' and attorneys' fees) provided that the amount of Lessee's liability under this subparagraph (e) shall not exceed the Rental Payments and other amounts otherwise due under that Schedule plus the remaining Rental Payments and other amounts payable by Lessee under that Schedule to the end of the then current Original Term or Renewal Term; and
- (f) Lessor may take whatever action at law or in equity may appear necessary or desirable to enforce its rights under that Schedule, this Agreement with respect to that Schedule and the Equipment listed therein.

In addition to the remedies specified above, Lessor may charge interest on all amounts due to it at the rate of 10% per annum or the maximum amount permitted by law, whichever is less. The exercise of any such remedies respecting any such Event of Default shall not relieve Lessee of any other liabilities under any other Schedules, this Agreement related to any other Schedule or the Equipment listed therein.

**Section 10.03. No Remedy Exclusive.** No remedy conferred upon or reserved to Lessor by this Article is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this lease. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof but any such right and power may be exercised from time to time and as often as may be deemed expedient by Lessor or its assignee.

**Section 10.04. Agreement to Pay Attorneys' Fees and Expenses.** If Lessee should default under any of the provisions hereof and Lessor should employ attorneys or incur other expenses for the collection of moneys or for the enforcement of performance or observance of any obligation or agreement on the part of Lessee contained in this Agreement, Lessee agrees, to the extent it is permitted by law to do so, that it will, if assessed by a court of competent jurisdiction, pay to Lessor the reasonable fees of those attorneys and other reasonable expenses so incurred by Lessor.

**Section 10.05. Application of Moneys.** Any net proceeds from the exercise of any remedy hereunder (after deducting all expenses of Lessor in exercising such remedies including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing Equipment and all brokerage, auctioneer's or attorney's fees) shall be applied as follows:

- (a) If such remedy is exercised solely with respect to a single Schedule, Equipment listed in that Schedule or rights under the Agreement related to that Schedule, then to amounts due pursuant to that Schedule and other amounts related to that Schedule or that Equipment.
- (b) If such remedy is exercised with respect to more than one Schedule, Equipment listed in more than one Schedule or rights under the Agreement related to more than one Schedule, then to amounts due pursuant to those Schedules pro rata.

**ARTICLE XI. MISCELLANEOUS**

Section 11.01. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, to the parties at their respective places of business.

Section 11.02. Binding Effect; Entire Agreement; Amendments and Modifications. This Agreement shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns. The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written instrument signed by the Lessor and the Lessee; nor shall any such amendment that affects the rights of Lessor's assignee be effective without such assignee's consent. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.03. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State.

Section 11.04. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.05. Amendments, Changes and Modifications. This Agreement may be amended, added to, changed or modified by written agreement duly executed by Lessor and Lessee.

Section 11.06. Execution in Counterparts; Chattel Paper. This Agreement, including in writing each Schedule, may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument; except (1) to the extent that various Schedules and this Agreement as it relates thereto constitutes separate Leases as provided in this Agreement and (2) that Lessor's interest in, to and under any Schedule and the Agreement as it relates to that Schedule, and the Equipment listed in that Schedule may be sold or pledged only by delivering possession of the original counterpart of that Schedule marked "Counterpart No. 1," which Counterpart No. 1 shall constitute chattel paper for purposes of the Uniform Commercial Code.

Section 11.07. Usury. The parties hereto agree that the charges in this Agreement and any Lease shall not be a violation of usury or other law. Any such excess charge shall be applied in such order as to conform this Agreement and such Lease to such applicable law.

Section 11.08. Jury Trial Waiver. To the extent permitted by law, lessee agrees to waive its right to a trial by jury.

Section 11.09. Facsimile Documentation. Lessee agrees that a facsimile copy of this Agreement or any Lease with facsimile signatures may be treated as an original and will be admissible as evidence of this Agreement or such Lease.

Section 11.10. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Lessor and Lessee have caused this Agreement to be executed in their names by their duly authorized representatives listed below.

**Lease No. NEWVT2020-03**

**LESSEE:**  
City of Newport

**LESSOR:**  
Community First National Bank

\_\_\_\_\_  
Laura Dolgin, City Manager

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title

# EXHIBIT A

## SCHEDULE OF EQUIPMENT NO. 01, Dated 3/23/2020

Counterpart No. 1,

LESSOR'S INTEREST IN, TO AND UNDER THIS SCHEDULE AND THE AGREEMENT AS IT RELATES TO THIS SCHEDULE MAY BE SOLD OR PLEDGED ONLY BY DELIVERING POSSESSION OF COUNTERPART NO. 1 OF THIS SCHEDULE, WHICH COUNTERPART NO. 1 SHALL CONSTITUTE CHATTEL PAPER FOR PURPOSES OF THE UNIFORM COMMERCIAL CODE.

Re: Master Equipment Lease Purchase Agreement, dated as of 3/23/2020, between Community First National Bank, as Lessor, and City of Newport, as Lessee.

1. **Defined Terms.** All terms used herein have the meanings ascribed to them in the above referenced Master Equipment Lease Purchase Agreement (the "Master Equipment Lease").
2. **Equipment.** The Equipment included under this Schedule of Equipment is comprised of the items described in the Equipment Description attached hereto as **Attachment 1**, together with all replacements, substitutions, repairs, restorations, modifications, attachments, accessions, additions and improvements thereof or thereto.
3. **Payment Schedule.** The Rental Payments and Purchase Option Prices under this Schedule of Equipment are set forth in the Payment Schedule attached as **Attachment 2** hereto.
4. **Representations, Warranties and Covenants.** Lessee hereby represents, warrants, and covenants that its representations, warranties and covenants set forth in the Agreement are true and correct as though made on the date of commencement of Rental Payments on this Schedule.
5. **The Master Equipment Lease.** This Schedule is hereby made as part of the Master Equipment Lease and Lessor and Lessee hereby ratify and confirm the Master Equipment Lease. The terms and provisions of the Master Equipment Lease (other than to the extent that they relate solely to other Schedules or Equipment listed on other Schedules) are hereby incorporated by reference and made a part hereof.

Lease Number: NEWVT2020-03

**LESSEE:**

City of Newport

\_\_\_\_\_  
Laura Dolgin, City Manager

**LESSOR:**

Community First National Bank

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title

**ATTACHMENT 1  
EQUIPMENT DESCRIPTION**

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RE: Schedule of Equipment No. 01, dated 3/23/2020, to Master Equipment Lease Purchase Agreement, dated as of 3/23/2020, between Community First National Bank, as Lessor, and City of Newport, as Lessee.

Lease Number: NEWVT2020-03

Twenty-One (21) SCBAs, Forty-Two (42) Cylinders, & Twelve (12) Voice Amplifiers

Serial #'s Attachment 1.1

With a total acquisition cost of \$155,727.00; together with all additions, accessions and replacements thereto. Lessee hereby certifies the description of the personal property set forth above constitutes an accurate description of the "Equipment", as defined in the attached Master Equipment Lease Purchase Agreement and the Equipment is located on the premise of the Lessee unless otherwise noted by the Lessee.

Physical location where equipment will be stored after delivery: \_\_\_\_\_

**LESSEE:**

City of Newport

\_\_\_\_\_  
Laura Dolgin, City Manager

## ATTACHMENT 2 PAYMENT SCHEDULE

RE: Schedule of Equipment No. 01, dated 3/23/2020, to Master Equipment Lease Purchase Agreement, dated as of 3/23/2020, between Community First National Bank, as Lessor, and City of Newport, as Lessee.

Lease Number: NEWVT2020-03

Amount Financed: \$155,727.00

### AMORTIZATION SCHEDULE

Payment Number	Payment Date	Payment Amount	Interest Portion	Principal Portion	Purchase Option Price
1	7/15/2020	\$24,645.72	\$1,575.08	\$23,070.64	Not Available
2	7/15/2021	\$24,645.72	\$4,237.05	\$20,408.67	\$116,737.60
3	7/15/2022	\$24,645.72	\$3,585.19	\$21,060.53	\$94,834.65
4	7/15/2023	\$24,645.72	\$2,912.52	\$21,733.20	\$72,232.12
5	7/15/2024	\$24,645.72	\$2,218.36	\$22,427.36	\$48,907.66
6	7/15/2025	\$24,645.72	\$1,502.03	\$23,143.69	\$24,838.23
7	7/15/2026	\$24,645.72	\$762.81	\$23,882.91	\$0.00
<b>Grand Totals</b>		<b>\$172,520.04</b>	<b>\$16,793.04</b>	<b>\$155,727.00</b>	

LESSEE:  
City of Newport

Laura Dolgin, City Manager

EXHIBIT B

LESSEE RESOLUTION

Re: Schedule of Equipment No. 01, dated 3/23/2020, to Master Equipment Lease Purchase Agreement, dated as of 3/23/2020, between Community First National Bank, as Lessor, and City of Newport, as Lessee.

I, the undersigned, the duly appointed, qualified and acting City Clerk/Treasurer of the above captioned Lessee do hereby certify this date \_\_\_\_\_, as follows:

(1) Lessee did, at a meeting of the governing body of the Lessee held on \_\_\_\_\_, by motion duly made, seconded and carried, in accordance with all requirements of law, approve and authorize the execution and delivery of the above referenced Schedule of Equipment No. 01 (the "Schedule") on its behalf by the following named representative of the Lessee, to witness:

\_\_\_\_\_  
Authorized Signer: Laura Dolgin, City Manager

- (2) The above named representative of the Lessee held at the time of such authorization and holds at the present time the office set forth above.
- (3) The meeting of the governing body of the Lessee at which the Schedule was approved and authorized to be executed was duly called, regularly convened and attended throughout by the requisite majority of the members thereof or by other appropriate official approval and that the action approving the Schedule and authorizing the execution thereof has not been altered or rescinded.
- (4) To the best of the Lessee's knowledge no event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default (as such term is defined in the above referenced Master Equipment Lease Purchase Agreement) exists at the date hereof.
- (5) All insurance required in accordance with the above referenced Master Equipment Lease Purchase Agreement is currently maintained by the Lessee.
- (6) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the 2020-21 budget year to make the Rental Payments scheduled to come due during the Original Term and to meet its other obligations for the Original Term (as such terms are defined in the above referenced Master Equipment Lease Purchase Agreement) and such funds have not been expended for other purposes.
- (7) The fiscal year of Lessee is from \_\_\_\_\_ to \_\_\_\_\_.

The signatures below from the designated individuals from the Governing Body of the Lessee evidence the adoption by the Governing Body of this resolution.

City of Newport

Attested By: \_\_\_\_\_  
Rebecca Therrien, Program Administrator

Certified By: \_\_\_\_\_  
James Johnson, City Clerk/Treasurer

## EXHIBIT C

### OPINION OF LESSEE'S COUNSEL

*(Must be re-Printed onto attorney's letterhead)*

(Date)

Community First National Bank  
215 S. Seth Child Road  
Manhattan, KS 66502

**Re: Lessee: City of Newport**

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Ladies and Gentlemen:

As legal counsel to City of Newport (the "Lessee"), I have examined (a) an executed counterpart of a certain Master Equipment Lease Purchase Agreement, dated as of 3/23/2020, and Exhibits thereto by and between Community First National Bank (the "Lessor") and Lessee, Schedule of Equipment No. 01, dated 3/23/2020, and a certain Escrow Agreement dated as of 3/23/2020, (collectively, the "Agreement") by and between Lessor and Lessee, which, among other things, provides for the lease with option to purchase by the Lessee of certain property listed in the Schedule (the "Equipment"); (b) an executed counterpart of the ordinances or resolutions of Lessee which, among other things, authorizes Lessee to execute the Agreement and (c) such other opinions, documents and matters of law as I have deemed necessary in connection with the following opinions.

Based on the foregoing, I am of the following opinions:

- (1) Lessee's true and correct name is City of Newport.
- (2) Lessee is a public body corporate and politic, duly organized and existing under the laws of the State, and has a substantial amount of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) police power;
- (3) Lessee has the requisite power and authority to lease the Equipment with an option to purchase and to execute and deliver the Agreement and to perform its obligations under the Agreement;
- (4) The Agreement and the other documents either attached thereto or required therein have been duly authorized, approved and executed by and on behalf of Lessee and the Agreement and other documents either attached thereto or required therein are the valid and binding obligations of Lessee enforceable in accordance with their terms;
- (5) The authorization, approval and execution of the Agreement and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable state or federal laws; and
- (6) There is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Agreement or the security interest of Lessor or its assigns, as the case may be, in the Equipment.
- (7) The signatures of the officers which appear on the Agreement are true and genuine; I know said officers and know them to hold the offices set forth below their names.
- (8) No further approval, consent or withholding of objection is required from any federal, state or local governmental authority with respect to the entering into or performance by the Lessee of the Lease and the transaction contemplated thereby.
- (9) The Equipment leased pursuant to the Agreement constitutes personal property and when subjected to use by Lessee will not be or become fixtures under applicable law.
- (10) The Lessee is a political subdivision within the meaning of Section 103 of the Internal Revenue Code of 1986 as amended and the related regulations and rulings.
- (11) The leasing of the Equipment pursuant to the Agreement is exempt from all sales and use taxes against either the Lessor or the Lessee during the term of the Lease pursuant to the Agreement and the Equipment will be exempt from all state and local personal property or other ad valorem taxes.

All capitalized terms herein shall have the same meanings as in the foregoing Agreement unless otherwise provided herein. Lessor, its successors and assigns, and any counsel rendering an opinion on the tax-exempt status of the interest components of the Rental Payments are entitled to rely on this opinion.

Signature of Legal Counsel

## EXHIBIT D

### ACCEPTANCE CERTIFICATE

Community First National Bank  
215 S. Seth Child Road  
Manhattan, KS 66502

Ladies and Gentlemen,

**RE: Schedule of Equipment No. 01, dated 3/23/2020, to Master Equipment Lease Purchase Agreement, dated as of 3/23/2020, between Community First National Bank, as Lessor, and City of Newport, as Lessee.**

In accordance with the Master Equipment Lease Purchase Agreement (the "Agreement"), the undersigned Lessee hereby certifies and represents to, and agrees with Lessor as follows:

- (1) All of the Equipment (as such term is defined in the Agreement) listed in the above referenced Schedule of Equipment (the "Schedule") has been delivered, installed and accepted on the date hereof.
- (2) Lessee has conducted such inspection and/or testing of the Equipment listed in the Schedule as it deems necessary and appropriate and hereby acknowledges that it accepts the Equipment for all purposes.
- (3) Lessee is currently maintaining the insurance coverage required by **Section 6.05** of the Agreement.
- (4) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Agreement) exists at the date hereof.
- (5) Lessee has appropriated and/or taken other lawful actions necessary to provide moneys sufficient to pay all Rental Payments required to be paid under the Agreement during the 2020-2021 Budget Year of Lessee, and such moneys will be applied in payment of all Rental Payments due and payable during such current Budget Year.
- (6) The governing body of Lessee has approved the authorization, execution and delivery of this Agreement on its behalf by the authorized representative of Lessee who signed the Agreement.
- (7) The Lessee will in a timely fashion submit the appropriate paperwork to the State to have a title to the Equipment issued in their name as owner and Lessor listed as first lienholder. Such verification of perfected ownership and security interest will be provided to Lessor no later than 90 days from delivery of the Equipment.

**LESSEE:**  
City of Newport

\_\_\_\_\_  
Laura Dolgin, City Manager

\_\_\_\_\_  
Date

*\*If delivery is not immediate, keep until final delivery.*

## BANK QUALIFIED CERTIFICATE

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RE: Schedule of Equipment No. 01, dated 3/23/2020, to Master Equipment Lease Purchase Agreement, dated as of 3/23/2020, between Community First National Bank, as Lessor, and City of Newport, as Lessee.

Whereas, Lessee hereby represents it is a "Bank Qualified" Issuer for the calendar year in which the above referenced Schedule is executed by making the following designations with respect to Section 265 of the Internal Revenue Code. (A "Bank Qualified Issuer" is an issuer that issues less than \$10,000,000 dollars of tax-exempt obligations during the calendar year).

Now, therefor, Lessee hereby designates the above referenced Schedule as follows:

1. **Designation as Qualified Tax-Exempt Obligation.** Pursuant to Section 265(b)(3)(B)(i) of the Internal Revenue Code of 1986 as amended (the "Code"), the Lessee hereby specifically designates the above referenced Schedule as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code. In compliance with Section 265(b)(3)(D) of the Code, the Lessee hereby represents that the Lessee will not designate more than \$10,000,000 of obligations issued by the Lessee in the calendar year during which the above referenced Schedule is executed and delivered as such "qualified tax-exempt obligations".
  
2. **Issuance Limitation.** In compliance with the requirements of Section 265(b)(3)(C) of the Code, the Lessee hereby represents that the Lessee (including all subordinate entities of the Lessee within the meaning of Section 265(b)(3)(E) of the Code) reasonably anticipates not to issue in the calendar year during which the above referenced Schedule is executed and delivered, obligations bearing interest exempt from federal income taxation under Section 103 of the Code (other than "private activity bonds" as defined in Section 141 of the Code) in an amount greater than \$10,000,000.

LESSEE:  
City of Newport

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Laura Dolgin, City Manager

# INSURANCE COVERAGE REQUIREMENTS

Lessee: City of Newport

Please mark one of the following:

( ) Pursuant to Section 6.05 of the Agreement, you have agreed to provide us evidence of insurance covering the property in the Agreement. A Certificate of Insurance naming all insured parties and coverage must be provided to us as soon as possible, but no later than the date on which delivery of equipment occurs.

( ) Pursuant to Section 6.05 of the Agreement, we are self-insured for all risk, physical damage, and public liability and will provide proof of such self-insurance in letter form, together with a copy of the statute authorizing this form of insurance. Coverage must be provided to us as soon as possible, but no later than the date on which delivery of equipment occurs.

Equipment to be insured: **Twenty-One (21) SCBAs, Forty-Two (42) Cylinders, & Twelve (12) Voice Amplifiers**

Policy should be issued and mailed to: Community First National Bank and/or Its Assigns  
215 S. Seth Child Road  
Manhattan, KS 66502

## INSURANCE REQUIREMENTS:

### 1. LIABILITY

- ✓ \$1,000,000.00 Aggregate Bodily Injury
- ✓ \$1,000,000.00 Combined Single Limit per Occurrence
- ✓ Community First National Bank and/or Its Assigns MUST be listed as additional insured and loss payee.

### 2. PHYSICAL DAMAGE

- ✓ All risk coverage to guarantee proceeds sufficient to cover the replacement cost of the equipment.
- ✓ Community First National Bank and/or Its Assigns MUST be listed as additional insured and loss payee.

### 3. ENDORSEMENT

- ✓ Lessor will receive at least thirty (30) days written notice from Insurer prior to alteration, cancellation or reduction of insurance coverage.
- ✓ Deductibles should be listed on the Certificate of Coverage

**THE CERTIFICATE SHOULD BE  
EMAILED TO [wanidanondorf@clpusa.net](mailto:wanidanondorf@clpusa.net)  
OR FAXED TO: 888.777.7875**

Insurance Company Name:		
Agents Name:		
Address:		
City:	State:	Zip:
Phone:	Fax:	Email:

LESSEE:  
City of Newport

\_\_\_\_\_  
Laura Dolgin, City Manager

## INVOICE INSTRUCTIONS

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RE: Schedule of Equipment No. 01, dated 3/23/2020, to Master Equipment Lease Purchase Agreement, dated as of 3/23/2020, between Community First National Bank, as Lessor, and City of Newport, as Lessee.

Lease Number: NEWVT2020-03

Equipment Description: Twenty-One (21) SCBAs, Forty-Two (42) Cylinders, & Twelve (12) Voice Amplifiers

Please provide contact information for billing and invoicing purposes.

Person/Department: \_\_\_\_\_  
P.O. Box/Street: \_\_\_\_\_  
City, State, Zip \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_

**NOTICE OF ASSIGNMENT**

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April 10, 2020

City of Newport  
222 Main Street  
Newport, VT 05855

**RE: Schedule of Equipment No. 01, dated 3/23/2020, to Master Equipment Lease Purchase Agreement, dated as of 3/23/2020, between Community First National Bank, as Lessor, and City of Newport, as Lessee. Along with the Escrow Agreement entered into as of 3/23/2020.**

Please be advised Community First National Bank has assigned all its right, title and interest in, to and under the above referenced Master Equipment Lease Purchase Agreement (the "Agreement"), the Equipment leased thereunder and the right to receive Rental Payments thereunder to the following assignee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

All Rental Payments and payment of the Purchase Option Price due under the Agreement should be made to the Assignee at the above address.

Community First National Bank

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title

ACKNOWLEDGED AND ACCEPTED:

City of Newport

\_\_\_\_\_  
Laura Dolgin, City Manager

\*Lessor may at a future date desire to assign this lease agreement but at this time a specific Assignee is undetermined. At such time as Lessor desires to assign this lease; Lessee will be provided a signed copy of this page for their records and will be made aware of any changes in who and where to send subsequent rental payments. This assignment option is outlined in Article IX of the Master Equipment Lease Purchase Agreement.

# ESCROW AGREEMENT

THIS ESCROW AGREEMENT, made and entered into as of 3/23/2020 by and among Community First National Bank, a national banking association ("Escrow Agent"), Community First National Bank, a corporation duly organized and existing under the Laws of the State of Kansas ("Lessor"), and City of Newport ("Lessee") a political subdivision under the laws of the State of Vermont ("State"), duly organized and existing under the Constitution and laws of the State.

## WITNESSETH

WHEREAS, Lessee and Lessor have entered into a Schedule of Equipment No. 01, dated 3/23/2020 to Master Equipment Lease Purchase Agreement dated as of 3/23/2020 ("Agreement"), a duplicate original of which has been furnished to each of the parties, whereby Lessor has agreed to acquire certain equipment described therein ("Equipment"), and to sell the Equipment to the Lessee, and Lessee has agreed to purchase the Equipment from Lessor, in the manner and on the terms set forth in the Agreement; and

WHEREAS, the Equipment has or will be ordered from the Vendor, and there is expected to be a delay in delivery of the Equipment to Lessee; and

WHEREAS, in order to secure the obligations of Lessor under the Agreement, Lessee has requested Lessor to set aside in escrow with the Escrow Agent, pursuant to the terms hereof, the anticipated purchase price of the Equipment; and

WHEREAS, Lessee, as agent for Lessor, will cause the Equipment to be acquired from Vendor in accordance with the purchase orders or contracts therefore, and neither Lessor nor the Escrow Agent shall be obligated to assume or perform any obligation of the Lessee or Vendor with respect thereto or under the Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties agree as follows:

## ARTICLE I. APPOINTMENT OF ESCROW AGENT: DEFINITIONS

**Section 1.01. Appointment of Escrow Agent.** Lessor and Lessee hereby appoint and employ Escrow Agent, to receive, hold, invest and disburse the moneys to be paid to it pursuant to this Escrow Agreement and the Agreement, and to perform certain other functions, all as hereinafter provided. By executing and delivering this Escrow Agreement, Escrow Agent accepts the duties and obligations of Escrow Agent provided herein, but only upon the terms and conditions set forth.

**Section 1.02. Definitions.** The terms defined in this Section shall, for all purposes of this Escrow Agreement have the meanings specified below. Any capitalized term not defined below shall have the meaning ascribed in the Agreement.

"Agreement" means the Schedule of Equipment No. 01, dated 3/23/2020 to Master Equipment Lease Purchase Agreement dated 3/23/2020, by and between Lessee and Lessor and any duly authorized and executed amendment thereto, the terms of which are incorporated herein by reference.

"Acquisition Costs" means, with respect to the Equipment, the contract price paid or to be paid to Vendor therefore upon acquisition or delivery of any portion of the Equipment in accordance with the purchase order or contract therefore. Acquisition Costs include the administrative, engineering, legal, financial and other costs incurred by the Lessee in connection with the acquisition, delivery and financing by Lessor of the Equipment.

"Acceptance Certificate" means an acceptance certificate in the form attached to the Agreement.

"Acquisition Fund" means the fund by that name established and held by the Escrow Agent pursuant to Article II of this Escrow Agreement.

"Closing Date" means the day when Lessor deposits with the Escrow Agent the moneys required to be deposited pursuant to Article II.

"Equipment" means the personal property described in the Agreement, together with any and all modifications, additions and alterations thereto, to be acquired from the moneys held in the Acquisition Fund.

"Escrow Agent" means Community First National Bank or any successor thereto acting as Escrow Agent pursuant to this Escrow Agreement.

"Escrow Agreement" means this Escrow Agreement and any duly authorized and executed amendment thereto.

"Independent Counsel" means an attorney duly admitted to the practice of law before the highest court of the State in which he maintains an office and who is not an employee of Lessor, the Escrow Agent or the Lessee.

"Lessee Representative" means the representative of Lessee or a person authorized by the Lessee to act on its behalf under or with respect to this Agreement.

"Lessor Representative" means the President, any Vice President or Assistant Vice President of Lessor, or any person authorized to act on behalf of Lessor under or with respect to this Agreement, as evidenced by a certificate conferring such authorization executed by the President, any Vice President or Assistant Vice President of Lessor, given to the Lessee or the Lessee Representative.

"Payment Date" means the date upon which any Rental Payment under the Agreement is due and payable, as set forth in the Payment Schedule.

"Payment Request Form" means the document substantially in the form attached hereto as Exhibit A to be executed by Lessee and Lessor and submitted to Escrow Agent to authorize payment of Acquisition Costs.

"Qualified Investments" means (i) direct general obligations of the United States of America; (ii) obligations guaranteed by the United States; (iii) general obligations of the agencies and instrumentalities of the United States; (iv) certificates of deposit, time deposits or demand deposits with a bank or savings institution qualified as a depository of public funds in the State of Kansas, provided that such certificates of deposit, time deposits or demand deposits, if not insured by the Federal Deposit Insurance Corporation of the Federal Savings and Loan Insurance Corporation, are fully secured by obligations described in Clauses (i), (ii) or (iii); (v) money market funds, the assets of which are obligations of or guaranteed by the United States of America and which funds are rated "Aaa" by Moody's Investors Service or "Am" or "Am-G" by Standard & Poor's Corporation.

"Rental Payments" means the basic payments payable by Lessee to Lessor pursuant to the provisions of the Agreement during the term thereof which are payable in conjunction of the right of Lessee to use the Equipment during the then current portion of the term of the Agreement.

"Term of the Agreement" means the time during which the Agreement is in effect, as provided in Article III of the Agreement.

"Vendor" means the manufacturer of the Equipment as well as the agents or dealers of the manufacturer from whom Lessor purchased will purchase or has ordered the Equipment or with whom Lessor has contracted for the acquisition of the Equipment.

**Section 1.03. Authorization.** Each of the parties hereby represents and warrants that it has full legal authority and is duly empowered to enter into this Agreement, and has taken all actions necessary to authorize the execution of this Agreement by the officers and person signing it.

## ARTICLE II. ACQUISITION FUND

**Section 2.01. Acquisition Fund.** Escrow Agent shall establish a special fund designated as the "Acquisition Fund"; shall keep such Acquisition Fund separate and apart from all other funds and moneys held by it; and shall administer such funds as expressly provided hereunder.

**Section 2.02. Deposit of Moneys by Lessor.** At the Closing Date, Lessor shall deposit with the Escrow Agent the amount of **\$155,727.00**. Escrow Agent shall credit said amount to the Acquisition Fund established and to be held, applied and disbursed as herein provided.

**Section 2.03. Purpose; Payment of Acquisition Costs.** The Acquisition Fund shall be expended for the Acquisition Costs of the Equipment. Escrow Agent shall pay from the Acquisition Fund the Acquisition Costs of the Equipment, upon receipt from Lessee and Lessor the following items:

- (a) in the case of payment of any Acquisition Costs to Vendor pursuant to a contract or purchase order, (1) a duly executed Payment Request Form, with a true copy of the Vendor's statement attached, (2) where applicable, a duplicate original of any change order approved by

Lessee and Lessor increasing Acquisition Costs in an amount in excess of the original purchase order or contract price, (3) receipts from the Vendor showing proper application of prior requisitions, (4) bills of sale for any component of the Equipment for which a bill of sale may be delivered, and (5) an Acceptance Certificate with respect to the Equipment for which disbursement is requested;

- (b) in the case of any Acquisition Costs previously paid by Lessee for which it is seeking reimbursement, (1) a duly executed Payment Request Form, (2) a true copy of Vendor's statement for such Acquisition Costs, (3) evidence of payment, and (4) evidence of Lessee's declaration of official intent for reimbursement, which declaration shall have been made no later than 60 days after the Lessee paid the Acquisition Costs; or
- (c) in the case of payment of any other Acquisition Costs, a duly executed Payment Request Form.

**Section 2.04. Escrow Agent's Compensation.** As compensation for the services to be rendered hereunder, Lessee agrees to pay the Escrow Agent \$200.00 ("Escrow Agent's Compensation"). The Escrow Agent's Compensation shall be payable from interest earnings on the escrow account and will be paid upon disbursement of proceeds to the vendor and closing of the escrow account. If the interest earnings on the escrow account are not sufficient to pay the Escrow Agent's Compensation, Escrow Agent shall provide Lessee with an invoice for the shortfall and Lessee shall pay such amount to Escrow Agent upon demand. If funds remain in the Acquisition Fund, excluding Acquisition Costs and Escrow Agent's Compensation, after the full delivery and acceptance of the Equipment, then Lessee and Lessor agree such excess funds shall be retained by Escrow Agent as partial compensation for the performance of its obligations hereunder.

**Section 2.05. Transfers Upon Completion.** Upon the first to occur of (a) payment of all Acquisition Costs with respect to the Equipment; or (b) the one year anniversary of the Closing Date, Escrow Agent shall apply all remaining moneys in the Acquisition Fund to the next Rental Payment(s) due under the Agreement by paying such moneys directly to the Lessor or its assignees.

**Section 2.06. Termination.** If this Escrow Agreement is terminated by Lessor as authorized under Article VII and the Agreement, all moneys in the Acquisition Fund shall be paid to Lessor or assignees for application against moneys due to Lessor under the Agreement. In the event that Lessor provides to the Escrow Agent written notice of the occurrence of an Event of Default under the Agreement or the termination of the Agreement for any reason other than Lessee's payment of the applicable Purchase Option Price, Escrow Agent shall immediately remit any and all funds in the Acquisition Fund to Lessor.

### ARTICLE III. MONEYS IN FUNDS: INVESTMENTS; TERMINATION

**Section 3.01. Held in Trust.** The moneys and investments held by the Escrow Agent under this Escrow Agreement are irrevocably held in trust for the benefit of the Lessee and for the purposes herein specified. Such moneys, and any income or interest earned thereon, shall be expended only as provided in this Escrow Agreement, and shall not, to the extent permitted by applicable law, as otherwise expressly provided herein, be subject to levy or attachment or lien by or for the benefit of any creditor of either Lessor or Lessee.

**Section 3.02. Investments Authorized.** Moneys held by the Escrow Agent hereunder may be invested, and upon written order of the Lessee Representative shall, be invested by the Escrow Agent in Qualified Investments. Such investments shall be registered in the name of the Escrow Agent and held by Escrow Agent which may act as a purchaser or agent in making or disposing thereof. Such investments and reinvestments shall be made giving full consideration for the time when funds will be required to be available for acquisition.

**Section 3.03. Accounting.** The Escrow Agent shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with this Escrow Agreement.

**Section 3.04. Valuation and Disposition of Investments.** For the purpose of determining the amount in the Acquisition Fund, all Qualified Investments credited to such fund shall be valued at cost (exclusive of accrued interest after the first interest payments following purchase). Escrow Agent may sell at the best price obtainable, or present for redemption, any Qualified Investment so purchased by Escrow Agent, whenever it shall be necessary in order to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the Acquisition Fund to which such Qualified Investment is credited and Escrow Agent shall not be liable or responsible for any loss resulting from such investment.

**Section 3.05. Deposit of Moneys in Acquisition Fund.** All moneys held by the Escrow Agent in the Acquisition Fund established pursuant to this Agreement, except such moneys which are at the time invested as herein provided, shall be deposited in demand or time deposits (which may be represented by time certificates of deposit) in any bank or trust company authorized to accept deposits of public funds (including the banking department of the Escrow Agent), and, as and to the extent required by law, shall be secured at all times by obligations which are eligible by law to secure deposits of public moneys. Such obligations shall be deposited with such bank or banks as may be selected by Escrow Agent, and held by or for the account of the Escrow Agent as security for such deposits.

**Section 3.06. Termination.** Unless earlier terminated pursuant to Article VII, this Escrow Agreement shall terminate upon the final distribution of all moneys in the Acquisition Fund.

### ARTICLE IV. THE ESCROW AGENT

**Section 4.01. Removal of Escrow Agent.** The Lessee and Lessor, by written agreement between themselves, may by written request, at any time and for any reason, remove the Escrow Agent and any successor thereto, and shall thereupon appoint a successor or successors thereto, but any such successor shall have capital (exclusive of borrowed capital) and surplus of at least Ten Million Dollars (\$10,000,000), and subject to supervision or examination by federal or state authority. If such bank or trust company publishes a report of condition at least annually, pursuant to statute or to the requirements of any federal or state supervising or examining authority, to, then for the purposes of this Section the combined capital and surplus of such bank or trust company may be conclusively established for the purposes hereby in its most recent report of condition so published.

**Section 4.02. Resignation of Escrow Agent.** The Escrow Agent or any successor may at any time resign by giving written notice to the Lessee and Lessor of its intention to resign and of the proposed date of resignation, which shall be a date not less than 60 days after such notice, unless an earlier resignation date and the appointment of a successor Escrow Agent shall have been or are approved by Lessee and Lessor. Upon receiving such notice of resignation, the Lessee and Lessor shall promptly appoint a successor Escrow Agent by an instrument in writing; provided however, that in the event the Lessee and Lessor fail to appoint a successor Escrow Agent within 30 days following receipt of such written notice of resignation, Lessor may appoint a successor Escrow Agent, and in the event that Lessor fail to appoint a successor Escrow Agent within 30 days following the expiration of such initial 30-day period, the resigning Escrow Agent may petition the appropriate court having jurisdiction to appoint a successor Escrow Agent. Any resignation or removal of the Escrow Agent shall become effective only upon acceptance of appointment by the successor Escrow Agent.

**Section 4.03. Appointment of Agent.** The Escrow Agent may appoint an agent acceptable to the Lessee and Lessor to exercise any of the powers, rights or remedies granted to the Escrow Agent under this Escrow Agreement, and to hold title to property or to take any other action which may be desirable or necessary.

**Section 4.04. Merger or Consolidation.** Any company into which the Escrow Agent may be merged or converted, or with which it may be consolidated, or any company resulting from any merger, conversion or consolidation to which it shall be a party, or any company to which the Escrow Agent may sell or transfer all or substantially all of its corporate trust business (provided that such company shall be eligible under Section 4.02) shall be the successor to the Escrow Agent without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

**Section 4.05. Protection and Rights of the Escrow Agent.** The Escrow Agent shall be protected and shall incur no liability in acting or proceeding in good faith upon any resolution, notice, telegram, request, consent, waiver, certificate, statement, affidavit, voucher, bond, requisition or other paper or document which it shall in good faith believe to be genuine and to have been passed or signed by the proper board or person or to have been prepared and furnished pursuant to any of the provisions of this Escrow Agreement, and the Escrow Agent shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument, but may accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements. The Escrow Agent may consult with Independent Counsel who may be counsel to Lessor or Lessee, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith in accordance therewith.

Whenever in the administration of its duties under this Escrow Agreement, the Escrow Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matters (unless other evidence in respect thereof be herein specifically prescribed), shall be deemed to be conclusively proved and established by the certificate of the Lessee Representative or the Lessor Representative and such certificate shall be full warranty to the Escrow Agent for any action taken or suffered under the provisions of this Escrow Agreement upon the faith thereof, but in its discretion the Escrow Agent may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

The recitals, statements and representations by Lessee and Lessor contained in this Agreement shall be taken and construed as made by and on the part of the Lessee and Lessor, as the case may be, and not by the Escrow Agent, and the Escrow Agent does not assume, and shall not have, any responsibility or obligation for the correctness of any thereof.

The Escrow Agent may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, or receivers, and shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder, and the Escrow Agent shall not be answerable for the default or misconduct of any such attorney, agent, or receiver selected by it with reasonable care. The Escrow Agent shall not be answerable for the exercise of any discretion or power under this Escrow Agreement or for anything whatsoever in connection with the funds and accounts established hereunder, except only for its own willful misconduct or gross negligence.

#### **ARTICLE V. ASSIGNMENTS; AMENDMENTS**

Section 5.01. Assignment. Except as expressly herein provided to the contrary; the rights and duties of each of the parties under this Escrow Agreement shall not be assignable to any person or entity without the written consent of all of the other parties. Notwithstanding the above, Lessor may freely assign all or any part of its interest in this Agreement and the Acquisition Fund established hereunder in connection with an assignment by Lessor of the Agreement, subject to the provisions contained therein.

Section 5.02. Amendments. This Escrow Agreement may be amended in writing by agreement among all of the parties.

#### **ARTICLE VI. FURTHER ASSURANCES**

Section 6.01. Further Assurances. Lessor and Lessee will make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Escrow Agreement, and for better assuring and confirming the rights and benefits provided herein.

#### **ARTICLE VII. DEFAULT OR NON-APPROPRIATION**

##### Section 7.01. Default.

- (a) Lessor shall have the right to terminate this Escrow Agreement upon an Event of Default under the Agreement, or termination of the Agreement pursuant to Section 4.05 thereof, which right shall not be exercised less than 15 days after Lessor shall have given Lessee written notice of such default or termination for non-appropriation. Upon receipt of notice of termination from Lessor, Escrow Agent shall pay to Lessor, or its assignee, all moneys in the Acquisition Fund in accordance with Section 2.06.
- (b) In the event of the failure by any party hereto to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Escrow Agreement, any non-defaulting party hereto shall have all of the rights and remedies now or hereafter existing at law or in equity against the defaulting party.
- (c) No delay or omission to exercise any such right or power accruing upon any default shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

#### **ARTICLE VIII. LIMITATION OF LIABILITY**

Section 8.01. Limited Liability of Escrow Agent. Escrow Agent shall have no obligation or liability to any of the other parties under this Escrow Agreement for the failure or refusal of any other party to perform any covenant or agreement made by any of it hereunder or under the Agreement, but shall be responsible solely for the business-like performance of the duties expressly imposed upon Escrow Agent hereunder. The recitals of facts, covenants and agreements herein contained pertaining to Lessee and Lessor shall be taken as statement, covenants and agreements of the Lessee or Lessor (as the case may be), and Escrow Agent assumes no responsibility for the correctness of the same, or makes any representation as to the validity or sufficiency of this Escrow Agreement, or shall incur any responsibility in respect thereof, other than in connection with the duties or obligations herein imposed upon it. Escrow Agent shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful default.

Section 8.02. Indemnification. To the extent permitted by applicable law, Lessee agrees to indemnify and save Escrow Agent harmless from and against all claims, suits and actions brought against it, or to which it is made a party, and from all losses and damages, including without limitation reasonable, attorney fees and court costs suffered by it as a result thereof, where such claim, suit or action arises in connection with this Escrow Agreement, the transactions described herein and in the Agreement or the Escrow Agent's employment as an Escrow Agent by Lessee and Lessor. Notwithstanding the foregoing, such indemnification shall not extend to claims, suits and actions brought against the Escrow Agent for failure to perform and carry out the duties specifically imposed upon and to be performed by it pursuant to this Escrow Agreement and claims, suits or actions arising from events solely and directly attributable to acts of Lessor. In the event the Lessee is required to indemnify Escrow Agent as herein provided, Lessee shall be subrogated to the rights of the Escrow Agent to recover such losses or damages from any other person or entity.

Section 8.03. Discretion of Escrow Agent to File Civil Action in the Event of Dispute. If Lessor or Lessee are in disagreement about the interpretation of this Escrow Agreement, or about the rights and obligations, or the propriety of any action contemplated by Escrow Agent hereunder, Escrow Agent may, but shall not be required to, file an appropriate civil action to resolve the disagreement. If such civil action is filed, both Lessee & Escrow Agent, shall be responsible for their own legal expenditures individually. Escrow Agent, at its option, may suspend all or part of its activities under this Escrow Agreement until a final judgment in such action is received.

Section 8.04. Opinion of Counsel. Before being required to take any action, the Escrow Agent may require (i) an opinion of Independent Counsel acceptable to the Escrow Agent, which counsel may be counsel to any of the parties hereto, and which opinion shall be made available to the other parties hereto, or (ii) a verified certificate of any party hereto, or (iii) both (i) and (ii), concerning the proposed action. Escrow Agent shall be absolutely protected in relying thereon if it does so in good faith.

Section 8.05. Limitation of Rights to Parties. Nothing in this Escrow Agreement, expressed or implied, is intended or shall be construed to give any person other than the Lessee, Lessor or the Escrow Agent any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenant, condition or provision hereof; and all such covenants, conditions and provisions are and shall be for the sole and exclusive benefit of the Lessee, Lessor and Escrow Agent.

#### **ARTICLE IX. MISCELLANEOUS**

Section 9.01. Records. The Escrow Agent shall keep complete and accurate records of all moneys received and disbursed under this Escrow Agreement, which shall be available for inspection by the Lessee, Lessor, or the agent of either of them, at any time during regular business hours.

Section 9.02. Notices. All written notice to be given under this Escrow Agreement shall be given by mail to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other parties in writing from time to time. Any such notice shall be deemed to have been received 72 hours after deposit in the United States mail in registered or certified form, with postage fully prepaid.

Section 9.03. Governing Laws. This Escrow Agreement shall be construed and governed in accordance with the laws of the State of Kansas.

Section 9.04. Partial Invalidity. Any provision of this Escrow Agreement found to be prohibited by laws shall be ineffective only to the extent of such prohibition, and shall not invalidate the remainder of this Escrow Agreement.

Section 9.05. Binding Effect; Successors. This Escrow Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. Whenever in this Escrow Agreement any party hereto is named or referred to, such references shall be deemed to include permitted successors or assigns thereof, and all covenants and agreements contained in this Escrow Agreement by or on behalf of any party hereto shall bind and inure to the benefit of permitted successors and assigns thereof whether or not so expressed.

Section 9.06. Execution in Counterparts. This Escrow Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

Section 9.07. Headings. The headings or titles of the several Articles and Sections hereof, and any tables of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Escrow Agreement. All references herein to "Articles", "Sections", and other subdivisions are to the corresponding Articles, Sections, or subdivisions of this Escrow Agreement; and the words "herein", "hereof", "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof.

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

**ESCROW AGENT:**  
Community First National Bank  
215 S. Seth Child Road  
Manhattan, KS 66502

---

Signature

---

Name and Title

**LESSOR:**  
Community First National Bank  
215 S. Seth Child Road  
Manhattan, KS 66502

---

Signature

---

Name and Title

**LESSEE:**  
City of Newport  
222 Main Street  
Newport, VT 05855

---

Laura Dolgin, City Manager

**EXHIBIT A  
PAYMENT REQUEST FORM**

Community First National Bank, Escrow Agent under an Escrow Agreement dated as of 3/23/2020, by and among the said Escrow Agent, Community First National Bank (Lessor), and the City of Newport, (Lessee) is hereby requested to pay, from the Equipment Acquisition Fund held under said Escrow Agreement, to the persons, firms or corporation designated below as payee, the amount set forth opposite each such person's firm's or corporation's name, in payment of the Acquisition Costs (as defined in said Escrow Agreement) of the Equipment described on the attached page(s) designated opposite such Payee's name and account.

<u>Payee</u>	<u>Equipment</u>	<u>Amount</u>

**VOID**

**TO BE UTILIZED AS A SIGNATURE CARD ONLY**

By executing this Payment Request Form the Lessee hereby represents that the Payee or Payees listed above who are requesting payment have delivered the Equipment or a portion of the Equipment or performed the services to the satisfaction of the Lessee and that the amounts requested above by the Payee or Payees are proportionate with the value of the Equipment delivered or services rendered by the Payee or Payees.

**Partial Disbursement.** The undersigned certifies that the following documents are attached to this Payment Request Form when there is a request for a partial release of funds from the Escrow Account to pay for a portion of the Equipment: (1) Invoice from the Vendor, (2) copy of the agreement between Lessee and Vendor (if requested by the Lessor or Escrow Agent), (3) front and back copy of the original MSO/Title (if payment from Escrow Account is for a chassis) listing Community First National Bank and/or its assigns as the first lien holder. By executing this Payment Request Form and attaching the documents as required above, the Lessee shall be deemed to have accepted this portion of the Equipment for all purposes under the Lease, including, without limitation, the obligation of Lessee to make the Rental Payments with respect thereto in a proportionate amount of the total Rental Payment. By executing this Payment Request Form Lessee agrees that Lessee is the title owner to this portion of the Equipment and that in the event that any third party makes a claim to such title that Lessee will take all measures necessary to secure title including, without limitation, the appropriation of additional funds to secure title to this portion of the Equipment and keep the Lease in full force and effect.

**Final Disbursement.** The undersigned certifies that the following documents are attached to this Payment Request Form when there is a final release of funds from the Escrow Account: (1) Final Vendor Invoice, (2) Signed Acceptance Certificate, (3) Insurance Certificate, (4) front and back copy of the original MSO/Title listing Community First National Bank and/or its assigns as first lien holder (if not already received). By executing this Payment Request Form and attaching the documents as required above, the Lessee shall be deemed to have accepted the Equipment for all purposes under the Lease, including, without limitation, the obligation of Lessee to make the Rental Payments with respect thereto. By executing this Payment Request Form Lessee certifies that Lessee is the title owner to the Equipment and that in the event that any third party makes a claim to such title that Lessee will take all measures necessary to secure title including, without limitation, the appropriation of additional funds to secure title to the Equipment and keep the Lease in full force and effect.

**LESSEE:**  
City of Newport

\_\_\_\_\_  
Laura Dolgin, City Manager

\_\_\_\_\_  
Signature

*Signature of additional authorized individual (optional)*

\_\_\_\_\_  
Name and Title

# TAX COMPLIANCE AGREEMENT AND NO ARBITRAGE CERTIFICATE

This Tax Compliance Agreement and No Arbitrage Certificate is issued in connection with that certain Schedule of Equipment No. 01, dated 3/23/2020 to Master Equipment Lease Purchase Agreement dated as 3/23/2020 by and between Community First National Bank, ("Lessor") and City of Newport ("Lessee").

## 1. In General.

1.1. This Certificate is executed for the purpose of establishing the reasonable expectations of Lessee as to future events regarding the financing of certain equipment by Lessee as described in the Schedule of Equipment No. 01, dated 3/23/2020 to Master Equipment Lease Purchase Agreement dated as of 3/23/2020 (the "Lease") between Lessor and Lessee and all related documents executed pursuant thereto and contemporaneously herewith with respect to the financing of the acquisition of Twenty-One (21) SCBAs, Forty-Two (42) Cylinders, & Twelve (12) Voice Amplifiers of equipment (the "Equipment") by Lessor for Lessee (the Lease and such other documents are hereinafter collectively referred to as the "Financing Documents").

1.2. The individual executing this Certificate on behalf of Lessee is an officer of Lessee delegated with the responsibility of reviewing and executing the Financing Documents.

1.3. To the best of the undersigned's knowledge, information and belief, the expectations contained in this Certificate are reasonable.

1.4. Lessee has not been notified of any listing or proposed listing of it by the Internal Revenue Service as an issuer whose certifications as to arbitrage may not be relied upon.

1.5. The rental payments due under the Financing Documents will be made with monies retained in Lessee's general operating fund (or an account or sub account therein). No sinking, debt service, reserve or similar fund or account will be maintained for the payment of the rental payments due under the Financing Documents or pledged as security therefor.

1.6. If any other governmental obligations were or are being issued by or on behalf of Lessee within fifteen (15) days of the date of issuance of the Financing Documents, such obligations either (i) were not or are not being issued or sold pursuant to a common plan of financing with, or (ii) will not be paid out of substantially the same source of funds as, the financing pursuant to the Financing Documents.

## 2. Purpose of the Financing Documents.

2.1. The Financing Documents are being entered into for the purpose of providing funds for financing the cost of acquiring, equipping and installing the Equipment which is essential to the governmental functions of Lessee, which Equipment is described in the Equipment Description executed and delivered by Lessee pursuant to the Financing Documents. The principal amount represented by the Financing Documents, or \$155,727.00 will be deposited in escrow by Lessor at closing and held by Community First National Bank, as Escrow Agent (the "Escrow Agent") pending acquisition of the Equipment under the terms of that certain Escrow Agreement dated as of 3/23/2020 (the "Escrow Agreement"), by and among Lessor, Lessee and Escrow Agent.

2.2. No portion of the principal amount represented by the Financing Documents will be used as a substitute for other funds which were otherwise to be used as a source of financing for the Equipment, or will be used, directly or indirectly, to replace funds used by Lessee to acquire investments which produce a yield materially higher than the yield to Lessor under the Financing Documents.

2.3. Lessee does not expect to sell or otherwise dispose of the Equipment, in whole or in part, at a date which is earlier than the final rental payment due under the Financing Documents.

## 3. Source and Disbursement of Funds.

3.1. The principal amount represented by the Financing Documents does not exceed the amount necessary for the governmental purpose for which the Financing Documents were entered into. Such funds are expected to be needed and fully expended for payment of the costs of acquiring, equipping and installing the items of Equipment.

3.2. It is contemplated that the entire amount deposited in escrow will be used to pay the acquisition cost of Equipment to the vendors or manufacturers thereof, provided that a portion of the principal amount may be paid to Lessee within such period as reimbursement for Acquisition Costs already made by it so long as the conditions set forth in Section 3.3 below are satisfied.

3.3. Lessee shall not request that it be reimbursed for Equipment acquisition cost payments already made by it unless the following conditions have been satisfied:

(a) Lessee made a declaration of its reasonable intention to reimburse the acquisition cost payment sought to be reimbursed with the proceeds of a borrowing not later than sixty (60) days after the date on which it made the payment, which declaration satisfies the "Official Intent Requirement" set forth in Treas. Reg. Sec. 1.150-2;

(b) The reimbursement being requested will be made by written allocation before the later of eighteen (18) months after the acquisition cost payment was made or eighteen (18) months after the items of Equipment to which such payment relates were placed in service;

(c) The entire payment with respect to which reimbursement is being sought is a capital expenditure, being a cost of type properly chargeable to a capital account under general federal income tax principles; and

(d) Lessee will use any reimbursement payment for general operating expenses and not in a manner which could be construed as an artifice or device under Treas. Reg. Sec. 1.148-10 by, virtue of, among other things, use to refund, or to create or increase a sinking, reserve or replacement fund with respect to, any other obligations issued by it.

## 4. Temporary Period.

4.1. Lessee expects, within six months from the date of issuance of the Financing Documents, (a) to have had disbursed from escrow an amount in excess of the lesser 2 1/2% of the amount deposited by Lessor in escrow or \$100,000, or (b) to enter into binding obligations with third parties obligating Lessee to spend such amount.

4.2. The ordering and acceptance of the items of Equipment will proceed with due diligence to the date of final acceptance of the Equipment.

4.3. The items of Equipment being acquired by Lessee will be delivered at various times. At least 15% of the sum of the amount deposited in escrow and the reasonably anticipated interest earnings thereon will be used to pay the acquisition price of items of Equipment within six months from the date of issuance of the Financing Documents; at least 60% of the sum of the amount deposited in escrow and the reasonably anticipated interest earnings thereon will be used to pay the acquisition cost of items of Equipment within 12 months from the date of issuance of the Financing Documents; and 100% of the amount deposited in escrow and interest earnings thereon will be used to pay the acquisition cost of items of Equipment prior to 18 months from the date of issuance of the Financing Documents.

4.4. The total acquisition cost of the Equipment is not required to be paid to the vendors or manufacturers thereof until the Equipment has been accepted by Lessee.

## 5. Escrow Account.

5.1. The Financing Documents provide that the monies deposited in escrow shall be invested until payments to the vendor(s) or manufacturer(s) of the Equipment are due. Lessee will ensure that such investment will not result in Lessee's obligations under the Financing Documents being treated as an "arbitrage bond" or a "federally guaranteed bond" within the meaning of Section 148(a) or Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code"), respectively. Any monies which are earned from the investment of these funds shall be labeled as interest earned. All such monies will be disbursed on or promptly after the date that Lessee accepts the equipment.

**6. Exempt Use.**

6.1. No part of the proceeds of the Financing Documents or the Equipment will be used in any "private business use" within the meaning of Section 141(b)(6) of the Internal Revenue Code of 1986, as amended.

6.2. No part of the proceeds of the Financing Documents will be used, directly or indirectly, to make or finance any loans to non-governmental entities or to any governmental agencies other than Lessee.

**7. No Federal Guarantee.**

7.1. Payment of the principal or interest due under the Financing Documents is not directly or indirectly guaranteed, in whole or in part, by the United States or an agency or instrumentality thereof.

7.2. No portion of the proceeds under the Financing Documents shall be (i) used in making loans, the payment of principal or interest of which are to be guaranteed, in whole or in part, by the United States or any agency or instrumentality thereof, or (ii) invested, directly or indirectly, in federally insured deposits or accounts if such investment would cause the financing under the Financing Documents to be federally guaranteed within the meaning of Section 149(b) of the Code.

**8. Miscellaneous.**

8.1. Lessee agrees to comply with the rebate requirement set forth in Section 148(f) of the Code in the event that for any reason it is applicable to the financing pursuant to Financing Documents.

8.2. Lessee shall keep a complete and accurate record of all owners or assignees of the Financing Documents in form and substance satisfactory to comply with Section 149(a) of the Code unless Lessor or its assignee agrees to act as Lessee's agent for such purpose.

8.3. Lessee shall maintain complete and accurate records establishing the expenditure of the proceeds of the Financing Documents and interest earnings thereon for a period of five years after payment in full under the Financing Documents.

IN WITNESS WHEREOF, this Tax Compliance Agreement and No Arbitrage Certificate has been executed on behalf of Lessee as of the date set forth below.

**LESSEE:**

City of Newport

\_\_\_\_\_  
Laura Dolgin, City Manager

\_\_\_\_\_  
Date

**Information Return for Tax-Exempt Governmental Bonds**

(Rev. September 2018)

Under Internal Revenue Code section 149(e)

See separate instructions.

OMB No. 1545-0720

Department of the Treasury  
Internal Revenue Service

Caution: If the issue price is under \$100,000, use Form 8038-GC.  
Go to [www.irs.gov/F8038G](http://www.irs.gov/F8038G) for instructions and the latest information.

<b>Part I Reporting Authority</b>		If Amended Return, check here <input type="checkbox"/>	
1 Issuer's name City of Newport		2 Issuer's employer identification number (EIN) 03-6000595	
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)		3b Telephone number of other person shown on 3a	
4 Number and street (or P.O. box if mail is not delivered to street address) 222 Main Street		Room/suite	5 Report number (For IRS Use Only) 3
6 City, town, or post office, state, and ZIP code Newport, VT 05855		7 Date of issue 03/23/2020	
8 Name of issue Master Equipment Lease Purchase Agreement		9 CUSIP number	
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions)		10b Telephone number of officer or other employee shown on 10a	

<b>Part II Type of Issue (enter the issue price).</b> See the instructions and attach schedule.		
11 Education		
12 Health and hospital		
13 Transportation		
14 Public safety		
15 Environment (including sewage bonds)		
16 Housing		
17 Utilities		
18 Other. Describe SCBAs	155,727	00
19a If bonds are TANs or RANs, check only box 19a	<input type="checkbox"/>	
b If bonds are BANs, check only box 19b	<input type="checkbox"/>	
20 If bonds are in the form of a lease or installment sale, check box	<input type="checkbox"/>	

<b>Part III Description of Bonds.</b> Complete for the entire issue for which this form is being filed.					
	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	07/15/2026	\$ 155,727.00	\$ N/A	6 years	3.194 %

<b>Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)</b>			N/A
22	Proceeds used for accrued interest		
23	Issue price of entire issue (enter amount from line 21, column (b))		
24	Proceeds used for bond issuance costs (including underwriters' discount)		
25	Proceeds used for credit enhancement		
26	Proceeds allocated to reasonably required reserve or replacement fund		
27	Proceeds used to refund prior tax-exempt bonds. Complete Part V		
28	Proceeds used to refund prior taxable bonds. Complete Part V		
29	Total (add lines 24 through 28)		
30	Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)		

<b>Part V Description of Refunded Bonds.</b> Complete this part only for refunding bonds.		N/A
31	Enter the remaining weighted average maturity of the tax-exempt bonds to be refunded	years
32	Enter the remaining weighted average maturity of the taxable bonds to be refunded	years
33	Enter the last date on which the refunded tax-exempt bonds will be called (MM/DD/YYYY)	
34	Enter the date(s) the refunded bonds were issued (MM/DD/YYYY)	

**Part VI Miscellaneous**

<b>35</b>	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) . . . . .	<b>35</b>	
<b>36a</b>	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC). See instructions . . . . .	<b>36a</b>	
<b>b</b>	Enter the final maturity date of the GIC ▶ (MM/DD/YYYY) _____		
<b>c</b>	Enter the name of the GIC provider ▶ _____		
<b>37</b>	Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units . . . . .	<b>37</b>	
<b>38a</b>	If this issue is a loan made from the proceeds of another tax-exempt issue, check box <input type="checkbox"/> and enter the following information:		
<b>b</b>	Enter the date of the loan made from the master pool bond ▶ (MM/DD/YYYY) _____		
<b>c</b>	Enter the EIN of the issuer of the master pool bond ▶ _____		
<b>d</b>	Enter the name of the issuer of the master pool bond ▶ _____		
<b>39</b>	If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box . . . . .		<input checked="" type="checkbox"/>
<b>40</b>	If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box . . . . .		<input type="checkbox"/>
<b>41a</b>	If the issuer has identified a hedge, check here <input type="checkbox"/> and enter the following information:		
<b>b</b>	Name of hedge provider ▶ _____		
<b>c</b>	Type of hedge ▶ _____		
<b>d</b>	Term of hedge ▶ _____		
<b>42</b>	If the issuer has superintegrated the hedge, check box . . . . .		<input type="checkbox"/>
<b>43</b>	If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box . . . . .		<input type="checkbox"/>
<b>44</b>	If the issuer has established written procedures to monitor the requirements of section 148, check box . . . . .		<input type="checkbox"/>
<b>45a</b>	If some portion of the proceeds was used to reimburse expenditures, check here <input type="checkbox"/> and enter the amount of reimbursement . . . . . ▶ _____		
<b>b</b>	Enter the date the official intent was adopted ▶ (MM/DD/YYYY) _____		

<b>Signature and Consent</b>	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.			
	_____ Signature of Issuer's authorized representative	_____ Date	Laura Dolgin, City Manager Type or print name and title	
<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed PTIN
	Firm's name ▶	Firm's EIN ▶		
	Firm's address ▶	Phone no.		

# Local Emergency Management Plan Municipal Adoption Form

**Town/City of** Newport City  
222 Main Street  
Newport, VT 05855

The Local Emergency Management Plan (LEMP) must be (re)adopted annually, after town meeting day, and submitted to the appropriate Regional Planning Commission (RPC) by May 1st.

At a warned public meeting (regular selectboard/city council meeting), the municipality adopted the Local Emergency Management Plan (LEMP) on the date shown at right.

At a warned public meeting (regular selectboard/city council meeting), the municipality adopted the National Incident Management System (NIMS) on the date shown at right.

If Vermont Emergency Management needs to contact municipal leaders to determine status and support requirements during an emergency, the Emergency Management Director (EMD) and two other local Points Of Contact (POCs) who should have authoritative local information are listed at right.

Mark this block if a readopted plan has no changes since the previous year.

<b>Municipality</b>	Newport City
<b>LEMP Adoption Date</b>	April 20 2020
<b>NIMS Adoption Date</b>	01/2004
<b>EMD Name</b>	John Harlamert
<b>Position</b>	EMD
<b>Primary Phone</b>	802-334-7919
<b>Alternate Phone</b>	802-673-2284
<b>Email</b>	john.harlamert@newportvermont.org
<b>POC 2 Name</b>	Travis Bingham
<b>Position</b>	Police Chief
<b>Primary Phone</b>	802-334-6733
<b>Alternate Phone</b>	802-274-8804
<b>Email</b>	travis.bingham@newportpd.org
<b>POC 3 Name</b>	Laura Dolgin
<b>Position</b>	City Manager
<b>Primary Phone</b>	802-334-5136
<b>Alternate Phone</b>	802-673-5071
<b>Email</b>	laura.dolgin@newportvermont.org

I hereby certify that the LEMP meets Vermont National Incident Management System (NIMS) requirements and current LEMP Implementation Guidance as on page 2:

Signed\* \_\_\_\_\_

Printed Name; certifying individual must have taken, at a minimum, ICS402 or ICS100/IS-100 training

I hereby attest that the municipality has adopted NIMS and the LEMP as stated above:

Signed\* \_\_\_\_\_

Printed Name, Selectboard / council member

**Once completed, send adoption form (2 pages) and copy of Local Emergency Management Plan to Regional Planning Commission.**

\*A typed name is acceptable as an electronic signature if it represents an act of that person in accordance with 9 V.S.A. § 278.

# CITY OF NEWPORT LOCAL EMERGENCY OPERATIONS PLAN

## Emergency Steps

- 1) Establish an Incident Command Structure and make appropriate local decisions
- 2) Delegate Authorities to Incident Commander and request Declaration if appropriate
- 3) Contact State Emergency Operations Center (SEOC) if additional help or resources may be needed beyond mutual aid and local contractors (800-347-0488)
- 4) Alert the general population and evacuate as needed
- 5) Activate your Emergency Operations Center to support the Incident Commander as needed
- 6) Contact the Shelter Coordinator and American Red Cross (800-660-9130) to arrange a shelter opening if needed
- 7) Expand the ICS Structure as needed
- 8) Determine if additional operational shift staffing is needed
- 9) Conduct damage assessment. Report to SEOC
- 10) Conduct and document 'Emergency Repairs'

## Future steps

- 11) Refer to your local codes and standards, Vermont Stream Alterations Rule, and local hazard mitigation plan before undertaking permanent repairs
- 12) If damages result in a Federal Declaration, request 406 mitigation when completing a Project Worksheet
- 13) Conduct an after-action review and develop an improvement plan

**Jurisdictions' Points of Contact: Identify by priority the top three people to be Points of Contact for your Town during an emergency (ex: EMD, Town Manager, Selectboard Chair, Fire Chief)**

Job Title	First Name	Last Name	Work #	Radio call sign
Fire Chief	John	Harlamert	802-334-7919	Fire 1
Email Address	Cell #	Pager #	Home #	Time
<a href="mailto:john.harlamert@newportvermont.org">john.harlamert@newportvermont.org</a>	802-673-2284		802-673-9702	
Job Title	First Name	Last Name	Work #	Radio call sign
Chief of Police	Travis	Bingham	802-334-6733	M1381
Email Address	Cell #	Pager #	Home #	Time
<a href="mailto:travis.bingham@newportpd.org">travis.bingham@newportpd.org</a>	802-274-8804	N/A	802-274-8804	
Job Title	First Name	Last Name	Work #	Radio call sign
City Manager	Laura	Dolgin	802-334-5136	N/A
Email Address	Cell #	Pager #	Home #	Time
<a href="mailto:laura.dolgin@newportvermont.org">laura.dolgin@newportvermont.org</a>	802-673-5071	N/A		

County: Orleans

Name of town EMD/C: John Harlamert

Date LEOP adopted:

Date NIMS adopted: 01/2004

I, the select board chair or town manager, certify that this Local Emergency Operations Plan has been adopted (certifying individual must have taken, at minimum, ICS 402 or ICS 100 training): Laura Dolgin.

Physical Municipal Address: 222 Main Street, Newport VT

Telephone: 802-334-5136

Fax: 802-334-5632

E-mail: [laura.dolgin@newportvermont.org](mailto:laura.dolgin@newportvermont.org)

Alternate communication method: Telephone 802-334-6733

*This Local Emergency Operations Plan must be adopted annually, after town meeting day, and submitted by May 1<sup>st</sup>.*

## Response and Recovery Guidelines

Please use this as an aid for baseline actions that should occur in an incident.

1) Establish an Incident Command Structure and make appropriate local decisions				<input checked="" type="checkbox"/>	Time
<b>a. Identify the Incident Commander</b>				<input type="checkbox"/>	
<b>b. Identify the Incident Command Post</b>				<input type="checkbox"/>	
<b>c. Start a log of actions taken</b> (see Appendix A3- Activity Log (ICS Form 214))				<input type="checkbox"/>	
<b>d. Assess the situation (deploy assessment teams)</b>				<input type="checkbox"/>	
Determine casualties				<input type="checkbox"/>	
Determine structure/infrastructure losses				<input type="checkbox"/>	
Determine resource needs				<input type="checkbox"/>	
Identify emergency access sites or isolated citizens				<input type="checkbox"/>	
<b>e. Request additional resources (Mutual Aid) if needed.</b>				<input type="checkbox"/>	
<b>f. Secure a perimeter around affected area if needed</b>				<input type="checkbox"/>	
<b>g. Consider potential staffing needs (extended or multiple operational periods)</b>				<input type="checkbox"/>	

2) Delegate Authorities to Incident Commander and request Declaration if appropriate				<input checked="" type="checkbox"/>	Time
Have highest ranking town official delegate authority to and meet with Incident Commander as appropriate (see Appendix D4 – Delegation of Authority)				<input type="checkbox"/>	
If needed, the highest ranking town official should sign the Local Jurisdiction Request for Emergency Declaration, and send to DEMHS. (see Appendix A1 – Local Jurisdiction Request for Emergency Declaration)				<input type="checkbox"/>	

3) Contact State Emergency Operations Center if additional help or resources may be needed beyond mutual aid and local contractors				<input checked="" type="checkbox"/>	Time
Call State Emergency Operations Center and notify that additional resources may be needed.	<b>1-800-347-0488</b>			<input type="checkbox"/>	
If HAZMAT involved, contact HAZMAT Hotline	<b>1-800-641-5005</b>			<input type="checkbox"/>	

4) Alert the general population and evacuate as needed				<input checked="" type="checkbox"/>	Time
Alert the Public (including special needs or vulnerable populations) of the hazards of the event at the outset and during the event (including protective actions and evacuation information). Suggested methods (siren, PA, door-to-door, town website, facebook, twitter, front porch forum)				<input type="checkbox"/>	
Complete Planning Task #1 (see page 4)				<input type="checkbox"/>	

5) Activate the Emergency Operations Center to support the Incident Commander as needed (See Planning Task #3 on page 5)				<input checked="" type="checkbox"/>	Time
<b>Facility Name</b>	<b>Address</b>	<b>Phone Number</b>		<input type="checkbox"/>	
				<input type="checkbox"/>	
Maintain communications with the SEOC (DisasterLAN, Phone, Fax, Email)				<input type="checkbox"/>	

6) Contact the Shelter Coordinator and American Red Cross (800-660-9130) to arrange a shelter opening if needed (See Planning Task #6 on page 6)				<input checked="" type="checkbox"/>	Time
Notify the American Red Cross that shelters are needed				<input type="checkbox"/>	
Contact Shelter Manager				<input type="checkbox"/>	
<b>Shelter Name</b>	<b>Physical Address/Location of the Shelter</b>	<b>Shelter Phone # and Manager Name</b>	<b># of occupants</b>		
				<input type="checkbox"/>	Opened: Closed:
				<input type="checkbox"/>	Opened: Closed:
				<input type="checkbox"/>	Opened: Closed:

**7) Expand the ICS Structure as needed** (see Appendix A3 – Incident Briefing (ICS Form 201))

<b>8) Determine if additional operational shift staffing is needed</b>		<input checked="" type="checkbox"/>	Time
Determine the operational period (8hrs, 12hrs, etc)		<input type="checkbox"/>	
Identify staffing for future operational periods (see Appendix A3–Organizational Assignment List (ICS Form 203))		<input type="checkbox"/>	
Develop plans for the next operational period (see Appendix A3– Incident Action Plan (ICS Forms 202, 203, 204, 205, 206))		<input type="checkbox"/>	
	What is the Operational Period?      hrs to      hrs	<input type="checkbox"/>	
	What is the briefing time?      hrs	<input type="checkbox"/>	
As the incident winds down, release excess resources as per demobilization plans		<input type="checkbox"/>	

<b>9) Conduct damage assessment. Report to the State Emergency Operations Center</b>		<input checked="" type="checkbox"/>	Time
Complete Planning Task #2 (see page 4)		<input type="checkbox"/>	
Conduct a complete damage assessment for public and private damages. Submit Local Situation Report to the State Emergency Operations Center (see Appendix A2 – Local Situation Report)		<input type="checkbox"/>	

<b>10) Conduct and document 'Emergency Repairs'</b>		<input checked="" type="checkbox"/>	Time
Make roads passable and restore emergency access. Undertake Emergency Protective Measures (eg. removing debris threatening inhabited structures, culverts, and bridges). Emergency Protective Measures (temporary and permanent) must be consistent with the provisions of the Vermont Stream Alterations Rule (see Appendix C2)		<input type="checkbox"/>	

**11) Refer to your local codes and standards, including the most current Town Road and Bridge Standards as provided by the Agency of Transportation, Vermont Stream Alterations Rule (See Appendix C2), and local hazard mitigation plan before undertaking permanent repairs**

Document (photographs, maps, invoices, material quantities) all repairs for future mitigation actions. (ex: roadside/ditch erosion, repair with larger culvert, replace with better materials, etc)

Area Damaged	Cost of repair	Mitigation Solution (see local Hazard Mitigation Plan)

**12) If damages result in a Federal Declaration, request 406 mitigation when completing a Project Worksheet.**

**13) Conduct an after-action review and develop an improvement plan.**

## PLANNING TASKS

Please complete the white portion of these planning tasks prior to an incident occurring. During the incident, please complete the shaded portions.

Planning Task #1					
High Risk Populations List (for special attention/possible evacuation during an incident)			Complete this information during an incident		
High Risk Population Type (school, daycare, nursing home, medical equipment-dependent resident, handicapped resident)	High Risk Population Location (physical location)	Point of Contact	POC Phone Number	Evacuated To (physical location)	Time
North Country Hospital	189 Prouty Drive	Tom Frank	802-334-3519		
Newport Health Care	148 Prouty Drive	David Silver	802-334-7321		
North Country Union High School	209 Veterans Avenue	Chris Miller	802-334-7921 EXT3023		
Newport City Elementary School	166 Sias Avenue	Elaine Collins	802-334-2455		
United Christian Academy	65 School Street	Dr. Vincent Montoro	802-334-3112		
Bel-Aire Quality Care	35 Bel Aire Drive	Rosemary Mayhew	802-334-2878		
Lake View Apartments	16 Governor Drive	Rural Edge On-Call Representative	802-334-1541		
Lake View Apartments	36 Field Avenue	Rural Edge On-Call Representative	802-334-1541		
Lake View Apartments	236 Highland Avenue	Rural Edge On-Call Representative	802-334-1541		
Lake Bridge Housing	343 Main Street	Rural Edge On-Call Representative	802-334-1541		
Lake Bridge Housing	48 Pleasant Street	Rural Edge On-Call Representative	802-334-1541		
Lake Bridge Housing	14, 26, 50 Compass Drive	Rural Edge On-Call Representative	802-334-1541		
Seymour Lane Apartments	72 Seymour Lane	Rural Edge On-Call Representative	802-334-1541		
Governor Mansion Apartments	88 Second Street	Rural Edge On-Call Representative	802-334-1541		
Newport Senior Apartments	107 Main Street	Rural Edge On-Call Representative	802-334-1541		
Governor Prouty Apartments	26, 28, 54 Governor Drive	Rural Edge On-Call Representative	802-334-1541		
Park View	143 Willey Street	Rural Edge On-Call Representative	802-334-1541		
Newport Place	246 Elm Street	Newport Place On-Call Representative	1-800-338-8538		

Newport Head Start School	371 Main Street	Kellie Tarryk	802-334-7253	
Private Day Care	20 Masonic Lane	Pamela Coffin	802-334-2425	
Private Day Care	123 Cliff Street	Susan Gonyaw	802-334-8538	
Private Day Care	6 Edgewood Drive	Sherril Lamoureaux	802-274-7486	
Private Day Care	179 Blake Street	Elizabeth Nadeau	802-334-5472	
Private Day Care	208 Prospect St	Cindy Boyce	802-334-1212	
Private Day Care	88 Hinman Street	Amanda Goad	802-673-5981	

Planning Task #2 Major High Hazard and/or Vulnerable Sites List (locations to check for damage)					
Site Type: (ex: dam, culvert, bridges, railway crossing, low-lying area)	Complete this information before an incident	Site Location (physical location)	Checked by	Status	Time
Newport City Wastewater Facility	Complete this information before an incident	T.P. Lane (On Call Representative)			
Newport Dam		Crawford Rd Street (Mark Hinton 673-6127,742-1308 ) ( Jesse Hinton 673-2131 )			
Arsenic Treatment Facility		Coventry Street (On Call Representative)			
Poulin Grain		Railroad Square ( John Robillard 334-1316, 373-8669)			
Local Bridges		Causeway, Veterans Memorial, Clyde Street, Crawford Road, Gardner Park, Western Avenue			
Velco Substation		Clyde Street ( Mark Hinton 673-6127,742-1308 pager ) ( Jesse Hinton 673-2131 )			
Water Tower		Mountain View Drive ( On Call Representative )			
Newport City Reservoir		East Main Street ( On Call Representative )			
Great Bay Hydro (Newport Plant)		Clyde Street ( Mark Hinton 673-6127,742-1308 pager ) ( Jesse Hinton 673-2131 )			
D&C Transportation Fuel Tanks		Bluff Road			

Northern Vermont Rail System	Glen Road ( Eric Trucott 777-2435 ) Maine # (800) 432-1606			
Northern State Correctional Facility	2559 Glen Road ( Booking/Supervisor: 334-8960 )			

**Planning Task #3**  
**Pre-designated Local Emergency Operations Centers**

<b>Facility Name</b>	<b>Facility Address (physical location)</b>	<b>Facility Point of Contact</b>	<b>Facility Phone Number</b>
<b>Primary: Newport Municipal Building</b>	<b>222 Main Street</b>	<b>Laura Dolgin</b>	<b>802-334-5136</b>
<b>Secondary: Newport City Fire Station</b>	<b>350 Western Avenue</b>	<b>Jamie LeClair</b>	<b>802-334-7919</b>
<b>Tertiary: VT State Police (Derby Barracks)</b>	<b>35 Crawford Road</b>	<b>Lt. Walt Smith</b>	<b>802-334-8881</b>

**Planning Task #4**  
**Functional Area/ Local Support Function**

Please identify agencies responsible for maintaining resource lists, found in Appendix B5.

<b>Local Support Function</b>	<b>Agency Responsible for maintaining resource list: (see Appendix B5- Resource Lists)</b>
<b>1. Transportation</b> - Assets in support of the movement of emergency resources, including the evacuation of people and distribution of food and supplies.	<b>Newport City Fire Department</b>
<b>2. Communications</b> - Includes emergency warning, information and guidance to the public and responders. Includes resources and back-up resources for all means of communication.	<b>Newport Police Department</b>
<b>3. Public Works &amp; Engineering</b> - Resources in support of debris clearance, road, highway, bridge repairs and restoration of essential public works systems and services and the safety inspection of damaged public buildings.	<b>Newport City Department of Public Works</b>
<b>4. Firefighting</b> - Resources in support of structural and wildfire firefighting.	<b>Newport City Fire Department</b>
<b>5. Emergency Management, Recovery &amp; Mitigation</b> - Resources in support of the local Incident Commander through a Local Emergency Operations Center. Includes personnel resources available to provide overall coordination of the town's emergency operations. Resources may serve as a remote ICS planning section to collect, analyze and disseminate critical information on emergency operations for decision making purposes. May provide liaison with state/federal government.	<b>City Manager</b>
<b>6. Mass Care, Food &amp; Water</b> - Resources available to coordinate sheltering, feeding and first aid for disaster victims.	<b>Red Cross/C.E.R.T.</b>
<b>7. Resource Support</b> - Assets available for coordination and documentation of personnel, equipment, supplies, facilities and services used during disaster response and initial relief operations.	<b>City Clerk</b>
<b>8. Health &amp; Medical Services</b> - Resources for care and treatment for the ill and injured. Includes lists of trained health and medical personnel and other emergency medical supplies, materials and facilities. Assets include public health and environmental sanitation services, disease and vector control guidelines and resources for the collection, identification, and protection of human remains.	<b>North Country Hospital</b>
<b>9. Search &amp; Rescue</b> - Resources locally available to locate, identify and remove persons from a stricken area, including those lost or trapped in buildings and other structures. Also includes resources to coordinate S&R for those lost in non-inhabited areas.	<b>VT State Police/C.E.R.T.</b>
<b>10. Hazardous Materials</b> - Resources available for response, inspection, containment and cleanup of hazardous materials.	<b>Newport City Fire Department/VT State Hazmat Team</b>
<b>11. Agriculture &amp; Natural Resources</b> - Assets available for use in coordinated response in the management and containment of communicable diseases in an animal health or plant emergency	<b>Agency of Natural Resources</b>
<b>12. Energy</b> - Assets available for the emergency repair and restoration of critical public energy utilities. Includes locally available back-up power resources. Coordinates the rationing and distribution of emergency power and fuel.	<b>City Manager/Newport City Fire Department/V.E.C.</b>
<b>13. Law Enforcement</b> - Assets used for the protection of life and property by enforcing laws, orders and regulations. Resources available for area security, traffic and access control.	<b>Newport Police Department/Orleans County Sheriff's Department/VT State Police</b>
<b>14. Public Information</b> - Pre-identified personnel and resources used for effective collection, control and dissemination of public information to inform the general public of emergency conditions and available assistance.	<b>Newport Police Department</b>

Planning Task # 6 Shelters		
<b>Shelter 1</b>		
<b>Shelter Name:</b> North Country Union High School	<b>Physical Address/Location of the Shelter:</b> 209 Veterans Ave Newport, VT 05855	<b>Shelter Capacity:</b> 1000
<b>Shelter Manager:</b> Chris Miller	<b>Shelter Manager Cell #:</b> 802-730-7078 <b>Shelter Manager Pager #:</b> N/A	<b>Other Contact:</b> Dan Pickering
<input type="checkbox"/> Warming Shelter	<input type="checkbox"/> Overnight Shelter	<input type="checkbox"/> Red Cross Agreement?
<input type="checkbox"/> Has a Backup Generator	<input type="checkbox"/> Has wiring in-place for generator hookup	
<b>Shelter 2</b>		
<b>Shelter Name:</b> Newport Municipal Building	<b>Physical Address/Location of the Shelter:</b> 222 Main Street Newport, VT 05855	<b>Shelter Capacity:</b> 50
<b>Shelter Manager:</b> Laura Dolgin	<b>Shelter Manager Cell #:</b> 802-673-5071 <b>Shelter Manager Pager #:</b> N/A	<b>Other Contact:</b> Paul Monette
<input type="checkbox"/> Warming Shelter	<input type="checkbox"/> Overnight Shelter	<input type="checkbox"/> Red Cross Agreement?
<input type="checkbox"/> Has a Backup Generator	<input type="checkbox"/> Has wiring in-place for generator hookup	
<b>Shelter 3</b>		
<b>Shelter Name:</b> Newport VT National Guard Armory	<b>Physical Address/Location of the Shelter:</b> 540 Union Street Newport, VT 05855	<b>Shelter Capacity:</b> 50
<b>Shelter Manager:</b> SSG. Quarmby	<b>Shelter Manager Cell #:</b> 802-535-1249 <b>Shelter Manager Pager #:</b> N/A	<b>Other Contact:</b> TBA
<input type="checkbox"/> Warming Shelter	<input type="checkbox"/> Overnight Shelter	<input type="checkbox"/> Red Cross Agreement?
<input type="checkbox"/> Has a Backup Generator	<input type="checkbox"/> Has wiring in-place for generator hookup	

Type	I	II	III	IV	Other	Type	I	II	III	IV	Other
Critical Incident Stress Management Team				N/A		Hydraulic Excavator, Large Mass Excavation				N/A	
Mobile Communications Center		1	1		1	Hydraulic Excavator, Medium Mass Excavation					
Mobile Communications Unit		1	N/A	N/A		Hydraulic Excavator, Compact					
All-Terrain Vehicles	N/A	N/A	N/A	N/A	1	Road Sweeper			1		
Marine Vessels	N/A	N/A	N/A	N/A	3	Snow Blower, Loader Mounted	1			1	
Snowmobile	N/A	N/A	N/A	N/A		Track Dozer					
Public Safety Dive Team						Track Loader					
SWAT/Tactical Team						Trailer, Equipment Tag-Trailer			1	N/A	
Firefighting Brush Patrol Engine	N/A	N/A	N/A		1	Trailer, Dump		N/A	N/A	N/A	
Fire Engine (Pumper)	2					Trailer, Small Equipment	1	1	N/A	N/A	
Firefighting Crew Transport			1	N/A		Truck, On-Road Dump				2	
Aerial Fire Truck	1		N/A	N/A		Truck, Plow		5	1		
Foam Tender			N/A	N/A		Truck, Sewer Flusher			1		
Hand Crew	5	20	4			Truck, Tractor Trailer				N/A	
HAZMAT Entry Team			25	N/A		Water Pumps, De-Watering					
Engine Strike Team	2					Water Pumps, Drinking Water Supply - Auxiliary Pump					
Water Tender (Tanker)				N/A		Water Pumps, Water Distribution					
Fire Boat				N/A		Water Pumps, Wastewater					
Aerial Lift - Articulating Boom						Water Truck		N/A	N/A	N/A	
Aerial Lift - Self Propelled, Scissor, Rough Terrain						Wheel Dozer			N/A	N/A	
Aerial Lift - Telescopic Boom						Wheel Loader Backhoe		2			
Aerial Lift - Truck Mounted						Wheel Loader, Large					
Air Compressor				1		Wheel Loader, Medium					
Concrete Cutter/Multi-Processor for Hydraulic Excavator						Wheel Loader, Small		1		N/A	
Electronic Boards, Arrow						Wheel Loader, Skid Steer		1		N/A	
Electronic Boards, Variable Message Signs						Wheel Loader, Telescopic Handler					
Floodlights				N/A		Wood Chipper		N/A	N/A	N/A	
Generator						Wood Tub Grinder					
Grader			1	N/A							

Information about the NIMS Typed resources can be found at: <http://www.fema.gov/resource-management>



<b>Appendix A – Disaster Forms.....</b>	<b>A</b>
Local Request for Emergency Declaration.....	A1
Local Situation Report.....	A2
ICS Forms.....	A3
<b>Appendix B – Local Documents.....</b>	<b>B</b>
List of Delegations of Authority.....	B1
Communication Plan.....	B2
Emergency Contact List.....	B3
List of Mutual Aid Agreements.....	B4
Resource Lists.....	B5
Maps, Diagrams, Plans, and Attachments.....	B6
CPOD Profile.....	B6.1
<b>Appendix C – References &amp; Authorities.....</b>	<b>C</b>
Emergency Relief and Assistance Fund.....	C1
Vermont Stream Alteration Rule.....	C2
Minimum Grant Standards.....	C3
Vermont Statute Title 20, Chapter 1 .....	C4
NIMS Executive Order.....	C5
<b>Appendix D – Templates.....</b>	<b>D</b>
NIMS Adoption.....	D1
Mutual Aid.....	D2
Emergency Management Ordinance.....	D3
Delegation of Authority.....	D4