

City of Derby
Board of Aldermen / Alderwomen

First Ward

Barbara L. DeGennaro
Thomas J. Donofrio
Bev Moran

Second Ward

Joseph L. DiMartino
Evelyn Browning
Ronald M. Sill

Third Ward

Jim DiMartino
Robert Hyder
Charles Sampson

Board of Aldermen/Alderwomen Meeting Minutes

Derby City Hall

1 Elizabeth Street, Derby, CT

September 12, 2019

1. Call to Order.

Mayor Dziekan called the meeting to order at 7:00 PM.

2. Pledge of Allegiance.

Mayor Dziekan led the Pledge of Allegiance.

3. Roll Call

The Board of Aldermen / Alderwomen members present were Barbara DeGennaro, Thomas Donofrio, Bev Moran, Joseph DiMartino, Evelyn Browning, Ronald Sill, Charles Sampson and Robert Hyder. Jim DiMartino was absent.

4. Adoption of the Agenda

Mr. Sampson motioned to move items 11 and 12 before item 9, change item 9.6 to discussion only and add item 9.7 Conduct of Solicitors/Vendors. Mr. Sill seconded and the motion carried.

5. Public Portion

Mr. Aniello Malerba of 501 Roosevelt Drive Apt.3: spoke regarding the sale of tax liens. He would like to see it go back to sub-committee for further discussion and it should go out to bid.

6. Department Head Reports

6.1. Finance Director

Nothing was discussed.

6.2. Police Department

Nothing was discussed.

6.3. Fire Marshal

Nothing was discussed.

6.4. Fire Department

Mayor Dziekan introduced the new Fire Commissioner, Gary Parker. The Board wished him good luck.

6.5. Office of Emergency Management

Nothing was discussed.

6.6. Storm Ambulance Corps

Nothing was discussed.

6.7. Board of Education

Nothing was discussed.

6.8. Public Works

Mr. Donofrio thanked Mr. Armeno for his department's quick response to his call. He also thanked him for being

one of a few department heads who regularly show up for the meetings. Ms. DeGennaro added that Dr. Conway and Mr. Hawks always attend as well.

6.9. Water Pollution Control Authority

Nothing was discussed.

6.10. Building Department

Nothing was discussed.

6.11. Facilities Inspector

Nothing was discussed.

6.12. Parking Division

Nothing was discussed.

6.13. Revolving Loan Fund

Nothing was discussed.

6.14. Chief of Staff

Nothing was discussed.

6.15. Economic Development Liaison

Mr. DiCenso stated that A1 Quick Pick was awarded the bid for the BJ's road and VARCA is finalizing their contract.

6.16. Corporation Counsel – Including Planning and Zoning, Labor Counsel, and Outside Counsel

Nothing was discussed.

6.17. Parks and Recreation

It was mentioned that Mr. Lionetti accepted a job at Parks and Recreation and will be resigning from the Boards that he serves on.

6.18. Cultural Commission

Ms. DeGennaro stated that the Board asks for the financial report every month and they haven't received anything. Mr. Donofrio asked them to look into combining Derby Day with the fireworks.

6.19. Website Report of tickets for the month

Mr. Garofalo is on vacation. There will be two reports submitted next month.

6.20. Athletic Complex Building Committee

6.21. Field House and Baseball Field Building Committee

The fields are substantially complete and the CO's have been received.

6.22. Infrastructure Committee

Roosevelt Drive should be completed within the next 3 weeks.

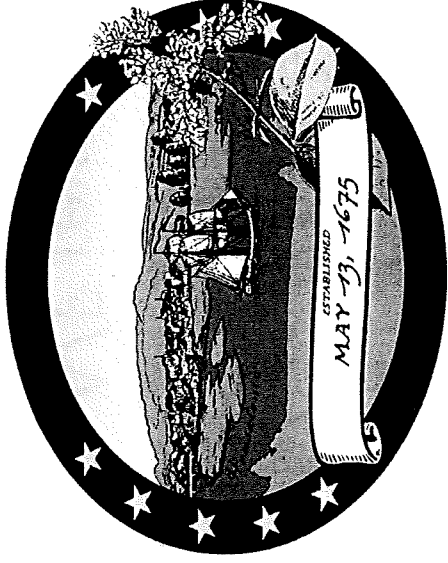
6.23. Derby Senior Center

Mayor Dziekan introduced the new director and assistant director.

6.24. Treasurer

Mr. McLiverty gave a presentation on the city's 8 Point Plan.

City of Derby, CT



S&P Global Rating
Presentation
7/23/19

How Did We Get Here?

- BOAT adopted budget utilizing revenue figures that double counted State funds 2X (FY16-17, FY17-18 and FY18-19)
- Revenue for Formula Grants were over estimated (FY16-17 and FY17-18 and FY18-19)
- Due to issues with cut-off dates for expenditures- BOE A/P reversed by auditor to previous year (17-18) resulting in restating FB
- Medical costs exceed budget by \$1M (FY17-18)

Eight Point Recovery Plan

- 1) Debt Restructuring
- 2) Sale of Assets
- 3) Mil Rate Increase
- 4) Adjust Long Term Costs
- 5) Tax Sale
- 6) Structured Organizational Changes
- 7) Grand List Growth
- 8) Fund Balance Replenishment as % of Revenue

1) Debt Restructuring

- Restructuring/refinancing all non-sewer debt for FY19-20 and FY20-21
- FY19-20 Operating Budget includes amount in taxes, funds go directly to Fund Balance Replenishment
 - FY19-20 = \$1.8M
 - FY20-21 = \$1.5M

2) Sale of Assets

- City selling assets/properties that are city owned and not part of city use
- IE- VARCA Property- \$450,000
- Commerce Park - \$350,000
- Vacant Residential Properties (add to Tax Rolls and zone restricted)

3) Mil Rate Increase

- BOAT (Board of Apportionment and Taxation) approved a 2.5 mil increase for FY19-20
- Increase equals a 6.35%
- No Mil increase over the last three fiscal years
- CPI increased 6.5% in same period
- Recognition of budget issue relative to revenue overstatement

4) Adjust Long Term Costs

- Current Defined Benefit Pension Plan at 86% funding level
- Annual Contribution of \$740K adjusted in FY18-19 and FY19-20 to \$200K
- Delta directed to Fund Balance Replenishment
- \$540K in FY 18-19 , \$540K in 19-20
- Current performance- plan will still remain in low 80% funding level
- 2% adjustment for each \$540K
- \$60K additional contribution for 10yr

5) Tax Sale

- Legislative body approved administration to proceed with next steps in conducting Tax Sale
- City reserves the right to select eligible taxes
- All payment plans would be honored
- Some delinquent taxes will remain on the books
- Estimated value - \$1M (would go directly to Fund Balance Replenishment if executed)

6) Structured Organizational Changes

- Complete review, assignment and execution of auditors findings and recommendations
- Additional staff budgeted for segregation of duties and timely reconciliation
- Additional oversight of BOE operating budget and grants
- Double Entry Accounting (BOE and City)
- Adjusting roles and responsibilities

7) Grand List Growth

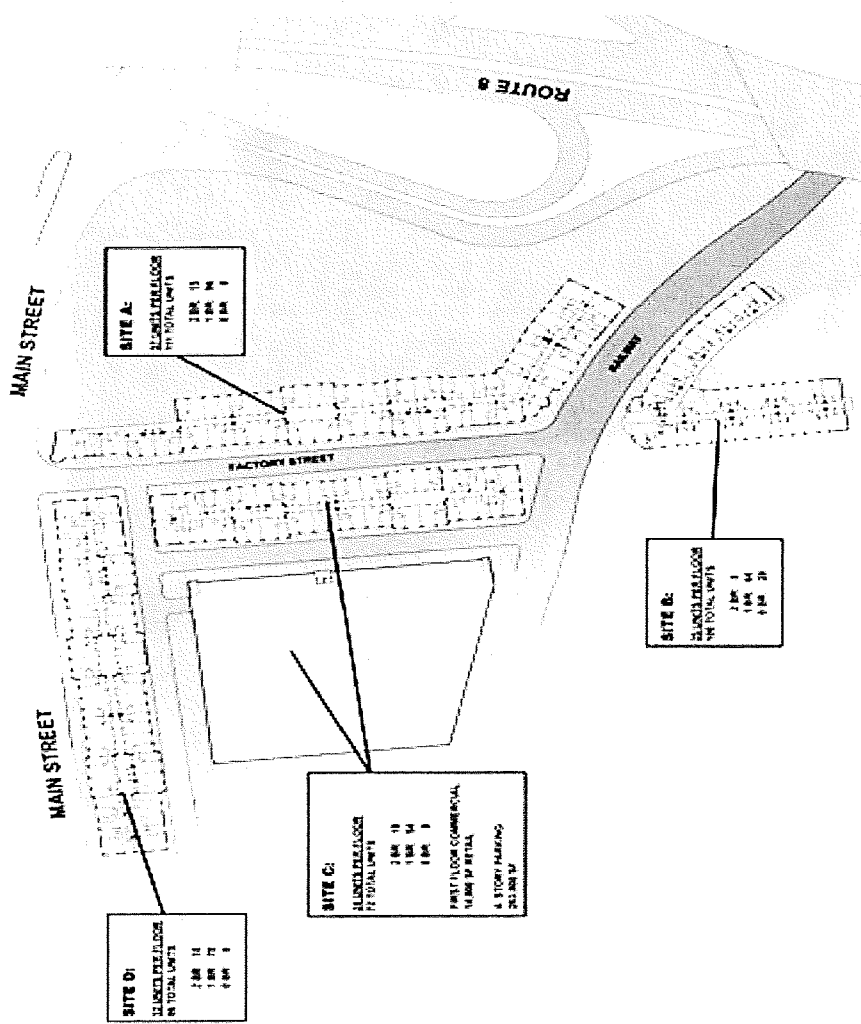
- Working to shift tax burden from home owners to commercial base by growing commercial base
- IE- Main Street Development
- Fuel Cell
- Sale of VARCA
- Route 34 Main Street Widening Project
- Zone Text Changes (N and S Side of Main St)
- Additional 14 acres owned by the City, left to sell and develop

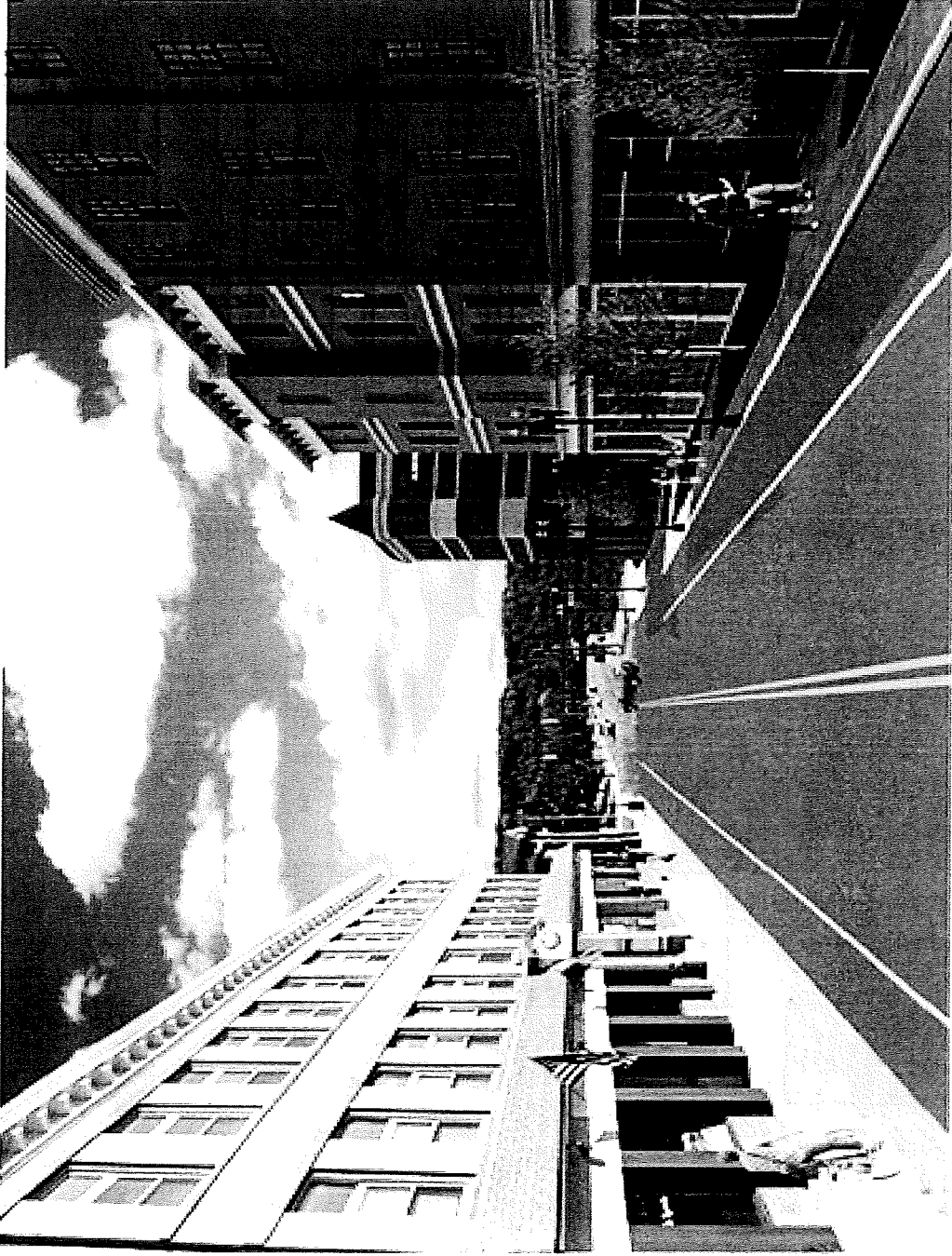
Fund Balance Replenishment

- BOAT has a policy on Fund Balance levels
- BOAT to modify and update Fund Balance Replenishment Policy
- New Policy- 10-15% of Expenditures
- Incremental steps to replenishment
- Identified Fund Balance Replenishment steps result in approx \$5.9M going directly to FB over next 12 months

Summary of Fund Balance Replenishment

- Debt Restructuring – FY19-20= \$1.8M
FY20-21 = \$1.5M
- Sale of Assets= \$450M
- Adjust Long Term Costs = \$1.1M
- Tax Sale (est) = \$1.0M
- **TOTAL = \$5.85M** (est) (w/o Grand List Growth)
- **TOTAL = \$4.85M** (est) (w/o Tax Sale)
- NOTE: Neg FB of \$2.5M (as of 6/18, est. to be \$3.5M as of 6/19)



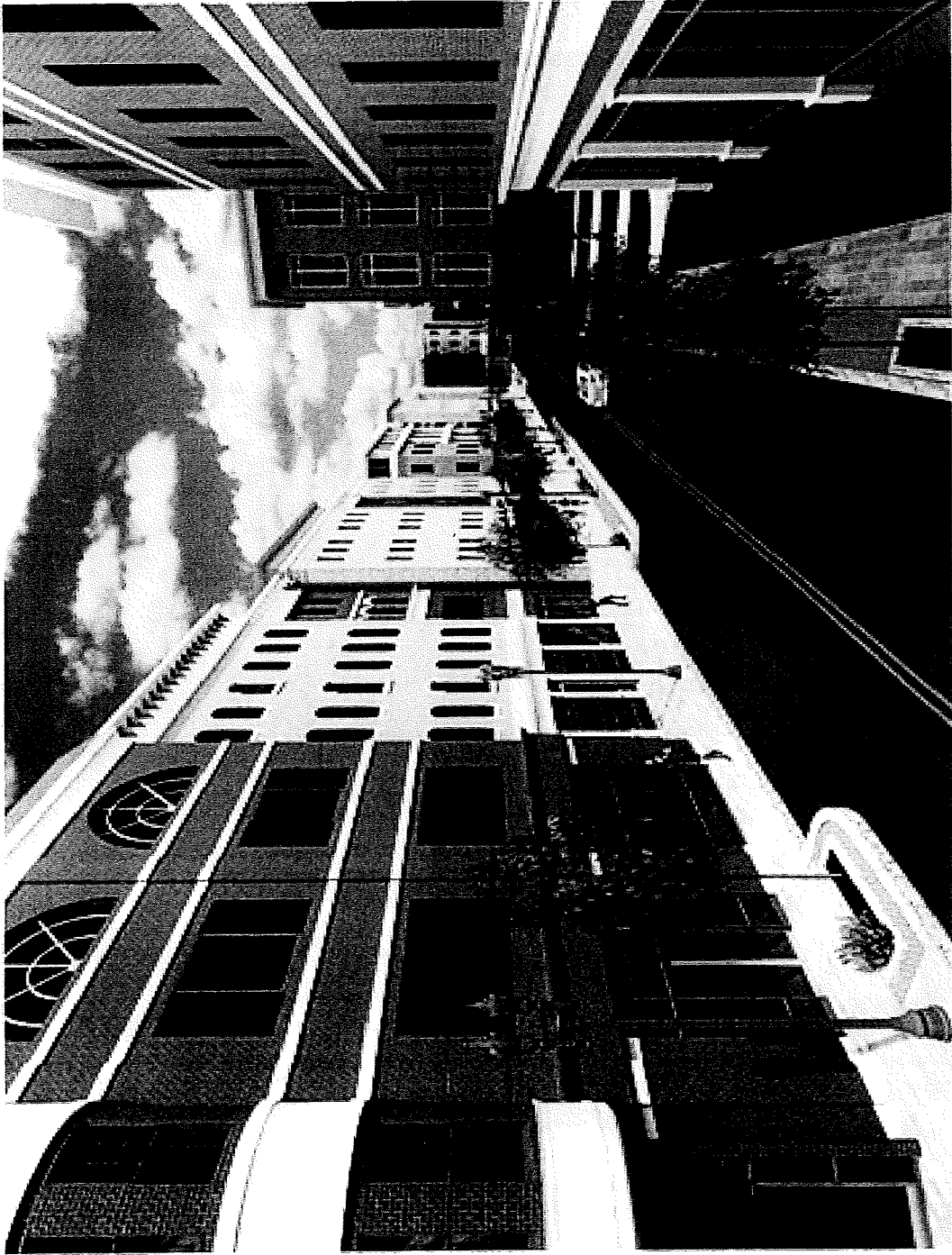


QAM
architecture

Main Street - Facing East
Dorby Mixed Use Development

Dorby, Connecticut

October 13, 2018

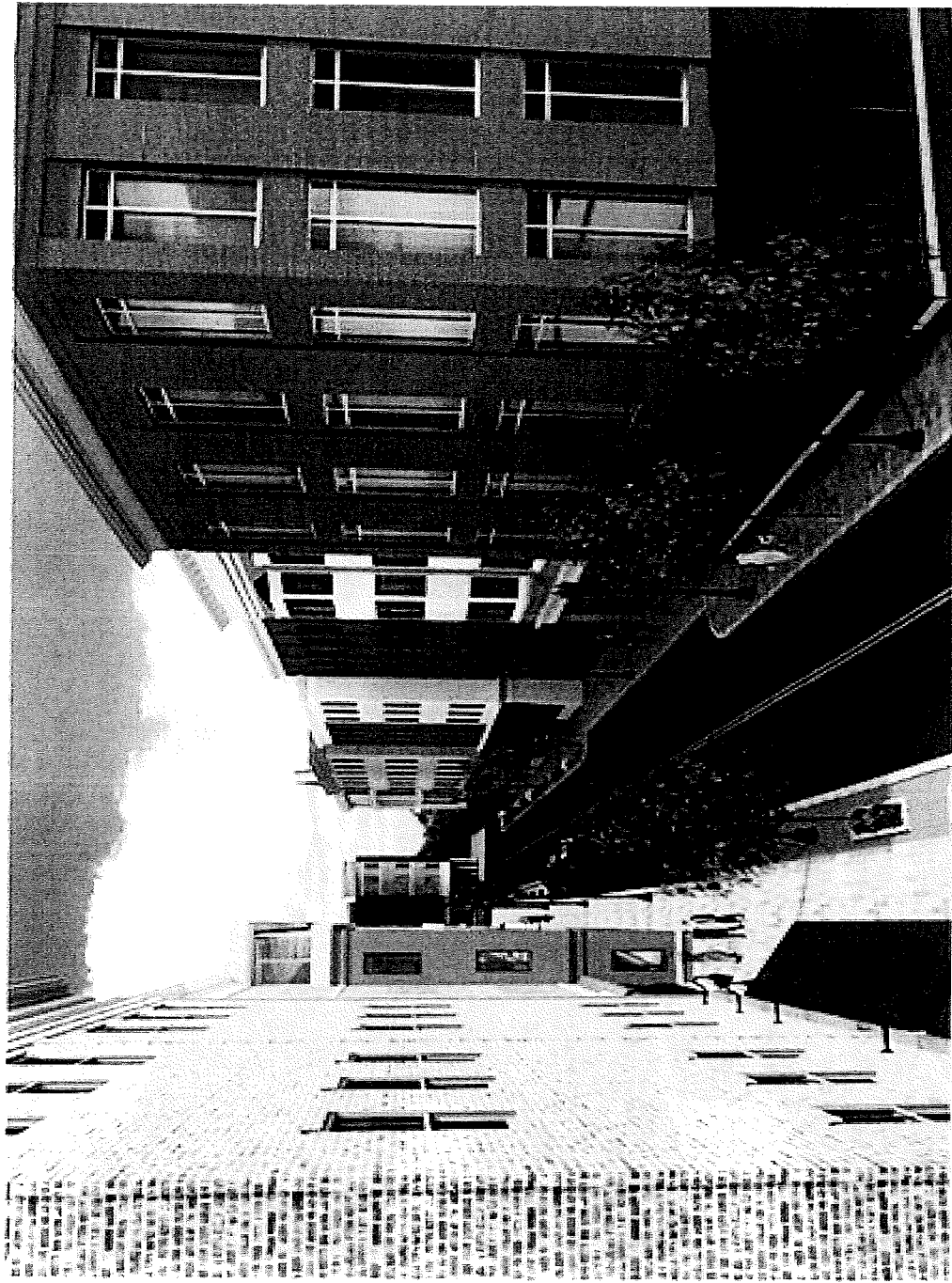


**Factory Street - Facing South East
Derby Mixed Use Development**

GAM
ARCHITECTURE

Derby, Connecticut

October 15, 2018



**Factory Street - Facing South West
Derby Mixed Use Development**

QA+M
ARCHITECTS

Derby Consultant

October 19, 2011

Main Street Development Estimates

- Estimated unit value= \$90k
- Estimated number of units= 379
- Estimated Value= \$34M
- @ 70% value= \$23.8M
- Estimated **NEW** tax revenue= \$997K

Continued Focus On Success

- Pay As You Go Capital Plan
- Funding Long Term Liabilities
- Tax Collections Remain Above 98%
- Growing Commercial Tax Base
- Conservative Budgeting
- Working Relationship with BOE (Alliance)
- Replenish Fund Balance

City of Derby, Connecticut

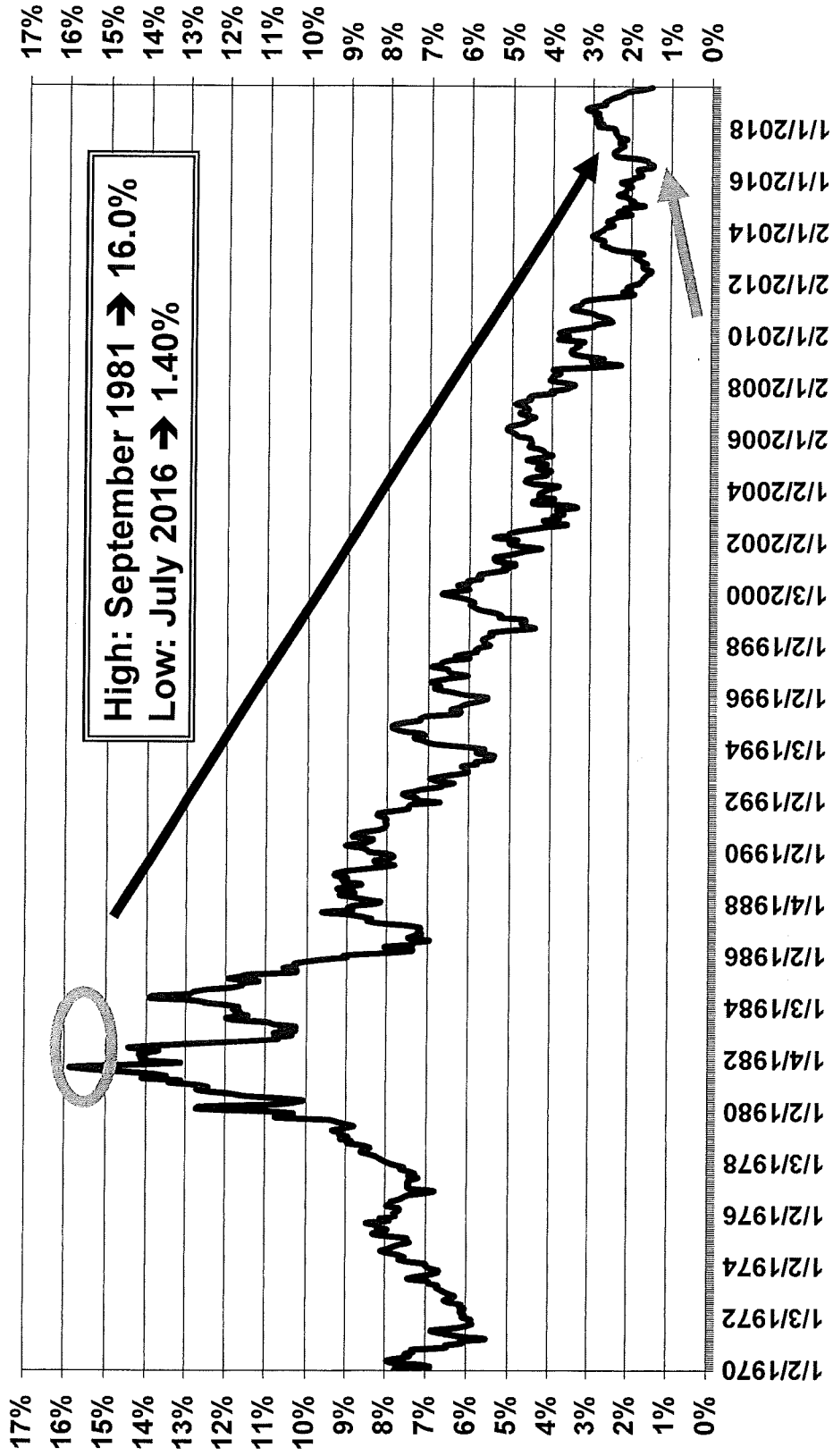
\$22,695,000 Bond Sale Analysis

September 12, 2019

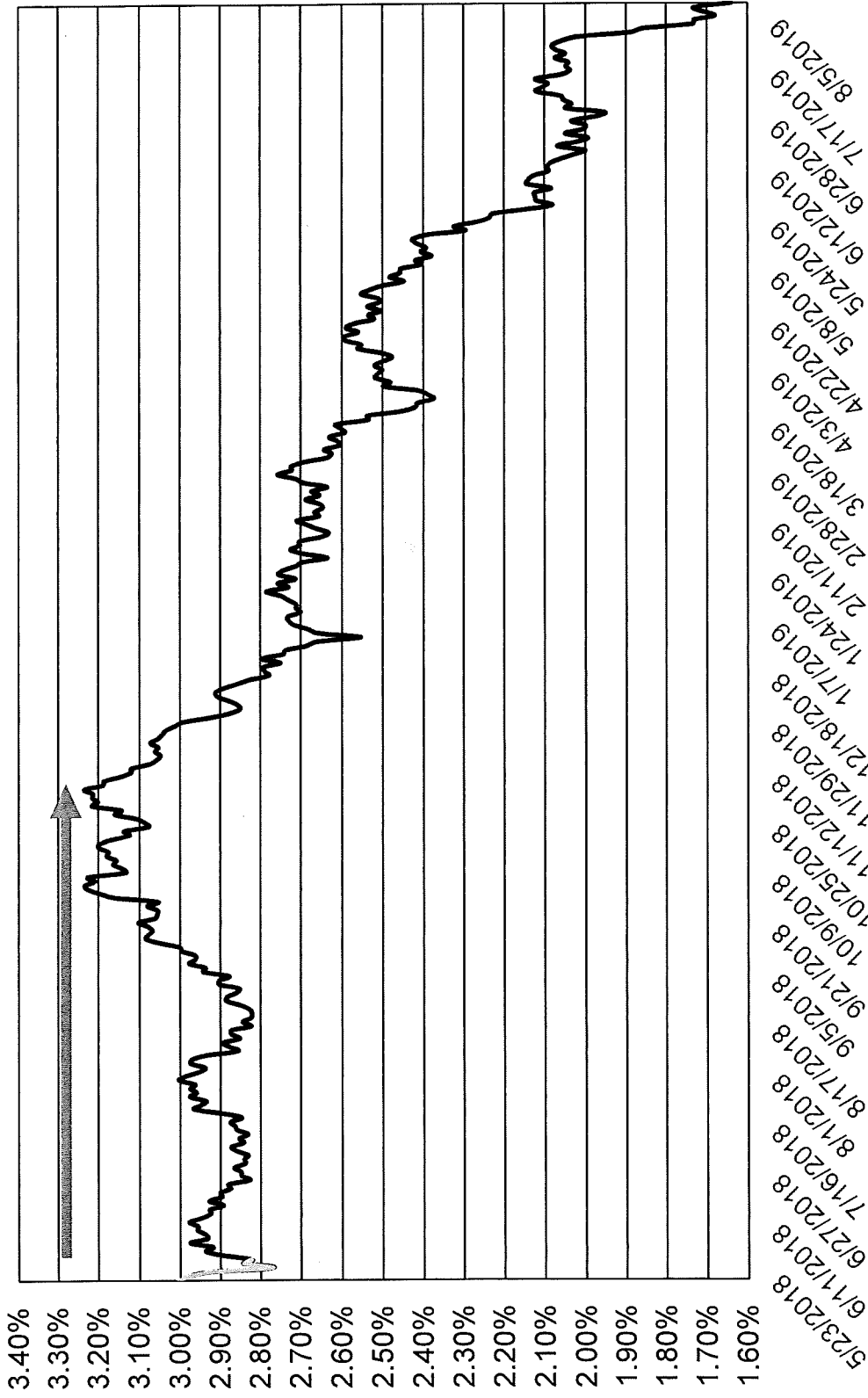
Barry Bernabe
Managing Director



Ten Year U.S. Treasury Yield - January 1968 to August 2019



10-Year U.S. Treasury Yield – 5/1/2018 to 8/12/2019 (Past One Year)



Municipal Bond Yields Hit Historic Lows

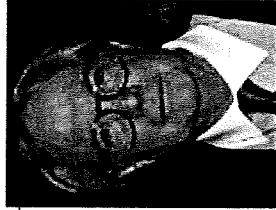
Muni Bond Rally Continues, Sending Yields to Historic Lows

Municipal bonds continued their rally on Wednesday, pushing tax-free yields to their lowest levels ever.

The 10- and 30-year muni GO both dropped eight basis points to 1.22% and 1.87%, respectively, according to Refinitiv Municipal Market Data's AAA benchmark scale. The prior low records were set during the summer of 2016, according to MMD, when the 10-year hit 1.29% on June 27, 2016 and the 30-year fell to 1.93% on July 6, 2016.

Since the beginning of the year, the 10-year muni yield has fallen by 105 basis points while the 30-year has dropped by 112 bp.

"The record lows in municipal yields is symptomatic of the pattern that we are seeing in the Treasury market where the 30-year Treasury yield has breached an all-time low, dropping below the level seen in 2016," said Vikram Rai, Head of Cit's Municipal Strategy group. "Front and intermediate municipal-Treasury yield ratios remain extremely rich on a tax-adjusted basis. But, the



By: CHRISTINE ALBANO, CEP BARNETT & AARON WEITZMAN

round-trip costs for exploiting the mispricing are too high in the face of the ultra-low yields. Thus it is possible that two-year and five-year ratios could remain near record lows though we could see some upward movement in 30-year ratios if we see a pick-up in supply in September."

Morgan Stanley was unimpressed with the recent yield slide.

"Though rates are lower, one-year-10-year MMD remains historically flat; carry and roll does not yet look attractive in our view. Unless cash rates fall substantially from here, we will continue to prefer a duration-neutral barbell (mixing 0-4-year with 17-22-year) to a front-end ladder," Morgan Stanley Strategists Mark Schmidt and Michael Zervas said in a Wednesday report. "Will munis become more volatile as the summer ends? We only find mixed evidence that excess returns

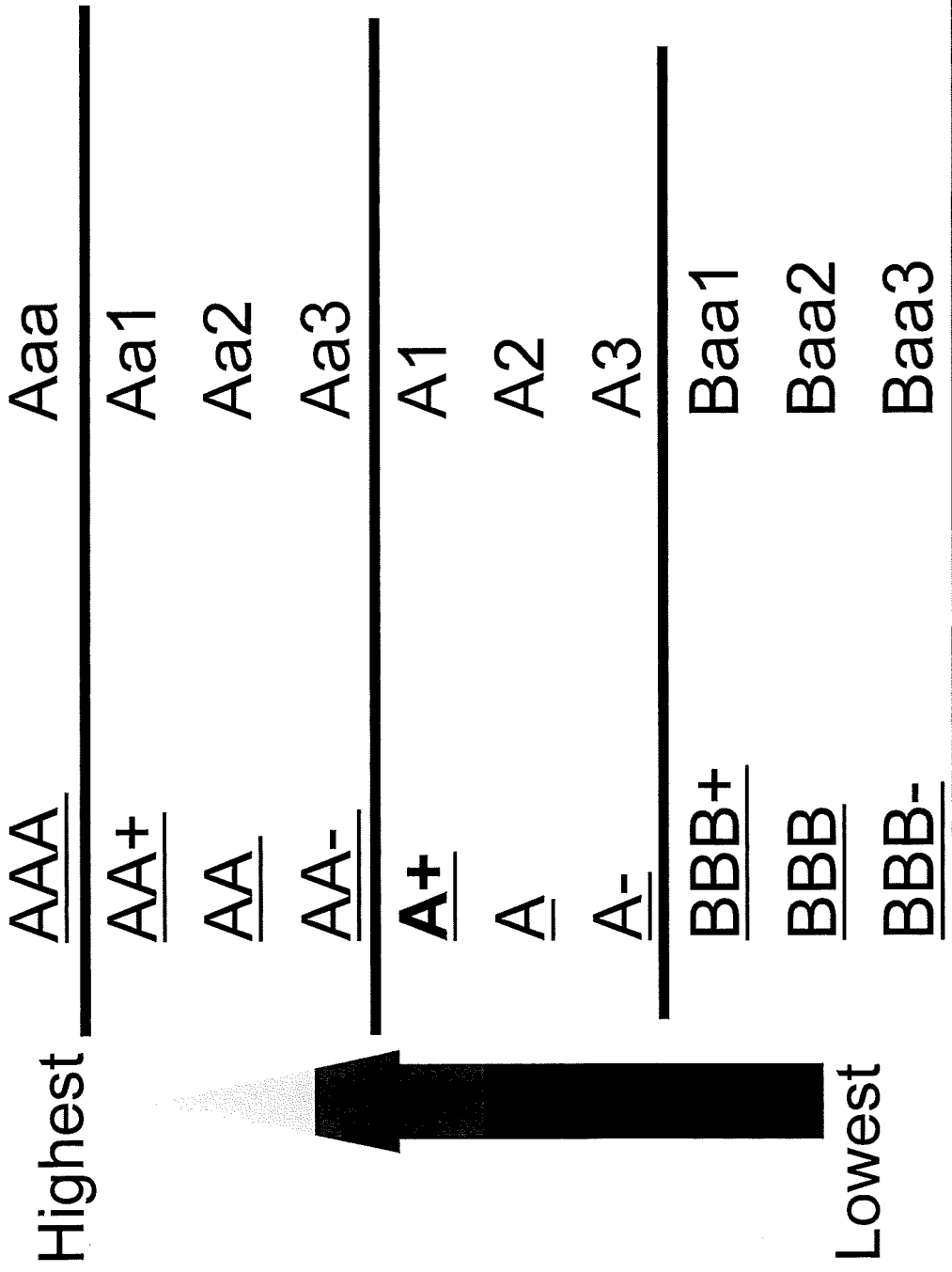
note moved higher than the yield on 10-year Treasuries. Many market participants see this yield curve inversion as a sign of a coming recession in the next year or two. Other parts of the curve — the 3-month to 10-year and the 2- to 5-year — inverted earlier this year and remain inverted.

In late trading, the Treasury three-month was yielding 1.962%, the 2-year was yielding 1.587%, the 5-year was yielding 1.497%, the 10-year was yielding 1.586%, and the 30-year was yielding 2.032%.

"The ICE muni yield curve is as much as six basis points lower, an impressive move, but lagging Treasuries again," ICE Data Services said in a market comment. "The front end, in an effort to keep from inverting for the first time since September 1966, is flat out to five years. High-yield and tobacco sectors are three basis points lower as well. Taxable yields are down nine basis points, mirroring the move in Treasuries."

The 10-year muni-to-Treasury ratio was calculated at 77.2% while the 30-year muni-to-Treasury ratio stood at 97.6%, accord-

Standard & Poor's and Moody's Rating Categories



Major Assessment Categories

- 1) Management Assessment**
- 2) Economic & Demographic Characteristics**
 - Unemployment Rate, Housing Values
- 3) Financial Performance**
 - Fund Balance (Amount & Consistency)
- 4) Debt Management**
 - Debt as % of Budget, Debt to Market Value
- 5) Long-term Liabilities (Pension & OPEB)**

City's Last Bond Sale

- ▶ City of Derby
- ▶ Sale Date: October 2018
- ▶ Ratings: AA-
- ▶ Term: 20-years
- ▶ Par Amount: \$12,580,000

True Interest Cost (TIC): 3.59%



Recent Connecticut Bond Sale

- ▶ Town of Fairfield
- ▶ Sale Date: June 2019
- ▶ Ratings: AAA/AAA
- ▶ Term: 20 years
- ▶ Par Amount: \$15,710,000

Net Interest Cost (NIC): 2.54%

Refinancing Summary

- City's True Interest Cost (TIC) was 2.53%
- City's timing could not have been any better
- City's A+ Rating allowed for Strong Investor Interest
- Both Shelton & Ansonia were also downgraded
- City saved issuance costs by combining \$10 Million of WPCA Bonds with the Debt Refinancing
- City saved \$1.8 Million in FY 2020 and \$1.5 M in FY 2021 with total savings of approximately \$3.5 Million
- City refinanced its old debt from 3.26% down to 2.53% but we deferred some debt for a cost of about \$706,000 amortized over 20-years
- City is well positioned for Rating Upgrade in the Future



RatingsDirect®

Summary:

Derby, Connecticut; General Obligation

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Related Research

Summary:

Derby, Connecticut; General Obligation

Credit Profile

US\$11.885 mil tax-ex GO bnds ser 2019A due 08/01/2039

<i>Long Term Rating</i>	A+/Stable	New
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US\$11.67 mil federally taxable GO bnds ser 2019B due 08/01/2036

<i>Long Term Rating</i>	A+/Stable	New
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Derby GO

<i>Long Term Rating</i>	A+/Stable	Downgraded
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Rationale

S&P Global Ratings lowered its rating on Derby, Conn.'s general obligation (GO) debt to 'A+' from 'AA-'. At the same time, we assigned our 'A+' rating to the city's series 2019 series A and B GO bonds. The outlook is stable.

The rating action reflects our view of the city's reduction and restatement of fiscal 2017's available fund balance from \$1.2 million to a negative \$1.4 million and subsequent weak budgetary performance in fiscal 2018. The change in fund balance was due to several factors, including over-budgeting of revenues, lack of certain internal controls, and understatement of prior-year expenditures that were not fully realized and accounted for until fiscal 2018. While we understand management has begun to take corrective actions to rebuild the city's fund balance position, which we believe provides stability to the rating, we believe these measures are one-time adjustments necessary to avoid further financial deterioration and are characteristics of distressed communities. In addition, we also believe the budgetary environment will remain challenged. Supporting the rating, however, is the city's very strong liquidity and debt and contingent liability profile, coupled with a stable local economy.

Derby's full faith and credit pledge, payable from the levy of an unlimited ad valorem tax on all taxable property in the city, secures the series 2019 bonds. We understand officials plan to use series B proceeds and a portion of series A proceeds to refund a portion of the city's GO debt and restructure all nonsewer-related debt payments for fiscal years 2020 and 2021 totaling \$1.8 million and \$1.5 million, respectively. We understand the refunding bonds will contain an extension of maturity and the savings achieved in fiscal years 2020 and 2021 will be used toward the replenishment of Derby's fund balance. The remainder of series A bond proceeds will be used to permanently finance the city's existing short-term debt.

The long-term rating reflects our view of Derby's:

- Weak budgetary performance, with operating deficits in the general fund and at the total governmental fund level in fiscal 2017 and 2018;
- Very weak budgetary flexibility, with an available fund balance in fiscal 2018 of negative 4.9% of operating expenditures that is also low on a nominal basis at negative \$2.5 million, as well as limited capacity to raise revenues due to consistent and ongoing political resistance;

- Adequate management, with standard financial policies and practices under our Financial Management Assessment (FMA) methodology;
- Strong economy, with access to a broad and diverse metropolitan statistical area (MSA);
- Very strong liquidity, with total government available cash at 9.3% of total governmental fund expenditures and 2.3x governmental debt service, and access to external liquidity we consider strong;
- Very strong debt and contingent liability position, with debt service carrying charges at 4.0% of expenditures and net direct debt that is 37.1% of total governmental fund revenue, as well as low overall net debt at less than 3% of market value; and
- Strong institutional framework score.

Weak budgetary performance

Derby's budgetary performance is weak, in our opinion. The city had operating deficits of negative 4.6% of expenditures in the general fund and negative 4.3% across all governmental funds in fiscal 2018.

Fiscal 2018 results include adjustments for one-time capital expenditures paid for with bond proceeds. Additionally, we adjusted for the city's deferred pension payments, which in fiscal 2016 amounted to \$431,000.

The city has consistently experienced general fund deficits over the past five years. According to officials, the general fund deficits in fiscal years 2017 and 2018 were primarily due to the culmination of several factors. One of these included the double-counting of state revenues, particularly education cost-sharing grants for alliance districts, in the budgets between fiscal years 2017 and 2019, which as a result, led to significantly lower-than-budgeted revenues. The city also overestimated other certain state formula-based grants in fiscal years 2017 and 2018. In addition, health insurance costs were over budget by about \$1 million as a result of the city switching to a new health plan which substantially increased employee medical claims in the last quarter of the fiscal year. Finally, the fiscal 2017 fund balance was also restated in the fiscal 2018 audit as a result of school department expenditures being understated in prior years and not previously fully accounted for. We also note the city's fiscal 2018 audit contains certain material weakness findings with regard to reporting and internal controls, which it has begun to address, according to management.

As a result of all this, Derby is taking several measures to rebuild its fund balance and better align revenues and expenditures. As part of this refunding, the city will be restructuring its fiscal year 2020 and 2021 principal payments of \$1.8 million and \$1.5 million, respectively, and extending them into future years and using the savings toward the rebuilding of its fund balance. Management is also planning to sell city-owned assets and properties that are not being used during this fiscal year, which is expected to net a minimum \$450,000 or more, which will also be directed toward its fund balance. Other steps include initiating a tax sale, which is expected to net about \$1 million, deferring pension contributions in fiscal years 2019 and 2020 and applying the savings--currently estimated at about \$540,000 annually--toward the budget, and increasing taxes. Officials indicate the city has already begun to realize the effects of some of these measures and accrued some of the savings in its fiscal 2019 finances. On a budgetary basis, Derby ended fiscal 2019 with a \$1.2 million general fund drawdown. Including the sale of assets, deferral of pension contributions, tax sale, and additional amounts budgeted for fund balance replenishment, which management expects will be reflected in the final audit, the city estimates to have ended fiscal 2019 with a \$2.2 million general fund surplus.

While we understand these measures will help improve fund balance levels, we also believe these measures are indicative of a distressed community whose budgetary environment will remain challenged over the next few years.

The fiscal 2020 budget is balanced and totals \$44.5 million, which represents a 4% increase over the prior year. As part of its efforts to better align revenues and expenditures, the city increased its mill rate by 2.5 mills, or 6.35%, over the prior year, which it had not done in the last three years. In addition, it has been addressing its material findings by improving its internal controls and instituting organization changes. This includes assigning additional staff for segregation of financial duties and timely reconciliation, providing more oversight of school department budget and grants, and implementing double-entry accounting standards for city and school department finances, as well as adjusting certain roles and responsibilities. Management also indicates it has also budgeted more conservatively with regard to state aid and does not expect any significant increases in health insurance costs in fiscal 2020. Property taxes account for 57% of general fund revenues, followed by intergovernmental revenue at 35%. Tax collections have averaged 99% over the past three years.

While we believe Derby is taking positive steps to restore its fund balance levels and modify its budgetary assumptions, we believe many of these measures are one-time in nature meant to address its current financial position. In addition, due to its history of posting negative financial operations over the last several years and our belief that the budgetary environment will remain challenged, we expect its budgetary performance will remain weak. However, we also believe its budgetary performance could improve to adequate levels if the city were to maintain consistent positive financial operations by properly aligning revenues and expenditures and mitigating the use of one-time adjustments to achieve balance results.

Very weak budgetary flexibility

Derby's budgetary flexibility is very weak, in our view, with an available fund balance in fiscal 2018 of negative 4.9% of operating expenditures. In addition, the city's reserves are low on a nominal basis at negative \$2.5 million, which we view as vulnerably low and a negative credit factor. Impairing budgetary flexibility, in our view, is a limited capacity to raise revenues due to consistent and ongoing political resistance.

The city's budgetary flexibility is now very weak as a result of its negative financial operations in fiscal years 2017 and 2018 and restatement of fund balance. For fiscal 2019, on a budgetary basis, it estimates its fund balance to be at about negative \$3.8 million. However, this does not include the sale of assets, deferral of pension contributions, tax sales, and funds toward its fund balance replenishment, which officials indicate will all be accrued and accounted for in the fiscal 2019 audit. With these funds included, the city estimates the fiscal 2019 audit will reflect a fund balance position of negative \$1.6 million, or approximately negative 3.7% of budgeted expenditures.

With the debt restructuring, budgeted fund balance replenishment funds totaling about \$500,000, and savings of \$540,000 from deferral of pension contribution, the city expects its available reserves to improve to \$1.2 million during fiscal 2020. In addition, it expects its fund balance levels to improve by another \$2 million by fiscal year-end 2021 to \$3.2 million.

Our view of the city's budgetary flexibility is also limited by its unwillingness to consistently raise sufficient revenues to match expenditures to mitigate any fund balance drawdowns. As a result, we expect budgetary flexibility to remain very weak during our outlook period. However, if the city were to succeed in rebuilding its fund balance position,

continue to raise the necessary revenues to cover expenses, and consistently improve reserve levels through positive financial operations without the use of one-time measures, our view of its budgetary flexibility could change.

Adequate management

We view the city's management as adequate, with standard financial policies and practices under our FMA methodology, indicating the finance department maintains adequate policies in some, but not all, key areas.

The city uses a form of zero-based budgeting, which management implemented to ensure expenditures and expenditure growth are examined annually. However, we believe its revenue and expenditure assumptions have been optimistic in the past and the city has not accurately accounted for some of its revenues and expenditures, including its school-related ones.

It has monthly meetings with the Board of Apportionment and Taxation, and has procedures in place for reviewing and amending the budget based on updated information and actual performance. It also maintains a five-year capital improvement plan that it updates annually, and which is linked to the operating budget. Derby's investments adhere to state guidelines, and the city maintains a basic debt management policy that the board adopted. It also maintains an adopted fund balance policy to keep reserves between 5% and 10% of expenditures. We note that Derby is below its fund balance policy and we do not expect it to be in compliance during the two-year outlook period.

Strong economy

We consider Derby's economy strong. The city, with an estimated population of 12,816, is in New Haven County, about nine miles west of New Haven. It is in the New Haven-Milford MSA, which we consider to be broad and diverse. The city has a projected per capita effective buying income of 98.3% of the national level and per capita market value of \$80,657. Overall, market value grew by 0.9% over the past year to \$1.0 billion in 2020. The county unemployment rate was 4.4% in 2018.

Derby's proximity to New Haven provides residents with employment opportunities. Although a majority of the city's tax base is residential, making up 68% of the grand list, it maintains a notable commercial and industrial presence, which consists of a combined 14% of the total tax base. The tax base remains diverse with the leading taxpayer accounting for 10.4% of the grand list. Some of Derby's largest employer (excluding city government) include Griffin Hospital (1,200), Home Depot (125), and Wal-Mart (125).

We expect that Derby will see incremental growth in its tax base. To facilitate redevelopment, officials acquired land adjacent to Main St. (Route 34) in expectation of the road-widening project completion in 2019. Management expects that development will include residential and commercial properties on approximately 40 acres and spur economic growth downtown. Currently, a 379-unit, mixed-use building one block from the train station is under development. Management is also working to redevelop existing properties throughout the city. In addition, a new fuel cell facility is being developed, which is expected to create new jobs and help grow the tax base. Officials expect these and other projects currently underway will help increase revenues and expand the tax base.

Despite the anticipated new growth along Route 34 and other ongoing projects, we do not expect substantial improvements in wealth and income metrics within the two-year outlook horizon. We expect that these metrics will remain relatively stable during that time, and that the city's access to the New Haven MSA will further stabilize the

economy. We thus expect Derby's economy to remain strong through the outlook period.

Very strong liquidity

In our opinion, Derby's liquidity is very strong, with total government available cash at 9.3% of total governmental fund expenditures and 2.3x governmental debt service in 2018. In our view, the city has strong access to external liquidity if necessary.

The city has demonstrated strong market access by issuing GO bonds within the past several years. In addition, management is not aggressive in its use of investments. The city does maintain a bank loan with Webster Bank N.A. currently totaling \$1.1 million, which it will be refunding with this issuance. We note that the city's direct bank loan does contain acceleration provisions, but given their remoteness, we do not expect the direct loan to affect liquidity. The city has also not issued any cash-flow-related notes or tax anticipation notes and does not expect to do so. As a result, we expect its liquidity profile to remain very strong.

Very strong debt and contingent liability profile

In our view, Derby's debt and contingent liability profile is very strong. Total governmental fund debt service is 4.0% of total governmental fund expenditures, and net direct debt is 37.1% of total governmental fund revenue. Overall net debt is low at 1.8% of market value, which is, in our view, a positive credit factor.

Following this issuance, the city has approximately \$35.8 million in total direct debt, including long-term capital leases and debt held in the water pollution control authority fund, which we view as fully self-supporting. Management does not anticipate issuing any new-money debt within the next two-to-three years.

Derby's combined required pension and actual other postemployment benefit (OPEB) contributions totaled 4.8% of total governmental fund expenditures in 2018. Of that amount, 3.0% represented required contributions to pension obligations, and 1.7% represented OPEB payments. The city made 73% of its annual required pension contribution in 2018.

Derby is the administrator of a single-employer defined-benefit pension plan (the City Public Employee Retirement System), which covers city employees not covered by state-administered systems. Using a 7.0% discount rate, the city reports a net pension liability of \$3 million and a funded ratio of 83.8% as of fiscal 2018. It has historically underfunded its pension required contribution, which we adjusted for in budgetary performance. Management also expects to underfund its actuarially determined contribution in fiscal years 2019 and 2020 and apply the savings toward the city's fund balance.

Additionally, the city contributes to the Connecticut's Municipal Employees Retirement System (MERS), a defined-benefit pension plan offered by the state for municipal employees in participating municipalities. Derby reported a MERS proportionate net pension liability of \$2.9 million at June 30, 2018. The system is 93% funded, measured using an 8.0% discount rate as of fiscal 2018, which we note is higher than average. The state has reduced the discount rate in fiscal 2019 to 7%. While view reducing the rate of return as a positive, we believe this will result in higher pension contributions for the city.

The city also provides OPEBs in the form of health and life insurance to eligible retirees. It does not maintain a trust to pre-fund benefits. Its unfunded actuarial accrued liability was \$29.6 million, as of June 30, 2018.

Although we acknowledge the city has not been fully funding its annually required contribution (ARC) for the city plan, we note the pension plan is well funded at 83%, and costs remain manageable. However, we could view these factors negatively if funding substantially decreases, costs begin to accelerate as a percentage of expenditures, and management continues to defer pension payments. While we do not anticipate budgetary pressure from pensions or OPEBs in the near term, should the city continue to underfund the ARC or if MERS assumptions are not met, we expect that its costs will rise, potentially pressuring the budget.

Strong institutional framework

The institutional framework score for Connecticut municipalities is strong.

Outlook

The stable outlook reflects S&P Global Ratings' opinion of Derby's plan and willingness to make the necessary revenue and expenditure adjustments, albeit through several one-time measures, to restore available reserves to positive levels. In addition, we believe the changes it is instituting in its financial management operations and raising the necessary revenues after three years of no tax increase, support our view that it should begin to realize positive financial results and increase reserves in fiscal 2020. Therefore, we do not expect to change the rating within the two-year outlook horizon.

Downside scenario

Should the city prove unsuccessful in rebuilding its fund balance to positive levels over the next two years and continue to experience reductions in available reserves as a result of negative financial operations and misalignment of revenues and expenditures, we could lower the rating.

Upside scenario

If the city were to maintain consistent positive financial performance without the use of one-time adjustments or sources, leading to improvements in reserves levels while maintaining conservative budgetary assumptions, we could raise the rating.

Related Research

- S&P Public Finance Local GO Criteria: How We Adjust Data For Analytic Consistency, Sept. 12, 2013
- Incorporating GASB 67 And 68: Evaluating Pension/OPEB Obligations Under Standard & Poor's U.S. Local Government GO Criteria, Sept. 2, 2015

Certain terms used in this report, particularly certain adjectives used to express our view on rating relevant factors, have specific meanings ascribed to them in our criteria, and should therefore be read in conjunction with such criteria. Please see Ratings Criteria at www.standardandpoors.com for further information. Complete ratings information is available to subscribers of RatingsDirect at www.capitaliq.com. All ratings affected by this rating action can be found on S&P Global Ratings' public website at www.standardandpoors.com. Use the Ratings search box located in the left column.

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City of Derby
 8 Point Plan
 Fund Balance Replenishment Plan

<u>Period</u>	<u>Action Item</u> (as Restated)	<u>Amount</u>	<u>Status</u>
6/30/18 Fund Balance		-\$2,544,956.00	
6/30/19 Fund Balance	(est pre audit) Inclusive of 6/30/18 FB	-\$3,800,156.00	
FY18-19	# 2 Sale of Asset	\$450,000.00	In Process
	#4 Adjust Long Term Cost	\$540,000.00	Completed
	#5 Tax Sale	\$1,000,000.00	In Process-Approved
	Budgeted FB Replenishment	\$200,000.00	Completed
6/30/19 Est Fund Balance		-\$1,610,156.00	
FY19-20	#1 Debt Restructure	\$1,800,000.00	Completed
	#4 Adjust long Term Cost	\$540,000.00	Completed
	FB Replenishment	\$500,000.00	Completed
Est Fund Balance as of 9/30/19		\$1,229,844.00	As of 9/30/19
FY20-21	#1 Debt Restructuring	\$1,500,000.00	Approved -
	FB Replenishment	\$500,000.00	
6/30/21 Est Fund Balance		\$3,229,844.00	

**CITY OF DERBY, CONNECTICUT
AGREED -UPON PROCEDURES
COMMUNICATION OF CERTAIN
SIGNIFICANT DEFICIENCIES
YEAR ENDED JUNE 30, 2018**

INDEPENDENT ACCOUNTANT'S REPORT
ON APPLYING AGREED-UPON PROCEDURES

To the Honorable Mayor,
Members of the Board of Alderman and
Members of the Board of Apportionment and Taxation
City of Derby, Connecticut

We have performed the procedures enumerated below, which were agreed to by, on Schedule of Findings and Questioned Costs as reported in our separate report for the City of Derby, Connecticut as of June 30, 2018 on the City's Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards dated March 22, 2019. City of Derby, Connecticut's management is responsible for the City's internal control over financial reporting and on compliance. The sufficiency of these procedures is solely the responsibility of City of Derby, Connecticut. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures and associated findings are as follows:

1. Review the internal control deficiencies as reported in the Schedule of Findings and Questioned Costs as reported in our separate report issued on the City's Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards dated March 22, 2019.
2. Identify the findings that caused the restatement of general fund balance and fund deficiency.
3. Identify the party or parties required to make the correction

This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. We were not engaged to and did not conduct an audit or review, the objective of which would be the expression of an opinion or conclusion, respectively, on the effectiveness of City of Derby, Connecticut's internal controls over financial reporting and on compliance. Accordingly, we do not express such an opinions or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

The purpose of this report is solely limited to the above procedures and is only a summary of the Schedule of Findings and Questioned Costs issued in our separate report on the City's Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards dated March 22, 2019 and **should be** read in conjunction with that aforementioned report. Accordingly, this communication is not suitable for any other purpose.

**CITY OF DERBY, CONNECTICUT
SUMMARY SCHEDULE OF FINDINGS AND QUESTIONED COSTS
YEAR ENDED JUNE 30, 2018**

I. FINANCIAL STATEMENT FINDINGS SUMMARY

Below is a summary of significant deficiencies that should be addressed as soon as possible. A full listing of findings follows this summary and exhibits. The significant deficiencies repeated from the prior years are marked with an asterisk.

***18-1 Double-Entry Accounting System**

Finding/Effect: The City does not use double-entry accounting for all funds.

Criteria: The use of a double-entry accounting software system, including the preparation of a balanced general ledger would improve the City's ability to detect accounting errors, provide the basis for monthly account and ledger reconciliations, and facilitate financial reporting for all Special Revenue Funds, Fiduciary Funds and its long-term debt and fixed assets.

Recommendation: We recommend that the City adopt a general ledger accounting software system for all funds and activities, including federal and state financial assistance funds.

What needs to be done first? A review of the financial statements and all the individual fund trial balances needs to be maintained and kept in the Finance Director's office. All accounting should be processed utilizing an accounting package with a full set of balancing accounts by the Finance Director or under the supervision of the Finance Director. See City's Charter Sec. 33. See Exhibit A. The Board of Education's Business Manager should also utilize a set of self-balancing accounts for the operating and grant funds. Both should meet on a monthly basis to reconcile information and close the books monthly within a reasonable time after month's end.

Responsible

Party or Parties: The Finance Director is responsible for the overall accounting of the City as a whole. See Exhibit A of the City's Charter Sec. 33. The Business Manager is responsible for the accounting of the funds maintained by the Board of Education.

***18-2 Bank Reconciliations and Approval of Bank Reconciliations**

Finding/Effect: Bank reconciliations were not formally prepared during the year for general fund checking accounts.

Criteria: The Finance Department should be preparing the bank reconciliations and the Finance Director should formally approve the bank reconciliations on all City bank accounts.

Recommendation: We recommend that all bank reconciliations be prepared by the Finance department within a reasonable period of time after the month end. These reconciliations should then be

CITY OF DERBY, CONNECTICUT
SUMMARY SCHEDULE OF FINDINGS AND QUESTIONED COSTS
YEAR ENDED JUNE 30, 2018

reviewed by the Finance Director for accuracy and completeness. All accounting should be processed utilizing an accounting package with a full set of set balancing accounts by the Finance Director or under the supervision of the Finance Director.

What needs to be done first?

All funds should be established utilizing double entry accounting (See finding 18-1). All the bank reconciliations should be reviewed or performed in the Finance Director's office timely. This includes the all the bank accounts reported in the financial statements of the City. (i.e. Board of Education and Capital Project Funds) The Finance Director can not perform his duties without all the financial information.

Responsible

Party or Parties: The Finance Director is responsible for the overall accounting of the City as a whole. See Exhibit A of the City's Charter Sec. 33. The Business Manager is responsible for the accounting of the funds maintained by the Board of Education.

***18-5 Accounts Payable Cut-off-Board of Education**

Finding/Effect: The Board of Education's accounts payable were not properly recorded at year end on the City's general ledger. Account payable and accrued payroll in the amount of \$3,107,786 were incurred as of June 30, 2018 and were not properly recorded.

Criteria: Expenditures should be accrued when incurred in accordance with accounting principles generally accepted in the United States of America.

Recommendation: We recommend that accounts payable and accrued payroll be recorded when incurred on a monthly basis. A reconciliation with the City's general ledger and the Board of Education ledger should be done on a monthly basis to ensure that liabilities and expenditures are properly recorded.

What needs to be done first?

All funds should be established utilizing double entry accounting (See finding 18-1). Reports should be at months end and reconciled to detailed listings. Providing inaccurate open purchase order reports has a significant effect on the financial statements. Accounts payable and purchase orders should also be paid or lapse within a reasonable time after year end and the surplus, if any returned to the City's general fund. The Finance Director can not perform his duties without all the financial information.

Responsible

Party or Parties: The Finance Director is responsible for the overall accounting of the City as a whole. See Exhibit A of the City's Charter Sec. 33. The Business Manager is responsible for the accounting of the funds maintained by the Board of Education. See Exhibit B.

**CITY OF DERBY, CONNECTICUT
SUMMARY SCHEDULE OF FINDINGS AND QUESTIONED COSTS
YEAR ENDED JUNE 30, 2018**

18-6 Reconciliation of City and Board of Education

Finding/Effect: The Board of Education and City were not reconciled at year end. A prior period adjustment of \$2,634,603 was recorded as a reduction of the general fund balance.

Criteria: A formal reconciliation should be performed on a monthly basis to ensure agreement of the City's general ledger accounts with the Board of Education records.

Recommendation: We recommend that the Board of Education utilize the accounting system to reconcile cash, accounts receivable, accounts payable, deferred inflows of financial resources in addition to the income and expenditure ledgers that are already being utilized to have a complete self-balancing set of accounts. This will assist to quickly identify variances. That information should be timely shared between the City and Board of Education to ensure that both the City and Board of Education ledgers are in agreement.

What needs to be done first?

All funds should be established utilizing double entry accounting (See finding 18-1). Next the Board of Education should submit a detailed listing of payment vouchers that are required to be made to the City by payee and source of funds. The cash transferred to the Board of Education bank accounts should agree with each individual voucher. This will make it easier for the City to Reconcile with the Board of Education. The Finance Director and Business Manager should meet on a monthly basis to reconcile the City's general ledger to the Board of Education accounts and outflows and close the books monthly within a reasonable time after month's end.

Responsible

Party or Parties: The Finance Director is responsible for the overall accounting of the City as a whole. See Exhibit A of the City's Charter Sec. 33. The Business Manager is responsible for the accounting of the funds maintained by the Board of Education. See Exhibit B.

18-8 Budgeting

Finding/Effect: The City significantly overestimated grant revenues in the original budget. Approximately \$909,911 in grant monies were anticipated that was not received. The actual amount of the ECS-Alliance grant received during the fiscal year ended June 30, 2018 was \$1,036,699. These monies were paid to the Board of Education in the following fiscal year.

Criteria: The ECS-Alliance grant was budgeted as City revenue and did not have an off-setting appropriation. This resulted in a revenue shortfall of \$1,241,153. The Educational Cost Sharing Grant was budgeted for \$7,624,231 but only \$6,857,372 was actually paid by the State of Connecticut leaving a \$766,859 shortfall. The Private Colleges and Hospital Grant was budgeted for \$833,361 and \$690,309 was actually paid by the State of Connecticut leaving a \$143,053 shortfall. In addition, the ECS-Alliance grant monies that were received in the 2017-2018 fiscal year were not remitted to the Board of Education until subsequent to June 30, 2018.

**CITY OF DERBY, CONNECTICUT
SUMMARY SCHEDULE OF FINDINGS AND QUESTIONED COSTS
YEAR ENDED JUNE 30, 2018**

Recommendation: We recommend that the City establish a separate special revenue fund for the educational grants. The grants monies should be remitted to the Board of Education within a reasonable period of time when received by the City.

What needs to be done first?

Budgeting should be performed with every department presenting a detailed budget for their anticipated appropriation. Within the detailed budget should be various reasonable assumptions where each appropriation is derived. All departments should utilize similar assumptions and formats where possible. Each department should also have anticipated revenues, such as grants and charges for services, to arrive at a net department cost to be taxed. The department heads, including the Board of Education, should submit the detail of these calculations should be submitted to the Board of Apportionment and Taxation for their review in accordance with the City's charter. In addition, the regular monthly reporting submitted to the Board of Apportionment needs to be timely and accurate (See Finding 18-1, 18-2, 18-5, 18-6) to show significant variances to make informed decisions.

Responsible

Party or Parties: Each individual department heads, Finance Director, Board of Apportionment and Taxation, Superintendent of School and Business Manager are responsible for their respective budgets. See Exhibit A Sec 28 and Exhibit C of the CGS section 10-222.

18-16 Comingling of Funds

Finding/Effect: The Board of Education maintains one cash account for operations and grant. The comingling of operational and grant monies makes it difficult if not impossible to reconcile with the City. Significant errors can occur and not be timely detected.

Criteria: A separate bank account should be maintained for grant income and expenditures in order to properly track inflows and outflows of grant monies. Assets such as grants receivable and liabilities such as deferred inflows and accounts payable should also be recorded and reconciled on a monthly basis.

Recommendation: We recommend that the Board of Education utilize the accounting system to reconcile cash, accounts receivable, accounts payable, deferred inflows of financial resources in addition to the income and expenditures for educational grants. In addition, we recommend moving the grant accounting from the General Fund to a Special Revenue Fund where it is better classified.

What needs to be done first?

All funds should be established utilizing double entry accounting (See finding 18-1, 18-5, 18-6). Separate bank accounts bank account should be set up and maintained by funding source. This allows operational and grant monies to be accounted for with ease. This step should be done in conjunction with the aforementioned findings.

**CITY OF DERBY, CONNECTICUT
SUMMARY SCHEDULE OF FINDINGS AND QUESTIONED COSTS
YEAR ENDED JUNE 30, 2018**

Responsible

Party or Parties: The Business Manager is responsible for the accounting of the funds maintained by the Board of Education.

7. Administrative & Appointments

7.1. Approval of Minutes

7.1.1. Move to approve minutes from Regular Meeting – August 8, 2019

Motioned to approve by Mr. Sill and seconded by Mr. Sampson. Ms. DeGennaro asked to correct the name under item 12.1. It should state "Cotter". Mr. Sill and Mr. Sampson amended their motions and the motion carried. Mr. Hyder abstained

7.1.2. Move to approve minutes from Special Meeting – August 22, 2019

Motioned to approve by Mr. Sampson seconded by Mr. Sill and the motion carried. Ms. DeGennaro abstained.

7.2. Move to approve tax refunds in the amount of \$3,447.64 dated September 11, 2019.

Motioned by Mr. Sampson, seconded Ms. DeGennaro and the motion carried.

7.3. Appointments to Boards and Commissions

7.3.1. No items this month.

8. Committee Reports

8.1. Blight Committee

8.1.1. Move to waive blight penalty in the amount of \$13,300.00 on 210 Hawkins Street because the new owner has remediated the blighted conditions.

Motioned to table by Mr. Joe DiMartino and seconded by Mr. Donofrio. Mr. DiMartino amended his motion as follows: **Move to waive the entire amount of the blight penalty on 210 Hawkins Street because the new owner has remediated the blighted conditions.** Mr. Sill seconded and the motion carried.

8.1.2. Move to remove 210-214 Derby Avenue from the Blight List

Motioned by Mr. Joe DiMartino, seconded by Mr. Donofrio and the motion carried.

8.1.3. Move to remove 39 Grandview Boulevard from the Blight List

Motioned by Mr. Joe DiMartino, seconded by Mr. Donofrio and the motion carried.

8.1.4. Move to remove 111 Pleasant View Road from the Blight List

Motioned by Mr. Joe DiMartino, seconded by Mr. Donofrio and the motion carried.

8.1.5. Move to remove 204-206 Derby Avenue from the Blight List

Motioned by Mr. Joe DiMartino, seconded by Mr. Donofrio and the motion carried.

8.1.6. Move to add 204-206 Derby Avenue to the Blight List

Motioned by Mr. Joe DiMartino, seconded by Mr. Donofrio and the motion carried.

8.1.7. Move to add 3 Francis Street to the Blight List

Motioned by Mr. Joe DiMartino, seconded by Mr. Donofrio and the motion carried.

8.1.8. Move to add 17-25 Crescent Street to the Blight List

Motioned by Mr. Joe DiMartino, seconded by Mr. Donofrio and the motion carried.

8.1.9. Move to add 5-7 Hawkins Street to the Blight List

Motioned by Mr. DiMartino, seconded by Mr. Donofrio and the motion carried.

8.2. Community Relations

8.2.1. Move to approve the following sidewalk reimbursements pursuant to Section 172-8 of the Derby Ordinances as approved by the Director of Public Works.

- **Rose Ann Haakerud – 5 Jeanetti Drive - \$2,490.00**
 - **Ann Mirasola – 117 Hawthorne Avenue - \$540.00**
- Motioned by Mr. Sill, seconded by Mr. Sampson and the motion carried.

8.2.2. Move to approve the request for reimbursement of Building Permit Fees in the amount of \$17,712.70 by McKenney Mechanical for the following City of Derby projects.

- Irving School – Plumbing - \$299.42
- Irving School – Heating and Cooling - \$12,766.84
- Bradley School – Plumbing - \$436.76
- Bradley School – Heating and Cooling - \$2,847.84
- Derby High School - Plumbing - \$1,260.80
- Derby High School – Heating and Colling - \$101.04

Motioned by Mr. Sill, seconded by Mr. Sampson and the motion carried.

8.2.3. Move to accept the revised Capital Planning Commission for replacement of roofs at Paugasset and Storms Firehouses.

Motioned by Mr. Sill and seconded by Mr. Sampson.

Ms. DeGennaro asked to amend the motion to include the dollar amounts.

Move to approve the revised 2019 Capital Plan to include roof replacements for Paugasset in the amount of \$41,500 and for Storms in the amount of \$46,500.

Motioned by Mr. Sampson and seconded by Ms. DeGennaro. The motion carried.

Mr. Donofrio said both departments should have notified the city of the roof issue prior to this.

8.3. Operations and Procedures

8.3.1. No action items.

8.4. Road Bond Project

8.4.1. No action items.

9. Executive Session –

9.1. Discussion regarding the pending litigation from home owners in relation to the JR Payden Field House / Baseball Field, and Athletic Complex Building Committee

Mr. Sampson motioned to enter into executive session at 8:16 PM and invite Corporation Counsel Marino, Dr. Conway, Mr. McLiverty, and Mr. Baklik. Mr. Donofrio seconded and the motion carried.

SUMMONS - CIVIL

JD-CV-1 Rev. 4-16
 C.G.S. §§ 51-346, 51-347, 51-349, 51-350, 52-45a,
 52-48, 52-259, P.B. §§ 3-1 through 3-21, 8-1, 10-13

STATE OF CONNECTICUT
SUPERIOR COURT

www.jud.ct.gov



See other side for instructions

2019 SEP 12 PM 2:13

- "X" if amount, legal interest or property in demand, not including interest and costs is less than \$2,500.
- "X" if amount, legal interest or property in demand, not including interest and costs is \$2,500 or more.
- "X" if claiming other relief in addition to or in lieu of money or damages.

TO: Any proper officer; BY AUTHORITY OF THE STATE OF CONNECTICUT, you are hereby commanded to make due and legal service of this Summons and attached Complaint.

Address of court clerk where writ and other papers shall be filed (Number, street, town and zip code) (C.G.S. §§ 51-346, 51-350)		Telephone number of clerk (with area code)	Return Date (Must be a Tuesday)
14 West River Street, Milford, CT 06460		(203) 877-4293	October 7, 2019 Month Day Year
<input checked="" type="checkbox"/> Judicial District	<input type="checkbox"/> G.A. Number:	At (Town in which writ is returnable) (C.G.S. §§ 51-346, 51-349)	Case type code (See list on page 2)
<input type="checkbox"/> Housing Session		Milford	Major: T Minor: 90

For the Plaintiff(s) please enter the appearance of:

Name and address of attorney, law firm or plaintiff if self-represented (Number, street, town and zip code)	Juris number (to be entered by attorney only)
Berdon, Young & Margolis, PC, 350 Orange St, 2nd Flr, New Haven, CT 06511	003487

Telephone number (with area code)	Signature of Plaintiff (If self-represented)
(203) 772-3740	

The attorney or law firm appearing for the plaintiff, or the plaintiff if self-represented, agrees to accept papers (service) electronically in this case under Section 10-13 of the Connecticut Practice Book.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Email address for delivery of papers under Section 10-13 (if agreed to)
---	---	---

Number of Plaintiffs: 12 Number of Defendants: 3 Form JD-CV-2 attached for additional parties

Parties	Name (Last, First, Middle Initial) and Address of Each party (Number; Street; P.O. Box; Town; State; Zip; Country, if not USA)	
First Plaintiff	Name: Joann Welsh Address: 16 Pequod Trail, Shelton, CT 06484	P-01
Additional Plaintiff	Name: Edward Larsen Address: 340 Hawthorne Ave, Derby, CT 06418	P-02
First Defendant	Name: City of Derby Address: Mark Garafalo, Town Clerk, 1 Elizabeth Street, Derby, CT 06418	D-01
Additional Defendant	Name: Turco Golf, Inc. - 121 Orange Avenue, Suffern, NY 10901 Address: Agent of Service - Secretary of State - 30 Trinity Street, Hartford, CT 06106	D-02
Additional Defendant	Name: Kaestle Boos Associates, Inc. - 416 Slater Road, New Britain, CT 06050 Address: Agent of Service - Charles W. Boos, 32 Talcott Notch Road, Avon, CT 06101	D-03
Additional Defendant	Name: Address:	D-04

Notice to Each Defendant

1. YOU ARE BEING SUED. This paper is a Summons in a lawsuit. The complaint attached to these papers states the claims that each plaintiff is making against you in this lawsuit.
2. To be notified of further proceedings, you or your attorney must file a form called an "Appearance" with the clerk of the above-named Court at the above Court address on or before the second day after the above Return Date. The Return Date is not a hearing date. You do not have to come to court on the Return Date unless you receive a separate notice telling you to come to court.
3. If you or your attorney do not file a written "Appearance" form on time, a judgment may be entered against you by default. The "Appearance" form may be obtained at the Court address above or at www.jud.ct.gov under "Court Forms."
4. If you believe that you have insurance that may cover the claim that is being made against you in this lawsuit, you should immediately contact your insurance representative. Other action you may have to take is described in the Connecticut Practice Book which may be found in a superior court law library or on-line at www.jud.ct.gov under "Court Rules."
5. If you have questions about the Summons and Complaint, you should talk to an attorney quickly. The Clerk of Court is not allowed to give advice on legal questions.

Signed (Sign and "X" proper box)	<input checked="" type="checkbox"/> Commissioner of the Superior Court <input type="checkbox"/> Assistant Clerk	Name of Person Signing at Left	Date signed
		Peter A. Berdon	9/12/2019

If this Summons is signed by a Clerk: a. The signing has been done so that the Plaintiff(s) will not be denied access to the courts. b. It is the responsibility of the Plaintiff(s) to see that service is made in the manner provided by law. c. The Clerk is not permitted to give any legal advice in connection with any lawsuit. d. The Clerk signing this Summons at the request of the Plaintiff(s) is not responsible in any way for any errors or omissions in the Summons, any allegations contained in the Complaint, or the service of the Summons or Complaint.	<i>For Court Use Only</i>		
	File Date		
I certify I have read and understand the above:	Signed (Self-Represented Plaintiff)	Date	Docket Number
		9/12/2019	

CIVIL SUMMONS
CONTINUATION OF PARTIES
 JD-CV-2 Rev. 9-12

STATE OF CONNECTICUT
 SUPERIOR COURT

First named Plaintiff *(Last, First, Middle Initial)*

Welsh, Joann

First named Defendant *(Last, First, Middle Initial)*

City of Derby

Additional Plaintiffs

Name <i>(Last, First, Middle Initial, if individual)</i>	Address <i>(Number, Street, Town and Zip Code)</i>	CODE
Fitzgerald, John K.	318 Meadow St, Shelton, CT 06484	03
Fitzgerald, Jean A.	318 Meadow St, Shelton, CT 06484	04
Netto, John	141 Park Avenue, Derby, CT 06418	05
McEvoy Jr., Thomas F.	33 Clark Street Ext, Derby, CT 06418	06
McEvoy III, Thomas F.	33 Clark Street Ext, Derby, CT 06418	07
McEvoy, Donna	33 Clark Street Ext, Derby, CT 06418	08
DiCapua, Michelle	336 Hawthorne Ave, Derby, CT 06418	09
McEvoy, James D.	60 E St, Derby, CT 06418	10
McEvoy, Rita	60 E St, Derby, CT 06418	11
Liquigly, Joey Ann	76 Suburban Ave, Bridgeport, CT 06604	12
		13

Additional Defendants

Name <i>(Last, First, Middle Initial, if individual)</i>	Address <i>(Number, Street, Town and Zip Code)</i>	CODE
		05
		06
		07
		08
		09
		10
		11
		12
		13
		14

FOR COURT USE ONLY - File Date

Docket number _____

Instructions

1. Type or print legibly; sign summons.
2. Prepare or photocopy a summons for each defendant.
3. Attach the original summons to the original complaint, and attach a copy of the summons to each copy of the complaint. Also, if there are more than 2 plaintiffs or more than 4 defendants prepare form JD-CV-2 and attach it to the original and all copies of the complaint.
4. After service has been made by a proper officer, file original papers and officer's return with the clerk of court.
5. Do not use this form for the following actions:
 - (a) Family matters (for example divorce, child support, custody, paternity, and visitation matters)
 - (b) Summary Process actions
 - (c) Applications for change of name
 - (d) Probate appeals
 - (e) Administrative appeals
 - (f) Proceedings pertaining to arbitration
 - (g) Any actions or proceedings in which an attachment, garnishment or replevy is sought
 - (h) Entry and Detainer proceedings
 - (i) Housing Code Enforcement actions

ADA NOTICE

The Judicial Branch of the State of Connecticut complies with the Americans with Disabilities Act (ADA). If you need a reasonable accommodation in accordance with the ADA, contact a court clerk or an ADA contact person listed at www.jud.ct.gov/ADA.

Case Type Codes

Major Description	Codes Major/Minor	Minor Description	Major Description	Codes Major/Minor	Minor Description
Contracts	C 00	Construction - All other	Property	P 00	Foreclosure
	C 10	Construction - State and Local		P 10	Partition
	C 20	Insurance Policy		P 20	Quiet Title/Discharge of Mortgage or Lien
	C 30	Specific Performance		P 30	Asset Forfeiture
	C 40	Collections		P 90	All other
	C 90	All other			
Eminent Domain	E 00	State Highway Condemnation	Torts (Other than Vehicular)	T 02	Defective Premises - Private - Snow or Ice
	E 10	Redevelopment Condemnation		T 03	Defective Premises - Private - Other
	E 20	Other State or Municipal Agencies		T 11	Defective Premises - Public - Snow or Ice
	E 30	Public Utilities & Gas Transmission Companies		T 12	Defective Premises - Public - Other
	E 90	All other		T 20	Products Liability - Other than Vehicular
Miscellaneous	M 00	Injunction		T 28	Malpractice - Medical
	M 10	Receivership		T 29	Malpractice - Legal
	M 20	Mandamus		T 30	Malpractice - All other
	M 30	Habeas Corpus (extradition, release from Penal Institution)		T 40	Assault and Battery
	M 40	Arbitration		T 50	Defamation
	M 50	Declaratory Judgment		T 61	Animals - Dog
	M 63	Bar Discipline	T 69	Animals - Other	
	M 66	Department of Labor Unemployment Compensation Enforcement	T 70	False Arrest	
	M 68	Bar Discipline - Inactive Status	T 71	Fire Damage	
	M 70	Municipal Ordinance and Regulation Enforcement	T 90	All other	
	M 80	Foreign Civil Judgments - C.G.S. 52-604 & C.G.S. 50a-30	Vehicular Torts	V 01	Motor Vehicles* - Driver and/or Passenger(s) vs. Driver(s)
	M 83	Small Claims Transfer to Regular Docket		V 04	Motor Vehicles* - Pedestrian vs. Driver
	M 84	Foreign Protective Order		V 05	Motor Vehicles* - Property Damage only
M 90	All other	V 06		Motor Vehicle* - Products Liability Including Warranty	
		V 09		Motor Vehicle* - All other	
		V 10		Boats	
		V 20		Airplanes	
		V 30		Railroads	
		V 40		Snowmobiles	
		V 90		All other	
			*Motor Vehicles include cars, trucks, motorcycles, and motor scooters.		
Housing	H 10	Housing - Return of Security Deposit	Wills, Estates and Trusts	W 10	Construction of Wills and Trusts
	H 12	Housing - Rent and/or Damages		W 90	All other
	H 40	Housing - Audita Querela/Injunction			
	H 50	Housing - Administrative Appeal			
	H 60	Housing - Municipal Enforcement			
	H 90	Housing - All Other			

RETURN DATE: OCTOBER 7, 2019

: SUPERIOR COURT

JOANN WELSH
EDWARD LARSEN
JOHN K. FITZGERALD
JEAN A. FITZGERALD
JOHN NETTO
THOMAS F. MCEVOY, JR.
THOMAS F. MCEVOY, III
DONNA MCEVOY
MICHELLE DICAPUA
JAMES D. MCEVOY
RITA MCEVOY
JOEY ANN LIQUIGLY

: J.D. OF MILFORD/ANSONIA

V.

: AT MILFORD

CITY OF DERBY
TURCO GOLF, INC.
KAESTLE BOOS ASSOCIATES, INC.

: SEPTEMBER 12, 2019

COMPLAINT

FIRST COUNT – Negligence

1. The Plaintiffs JoAnn J. Welsh, Edward Larsen, John K. Fitzgerald, Jean A. Fitzgerald, John Netto, Thomas F. McEvoy, Jr., Thomas F. McEvoy, III, Donna McEvoy, Michelle DiCapua, James D. McEvoy, Rita McEvoy, and Joey Ann Liquigly are residents of the State of Connecticut.

2. Each of the Plaintiffs owns the following real properties in the City of Derby, Connecticut: 40 E Street (JoAnn J. Welsh), 340-342 Hawthorne Avenue (Edward Larsen), 50 E Street (John K. Fitzgerald), 52 E Street (John K. Fitzgerald), 54 E Street (John K. Fitzgerald and Jean A. Fitzgerald), 56 E Street (John K. Fitzgerald and Jean A. Fitzgerald), 141 Park Avenue (John Netto), 326 Hawthorne Avenue (Thomas F. McEvoy Jr., Thomas F. McEvoy, III, and Donna McEvoy), 328

Hawthorne Avenue (Thomas F. McEvoy, Jr.), 336 Hawthorne Avenue (Michelle DiCapua), 60 E Street (James D. McEvoy and Rita McEvoy), and 13 Chatfield Street (Joey Ann Liquigly).

3. The Defendant City of Derby ("Derby") is a municipality organized pursuant to the laws of the State of Connecticut and owns the property at which Derby High School is located and known as 73-75 Chatfield Street, Derby, Connecticut ("Site").

4. The Defendant Turco Golf, Inc. ("Turco") is a New York corporation registered with the Secretary of State to do business in Connecticut.

5. The Defendant Kaestle Boos Associates, Inc. ("Kaestle Boos") is a Connecticut corporation.

6. On or about March 31, 2017, Derby entered into an agreement with Kaestle Boos as architect ("Architect Agreement") for a renovation project of athletic facilities at Derby High School ("Renovation Project").

7. The Architect Agreement required Kaestle Boos to create and develop construction documents for the Renovation Project, to apply for and obtain necessary permits and approvals for the Renovation Project, and to oversee the construction of the Renovation Project to ensure its compliance with construction documents.

8. On or about June 26, 2018, Derby entered into an agreement with Turco as contractor ("Contractor Agreement") for the Renovation Project.

9. The agreement obligated Turco to perform its contracting services on the Renovation Project in accordance with the highest standards and best practices of its trade, and to conform to all local, state, and federal laws and regulations.

10. In connection with the Renovation Project Kaestle Boos developed and created plans for the establishment of certain grading and erosion and control measures to prevent water and soil from migrating off of the Site. (? – incomplete)

11. While it was working on the Renovation Project, Turco caused mounds or berms of earth materials to be stockpiled on the site (“stockpiles”).

12. On or about September 25, 2018, during a rain event earth materials from the stockpiles were washed from the Renovation Project site onto the plaintiffs’ real properties, including into the interiors of the homes on those properties, causing damage to the properties and improvements located thereon and to the personal property of the plaintiffs.

13. Derby, in connection with the Renovation Project, had the duty and obligation to undertake the project in such a manner so as not to cause soil and water to migrate or flow from the Site.

14. Derby is vicariously liable to the plaintiffs for the actions and/or omissions of its architect Kaestle Boos and its contractor Turco.

15. The damages sustained by the plaintiff were due to the negligence and/or carelessness of Turco in one or more of the following ways:

- a) Turco failed to install and/or maintain the erosion and control measures as required by the applicable construction documents;
- b) Turco failed to adequately inspect the site;
- c) Turco failed to grade the site and/or otherwise protect the site so as to prevent water runoff and/or soil migrating from the site;

- d) Turco failed to use and/or implement appropriate site stabilization methods; and/or
- e) In light of the conditions existing at the site, the weather conditions leading up to September 25, 2018 and the weather forecasts of September 25, 2018 Turco failed to take adequate steps and/or measures to protect the site to prevent water runoff from the site, and/or soil migrating from the site, including and specifically the stockpiles which were located in the near proximity of the properties.

16. The damages sustained by the plaintiffs were due to the negligence and carelessness of Kaestle Boos in one or more of the following ways:

- a) Kaestle Boos failed to properly inspect the site and/or failed to order appropriate corrections and/or modifications so as to prevent water and/or soil from migrating from the site;
- b) Kaestle Boos failed to properly oversee the activities of Turco;
- c) Kaestle Boos failed to properly instruct Turco as to the details of compliance with the construction documents;
- d) Kaestle Boos failed to create and develop construction documents which would adequately protect the site during construction, including to specify grading and erosion control measures so as to prevent water and soils from migrating from the site; and/or
- e) In light of the conditions existing at the site, the weather conditions leading up to September 25, 2018, and the weather forecasts of September 25, 2018 Kaestle Boos failed to take adequate steps and/or measures to protect the site

and the plaintiffs' properties, including its failure to prevent water runoff and/or soil migrating from the Site, including and specifically the stockpiles which were located in near proximity of the Site.

17. At a minimum Kaestle Boos and Turco had the duty to perform their respective services and work for the Renovation Project with reasonable care and within industry standards, and in conformance with all local, state, and federal laws and regulations.

18. The Defendants, their agents, servants, employees, and contractors, failed to perform the renovation project and services for the renovation project with reasonable care and within industry standards, and in conformance with all local, state, and federal laws and regulations, as previously alleged.

19. As a result of the defendants' conduct, the plaintiffs sustained damages.

SECOND COUNT – Negligence Pursuant to CGS § 52-557n

1.-19. Paragraphs 1-19 of the First Count are incorporated into this Second Count.

20. The defendant City of Derby, by virtue of its negligence and/or carelessness is liable to the Plaintiffs pursuant to CGS § 52-557n.

THIRD COUNT - Private Nuisance

1.-19. Paragraphs 1-19 of the First Count are incorporated into this Second Count.

20. The defendants' conduct caused the plaintiffs an unreasonable interference with the use and enjoyment of their properties.

WHEREFORE, the Plaintiffs seek:

1. Monetary damages;
2. Other legal and equitable relief as the Court deems just.

THE PLAINTIFFS:

BY: _____



Peter A. Berdon
Russell J. Bonin
Berdon, Young & Margolis
Their Attorney
350 Orange Street
New Haven, CT 06511
Tel: 203-772-3740
Fax: 203-492-4444.
Juris: 03487

RETURN DATE: OCTOBER 7, 2019 : SUPERIOR COURT
JOANN WELSH : J.D. OF MILFORD/ANSONIA
EDWARD LARSEN
JOHN K. FITZGERALD
JEAN A. FITZGERALD
JOHN NETTO
THOMAS F. MCEVOY, JR.
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DONNA MCEVOY
MICHELLE DICAPUA
JAMES D. MCEVOY
RITA MCEVOY
JOEY ANN LIQUIGLY
V. : AT MILFORD
CITY OF DERBY : SEPTEMBER 12, 2019
TURCO GOLF, INC.
KAESTLE BOOS ASSOCIATES, INC.

STATEMENT OF AMOUNT IN DEMAND

The amount of money damages claimed in the foregoing Complaint is greater than fifteen thousand (\$15,000.00) dollars, exclusive of interest and/or costs.

THE PLAINTIFFS:

BY: 

Peter A. Berdon
Russell J. Bonin
Berdon, Young & Margolis
Their Attorney
350 Orange Street
New Haven, CT 06511
Tel: 203-772-3740
Fax: 203-492-4444
Juris: 03487

The meeting reopened at 8:59 PM.

**10. Regular Session Action from Executive Session
No Action Items from Executive Session**

11. New Business

11.1. Discussion and Possible Action regarding Sale of Roosevelt Drive – Parcel 12-5, 3

Mr. Sampson motioned to take no action. Ms. DeGennaro seconded and the motion carried.

11.2. Discussion and update on Johnson Controls Project

The Board was updated on the status of the project. Mr. Sampson asked that they be added to the agenda moving forward as item 6.22.1.

11.3. Johnson Controls Project Invoices

11.3.1. Move to approve payment of Application #2 dated 7/8/19 \$174,973.98

Move to approve by Mr. Sill, seconded by Mr. Sampson and the motion carried.

11.3.2. Move to approve payment of Application #3 dated 8/5/19 \$184,498.08

Move to approve by Mr. Sampson, seconded by Ms. Browning and the motion carried.

11.3.3. Move to approve payment of Application #4 dated 8/29/19 \$255,155.98

Move to approve by Mr. Sampson, seconded by Ms. Browning and the motion carried.

A discount in the amount of \$8,793.08 will be applied if applications 3 and 4 are paid before September 30th.

11.4. Discussion and Possible Action regarding use of the JR Payden Field House

Move to accept the Certificate of Substantial Completion and the recommendation of the JR Payden Field House/Baseball Field Committee to allow the interior use of the JR Payden Field House, limited to the areas of all the locker rooms, training area, bathrooms, and concession stand to be used by the Derby Public School System as regulated by the Board of Education, and those Derby sponsored teams as regulated by the Parks & Recreation Department.

Motioned by Mr. Sampson and seconded by Mr. DiMartino. The motion carried.

11.5. Discussion and Possible Action for the Football Field

Move to accept the Athletic Complex Building Committee's recommendation that the football field is substantially complete pending resolution of the dates in the Certification of Substantial Completion document, completion of the punch list before final acceptance of the project, and permit use of the field by the Derby Public School System as regulated by the Board of Education, and those Derby sponsored teams as regulated by the Parks & Recreation Department, and all issues related to the September 25, 2018 homeowner claims are not affected by this action.

Motioned by Mr. Sampson and seconded by Ms. DeGennaro. The motion carried.

11.6. Discussion of the contract between the City of Derby and Tower Tax, LLC relating to the sale of tax liens.

Attorney Marino forwarded the draft contract to the Board for review only.

**AGREEMENT FOR THE ASSIGNMENT OF
CERTAIN REAL PROPERTY TAX LIENS
OF THE CITY OF DERBY**

The agreement (the "Agreement"), made this 12th day of September, 2019, is entered into by and between the City of Derby, a municipal corporation located in the County of New Haven and organized and existing under and by virtue of the laws of the State of Connecticut and the Derby Water Pollution Control Authority, a municipal sewer authority organized and existing under the laws of the State of Connecticut (hereinafter collectively referred to as the "City") and Tower DB9, LLC, a limited liability company organized and existing under the laws of the State of Delaware, on behalf of certain funds and affiliates (hereinafter referred to as the "Assignee").

Whereas, the City solicited proposals concerning the assignment of certain liens filed by the tax collector to secure unpaid taxes on real property in accordance with the provisions of Connecticut General Statutes § 12-195h; and,

Whereas, the proposal submitted by the Assignee to the City is deemed to be in the best interests of the City and has accordingly been accepted.

Now therefore, in consideration of the mutual promises and obligations contained herein, the parties hereto do hereby agree to the following terms and conditions.

1. Assignment

The City agrees to irrevocably assign to the Assignee all its right, title and interest in and to the real property tax liens listed in Exhibit A attached hereto and made a part hereof (hereinafter referred to as the "Assigned Liens"). A document evidencing such assignment (each, an "Assignment"), in substantially the form attached hereto as Exhibit B, shall be executed and delivered to the Assignee upon payment of the Purchase Price identified in Section 2 hereof. The Assignee agrees to accept the assignment and to assume the specific and pertinent rights, obligations and duties set forth in this Assignment Agreement.

The City reserves the right to amend the list of Assigned Liens listed on Exhibit B until date of closing, for business reasons (however, not to include assignment to any other vendor or bidder). In any such event, the purchase price payable in accordance with Section 2 below shall be reduced to reflect the removal of such liens.

2. Purchase Price

In consideration for the assignment of the Assigned Liens the Assignee agrees to pay the City the Purchase Price of **\$1,443,247.73**, plus legal fees, costs and expenses incurred by the City through and including the date of the closing that relate to the enforcement of said lien (the "Purchase Price"), which sum is derived from the Assignee's offer as adjusted by the removal of any proposed Assigned Lien as set forth in the last paragraph of Section 1 above. The Purchase Price shall be paid in full at time of closing by wire transfer to an account designated by the City.

3. Assignment of Future Tax Liens

Subject to the provisions of C.G.S. Sec. 12-195h as amended, the City may assign to Assignee tax liens on Property listed on Exhibit A and that may be filed for sale or assignment on any future tax list approved by the tax collector (each, a "Future Lien"). Assignee shall retain a right of first refusal regarding the purchase of any such Future Lien once the above referenced authorization occurs.

4. Administration of Accounts

Upon the assignment of the Assigned Liens by the City to the Assignee, Assignee will administer, or cause to be administered, all such liens at its sole cost and expense.

Within sixty (60) days following a tax lien assignment the Assignee shall notify the property owner of each property which is subject to an Assigned Lien that the assignment has occurred and that future payments should be made to the Assignee and not to the City. The Assignee shall make a toll-free number available for use by taxpayers in contacting the Assignee or its designated administrator.

The Assignee shall report to the City on a monthly basis concerning the status of all Assigned Liens. Said report shall provide the City with such information as is available and will fairly inform it of the status of all unpaid taxes, interest and fees on the subject properties.

5. Recordings

The Assignee shall be responsible at its sole cost and expense for the recording of each Assignment, any necessary and appropriate releases and any other documents reasonably deemed necessary by either party hereto.

6. Enforcement of Tax Liens

Without waiving any rights it may have as a result of the assignment of the Assigned Liens, the Assignee represents that it will attempt to work out the payment of the delinquent taxes, interest and fees secured by the Assigned Liens without instituting foreclosure or similar litigation. The City recognizes however that the collection of amounts due secured by tax liens must proceed within certain statutory time frames and that the Assignee cannot jeopardize its position with regard to such Assigned Liens. Accordingly, the Assignee may enforce the Assigned Liens in any manner permitted pursuant to the provisions of the Connecticut General Statutes once reasonable efforts to arrange for voluntary payment of the delinquencies have failed.

7. Management of Properties

In the event that the Assignee shall become the owner of any property which was subject to an Assigned Lien, the Assignee agrees to maintain said property in accordance with all applicable federal, state and local codes, laws, ordinances and regulations and shall maintain said properties free from blight. In addition, the Assignee agrees that upon acquisition of title to any such property, it shall pay or cause to be paid all municipal taxes in a timely manner as they fall due.

8. Indemnification

(a) The Assignee shall indemnify and hold harmless the City, its employees, officials and agents, including any of the foregoing sued as individuals, from any lawsuit, counterclaim or administrative proceeding seeking money damages, refund or discharge of taxes, equitable or other relief of any kind, arising from or in connection with the Assignee's acts relating to (i) any breach of the Assignee's representations, warranties and/or covenants contained herein, and/or (ii) any claims or litigation brought against the City solely out of the Assignee's violation of any applicable law with respect to the Assignee's collection of any Assigned Lien.

(b) The City shall indemnify and hold harmless the Assignee, its employees, officers, directors, owners, members, partners and agents including any of the foregoing sued as individuals, from any lawsuit, counterclaim or administrative proceeding seeking money damages, refund or discharge of taxes, equitable or other relief of any kind, arising from or in connection with the City's acts relating to (i) any breach of the City's representations, warranties and/or covenants contained herein, (ii) any claims or litigation pending or threatened, raised prior to, on or after the closing date, relating to or arising out of the Assigned Liens and arising out of or related to any action or inaction by the City on or before the closing date.

9. Representations and Covenants

The City makes no representations as to the value, conditions or legal status of the Assigned Liens or the properties to which they relate except as follows:

a. The City represents that subject to the payments to be made pursuant to the provisions of Section 2 hereof, the Purchase Price paid for the Assigned Liens shall be accepted by the City as correct and accurate reflection of the sums due and owing for the assignment of said liens;

b. The City represents that it has duly and properly recorded certificates continuing the Assigned Liens and as to debtors in bankruptcy the City represents only that such liens were recorded in the City Land Records;

c. The City represents that the information concerning the Assigned Liens is the same information as contained in the records of the Derby Tax Collector with respect to such liens and that the Assigned Liens are valid and enforceable. In the event that the information provided by the City to the Assignee is incorrect, and in reliance upon said information the Assignee has overpaid the City, the City agrees to promptly refund any overpayment to the Assignee;

d. The Assignee shall be responsible for exercising due diligence in evaluating any risk that may be associated with any Assigned Lien. The City makes no representations or warranties as to the title to any property or as to the collectability of any Assigned Lien. However, in the event that a court of competent jurisdiction determines, by a final, non-appealable judgment, that any Assigned Lien on the final list of Assigned Liens attached as Exhibit A is unenforceable due to the negligence or error of the City, the City shall refund to Assignee the amount originally paid by Assignee less any amount paid by the related taxpayer. Similarly, if any Future Tax Lien is judicially declared to be unenforceable, the City shall refund the amount paid for the assignment of said lien to the Assignee, without interest.

The City further covenants with the Assignee as follows:

a. The City has legal authority to assign the Assigned Liens and the City has performed all necessary actions and obtained such approvals from the Board of Aldermen / Alderwomen and the Water Pollution Control Authority of the City and from all other appropriate City officers as is required by state or local law;

b. The City agrees that it shall take no further action in collecting the taxes secured by the Assigned Liens after the date of closing with respect to each such lien and that any taxpayer seeking to pay the same shall be referred to the Assignee for payment arrangements;

c. In the event that payments are received by the City for any such Assigned Lien the City agrees to promptly forward such sums to the Assignee; and

d. The City shall provide to the Assignee, upon request, such information which the City has in its possession, obtained in the ordinary course of business, regarding the Assigned Liens, excluding title searches, in order that the Assignee may process and administer the same.

10. Representations and Covenants by the Assignee

The Assignee represents that:

a. It has full authority to purchase the Assigned Liens and that it is neither under any legal disability nor subject to any threatened or pending litigation which would adversely affect its ability to perform any of the duties or obligations imposed upon it by this Agreement;

b. It is purchasing the Assigned Liens for its own account or the account of one of its affiliates;

c. The Assignee is qualified to do business in the State of Connecticut; and

d. The Assignee's source of funds for financing the purchase and assignment hereunder are lawful and exempt from the application of any civil forfeiture provision of any state or federal law with respect to funds derived from a criminal enterprise.

The Assignee covenants with the City as follows:

a. In collecting or enforcing any tax liens subject to this Agreement, the Assignee shall not discriminate against any person on the basis of sex, race, color, creed, age or national origin

and shall at all times comply with all local, state and federal anti-discrimination laws, rules and regulations. The Assignee agrees to comply with all relevant local, state and federal laws and regulations pertaining to tax collection practices and procedures, including but not limited to provisions of the Connecticut General Statutes governing tax collection and the statutory rate of interest and to provide releases upon payment of liens in the manner required by law;

b. The Assignee shall maintain in good and safe condition any and all properties as to which it acquires title through exercise of foreclosure of any particular tax lien or in any other manner and acknowledges that failure to pay future property taxes or fees with respect to property to which it has taken title will subject it as the owner of the subject property to collection or enforcement action as authorized under the Connecticut General Statutes;

c. The Assignee acknowledges that the transfer of any property or the foreclosure of any lien against any property which is subject to classification as an establishment involved in the handling of hazardous wastes under the Connecticut Transfer Act, Section 22a-134 et seq. of the Connecticut General Statutes, as amended, may constitute a transfer of operations for purposes of triggering and reporting requirement of said Transfer Act. The Assignee agrees to be solely responsible for determining and complying with any reporting requirements of the Transfer Act or any other similar law applicable to the Assignee that may apply to properties which are subject to the Assigned Liens in any foreclosure or other action against the Assigned Liens. In addition, the Assignee agrees to bear the sole duty of due diligence to determine the effect of, and bear the sole liability that may be created by, its ownership or operation of, or any condition with respect to, any property which is subject to an Assigned Lien that may be in violation of any local, state or federal environmental law or regulation or that may result in any kind of enforcement action whatsoever.

d. The Assignee shall keep on file with the City Tax Collector and the City Corporation Counsel a corporate resolution (or similar instrument evidencing authorization) which sets forth the current address of the Assignee for payment purposes and which resolution (or similar instrument) shall be accompanied by an officer's certification; and

e. Upon the resolution of all Assigned Liens the Assignee shall provide a full and final accounting in a form reasonably acceptable to the City.

11. Notices

All notices required or permitted under this Agreement shall be given to the parties in writing at their respective addresses set forth below:

If to the City: Denise Cesaroni
Tax Collector
1 Elizabeth Street
Derby, CT 06418

with a copy to the Derby Corporation Counsel at the same address.

If to the Assignee:

Tower Tax LLC
1345 Avenue of the Americas
46th Floor
New York, New York 10105
Attention: Michael Fallacara

With a copy to:

Kurt P. Shadle,
Managing Director
Tower Capital Management, LLC
55 Madison Ave
Suite 400
Morristown, NJ 07960

12. Binding Effect and Governing Law; Assignment

This Agreement shall be binding upon the parties hereto, their heirs, successors and assigns and shall be construed and interpreted in accordance with the laws of the State of Connecticut. Assignee may any assign any of its rights, obligation, title and interest hereunder to any of its affiliates.

13. Effective Date

This Agreement shall be effective upon the last date of execution by either party hereto.

14. Counterparts

This Assignment may be executed in one or more counterparts, which when taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of this 12th day of September, 2019.

Signed, sealed and delivered
in the presence of:

CITY OF DERBY

Richard Dzekian, its Mayor
Duly authorized

DERBY WATER POLLUTION
CONTROL AUTHORITY

John Walsh, its Chairman
Duly authorized

Tower Tax, LLC

By: _____
Name: _____
Title: _____
Duly authorized

STATE OF CONNECTICUT
) ss: Derby
COUNTY OF NEW HAVEN)

September __, 2019

Personally appeared Richard Dzekian, Mayor of the City of Derby, signer and sealer of the foregoing instrument, who acknowledged the same to be his free act and deed and the free act and deed of the City of Derby, before me this ___ day of September, 2019.

Vincent M. Marino, Esq.
Commissioner of the Superior Court

STATE OF CONNECTICUT
) ss: Derby
COUNTY OF NEW HAVEN)

September __, 2019

Personally appeared John Walsh, Chairman of the Derby Water Pollution Control Authority, signer and sealer of the foregoing instrument, who acknowledged the same to be his free act and deed and the free act and deed of the Derby Water Pollution Control Authority, before me this ___ day of September, 2019.

Vincent M. Marino, Esq.
Commissioner of the Superior Court

STATE OF _____)
) ss:
COUNTY OF _____)

September __, 2019

Personally appeared _____, the _____ of _____, signer and sealer of the foregoing instrument, who acknowledged the same to be his free act and deed and the free act and deed of _____, before me this ___ day of September, 2019.

Notary Public
My commission expires: _____

EXHIBIT A

[INSERT REAL PROPERTY TAX LIENS]

EXHIBIT B

ASSIGNMENT OF MUNICIPAL TAX LIENS

THIS AGREEMENT is made this ____ day of September, 2019 by and between the City of Derby, a municipal corporation located in the County of New Haven and organized and existing under and by virtue of the laws of the State of Connecticut and the Derby Water Pollution Control Authority, a municipal sewer authority organized and existing under the laws of the State of Connecticut (hereinafter collectively referred to as the "City") and Tower Tax LLC, a limited liability company organized under and by virtue of the laws of the State of Delaware on behalf of certain funds and affiliates (hereinafter referred to as the "Assignee"), both sometimes referred to as the Parties.

WITNESSETH THAT:

WHEREAS, the City is the owner and holder of certain tax and sewer liens filed pursuant to the provisions of §§12-173 and 7-254 of the Connecticut General Statutes by its tax collector and its sewer authority to secure unpaid taxes and sewer charges on real property, which liens (hereinafter referred to as the "Tax Liens") are more particularly described in Schedule A attached hereto and hereby made a part hereof; and'

WHEREAS, pursuant to the provisions of § 12-195h of the Connecticut General Statutes, as amended from time to time, and pursuant to the provisions of a certain Agreement between the Parties hereto (which agreement is entitled, "Agreement For The Assignment Of Certain Real Property Tax Liens Of The City of Derby", a copy of which is on file in the Office of the Corporation Counsel of the City of Derby, the City seeks to assign said Tax Liens to the Assignee; and,

WHEREAS, the Board of Aldermen / Alderwomen of the City of Derby has, by resolution dated September 12, 2019, authorized the assignment of Tax Liens and authorized the Mayor to execute any and all documents necessary to effectuate said assignment.

WHEREAS, the Derby Water Pollution Control Authority has, by resolution dated August __, 2019, authorized the assignment of sewer liens and authorized its chairman to execute any and all documents necessary to effectuate said assignment.

NOW THEREFORE, in consideration of the premises herein contained, and for other good and valuable consideration, the Parties agree as follows:

1. **Assignment.** The City does hereby assign, bargain, grant, set over and transfer to the Assignee all of its right, title and interest in and to the Tax Liens listed on in Schedule A. The Assignee hereby accepts the assignments as aforesaid and agrees to assume all obligations and duties as may be imposed by law. Said assignment is absolute, irrevocable and without recourse by the Assignee as against the City, except as provided in the Assignment Agreement.
2. **Costs.** All costs, expenses and fees which shall be incurred in any way with regard to the collection of amounts secured by the Tax Liens, including any such costs, expenses and fees associated with prospective actions to foreclosure the Tax Liens shall be the sole responsibility of and at the sole expense of the Assignee.
3. **Hold Harmless.** The Assignee shall hold harmless and indemnify the City from and against any and all claims, liabilities, actions, costs and expenses whatsoever, including, without limitation, all legal costs, expenses, fines and penalties arising out of or related in any way to the Assignee's actions to collect or foreclose the Tax Liens, on the terms and conditions more particularly set forth in the Assignment Agreement.
4. **Successors and Assigns.** All the representations, warranties, covenants and agreements contained in this Assignment by or on behalf of the Parties shall bind and inure to the benefit of their respective successors and permitted assigns.
5. **Governing Law.** This Assignment and all questions relating to its validity, interpretation, performance and enforcement, shall be governed by and construed, interpreted

and enforced in accordance with the laws of the State of Connecticut.

6. **Counterparts.** This Assignment may be executed in one or more counterparts, which when taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of this 12th day of September, 2019.

Signed, sealed and delivered
in the presence of:

CITY OF DERBY

Richard Dzekian, its Mayor
Duly authorized

DERBY WATER POLLUTION
CONTROL AUTHORITY

John Walsh, its Chairman
Duly authorized

Tower Tax, LLC

By: _____
Name: _____
Title: _____
Duly authorized

STATE OF CONNECTICUT)
) ss: Derby
COUNTY OF NEW HAVEN)

September __, 2019

Personally appeared Richard Dzekian, Mayor of the City of Derby, signer and sealer of the foregoing instrument, who acknowledged the same to be his free act and deed and the free act and deed of the City of Derby, before me this __ day of September, 2019.

Vincent M. Marino, Esq.
Commissioner of the Superior Court

STATE OF CONNECTICUT)
) ss: Derby
COUNTY OF NEW HAVEN)

September __, 2019

Personally appeared John Walsh, Chairman of the Derby Water Pollution Control Authority, signer and sealer of the foregoing instrument, who acknowledged the same to be his free act and deed and the free act and deed of the Derby Water Pollution Control Authority, before me this __ day of September, 2019.

Vincent M. Marino, Esq.
Commissioner of the Superior Court

STATE OF _____)
) ss:
COUNTY OF _____)

September __, 2019

Personally appeared _____, the _____ of _____, signer and sealer of the foregoing instrument, who acknowledged the same to be his free act and deed and the free act and deed of _____, before me this __ day of September, 2019.

Notary Public
My commission expires: _____

11.7. Conduct of vendors/solicitors

Mr. Donofrio advised the Board that Haroon Ramzan of Trinity Solar received a permit at last month's meeting. An elderly resident reported that Mr. Ramzan was harassing her and a verbal altercation occurred between Mr. Ramzan and the resident's son and a neighbor.

Mr. Sampson motioned to have Mr. Ramzan's permit reviewed by the police department to determine if the permit should be revoked. Mr. Sill seconded and the motion carried.

12. Old Business

12.1. No action items.

13. Adjournment

13.1. Mr. Sill motioned to adjourn at 9:22 PM, Ms. Browning seconded and the motion carried.

Respectfully submitted,

Terri Kuskowski

These minutes are subject to the Board's approval at their next scheduled meeting.