



# OFFICE OF THE CITY CLERK ▪ CITY OF BINGHAMTON

*Sophia Resciniti, City Council President*  
*Leighton Rogers, City Clerk*

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## BOARD OF ESTIMATE & APPORTIONMENT

### AGENDA

Atrium, 2<sup>nd</sup> Floor City Hall  
Wednesday, December 8, 2021

**Approval of Minutes:** Request to approve the minutes from the Board of Estimate & Apportionment meeting held on November 24, 2021

### NEW BUSINESS

**Budget Amendment:** RL21-252 Amend the 2021 Water budget to cover increased cost of chemicals

**Budget Amendment:** RL21-253 Authorize the sale of 110 Park Ave

**Budget Amendment:** RL21-255 Amend the 2021 Golf Fund budget

**Budget Amendment:** RL21-256 Amend the 2021 General Fund for Fire Training at SUNY

**Budget Amendment:** RL21-257 Amend the 2021 Sewer budget to increase overtime line

**Budget Amendment:** RL21-258 Amend the 2021 Sewer budget

**Budget Amendment:** RL21-260 Updated contract for sale of 72 Court Street

**Budget Amendment:** RL21-269 Amend the Treasurer's budget to account for parking fines collected



# Legislative Branch

RL Number:  
21-252

Date Submitted:  
11/12/21

City Clerk, City Hall, Binghamton, NY 13901 607-772-7005

## REQUEST FOR LEGISLATION

Requests for Legislation (RLs) may be submitted to the City Clerk's Office for consideration at City Council Work Sessions. RLs generated from within City Hall departments must be submitted to the Mayor, Comptroller and Corporation Counsel for review before submission. RLs generated by citizens may be submitted directly to the City Clerk's Office.

### Applicant Information

Request submitted by: ~~Chuck Shager~~ Jeff Krugel

Title/Department: Comptroller WATER / SEWER

Contact Information: ~~772-7011~~ 343-9027

### RL Information

Proposed Title: Ordinance to amend the 2021 Water budget to cover cost increases in chemicals

Suggested Content: See attachment

### Additional Information

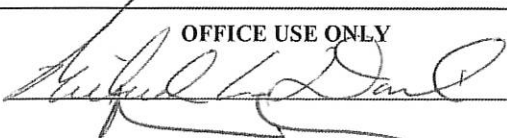
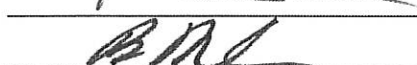
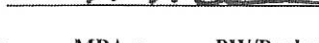
Does this RL concern grant funding? Yes  No

If 'Yes', is the required RL Grant Worksheet attached? Yes  No

Is additional information related to the RL attached? Yes  No

Is RL related to previously adopted legislation? Yes  No

If 'Yes', please provide Permanent Ordinance/Resolution/Local Law number(s): \_\_\_\_\_

<b>OFFICE USE ONLY</b>	
Mayor:	
Comptroller:	
Corporation Counsel:	
Finance <input checked="" type="checkbox"/>	Planning <input type="checkbox"/> MPA <input type="checkbox"/> PW/Parks <input type="checkbox"/> Employees <input type="checkbox"/> Rules/Special Studies <input type="checkbox"/>

Decrease Expense

FX8330.54620 Equip Repairs \$ 10,000.00  
FX8330.51900 Overtime \$ 30,000.00

\$ 40,000.00

Increase Expense

FX8330.54150 Chemicals \$ 40,000.00

\$ 40,000.00



# Legislative Branch

RL Number:  
21-253  
Date Submitted:  
11/12/21

City Clerk, City Hall, Binghamton, NY 13901 607-772-7005

## REQUEST FOR LEGISLATION

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### Applicant Information

Request submitted by: Megan J. Heiman

Title/Department: Office of the Mayor

Contact Information: (607) 772-7001

### RL Information

Proposed Title: An Ordinance authorizing the sale of 110 Park Ave. (#176.32-3-7) to Jake Brigham for \$350 as part of the City's side lot program.

Suggested Content: \_\_\_\_\_

### Additional Information

Does this RL concern grant funding? Yes  No

If 'Yes', is the required RL Grant Worksheet attached? Yes  No

Is additional information related to the RL attached? Yes  No

Is RL related to previously adopted legislation? Yes  No

If 'Yes', please provide Permanent Ordinance/Resolution/Local Law number(s): \_\_\_\_\_

<b>OFFICE USE ONLY</b>	
Mayor:	<u>[Signature]</u>
Comptroller:	<u>[Signature]</u>
Corporation Counsel:	<u>[Signature]</u>
Finance <input type="checkbox"/>	Planning <input checked="" type="checkbox"/>
MPA <input type="checkbox"/>	PW/Parks <input type="checkbox"/>
Employees <input type="checkbox"/>	Rules/Special Studies <input type="checkbox"/>



OFFICE OF THE CITY CLERK ▪ CITY OF BINGHAMTON

OFFER TO PURCHASE

Please complete the below application, and submit this document to the City Clerk for consideration. Please note that if such sale is approved, the Applicant will be liable for all filing fees associated with the transfer of this property.

PROPERTY INFORMATION

Street Address of Property: 110 Park Avenue Binghamton, NY 13903

Tax Parcel Identification Number: 176-32-3-7

Current Use of Property: [ ] Residential [ ] Commercial [ ] Mixed Use [X] Vacant Lot

Offered Purchase Price: \$350

Do you wish to opt-out of the free tree planting service? [X] Yes [ ] No

Please describe the intended use of the property. Please include an attached site plan or illustration depicting the intended use of the property, detailing the estimated dimensions and materials of all sheds, garages, fences, driveways, gardens, etc.

See Attached letter & visuals.

APPLICANT INFORMATION

Applicant Name: Jake Brigham
Note: If the applicant is a company or corporation, please list all shareholders or members.

Mailing Address: 108 Park Avenue Binghamton, NY 13903

Telephone Number(s): 607-242-9327

Email Address: jabrigham01@gmail.com

Please list any other properties owned by the Applicant located within Broome County.
108 Park Avenue Binghamton, NY 13903

I hereby certify that the above information is a true account of my intended purchase and use of City-owned property. I understand that upon approval of any such sale, any deviance from the agreed-upon terms and conditions may result in the termination of such agreement through legal proceedings.

Signature [Handwritten Signature]

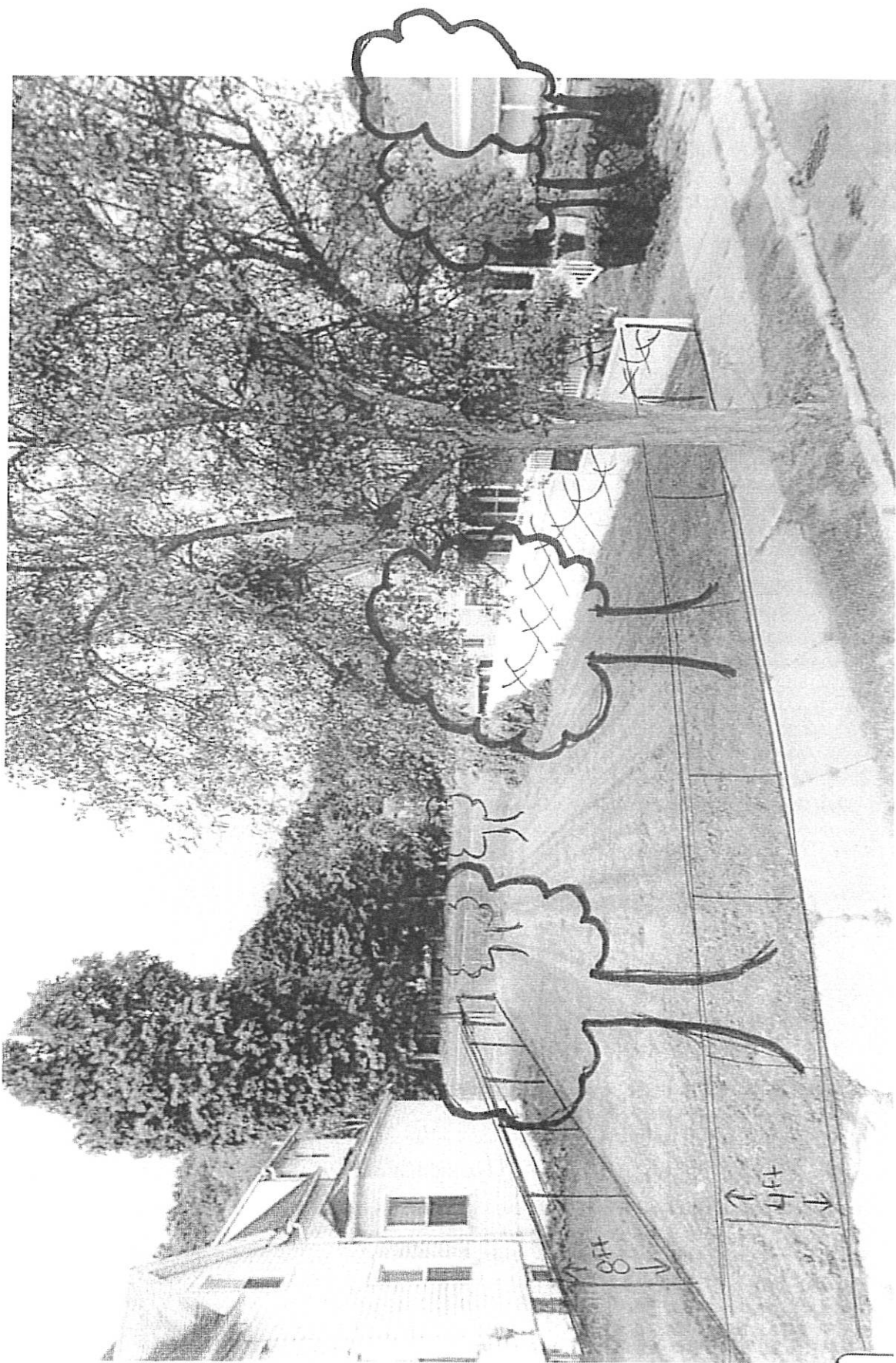
Date May 2020

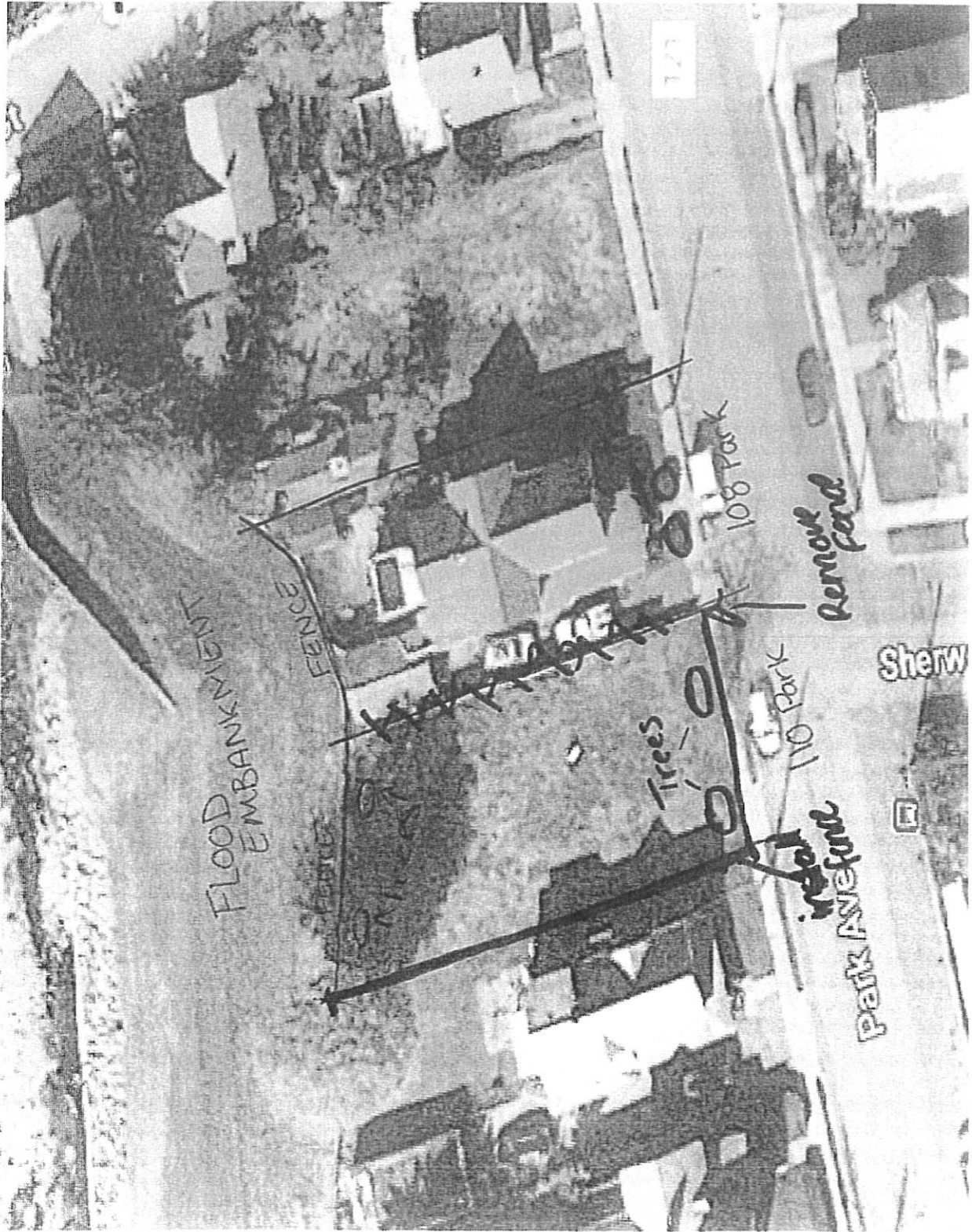


108 County Rd 121  
Binghamton, New York  
Google  
Street View

108











# Legislative Branch

RL Number:  
21-255  
Date Submitted:  
11/12/21

City Clerk, City Hall, Binghamton, NY 13901 607-772-7005

## REQUEST FOR LEGISLATION

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### Applicant Information

Request submitted by: Chuck Shager

Title/Department: Comptroller

Contact Information: 772-7011

### RL Information

Proposed Title: Ordinance to amend the 2021 Golf Fund budget

Suggested Content: Decrease CR7180.54427 (Mgmt Services) \$16,000, increase CR7140.54410

Professional Services - \$2,400. increase CR7140.54620 Equipt Repairs \$13,600

### Additional Information

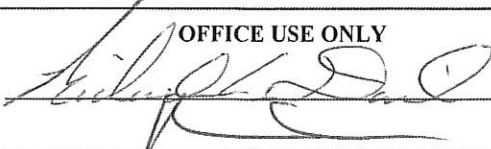

Does this RL concern grant funding? Yes  No

If 'Yes', is the required RL Grant Worksheet attached? Yes  No

Is additional information related to the RL attached? Yes  No

Is RL related to previously adopted legislation? Yes  No

If 'Yes', please provide Permanent Ordinance/Resolution/Local Law number(s): \_\_\_\_\_

	<b>OFFICE USE ONLY</b>				
Mayor:					
Comptroller:	_____				
Corporation Counsel:					
Finance <input checked="" type="checkbox"/>	Planning <input type="checkbox"/>	MPA <input type="checkbox"/>	PW/Parks <input type="checkbox"/>	Employees <input type="checkbox"/>	Rules/Special Studies <input type="checkbox"/>



# Legislative Branch

RL Number:  
21-256  
Date Submitted:  
11/12/21

City Clerk, City Hall, Binghamton, NY 13901 607-772-7005

## REQUEST FOR LEGISLATION

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### Applicant Information

**Request submitted by:** CHUCK SHAGER

**Title/Department:** COMPTROLLER/FINANCE

**Contact Information:** 607-772-7011

### RL Information

**Proposed Title:** An ordinance to amend the 2021 General Fund budget to transfer funds for Fire Training at SUNY.

**Suggested Content:** see attached for transfer

### Additional Information

Does this RL concern grant funding? Yes  No

If 'Yes', is the required RL Grant Worksheet attached? Yes  No

Is additional information related to the RL attached? Yes  No

Is RL related to previously adopted legislation? Yes  No

If 'Yes', please provide Permanent Ordinance/Resolution/Local Law number(s): \_\_\_\_\_

<b>OFFICE USE ONLY</b>	
<b>Mayor:</b>	<u>[Signature]</u>
<b>Comptroller:</b>	<u>[Signature]</u>
<b>Corporation Counsel:</b>	<u>[Signature]</u>
Finance <input checked="" type="checkbox"/>	Planning <input type="checkbox"/>
MPA <input type="checkbox"/>	PW/Parks <input type="checkbox"/>
Employees <input type="checkbox"/>	Rules/Special Studies <input type="checkbox"/>



# CITY OF BINGHAMTON

City Hall, 38 Hawley Street, Binghamton, NY 13901 607-772-7005

### REQUEST FOR TRANSFER OF FUNDS

*Transfer requests of \$2500 or less must be approved by the Comptroller.*

*Transfer requests over \$2500 and not in excess of \$10,000 must be approved by Board of E&A and Chair of Finance Committee.*

*Transfer requests in excess of \$10,000 must be approved by City Council.*

City Comptroller  
c/o Board of Estimate and Apportionment  
38 Hawley Street  
Binghamton, NY 13901

Date: 11/10/2021

I respectfully request the below described transfer of funds due to the following reasons:

TO FUND FOR TRAVEL EXPENSES FOR FIRE TRAINING AT SUNY BY TRANSFERRING FUNDS  
FROM A3410.51000 FIREFIGHTER GRADE I TO TRAVEL AND TRAINING

From Budget Line (No. and Title)	To Budget Line (No. and Title)	Total Transfer Amount
A3410.51000 PERSONAL SERVICES	A3410.54701 TRAVEL & TRAINING	\$7,561.00

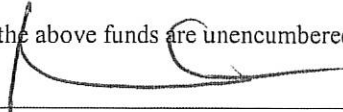
I do hereby certify that the funds will not be needed in the budget line from which I am requesting this transfer to be made.

Signature: 

Date: 11/12/21

#### OFFICE USE ONLY

I hereby certify that the above funds are unencumbered and available for Transfer. Certified by the Comptroller.

Signature: 

Date: 11/10/21

I hereby certify that the above described funds have been transferred, in accordance with the Code of the City of Binghamton Chapter 9, *Appropriations*. Certified by the Treasurer.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Transfer of funds **APPROVED**  / **DENIED**  on \_\_\_\_\_. Certified by the Secretary of the Board of Estimate and Apportionment.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Transfer of funds reviewed by the Binghamton City Council Finance Chair. Recommendations to be attached.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



# Legislative Branch

RL Number:

21-257

Date Submitted:

11/12/21

City Clerk, City Hall, Binghamton, NY 13901 607-772-7005

## REQUEST FOR LEGISLATION

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### Applicant Information

Request submitted by: CHUCK SHAGER

Title/Department: COMPROLLER/FINANCE

Contact Information: 607-772-7011

### RL Information

Proposed Title: ordinance to amend the 2021 Sewer budget to fund Sewage Treatment line and increase overtime line using funds from laborer position.

Suggested Content: SEE ATTACHED

### Additional Information

Does this RL concern grant funding? Yes  No

If 'Yes', is the required RL Grant Worksheet attached? Yes  No

Is additional information related to the RL attached? Yes  No

Is RL related to previously adopted legislation? Yes  No

If 'Yes', please provide Permanent Ordinance/Resolution/Local Law number(s): \_\_\_\_\_

#### OFFICE USE ONLY

Mayor: [Signature]

Comptroller: [Signature]

Corporation Counsel: [Signature]

Finance  Planning  MPA  PW/Parks  Employees  Rules/Special Studies

DECREASE

DECREASE *Increases*

G8120.51000	PERSONAL SERVICES (Laborer)	3,557.00	G8130.54000	SEWAGE TREATMENT PLANT	3,557.00
G8120.51000	PERSONAL SERVICES (Laborer)	8,000.00	G8120.51900	OVERTIME	8,000.00
	TOTAL	\$ 11,557.00	TOTAL		\$ 11,557.00

\$

-

*Jello*  
11/12/21



# Legislative Branch

RL Number:  
21-258  
Date Submitted:  
11/12/21

City Clerk, City Hall, Binghamton, NY 13901 607-772-7005

## REQUEST FOR LEGISLATION

Requests for Legislation (RLs) may be submitted to the City Clerk's Office for consideration at City Council Work Sessions. RLs generated from within City Hall departments must be submitted to the Mayor, Comptroller and Corporation Counsel for review before submission. RLs generated by citizens may be submitted directly to the City Clerk's Office.

### Applicant Information

Request submitted by: Chuck Shager  
Title/Department: Comptroller  
Contact Information: 772-7011

### RL Information

Proposed Title: Ordinance to amend the 2021 Sewer budget

Suggested Content: EFC has rejected paying for DRB legal fees that are part of the contracts we have with vendors on the sewer project. The owners are obligated to pay these, funds are available in the Sewer budget. These charges will be charged back to the sewer plant and allocated to all users at the plant, in the same fashion that debt is. JC is responsible for the \$120,006.9 share. see attachment

### Additional Information

- Does this RL concern grant funding? Yes  No
- If 'Yes', is the required RL Grant Worksheet attached? Yes  No
- Is additional information related to the RL attached? Yes  No
- Is RL related to previously adopted legislation? Yes  No

If 'Yes', please provide Permanent Ordinance/Resolution/Local Law number(s): \_\_\_\_\_

<b>OFFICE USE ONLY</b>	
Mayor:	<u>[Signature]</u>
Comptroller:	<u>[Signature]</u>
Corporation Counsel:	<u>[Signature]</u>
Finance <input checked="" type="checkbox"/>	Planning <input type="checkbox"/> MPA <input type="checkbox"/> PW/Parks <input type="checkbox"/> Employees <input type="checkbox"/> Rules/Special Studies <input type="checkbox"/>



Increase Expense      Decrease Expense  
G8150.54430 Legal Fees    \$ 145,495.10    G9730.57000 Ban-Interest    \$ 145,495.10

Increase Expense      Increase Rev  
G8150.54430 Legal Fees    \$ 120,006.90    G42210 Other Govt Revenue    \$ 120,006.90  
(create this line)

*[Signature]*  
11-12-21



# Legislative Branch

KL Number: 21-260

Date Submitted: 11/15/21

City Clerk, City Hall, Binghamton, NY 13901 607-772-7005

## REQUEST FOR LEGISLATION

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### Applicant Information

Request submitted by Jared Kraham

Title/Department: Mayor

Contact Information: (607) 772-7001

### RL Information

Proposed Title: AN ORDINANCE TO UPDATE THE CONTRACT OF SALE FOR 72 COURT STREET

Suggested Content: See Perm. Ord. 17-48. To be updated for a closing date of December 2021, and no due dilligence.

### Additional Information

Does this RL concern grant funding? Yes  No

If 'Yes', is the required RL Grant Worksheet attached? Yes  No

Is additional information related to the RL attached? Yes  No

Is RL related to previously adopted legislation? Yes  No

If 'Yes', please provide Permanent Ordinance/Resolution/Local Law number(s): O17-48

<b>OFFICE USE ONLY</b>	
Mayor:	<u>[Signature]</u>
Comptroller:	<u>[Signature]</u>
Corporation Counsel:	<u>[Signature]</u>
Finance <input type="checkbox"/>	Planning <input checked="" type="checkbox"/>
MPA <input type="checkbox"/>	PW/Parks <input type="checkbox"/>
Employees <input type="checkbox"/>	Rules/Special Studies <input type="checkbox"/>



THE COUNCIL OF THE CITY OF BINGHAMTON  
STATE OF NEW YORK

Date: July 12, 2017

Sponsored by Council Members: Mihalko, Matzo, Papastrat, Scaringi, Cronce, Scanlon, Taylor

Introduced by Committee: Planning

ORDINANCE

*entitled*

AN ORDINANCE AUTHORIZING THE MAYOR  
TO ENTER INTO A CONTRACT WITH M.B.  
YONATY DEVELOPMENT, LLC FOR THE  
SALE OF 72 COURT STREET FOR \$75,000

WHEREAS, the City of Binghamton is the owner of certain real property located at 72 Court Street, Binghamton, New York, Tax Parcel No. 160.41-4-14 (the "Premises"); and

WHEREAS, pursuant to Permanent Ordinance O15-069, dated October 13, 2015, City Council approved the sale of 73 Court Street to M.B. Yonaty Development, LLC ("Applicant"), for \$75,000; and

WHEREAS, the term of the original contract has expired and the City wishes to enter into a new contract with Applicant, for said sale; and

WHEREAS, the City has no public use for the Premises; and

WHEREAS, the Assessor of the City of Binghamton has determined the sale price to be fair and equitable; and

WHEREAS, the Board of Estimate and Apportionment approved and recommended sale of the Premises on July 12, 2017.

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby ordain by at least a three-fourths vote as follows:

Section 1. That the Mayor of the City of Binghamton is hereby authorized to enter into a contract for sale and to execute all necessary and appropriate documentation, approved as to form and content by the Office of Corporation Counsel, to transfer the Premises to Applicant by Quitclaim Deed for \$75,000 each to be paid by cash, certified or local bank check.

Section 2. That this sale is subject to such conditions as may be determined by the

Introductory No. 017-48

Permanent No. 017-48

Sponsored by City Council Members:  
Mihalko, Matzo, Papastrat, Scaringi, Cronce, Scanlon,  
Taylor

AN ORDINANCE AUTHORIZING THE MAYOR  
TO ENTER INTO A CONTRACT WITH M.B.  
YONATY DEVELOPMENT, LLC FOR THE SALE  
OF 72 COURT STREET FOR \$75,000

The within Ordinance was adopted by the Council of  
the City of Binghamton.

7/12/17

Date 7/12/17  
City Clerk Leighton A. Meyers

Date Presented to Mayor

7/13/17

Date Approved 7/13/17  
Mayor Richard D. Davis

	Ayes	Nays	Abstain	Absent
Councilman Scaringi	✓			
Councilwoman Cronce	✓			
Councilman Taylor	✓			
Councilman Papastrat	✓			
Councilman Matzo	✓			
Councilman Scanlon	✓			
Councilman Mihalko	✓			
Total	7	0	0	0

Code of the City of Binghamton

Adopted  Defeated

7 Ayes 0 Nays 0 Abstain 0 Absent

I hereby certify the above to be a true copy of the legislation adopted by the Council of the City of Binghamton at a meeting held on 7/12/17. Approved by the Mayor on 7/13/17.

**State Environmental Quality Review**  
**NEGATIVE DECLARATION**  
**Notice of Determination of Non-Significance**

**Project Number:** None

**Date:** July 12, 2017

This Notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The City of Binghamton City Council as lead agency has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

**Name of Action:** Sale of 70-72 Court Street.

**SEQR Status:**       Type 1  
                          Unlisted       X

**Conditioned Negative Declaration:**       Yes  
  No       X

**Description of Action:**

The City of Binghamton wishes to transfer 70-72 Court Street, a vacant lot.

**Location:** The City of Binghamton, Broome County, New York

**Reasons Supporting This Determination:**

The property is located at the corner of State and Court Street. The property was the location of the historic Ross building. The Ross building was demolished with the consent of the New York State Historic Preservation Office (SHPO) because it was structurally unsafe and could not be rehabilitated. State funds from the Restore New York program were used to demolish the Ross building with the condition that future development would have to be approved by SHPO, in addition to approval from the City of Binghamton Commission on Architecture and Urban Design (CAUD) and the City of Binghamton Planning Commission.

By Permanent Ordinance O12-38, on June 6, 2012, City Council approved the temporary use of the vacant lot for green space pending future use of the property for any other use.

By Permanent Resolution R12-35, on June 4, 2014, City Council resolved to approve and endorse a grant application in the amount of \$500,000 under Empire State Development for the private development of 70-72 Court Street.

On December 11, 2014, the New York State Regional Economic Development Council approved a grant in the amount of \$500,000 for a four to six story mixed-use building with commercial or retail tenants on the ground level and market rate residential units on the upper floors for the property. The final plans have not been developed.

On November 13, 2015, City Council approved a sale of the property and wishes to re-assess

Based on the foregoing, the lead agency has reviewed the Environmental Assessment Form and the criteria contained in 6 NYCRR 617.7 (c) to identify the relevant areas of environmental concern, thoroughly analyzed the identified relevant areas of environmental concern, and determined that the action will not have a significant adverse impact on the environment for the following reasons:

The action will not produce a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production, a substantial increase in potential for erosion, flooding, leaching or drainage problems.

The action will not involve the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant or the habitat of such a species; or other significant adverse impacts to natural resources.

The action will not cause the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to 6 NYCRR 617.14 (g).

The action will not create a material conflict with a community's current plans or goals as officially approved or adopted.

The action will not impair the character or quality of important historical, archaeological, architectural, or aesthetic resources or of existing community or neighborhood character.

The action will not cause a major change in the use of either the quantity or type of energy.

The action will not create a hazard to human health.

The action will not cause a substantial change in the use or intensity of use of land including agriculture, open space (except as anticipated in 2012) or recreation resources, or in its capacity to support existing uses.

The action will not change two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together results in a substantial adverse impact on the environment.

Impacts from the action may combine with impacts of other, possible independent actions in the vicinity. The lead agency finds that when considered cumulatively such combination will not create a significant adverse impact on the environment.

Any proposed development of the site will be subject to review by the City Planning Commission.

### **For Further Information**

Contact Person: Joseph Mihalko, President  
City of Binghamton City Council

Address: City Hall  
38 Hawley Street  
Binghamton, NY 13901



## C o n t r a c t   o f   S a l e

THIS CONTRACT OF SALE dated as of the      day of December, 2021, by and between the City of Binghamton, a municipal corporation, City Hall, 38 Hawley Street, Binghamton, New York 13901 ("Seller"), and M.B.Yonaty Development, LLC, 4164 Lisi Ln Binghamton, New York, 13903("Purchaser").

### WITNESSETH:

WHEREAS, the Seller owns certain real property located at 72 Court Street, Binghamton, New York, Parcel ID Number: 160.41-4-14 (the "Premises"); and

WHEREAS, the Seller is willing to sell the Premises and the Purchaser is willing to purchase the Premises, upon the terms and conditions herein; and

WHEREAS, the parties previously entered into a contract of sale for the Premises in September 2015, and wish to renew said contract as provided herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Sale and Purchase.

1.1 The Seller agrees to sell and convey, and the Purchaser agrees to purchase the Premises.

1.2 This sale does not include any right, title and interest, if any, of the Seller in and to any land lying in the bed of any street, road or avenue opened or proposed, in front of or adjoining the Premises, to the center line thereof. Seller will retain title to any such land.

1.3 This sale includes all right, title and interest of the Seller in and to any award made or to be made by reason of eminent domain prior to the closing of title.

2. Purchase Price. The purchase price for the Premises is Seventy-Five Thousand 00/100 Dollars (\$75,000.00), payable as follows:

2.1 A deposit (the "Deposit") of Seven Thousand, Five Hundred and 00/100 Dollars (\$7,500.00) has been received by the Seller and is being held in trust by the City of Binghamton Finance Department pending closing or earlier termination of this contract;

2.2 Sixty-Seven Thousand, Five Hundred and 00/100 Dollars (\$67,500.00) by wire transfer, certified or bank check payable to the order of the Seller on the delivery of the deed as hereinafter provided.

2.3 On December 11, 2014, the New York State Regional Economic Development Council awarded the Seller \$500,000 for improvements to the Premises. The Seller will provide such funds for the Premises in accordance with the award; provided Purchaser is in compliance with

all terms and conditions of the award. The award will be payable as reimbursement for eligible expenses once construction, as described in paragraph 8 below, is complete.

2.4 If the Purchaser fails to close for any reason, other than failure to obtain site plan and/or special use permit after a good faith application, as provided in Section 6 below, the Deposit will be released to the City of Binghamton as liquidated damages and this Contract will be null and void. If the Seller cannot transfer title as required by this Contract or if Purchaser does not obtain site plan and/or special use permit after a good faith application, the Deposit will be returned to the Purchaser.

3. Condition of the Premises. The Purchaser is relying solely on its own inspection and investigation to determine whether to purchase the Premises. Purchaser is accepting the Premises in its "AS IS" condition, *i.e.*, a vacant commercial parcel. Seller makes no representations or warranties regarding the condition of the Premises or any information supplied to or reviewed by Purchaser. Seller will remove the benches, tables, and fence on the Premises. Seller will fill in any holes. Seller will not remove the existing sidewalk paths.

4. Subject to Provisions. The Premises are to be transferred subject to the following:

4.1 Such state of facts as an accurate survey or personal inspection may disclose, provided the same does not render title unmarketable.

4.2 Rights of the public in and to that portion of the Premises lying within the bounds of any public street or highway.

4.3 Covenants, restrictions and easements, if any, of record, provided they are not violated by the existing use of the Premises as a vacant parcel.

4.4 Standard exceptions contained in the form of fee title insurance policy issued by the title insurance company insuring Purchaser's title to the Premises.

4.5 Zoning, building, and other ordinances and regulations, if any, provided they are not violated by the existing use, except as set forth in Section 6 below.

4.6 Subject to an easement for ingress and egress for the benefit of 92 Court Street, as annexed hereto.

5. Adjustments.

5.1 Real property taxes and special assessments, if any, are to be apportioned as of the closing date on the basis of the fiscal year for which assessed. If the closing of the title shall occur before the tax rate is fixed, the apportionment of taxes shall be upon the basis of the tax rate for the next preceding year applied to the latest assessed valuation.

5.2 The Seller shall obtain a final water/sewer reading not more than two (2) business days prior to or after the time herein set for closing title. Seller shall be responsible for the final water/sewer bill, if any, generated as a result of said meter reading.

5.3 Any errors or omissions in computing apportionments at closing shall be corrected by the parties. This provision shall survive the delivery of the deed for thirty (30) days.

6. Contingency. N/A.

7. Title to be Conveyed and Deed. The transfer shall be by Quit Claim Deed. Nonetheless, if Purchaser is unable to obtain title insurance insuring good and marketable title to the Premises, then Purchaser may cancel this Contract and the Deposit will be returned to the Purchaser. Seller may, at its sole cost and expense and prior to closing, cure any title defects, including by way of title endorsement.

8. Closing, Transfer of Title and Construction. Transfer of title shall occur on or about December 17, 2021. The closing will take place be at City Hall, 38 Hawley Street, Binghamton, New York, at a mutually convenient time.

Purchaser will construct and obtain a permanent certificate of occupancy for an approved two story mixed-use building with commercial or retail tenants on the ground level and market rate residential units on the upper floor within eighteen (18) months of the Closing Date. Purchaser will be required to post a performance bond, in a form acceptable to the City of Binghamton Engineer and Corporation Counsel, to guaranty timely construction.

9. Transfer Tax and Recording Fees. At the closing Purchaser shall deliver a check to the order of the recording officer of Broome County for the amount of the New York State and Broome County transfer tax, documentary stamps, if any, and all recording fees and costs.

10. Possession. Possession of the Premises shall be delivered by Seller to Purchaser at closing.

11. Pre-closing Inspection. The Purchaser shall have the right to inspect the Premises within twenty four (24) hours prior to closing to ascertain whether Seller has complied with the terms and conditions of this Contract.

12. Broker. Seller and Purchaser represent to one another that no broker was involved in this transaction. The parties agree to indemnify and hold each other harmless against any and all costs and expenses, including reasonable attorney's fees, by any broker claiming that he/she represented the other party. This paragraph will survive the closing of title.

13. Risk of Loss. General Obligations Law Section 5-1311 establishes the risk of loss and obligation of the parties in the event of the destruction or taking by eminent domain of all or a portion of the Premises being conveyed prior to closing.

14. Compliance with Law. All notice or notices of violations of law, rules, statutes, ordinances, orders, requirements, etc. issued by any Federal, State or local government or agency thereof against or affecting the Premises at the date hereof, shall be complied with by the Seller and the Premises shall be conveyed free of the same. Upon request of the Purchaser, the Seller shall furnish the Purchaser with an authorization to make the necessary searches therefore.

15. Seller's Representations/Warranties. Seller represent and warrants to Purchaser as follows:

15.1 Seller has the right to enter into this Contract and consummate the transaction contemplated hereby without the consent of others. All resolutions, authorizations and other governmental processes and procedures have been obtained or will be obtained prior to Closing.

15.2 To the best of Seller's knowledge, Seller has marketable title to the real property and owns, free and clear of any liens or encumbrances the fixtures, appliances and equipment at the Premises, if any.

15.3 There is no pending or threatened eminent domain or other legal or administrative proceeding affecting the Premises.

15.4 To the best of Seller's knowledge, the Premises has access to and from public highways and roads and Seller have no knowledge of any fact or condition which would result in termination of such access.

15.5 Seller agrees that from the date of execution of this Contract, to and including the date of closing, it will provide Purchaser with a copy of any notices, citations, complaints, or other directives from agencies having jurisdiction whereby Seller's compliance with environmental statutes, rules or regulations is called into question.

15.6 To the best of Seller's knowledge, Seller has duly complied in all material respects with all applicable laws and regulations of federal, state, and local governments, including but not limited to environmental laws and regulations as they relate to the Premises.

15.7 There is no litigation, actions, investigation, proceedings or notices of the same and Seller, to the best of its knowledge, is not aware of any potential litigation, actions, investigations or proceedings with respect to or relating to the Premises.

15.8 The representations and warranties made by the Seller shall be complete and correct on the closing date.

15.9 These representations will not survive the closing of title.

16. Notices. All notices required or otherwise given under this Contract shall be deemed effective when received and shall be in writing, delivered, personally or by prepaid U.S. Certified Mail, return receipt requested, Federal Express, or similar overnight courier addressed as follows:

Seller: Corporation Counsel  
City Hall, 38 Hawley Street  
Binghamton, NY 13901

Purchaser: Mark Yonaty  
M.B.Yonaty Development, LLC  
4164 Lisi Ln.  
Binghamton, New York, 13903

17. Miscellaneous.

17.1 This Contract shall not be binding or effective until duly executed and delivered by Seller and Purchaser.

17.2 This Contract shall not be recorded in the Clerk's Office in the County in which the property is located.

17.3 Neither this Contract nor any provision thereof may be waived, changed or canceled except in writing signed by the party to be charged.

17.4 Any and all disputes hereunder will be determined under the laws of the State of New York. Venue for any action will be Broome County, New York.

17.5 It is understood and agreed that all understandings and agreements heretofore had between the parties hereto are merged in this Contract, which alone fully and completely expresses their agreement with respect to the subject matter hereof.

IN WITNESS WHEREOF, this Contract has been duly executed by the parties hereto as of the day and year first above written.

SELLER:

CITY OF BINGHAMTON

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

Richard C. David, Mayor

Dated: \_\_\_\_\_

PURCHASER:

M.B.Yonaty Development, LLC

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

Mark Yonaty, Member/Manager

Dated: \_\_\_\_\_



Expedite

# Legislative Branch

RL Number:

21-269

Date Submitted:

11/30/21

City Clerk, City Hall, Binghamton, NY 13901 607-772-7005

## REQUEST FOR LEGISLATION

Requests for Legislation (RLs) may be submitted to the City Clerk's Office for consideration at City Council Work Sessions. RLs generated from within City Hall departments must be submitted to the Mayor, Comptroller and Corporation Counsel for review before submission. RLs generated by citizens may be submitted directly to the City Clerk's Office.

### Applicant Information

Request submitted by: John Spertudi *Spertudi*

Title/Department: Treasurer

Contact Information: \_\_\_\_\_

### RL Information

Proposed Title: Resolution to Amend 2021 Treasurer's budget

Suggested Content: Increase expense line A1325.54410 (Professional Services) \$10,000 and increase revenue line A42610A (Parking Ticket Fines) \$10,000. Parking fines collected is greater than budgeted thus the expenses need to increase.

### Additional Information

Does this RL concern grant funding? Yes  No

If 'Yes', is the required RL Grant Worksheet attached? Yes  No

Is additional information related to the RL attached? Yes  No

Is RL related to previously adopted legislation? Yes  No

If 'Yes', please provide Permanent Ordinance/Resolution/Local Law number(s): \_\_\_\_\_

#### OFFICE USE ONLY

Mayor: *[Signature]*

Comptroller: \_\_\_\_\_

Corporation Counsel: *[Signature]*

Finance  Planning  MPA  PW/Parks  Employees  Rules/Special Studies