

**CITY OF WATERTOWN, NEW YORK
AGENDA**

This shall serve as notice that the next regularly scheduled meeting of the City Council will be held on Monday, November 4, 2013, at 7:00 p.m. in the City Council Chambers, 245 Washington Street, Watertown, New York.

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

ROLL CALL

ADOPTION OF MINUTES

COMMUNICATIONS

PROCLAMATION

National Hospice and Palliative Care Month

PRIVILEGE OF THE FLOOR

RESOLUTIONS

- Resolution No. 1 - Approving the Agreement Between Dr. Jon A. Emerton and the City of Watertown for Public Health Officer
- Resolution No. 2 - Authorizing the Sale of Surplus Fire Department Equipment
- Resolution No. 3 - Approving the Agreement Between The City of Watertown and Loomacres Wildlife Management to Establish and Administer a Winter Crow Roost Dispersal Program
- Resolution No. 4 - Approving the Loan Agreement With Woolworth Watertown LLC for the Renovation of the Woolworth Building
- Resolution No. 5 - Authorizing Budget Modification No. 2 Request for FY 2011 Small Cities Community Development Block Grant
- Resolution No. 6 - Approving Agreement Between the New York State Unified Court System and the City of Watertown

ORDINANCES

Ordinance No. 1 - Amending City Municipal Code § A320-10

LOCAL LAW

PUBLIC HEARING

OLD BUSINESS

Tabled - Approving Agreement for Services for Vision and Dental
City Employee Plan, Relph Benefit Services

STAFF REPORTS

1. NYS Department of Environmental Conservation Urban and Community Forestry Grant Program
2. Letter from NYS STOP-DWI Foundation, Inc. and MADD-NY
3. Board and Commission Appointments

NEW BUSINESS

EXECUTIVE SESSION

WORK SESSION

Next Work Session is scheduled for Tuesday, November 12, 2013, at 7:00 p.m.

ADJOURNMENT

**NEXT REGULARLY SCHEDULED CITY COUNCIL MEETING IS MONDAY,
NOVEMBER 18, 2013.**

Res No. 1

October 28, 2013

To: The Honorable Mayor and City Council

From: Sharon Addison, City Manager

Subject: Approving the Agreement Between Jon A. Emerton, M.D. and the City of Watertown

Municipalities in New York State are required to have a Health Officer. As the City's Health Officer, Dr. Jon A. Emerton would be responsible for enforcing public health issues affecting City residents, including, but not limited to, the remedying of unsanitary conditions, which can affect public health and safety.

Dr. Emerton has served as the City's Health Officer for the past four years and wishes to continue in this capacity.

The attached resolution for Council consideration authorizes an Agreement with Dr. Emerton to serve as Health Officer for the City of Watertown for another four-year term commencing on January 1, 2014.

RESOLUTION

Page 1 of 1

Approving the Agreement Between
Dr. Jon A. Emerton. and the City of
Watertown for Public Health Officer

Council Member BURNS, Roxanne M.
Council Member BUTLER, Joseph M. Jr
Council Member MACALUSO, Teresa R
Council Member SMITH, Jeffrey M.
Mayor GRAHAM, Jeffrey E.

Total

YEA	NAY

Introduced by

WHEREAS the City of Watertown is interested in contracting for professional health officer services, and

WHEREAS the City of Watertown is required by law to have a Public Health Officer, and

WHEREAS Dr. Jon A. Emerton, 178 Thompson Boulevard, Watertown, New York, has expressed interest in continuing to provide these services to the City of Watertown,

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Watertown that it hereby approves the Agreement between the City of Watertown and Dr. Jon A. Emerton, a copy of which is attached and made a part of this resolution, and

BE IT FURTHER RESOLVED that City Manager Sharon Addison, is hereby authorized and directed to execute this Agreement on behalf of the City.

Seconded by

AGREEMENT

BETWEEN

JON A. EMERTON, M.D.

and

THE CITY OF WATERTOWN, NEW YORK

This Agreement, made this _____ date of _____, 2013, by and between the City of Watertown, New York, chartered under the Laws of New York State, having a principal place of business at the Municipal Building, 245 Washington Street, Watertown, New York 13601, herein referred to as "City" and Jon A. Emerton, M.D., who resides at 178 Thompson Boulevard, Watertown, New York, herein referred to as "Health Officer."

WITNESSETH

WHEREAS the City is interested in contracting for Health Officer services from Jon A. Emerton, M.D., such that he may act as the local Health Officer of the City of Watertown.

NOW THEREFORE IN CONSIDERATION of the mutual covenants herein, and other good and valuable consideration, it is agreed as follows:

Section 1: The Health Officer will be charged with the enforcement of the provisions of Chapter 172 of the City Code. He shall have the jurisdiction and power to take such steps as may be necessary to carry out the provisions of that Chapter and of Title 2 of the New York Public Health Law. The Health Officer, or his duly authorized representative appointed by him, shall examine complaints and notices concerning conditions dangerous or detrimental to life or public health and may, when in his judgment imminent danger exists or is believed to exist, enter into and examine premises, buildings, lots and enclosures where such conditions are known or reasonably believed to exist.

Section 2: Payment for Services. For Health Officer services, under Section 1, the Health Officer shall be compensated at an annual rate of \$1,200 per year. Such payment shall be made monthly in the amount of \$100. In addition to the annual rate, the City shall pay Dr. Emerton at the rate of \$250.00. per hour for work directed by the City.

Section 3: Office Space. It is hereby agreed that the City will be under no obligation to provide office space for the services of the City Health Officer.

Section 4: Precedence of State Laws. This Section shall refer most particularly to the Public Health Law and Sanitary Code of the State of New York and such other State Laws as delegate the authority of enforcement to the local Health Officer.

Term. The term of this Agreement shall be for a four-year period commencing on January 1, 2014, and running through December 31, 2017, and shall continue until a successor is appointed and qualifies. Subject to agreement by both parties, this Agreement may be extended for an additional four-year term.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers or representatives on this ____ day of _____, 2013.

Sharon Addison, City Manager

Jon A. Emerton, M.D.

Res No. 2

October 22, 2013

To: The Honorable Mayor and City Council
From: Sharon Addison, City Manager
Subject: Authorizing the Sale of Surplus Fire Department Equipment

City of Watertown Fire Department has surplus supplies and equipment that are either no longer useful or beyond repair and therefore no longer of value.

As stated in the attached report of Purchasing Manager Pastuf, the items on the list are located at the City Fire Department Stations and could be sold through Auctions International's online website.

A resolution is attached for City Council consideration.

RESOLUTION

Page 1 of 1

Authorizing the Sale of Surplus
Fire Department Equipment

Council Member BURNS, Roxanne M.
Council Member BUTLER, Joseph M. Jr.
Council Member MACALUSO, Teresa R.
Council Member SMITH, Jeffrey M.
Mayor GRAHAM, Jeffrey E.
Total

YEA	NAY

Introduced by

WHEREAS the City of Watertown has accumulated surplus supplies and equipment at the Fire Department, the listing of which is attached and made a part of this resolution, and

and WHEREAS these items may have some value best determined by on-line auction,

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Watertown, New York, that it hereby authorizes the sale, by on-line auction, of surplus supplies and equipment from the Fire Department, and

BE IT FURTHER RESOLVED that final acceptance of such bids shall constitute acceptance of the same by the City Council.

Seconded by



CITY OF WATERTOWN, NEW YORK

ROOM 205, CITY HALL
245 WASHINGTON STREET
WATERTOWN, NEW YORK 13601-3380
E-MAIL APastuf@watertown-ny.gov
☎(315) 785-7749 ☎(315) 785-7752

Amy M. Pastuf
Purchasing Manager

MEMORANDUM

TO: Sharon Addison, City Manager
FROM: Amy M. Pastuf, Purchasing Manager
SUBJECT: Surplus Sale of Fire Department Supplies & Equipment
DATE: 10/22/2013

The Purchasing Department is requesting City Council's permission to auction surplus items from the City Fire Department through the Auctions International on-line website. The Department has determined that the supplies and equipment on the attached list are either no longer useful or beyond repair and therefore no longer of value to the City. This request is for the City Council to authorize the Purchasing Department to accept the highest offer at time of sale provided the offer meets or exceeds the estimated scrap value.

Thank you for your consideration in this matter.

Copy: Chief Dale Herman, City Fire Department
Jim Mills, City Comptroller

Enclosures

SURPLUS SUPPLIES & EQUIPMENT

The following vehicles/items are surplus to the City's needs. These pieces are located at the City Fire Department Stations.

DESCRIPTION
1. Cairns Viper Thermal Imaging Camera with case
2. Minitor 4S – 70 pages with chargers
3. 5" Hose, 100' length – 31 units, 5" Hose, 50' length - 7 units
4. Generators – three, out of service
5. Desk
6. Hose Tester
7. Agway Snow Blower
8. 3" Homelite Trash Pump

October 24, 2013

To: The Honorable Mayor and City Council

From: Andrew Nichols, Planner

Subject: Approving the Agreement Between The City of Watertown and Loomacres Wildlife Management to Establish and Administer a Winter Crow Roost Dispersal Program

Last year's crow hazing program appeared to be successful in shifting the crow population to less sensitive areas. In order to continue mitigation of the crow nuisance, staff proposes engaging Loomacres Wildlife Management for a 3-year period to conduct at 150 man-hour hazing effort each winter through February 2016. Additional hours may be provided at a pre-negotiated cost. The yearly cost is as follows:

2013-14:	\$4,740	(additional at \$35.35/hour)
2014-15:	\$4,835	(\$36.00/hour)
2015-16:	\$4,931	(\$36.72/hour)

The hazing effort will be similar to last year, except that paintballs and crow effigies will be used in addition to pyrotechnics and lasers. The contract authorizes Loomacres to use lethal methods if so directed by the City.

The effectiveness of the program will be evaluated at the end of each winter. The contract may be terminated by either party with 30 days written notice.

We were not able to identify any other potential contractors in the area, so no other price quotes were solicited.

RESOLUTION

Page 1 of 1

Approving the Agreement Between The City of Watertown and Loomacres Wildlife Management to Establish and Administer a Winter Crow Roost Dispersal Program

Council Member BURNS, Roxanne M.
Council Member BUTLER, Joseph M. Jr.
Council Member MACALUSO, Teresa R.
Council Member SMITH, Jeffrey M.
Mayor GRAHAM, Jeffrey E.
Total

Table with 2 columns: YEA, NAY. Rows for each council member and a total row.

Introduced by

WHEREAS the City of Watertown desires to work with Loomacres Wildlife Management regarding professional services to help alleviate the nuisance of crows within the City and to administer a crow dispersal program, and

WHEREAS the City of Watertown has an urban crow roost that is a threat to human health and safety, causes damage to buildings and cars, and results in associated clean up costs, and

WHEREAS Loomacres Wildlife Management uses multiple hazing methods including distress calls, pyrotechnics, remote controlled aircraft, and lasers with the objective of reducing winter crow roosts, and

WHEREAS by using this strategy, the crows should relocate to an alternative, more suitable roosting site, reducing local conflicts associated with an urban crow roost, and

WHEREAS, the City of Watertown has prepared an Agreement, a copy of which is attached and made part of this resolution,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby approves the Agreement between the City of Watertown and Loomacres Wildlife Management, a copy of which is attached and made part of this resolution, to establish and administer a crow dispersal program, and

BE IT FURTHER RESOLVED that the City Council hereby authorizes and directs the City Manager, Sharon Addison, to execute the Agreement on behalf of the City of Watertown.

Seconded by

CROW DISPERSAL PROGRAM AGREEMENT
by and between
THE CITY OF WATERTOWN
and
LOOMACRES WILDLIFE MANAGEMENT

AGREEMENT (the “Agreement”) made this ___ day of November, 2013 by and between the City of Watertown, 245 Washington Street, Watertown, New York 13601 (“City”), and Loomacres Wildlife Management, P.O. Box 361, Warnerville, New York 12187 (“LWM”).

ARTICLE 1 – PURPOSE

The purpose of this Agreement is to establish and administer a crow dispersal program for the City of Watertown for the winter season (generally November, December, January, February, and March) of 2013-14, 2014-15, and 2015-16. The City wishes to retain the services of LWM for said winter crow dispersal program.

ARTICLE 2 – TERM OF AGREEMENT

The term of this Agreement will begin on the date written above in the preamble, and conclude on February 29, 2016.

ARTICLE 3 – SCOPE OF WORK

The scope of work to be preformed by LWM under the terms of this Agreement shall be as outlined in the Work Plan, made part of and attached hereto as Attachment A.

ARTICLE 4 – COMPENSATION

1. The amount to be paid and the manner in which LWM shall be paid by the City under the terms of this Agreement is shown in the Financial Plan, made part of and attached hereto as Attachment B. The City will pay a “not-to-exceed” sum for 150 man-hours for each winter season.
2. The parties may mutually agree to the use of additional LWM man-hours for the purpose of conducting follow-up crow dispersal efforts, as described in Attachment A of this Agreement. If approved by the City in advance, such additional man-hours shall be billed by LWM to the City at the rate specified in Attachment B.

ARTICLE 5 – JOINT RESPONSIBILITIES

LWM and the City mutually agree:

1. The parties' authorized representatives responsible for carrying out the provisions of this Agreement are:

Sharon Addison, City Manager
City of Watertown
245 Washington Street, Suite 302
Watertown, NY 13601

and

Cody L. Baciуска, Wildlife Biologist
Loomacres Wildlife Management
P.O. Box 361
Warnerville, NY 12187

2. To meet as determined necessary by either party to discuss mutual program interests, accomplishments, needs, technology, and procedures to maintain the Work Plan. Personnel authorized to attend meetings under this Agreement shall be Sharon Addison or her designee, Cody L. Baciуска or his designee, and/or those additional persons authorized and approved by the City and/or LWM.

ARTICLE 6 – CITY RESPONSIBILITIES

City agrees:

1. To authorize LWM to conduct crow dispersal activities to reduce human health and safety risks and property damage associated with an urban crow roost. These activities are defined in Attachment A, Work Plan. LWM will be considered an invitee on the lands controlled by the City. The City will be required to exercise reasonable care to warn LWM as to dangerous conditions or activities in the project areas.
2. To reimburse LWM for costs of services provided under this Agreement up to but not exceeding the amount specified in Attachment B, Financial Plan. The City will begin processing invoices submitted by LWM within 30 days of receipt.
3. To designate to LWM the City authorized individual whose responsibility shall be the coordination and administration of activities conducted pursuant to this Agreement.

ARTICLE 7 – LWM RESPONSIBILITIES

LWM Agrees:

1. To provide qualified personnel to initiate, administer, and perform the services as described in Attachment A of this Agreement.
2. To designate the LWM authorized representative who shall be responsible for the joint coordination and administration of the activities conducted pursuant to this Agreement.
3. To secure all necessary federal and/or state wildlife permits to conduct a crow roost dispersal.
4. To follow all applicable federal and state safety guidelines.
5. To bill the City during the performance of the agreed upon services specified in Attachment A. LWM shall keep records and receipts of all expenditures pertaining to this Agreement for a period of not less than one (1) year from the date of completion of the services provided under this Agreement. The City shall have the right to inspect and audit such records.

ARTICLE 8 – ENVIRONMENTAL COMPLIANCE

The performance of crow dispersal actions by LWM under this Agreement is contingent upon a determination by LWM that such actions are in compliance with the National Environmental Policy Act, Endangered Species Act, and any other applicable environmental statutes. LWM will not make a final decision to conduct requested crow dispersal actions until it has made the determination of such compliance.

ARTICLE 9 – INSURANCE

LWM shall maintain during the term of this Agreement commercial general liability insurance, issued by an insurer licensed to conduct business in New York State, in the amount of \$1,000,000 per incident and \$2,000,000 in the aggregate. Such policy shall name the City as an additional named insured. LWM shall furnish the City a certificate showing that such a policy has been issued and is in force prior to the commencement of any crow dispersal activities. Additionally, LWM shall procure and maintain workers' compensation insurance and disability insurance in accordance with the laws of the State of New York. This insurance shall cover all persons who are employees of LWM under the laws of the State of New York.

ARTICLE 10 – NONASSIGNABILITY

This Agreement may not be assigned by LWM to any other person or entity without the prior express written consent of the City. LWM agrees that the City's consent to any assignment may be withheld for any reason, and in its sole discretion.

ARTICLE 11 – TERMINATION

This Agreement may be terminated at any time by mutual agreement of the parties in writing, or by one party provided that party notifies the other in writing at least 30 days prior to effecting such action. Notices will be sent to the following addresses:

Sharon Addison, City Manager
245 Washington Street, Suite 302
Watertown, NY 13601

Cody L. Baciуска, Wildlife Biologist
P.O. Box 361
Warnerville, NY 12187

ARTICLE 12 – ENTIRE AGREEMENT

This Agreement represents the entire Agreement between the City and LWM. The City and LWM may mutually agree, upon approval by the City Council, to amend, modify, add or delete services from the Work Plan.

AGREED AND ACCEPTED:

CITY OF WATERTOWN

BY:

Sharon Addison, City Manager
City of Watertown
245 Washington Street, Suite 302
Watertown, NY 13601

Date

LOOMACRES WILDLIFE MANAGEMENT

BY:

Cody L. Baciуска, Wildlife Biologist
Loomacres Wildlife Management
P.O. Box 361
Warnerville, NY 12187

Date

ATTACHMENT A – WORKPLAN

JUSTIFICATION AND OBJECTIVES

The City of Watertown has requested assistance from Loomacres Wildlife Management following several years of increasing complaints from residents and City officials regarding crow (*Corvus brachyrhynchos*) damage in the City. The expressed concerns include damage to buildings and cars, the associated clean up costs, as well as the threat to human health and safety related to potential disease transmission from an excessive accumulation of crow feces.

In cooperation with the City of Watertown, LWM will develop and implement a winter crow dispersal program to assist the City in resolving issues associated with an urban winter crow roost.

PLANNED CROW DISPERSAL ACTIVITIES

1. LWM will provide trained Wildlife Biologists to conduct crow population surveys. Crow activity and population numbers will be monitored through-out the length of the contract. The information gathered will be used by the biologists to develop an integrated crow dispersal program to reduce the number of crows utilizing the City.
2. Crow roost dispersal will be conducted over a five (5) night period. The exact time frame will be determined by the population surveys. In order to conduct the crow dispersal, LWM trained personnel will utilize non-lethal harassment methods and techniques, including the use of spotlights, forward looking infra-red, and night vision, to locate the crows. LWM will disperse the crows from their roost by using specialized remote controlled aircraft, playing distress calls, firing pyrotechnics (screamers and bangers), using handheld lasers, crow effigies, and paintball markers, plus additional techniques as needed. If additional roost dispersals are necessary they will be conducted based on crow surveys, input from City officials, and resident complaints.
3. LWM may use lethal harassment techniques with prior authorization from the City.
4. LWM will provide technical assistance to City management. LWM will advise City officials and residents on habitat modifications/management techniques as well as additional methods the City and its residents can utilize to reduce the presence of crows.
5. As necessary, LWM will assist the City of Watertown with public relations. This includes public outreach and media relations. LWM will establish a crow sighting and complaint phone line. This service will help LWM pinpoint problem areas. It will also allow for the distribution of information regarding the project.
6. Following the completion of the project, LWM will analyze the data collected during the surveys and roost dispersals. This data will be compiled into a final report that will highlight the results of each winter's crow dispersal and make recommendations for the future.
7. LWM will investigate potential options to make the City less attractive to crows. Potential options may include installing physical barriers on rooftops and implementing habitat management practices that will make prone areas less suitable for roosting. If and when viable options have been determined, LWM may assist the City with implementing the options.

ATTACHMENT B – FINANCIAL PLAN

November, 2013 – February, 2016

Planned Crow Dispersal Activities

<i>Winter 2013-14</i>	
Administration & Personnel	\$3,845.00
Equipment	\$895.00
Total:	\$4,740.00
Additional Hourly Rate (if authorized)	\$35.35
<i>Winter 2014-15</i>	
Administration & Personnel	\$3,940.00
Equipment	\$895.00
Total:	\$4,835.00
Additional Hourly Rate (if authorized)	\$36.00
<i>Winter 2015-16</i>	
Administration & Personnel	\$4,036.00
Equipment	\$895.00
Total:	\$4,931.00
Additional Hourly Rate (if authorized)	\$36.72

Financial Points of Contact

Kristin Baciuska
 Loomacres Wildlife Management
 P.O. Box 361
 Warnerville, NY 12187
 Phone: (607) 760-8748
 Fax: (518) 618-3129
 Employer Identification Number: 20-3626939

City Manager
 City of Watertown
 245 Washington Street, Suite 302
 Watertown, New York 13601
 Phone: (315) 785-7730
 Fax: (315) 782-9014
 Tax Identification Number: 15-6000419

LOOMACRES Wildlife Management

“Bringing wildlife management to a higher level”[®]

*Proposal to Conduct
Wildlife Conflict Resolution*

*Prepared for
City of Watertown, NY*

....

**P.O. Box 361
Warnerville, NY 12187
800-243-1462**

- P r o f e s s i o n a l - R e l i a b l e - E t h i c a l -

Company profile

Loomacres Wildlife Management's primary mission is to provide government agencies, municipalities and the private sector with the highest quality of wildlife consulting available. Loomacres Wildlife Management is a company that understands the needs of our clients to provide a safe environment for people. Loomacres staff also understands the requirements that animals need. Often these problems collide creating an unsafe environment for people and wildlife. Our employees utilize their extensive experience and training in order to provide the utmost quality in wildlife management. They use sound, ethical practices to help alleviate the risk to human health and safety. Loomacres' foundation is based upon three basic principles: **professionalism, ethics, and reliability.**

Ethics: Loomacres Wildlife Management sets the standard for ethics in the industry. Loomacres efficiently serves our clients with safe, ethical, and innovative solutions that work.

Reliability: Loomacres Wildlife Management provides reliable service by consistently reacting to unforeseen conditions.

Professionalism: Our staff has the experience and credentials to meet the high standards that are required when working in the unique field of wildlife hazard management. Only the most professional company can provide quality services in this unique operating environment.

Personnel

Loomacres puts its reputation in the selection and the performance of our employees. All of the personnel that will be involved with this project have extensive experience conducting crow harassment, as well as performing ecological studies and surveys.

Our employees work under the direct supervision of the lead Wildlife Biologist and President of Loomacres Wildlife Management, Mr. Cody Baciуска. Mr. Baciуска has conducted Wildlife Hazard Assessments, developed Wildlife Hazard Management Plans, and has conducted numerous Wildlife Damage Management related research studies. Mr. Baciуска is a member of the National Wildlife Control Operators Association, the Wildlife Society and is the current president of the NYS Wildlife Management Association. Mr. Baciуска has provided crow harassment for several large cities in the North East.

Mr. Baciуска will be the primary Biologist overseeing the services offered in this proposal; his qualifications are included. (*Appendix I*)

Biologist Kristin Dorsch-Baciуска has been with Loomacres since it was established in 2005. Kristin has a diverse background in the biological sciences to include fisheries and wildlife, wetlands and plant science. Kristin holds a Master's of Science degree in Biology and has conducted several research studies relating to Wildlife Damage Management. She has presented her research at several venues including the USA/Canada Bird Strike Conferences as well as the 2009 Wildlife Damage Management Conference. Kristin has ample experience in habitat management and is confident in her ability to make recommendations that aid in solving issues regarding wildlife (See Resume, Appendix I).

Biologist Garrett Grilli achieved a bachelor's degree in Wildlife Management and has spent the last few years gaining valuable experience in the field of Wildlife Management. Prior to joining Loomacres, Garrett has experience working with the NYSDEC, VT Fish and Wildlife Department,

NYS Office of Parks, Recreation and Historic Preservation and the Albany Pine Bush Commission
(See resume, Appendix I).

Recent projects

-Watertown International Airport, : Loomacres Inc. is conducting a Wildlife Hazard Assessment for the airport. Loomacres Inc. also assists the airport with direct control projects and Wildlife Hazard training. For more information please contact Steve Gerstenschlager, Operations Manager, at 315-783-7569.

-Syracuse International Airport, NY, : Loomacres Inc. has a Wildlife Hazard Assessment for the airport. Loomacres Inc. also assists the airport with direct control projects and Wildlife Hazard training. For more information please contact John Carni, Operations Manager, Syracuse Department of Aviation, at 315- 455-3680.

-Buffalo Niagara International Airport: Loomacres is the primary consultant providing Wildlife Hazard Management training and consulting services. For more information please contact Dave Macy, Operations Supervisor, Buffalo International Airport at 716-863-3586.

-Elmira-Corning Regional Airport: Loomacres is the primary consultant providing Elmira-Corning Regional Airport with an assessment of wildlife hazards at their airport. We have also assisted with the development of their Wildlife Hazard Management Plan, which has been approved by the FAA. Elmira-Corning Regional Airport has also contracted Loomacres to provide direct control of hazardous wildlife for the past several years. For more information please contact Bill DeGraw, Director of Operation, Elmira-Corning Regional Airport, at 607-426-5622.

-Plattsburgh International Airport, NY: Loomacres Inc. has completed a Wildlife Hazard Assessment and developed a Wildlife Hazard Management Plan for PBG. AIP funding was used to fund this project. This project was completed in September 2009. Loomacres Inc. is currently the prime consultant providing wildlife conflict resolution and Wildlife Hazard training for the airport. For more information please contact Frank Dietz, Assistant Manager, Plattsburgh International Airport, at 518-565-4015.

Additional references are available on request.

Objectives

Loomacres Wildlife Management wishes to enter into a 3 month agreement with the City of Watertown. With the option to extend to three years.

The specific objectives of the agreement are to:

- Conduct crows roost surveys
- Reduce the number of crows inhabiting the city
- Alert city officials of potential wildlife hazards

Services provided

- I. Loomacres will provide trained Wildlife Biologists to conduct crow population surveys. Crow activity and population numbers will be monitored throughout the length of the contract. The information gathered will be used by the biologists to develop an integrated wildlife hazard management plan to reduce the number of crows utilizing the city.
- II. Crow roost dispersal will be conducted over a five night period (this will vary based on conditions). The exact time frame will be determined by the population surveys. In order to conduct the crow dispersal, Loomacres trained personnel will utilize non-lethal harassment methods and techniques including the use of spotlights, forward looking infra-red, and night-vision, to locate the crows. **Loomacres will disperse crows from their roosts by using specialized remote controlled aircraft, playing distress calls, firing pyrotechnics (screamers & bangers), using handheld lasers, paintball markers, and installing crow effigies.** If additional roost dispersals are necessary they will be conducted based on crow surveys and input from city officials and resident complaints.
- III. Loomacres will provide technical assistance to city management. Loomacres will advise city officials and residents on habitat modification/management techniques as well as additional methods the city and its residents can utilize to reduce the presence of crows.
- IV. As necessary, Loomacres can assist the City of Watertown with public relations. This includes public out-reach and media relations. Loomacres will establish a crow sighting and complaint hotline. This service will help Loomacres pinpoint problem areas. It will allow for the distribution of valuable information regarding the project.
- V. Following the completion of the project Loomacres will analyze the data collected during the surveys and roost dispersals. This data will be compiled into a final report that will highlight the results of the 2012-2013 Watertown crow dispersal, compare the results to previous crow dispersals and make future recommendations.
- VI. Loomacres Inc. will investigate potential options to make the city less attractive to crows. Some potential options may include installing physical barriers on the roof tops and implementing habitat management practices that will make prone areas less suitable for roosting.

Once viable options have been determined Loomacres will assist the City with implementing the options.

Licenses and Permits

Loomacres Wildlife Management maintains all necessary permits and licenses to conduct wildlife management activities. Loomacres will act as a liaison with both State and Federal agencies to assist the City if necessary, with applications, permitting and reporting procedures.

Insurance

Loomacres Wildlife Management maintains liability insurance coverage consisting of \$1,000,000.00 per incident and \$2,000,000.00 aggregate. A certificate of Liability Insurance will be provided with this proposal. (*Appendix II*) If necessary, additional insurance will be acquired after the acceptance of this proposal, and prior to the start of the project.

Term

The proposed term of the agreement will begin on December 1, 2013 and conclude on February 29, 2014, with the option to extend the contract for an additional two years. Loomacres personnel will be available up to a total of 150 man-hours for the length of the contract to conduct wildlife surveys, wildlife conflict resolution, data analysis, and travel to and from the work site. Additional hours will be billed in addition to the scheduled hours at a rate of \$35.35/hour. Loomacres guarantees that the agreed upon services will be available for the entire length of the agreement.

Fees

Administration & Personnel Costs:	\$3,845.00
Equipment and Supplies:	\$895.00
<i>Total:</i>	<u>\$4,740.00</u>
Option Year Two: <i>Rate for Additional Hours \$36.00</i>	<u>\$4,835.00</u>
Option Year Three: <i>Rate for Additional Hours \$36.72</i>	<u>\$4,931.00</u>

Note: The City of Watertown will be billed monthly throughout the contract period. Payments will be due thirty days from the date of each invoice.

Financial Contacts

Loomacres Wildlife Management:

Kristin Baciaska

Loomacres Wildlife Management: (607) 760-8748

Employer Identification Number: 20-3626939

Mailing Address: Loomacres Wildlife Management
PO Box 361
Warnerville, NY 12187

City of Watertown:

Person to contact for billing questions

Phone Number

Tax Identification Number: _____

Billing Address: _____

Additional Information

The information that is contained in this proposal is copyrighted. The information may be confidential or proprietary. This proposal should only be reviewed by the intended recipient or a representative of that person. If the proposal is not accepted the original should be returned to Loomacres and all copies should be destroyed.

Loomacres Wildlife Management:	City of Watertown:
Name: Cody Baciуска	Name: _____
Title: Vice President	Title: _____
Phone: 607-706-8748	Phone: _____
Signature: 	Signature: _____
Date: <u>October 16, 2013</u>	Date: _____

APPENDIX I

Cody Baciuska

Loomacres Wildlife Management, Inc.
cody@loomacres.com
607-760-8748

EDUCATION:

- **State University of New York, College of Agriculture and Technology at Cobleskill**
Bachelor of Technology Degree in Animal Science- Concentration Wildlife Management
Associate of Applied Science Degree- Concentration Fisheries and Wildlife Technology
- **State University of New York at Oneonta**
Graduate Coursework in Biology
Bachelors of Science Degree in Business Finance
In progress

WORK EXPERIENCE:

- **Loomacres Wildlife Management, Inc.**
President of Loomacres Wildlife Management. Loomacres provides wildlife and environmental consulting to the aviation industry, government agencies, municipalities, corporations and private individuals. Services range from wildlife and vegetation surveys to development and implementation of wildlife management plans. Loomacres also provides education and training to airport personnel involved in wildlife management.
- **United States Department of Agriculture, Wildlife Services**
Conducting wildlife surveys, habitat assessments, and wildlife hazard assessments on a number of airports throughout New York. Data collection, entry, analysis, presentation. Assisting in the development of wildlife management plans. Identifying and addressing, damage, disease, and potential human health and safety issues created by wildlife. Use of pyrotechnics, firearms and traps to haze and remove hazardous wildlife. Public relations and outreach and education.
- **National Audubon Society**
Operated 7 MAPS Bird Banding Stations, responsible for net setup, extracting birds, aging, sexing, banding, data recording and entry, and overall welfare of the birds captured in the nets. Also conducted point counts, breeding bird surveys, nest searching, and vegetation surveys.
- **Wetland Studies and Solutions**
Wetland restoration and mitigation, Planted a variety of trees and shrubs

LICENCES, TRAINING & CERTIFICATIONS:

- FAA Certified Airport Wildlife Biologist, NRA Certified Firearms Instructor -Airport Driving Cert., FAA Approved Wildlife Biologist Training, - NYS Pistol Permit, -NYS Wildlife Control Permit, -NYS Hunting and Trapping License, Boater Safety Cert

PROFESSIONAL MEMBERSHIPS:

- *2009-present*, President of NYS Wildlife Management Association
- *2007- 2009*, Director of NYS Wildlife Management Association
- *September 2002- January 2003*, Secretary of the SUNY Cobleskill chapter of The Wildlife Society
- *January 2003- May 2003*, Vice President of the SUNY Cobleskill chapter of The Wildlife Society

Kristin M. Baciuska

(518) 542-6305

kristin@loomacres.com

EDUCATION: State University of New York College at Oneonta

Oneonta, NY 1382

MS Graduate Program in Biology

**State University of New York, College of Agriculture and Technology at
Cobleskill, Cobleskill, NY 12043**

Bachelor of Technology Degree in Plant Science- Conc. Environmental Studies

PROFESSIONAL WORK EXPERIENCE:

- **Loomacres Wildlife Management Inc.**
July 2005-Current
President & FAA Qualified Airport Wildlife Biologist working primarily on Airport Wildlife Hazard Assessments, Wildlife Hazard Management Plans, Training, Data Collection and Vegetation Surveys.
- **State University of New York- Oneonta, NY**
October 2008-August 2010
Part time Research Assistant. Worked on a FAA funded grant project titled "Native & Naturalized Turf Species Suitable for Use On Airports Managed for Wildlife Hazards"
This work is fulfilling a Master's Thesis Requirement.
- **State University of New York –Oneonta, NY**
September 2007-February 2009
Part time Research Assistant. Organize collected plant specimens in college herbarium and prepared them for mounting and submission to the NYS Museum and other collections. Plant collection, ID and database creation and entry.
- **USDA Animal Plant Health Inspection Service Wildlife Services- Castleton, NY**
October 2004 to July 2005
GS-05 Biological Science Technician Wildlife. Used techniques including pyrotechnics to haze avian species on airports, landfills and in urban areas. Avian and Mammalian Surveys, trapping and database entry. Operated West Nile Virus Hotline. Administrative assistance.

PRESENTATIONS:

- USA/Canada Birdstrike Conference 2010 Salt Lake City, Utah (Speaker)
- Wildlife Management Workshop, Saratoga NY (Poster Presentation)
- USA/Canada Birdstrike Conference 2007,2008 & 2009 (Poster Presentation)

PUBLICATIONS:

- Baciuska, K. (2010) Native and Naturalized Turf Species Suitable for Use on Airports Managed for Wildlife in the Northeastern US. *State University of New York College at Oneonta. Master's Thesis*

CERTIFICATES/LICENCES:

- FAA Qualified Airport Wildlife Biologist 2009
- NYSDEC Commercial Pesticide Applicator 2008
- Embry Riddle Wildlife Hazard Management Workshop-2010
- Rutgers Wetland Delineation Certificate Series 2008

Garrett M. Grilli

Loomacres Wildlife Management

Wildlife Biologist

E-mail: garrettgrilli@loomacres.com

EDUCATION

State University of New York at Cobleskill
Bachelor degree in Wildlife Management
Recipient of the Outstanding Senior in Wildlife Management Award, 2008
GPA- 3.5

PROFESSIONAL FIELD EXPERIENCE

Avian:

Airport Wildlife Hazard Management & Surveys
Bird identification by sight and sound
Mist netting and banding song birds (handling >100 birds)
Anatomy and physiology
Waterfowl capturing, handling, and banding (handling several hundred birds)
Sexing and aging of waterfowl (ducks and Canada Geese)
Radio-telemetry (Wild Turkeys and Ring-necked Pheasants)
Live-trapping, handling, and banding of Ruffed Grouse (1 field season)
Time-activity budgets of ducks
New York State Waterfowl Hunting/Identification Certification
Egg oiling (Canada Geese)
Nest searching and monitoring

Mammalian:

Airport Wildlife Hazard Management & Surveys
Trapping and handling of: small mammals, coyotes, & black bears
Track Plate boxes
Motion-activated camera use
Radio-telemetry (black bears, and coyotes)
Identification by tracks and scat
Deer aging
Distance deer Surveys

General:

GIS	Invasive plant species removal
GPS	Backpacking and Orienteering
Microsoft Office database	Environmental education
- Excel and Access	Wetland delineation
Firearms Safety & Handling	Airfield Driving & Security
Canoeing and Kayaking	Water quality surveys
Vegetation Sampling	Woody plant identification
CPR certified	Wilderness First Aid certified
Trail work	4WD vehicle and ATV operation

Appendix II

ACORD CERTIFICATE OF LIABILITY INSURANCE		CSR 25 BACIU-1	DATE (MM/DD/YYYY) 07/24/08
PRODUCER Christian-Baker Company P.O. Box 158 Camp Hill PA 17601-0158 Phone: 717-761-4712 Fax: 717-761-5810		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED Cody Baciuska Locomores Wildlife Management 134 Markley Road Cobleskill NY 12043		INSURERS AFFORDING COVERAGE INSURER A: ANGIS INSURER B: The Hartford INSURER C: INSURER D: INSURER E:	NAIC # 33698 19682

COVERAGES

THE POLICIES OF ASSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIODS INDICATED. NOTICE THAT THIS IS NOT A CONTRACT. IT IS A SUMMARY OF THE POLICIES DESCRIBED HEREIN. THIS CERTIFICATE MAY BE ISSUED OR REVOKED AT ANY TIME WITHOUT NOTICE. THE POLICIES DESCRIBED HEREIN ARE SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS (SUCH AS APPLICABLE) HAVE BEEN REDUCED BY PAID CLAIMS.

INSURER LTR. INSD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> DUMB AND DULL <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Herb/Pest Excl. GENL. AGGREGATE LIMIT APPLICABLE PER POLICY <input type="checkbox"/> PER. LIMIT <input type="checkbox"/> 100	MWC337716	07/01/08	07/01/09	EXCESS COVERAGE \$1,000,000
	EXCESS COVERAGE - LIMITED PREMIUM (EXCESS) \$10,000				
	EXCESS COVERAGE - LIMITED PREMIUM \$1,000				
	PERSONAL & AUTO INJURY \$1,000,000				
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRE AND LEASE <input checked="" type="checkbox"/> NON-OWNED AUTOS	39UECTE4648	04/01/08	04/01/09	COMBINED SINGLE LIMIT (EX ACCIDENT) \$1,000,000
					BODILY INJURY (P/R INJURY) \$
					BODILY INJURY (P/R DAMAGE) \$
					EXCESS COVERAGE (P/R DAMAGE) \$
					AUTO ONLY - EX ACCIDENT \$
					OTHER THAN AUTO ONLY \$
					EXCESS COVERAGE \$
					AGGREGATE \$
					\$
					\$
C	EXCESS UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> COINSURABLE DEDUCTIBLE \$				EXCESS COVERAGE \$
					AGGREGATE \$
					\$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROVISIONS IN THESE POLICIES OR OTHER POLICIES EXCLUDED. (Class description under SPECIAL PROVISIONS below)				WC - OTHER - TOP LIMIT \$
					EL - EACH ACCIDENT \$
					EL - EXCESS - EX EMPLOYER \$
E	OTHER				EL - EXCESS - POLICY LIMIT \$
					\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS:

CERTIFICATE HOLDER	CANCELLATION
For Information Purposes Only	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE <i>James P. Pace</i>

Res No. 4

October 29, 2013

To: The Honorable Mayor and City Council

From: Kenneth A. Mix, Planning and Community Development Coordinator

Subject: Approving the Loan Agreement with Woolworth Watertown LLC for the Renovation of the Woolworth Building

The City Council approved the Grant Disbursement Agreement with Empire State Development (ESD) for a \$2,500,000 Restore NY grant to renovate the Woolworth Building on October 21, 2013. As I indicated in the cover memo for that agreement, a Loan Agreement with Woolworth Watertown LLC would follow. Woolworth Watertown LLC is the company set up by David Gallo and Erich Seber to own the building.

The City is the recipient of the Restore NY grant, but the funds have to be transferred to the developer to comply with the ESD agreement. For the City's two previous grants the funds were in turn granted to the developers.

In this case, the developer has requested that the money be advanced in the form of a loan. A loan allows them to use the costs paid by the Restore NY funds as part of the basis for tax credits. A Loan Agreement, with associated Mortgage and Promissory Note, has been drafted and is attached for City Council review.

The loan has a term of 40 years and zero percent interest with the total principle payment due at the end of the term.

A resolution approving the Loan Agreement and authorizing the City Manager to execute it is attached for City Council consideration.

RESOLUTION

Page 1 of 1

Approving the Loan Agreement With Woolworth Watertown LLC for the Renovation of the Woolworth Building

Council Member BURNS, Roxanne M.
 Council Member BUTLER, Joseph M. Jr.
 Council Member MACALUSO, Teresa R.
 Council Member SMITH, Jeffrey M.
 Mayor GRAHAM, Jeffrey E.

Total

YEA	NAY

Introduced by

WHEREAS the City of Watertown has a Grant Disbursement Agreement with Empire State Development for a \$2,500,000 Restore NY Grant to renovate the Woolworth Building, and

WHEREAS Woolworth Watertown LLC is the developer for the renovation project and will therefore be the ultimate recipient of the Restore NY funds, and

WHEREAS a Loan Agreement, with associated Mortgage and Promissory Note, has been drafted to govern the transfer of the Restore NY funds from the City to the Developer,

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Watertown, New York, that it hereby approves the Loan Agreement between the City of Watertown and Woolworth Watertown LLC for the transfer of the Restore NY Grant funds in the amount of \$2,500,000, and

BE IT FURTHER RESOLVED that the City Manager, Sharon Addison, is hereby authorized and directed to execute the Loan Agreement.

Seconded by

WOOLWORTH WATERTOWN LLC

and

CITY OF WATERTOWN

LOAN AGREEMENT

DATED AS OF _____, 2013

This instrument affects real and personal property situated in the State of New York, City of Watertown and County of Jefferson located at 11 Public Square, Section 10, Block 1, Lot 107.000.

1. Parties.

CITY OF WATERTOWN (the “Lender”)
245 Washington Street
Watertown, New York 13601

WOOLWORTH WATERTOWN LLC (the “Borrower”)
50 Jericho Quadrangle, Suite 200
Jericho, New York 11753

2. Loan. The Lender agrees to loan to the Borrower the principal sum of Two Million Five Hundred Thousand and 00/100 Dollars (\$2,500,000.00) (the “Loan”), subject to the terms of this Agreement, for the purpose of developing and rehabilitating a rental building, and associated improvements, consisting of approximately fifty (50) rental units for persons and families of low-income and approximately 19,413 square feet of retail or commercial space (the “Project”). The Project is situated on real property located in the City of Watertown, County of Jefferson, New York, which real property is more particularly described on Schedule “A” annexed hereto and made a part hereof (the “Property”).

3. Note and Mortgage. In consideration of the Loan, the Borrower has on this date executed and delivered to Lender a promissory note (the “Note”) and the Borrower has executed and delivered to Lender a mortgage (the “Mortgage”) in the principal amount of Two Million Five Hundred Thousand and 00/100 Dollars (\$2,500,000.00), which Mortgage secures the Note and covers the Borrower’s interest in the Project and the Property. Capitalized terms used but not defined herein shall have the same meanings ascribed to such terms in the Mortgage.

4. Scope of Work. The Borrower shall construct the Project in accordance with certain plans and specifications (the “Plans”) to be prepared by Crawford & Stearns, Architects and Preservation Planners (the “*Architect*”).

5. Project Costs. The Loan shall be advanced to pay costs relating to the acquisition, development and construction of the Project, including, but not limited to, acquisition costs, hard construction costs, bills for labor, materials, services, equipment and supplies, costs of engineering, architectural, environmental and other professional services rendered with respect to the Project (collectively, “Project Costs”).

6. Disbursement of Loan Proceeds. (a) Proceeds of the Loan will be advanced quarterly to pay or reimburse the Borrower for Project Costs. The Borrower shall submit to the Lender requests for disbursements in such form and manner and at such times as the Lender may reasonably require (each such request, a “Requisition”). Each Requisition for Project Costs shall (i) state the amount requested to be disbursed; (ii) be certified by the Architect and the Borrower as to the matters stated therein with respect to hard Project Costs; (iii) be submitted on standard AIA forms with respect to hard Project Costs, unless otherwise agreed to by the Lender; and (iv) contain a lien waiver from the Project’s general contractor. An advance of Loan proceeds by the Lender is expressly subject to and conditioned upon the Lender’s receipt of funds awarded to the Project from the New York State Urban Development Corporation d/b/a Empire State Development in a like amount (the “ESD Grant”). Upon the submission of each Requisition, the Lender shall use diligent best efforts to promptly request corresponding funding from ESD and the Lender shall subsequently advance a portion of the Loan in an amount equal to one hundred (100%) percent of the proceeds of the ESD Grant received by Lender for such Requisition, with such advance to be made by the Lender no later than five (5) days from the date it receives such funds.

(b) At the Borrower’s request, the Lender shall make such disbursements directly to the Project’s general construction contractor and the execution of this Agreement by the

Borrower shall, and does hereby, constitute an irrevocable direction and authorization to so disburse the Loan. All such disbursements shall satisfy the obligations of the Lender hereunder and shall be secured by the Mortgage.

7. Representations and Warranties. The Borrower represents and warrants to the Lender that:

(a) All construction heretofore performed, if any, or hereafter performed in connection with the Project has and will be performed (i) within the perimeter of the Property; (ii) substantially in accordance with the Plans; (iii) in accordance with all laws, ordinances, rules, orders, regulations and requirements of any governmental authority having jurisdiction over the Borrower, the Project or construction thereon or the use and occupancy thereof (collectively, “Requirements”); and (iv) in accordance with any restrictive covenants applicable to the Property;

(b) The intended use of the Property complies with all applicable zoning ordinances, regulations and restrictive covenants affecting the Property; and

(c) All documents heretofore provided to the Lender by the Borrower in connection with the development of the Project are true and correct in all material respects and accurately represent the condition of the Project and of the Borrower as of the respective dates thereof, no material adverse change has occurred in the condition of the Project or the financial condition of Borrower since the respective dates thereof.

8. Covenants of Borrower. The Borrower covenants as follows:

(a) It will permit the Lender to enter upon the Property upon reasonable prior notice at such times as the Lender may reasonably request to inspect the Project and will cause the Project’s construction contractors to cooperate with the Lender in any such inspection;

(b) If construction of the Project has not commenced prior to the date of execution of this Agreement, it will commence such rehabilitation no later than one hundred twenty (120) days from the date hereof and will cause such rehabilitation to be prosecuted in a good and workmanlike manner with diligence and continuity so as to substantially complete the same substantially in accordance with the Plans on or before [May 31, 2016] (the “Completion Date”), free and clear of unbonded liens or claims for liens for material supplied and for labor or services performed;

(c) It will cause all conditions hereof to be satisfied in a timely manner; and

(d) It will, upon demand, correct any material defect in the Project or any material departure from the Plans not accepted by the Lender.

9. Default. (a) It shall be an event of default (an “Event of Default”) under this Agreement if the Borrower violates or fails to comply with or perform any of the covenants contained in this Agreement, the Note or the Mortgage, which failure or violation continues for a period of sixty (60) days after written notice thereof has been given by the Lender to Borrower, Borrower’s investor member and the holder of any mortgage with superior lien priority to the Mortgage (such mortgage, a “Superior Mortgage”), or, if such failure or violation cannot be cured within such period with due diligence, if the Borrower shall thereafter fail to prosecute and complete such cure with reasonable due diligence.

(b) Subject to the rights of the holder of any Superior Mortgage, and the provisions of such Superior Mortgage and all other documents executed in connection therewith, the Lender shall have the right, but not the obligation, upon the happening and during the continuance of any such Event of Default, in addition to any rights or remedies available to it under the Mortgage, the Note or any other instrument executed in connection with the Loan or applicable law, to enter

into possession of the Property and perform or cause the performance of any and all work and labor necessary or desirable to complete the Project substantially in accordance with the Plans. All sums expended by the Lender for such purposes shall be deemed to have been loaned to Borrower and secured by the Mortgage. For this purpose, Borrower hereby constitutes and appoints the Lender its true and lawful attorney-in-fact with full power of substitution, effective upon the occurrence and during the continuance of an Event of Default, to complete the Project in the name of the Borrower, and hereby empowers the Lender as follows: to use any funds which may remain undisbursed hereunder for the purpose of completing the Project substantially in the manner called for by the Plans; to pay, settle or compromise all existing bills and claims which are or may be liens against the Property, or may be necessary or desirable for the completion of the work or the clearance of title; to execute all applications and certificates in the name of Borrower which may be required by any contract or subcontractor; and to do any and every act with respect to the construction of the Project which Borrower may do in its own behalf. It is understood and agreed that this power of attorney shall be deemed to be a power coupled with an interest which cannot be revoked.

10. Conditions to the Lender's Obligation to Make Disbursements. (a) For each advance of the Loan, the Lender shall have received and approved:

- (i) a lien waiver from the Project's general contractor; and
- (ii) a Requisition, containing a certification from the Architect stating that the construction or rehabilitation of the Project theretofore performed was performed in a good and workmanlike manner substantially in accordance with the Plans.

(b) In addition, the Lender's obligation to advance any portion of the Loan is expressly subject to and conditioned upon the Lender's receipt of funds from the ESD Grant in a

like amount. Upon the submission of a Requisition by the Borrower, the Lender shall use diligent best efforts to promptly request corresponding funding from ESD.

11. ESD Grant. The Lender covenants and agrees to advance to the Borrower the proceeds of the ESD Grant received by it in accordance with this Agreement, and to not use or expend such proceeds for any other purpose whatsoever.

12. Indemnification. To the fullest extent permitted by law, the Borrower shall defend, indemnify and hold harmless the Lender and its agents and employees from and against actual claims, damages, losses and expenses, including, but not limited to, reasonable attorneys' fees, arising out of or resulting from the Borrower's performance of this Agreement or the work to be performed pursuant hereto, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting therefrom, and only to the extent caused in whole or in part by negligent or willful acts or omissions of the Borrower, a contractor, a sub-contractor or anyone directly or indirectly employed by them or anyone for whose acts they may be liable.

13. Miscellaneous. (a) All notices or other communications with respect to the subject matter of this Agreement shall be in writing and shall be deemed to have been given when sent by certified or registered mail, return receipt requested, to the parties at the addresses first set out herein or at such other address of which the party to receive such notice shall have notified the party giving such notice, except that any such notice of change of address shall be deemed to have been given when it is received.

(b) The Lender agrees that for payment of the Note and performance of the covenants and obligations of the Borrower contained herein it will look solely to the Mortgaged Property defined in the Mortgage and such other collateral, if any, as may now or hereafter be given to

secure payment of the Note, and no other property or assets of the Borrower shall be subject to levy, execution or other enforcement procedures of any kind or character. The Note and this Agreement shall be non-recourse to the Borrower, and none of the Borrower or any partner, officer, director or employee thereof, or any other person, shall be responsible or liable for the payment or performance of the covenants and obligations contained in the Note or this Agreement.

(c) This Agreement shall constitute a building loan contract pursuant to Section 22 of the New York Lien Law and an affidavit of the Borrower, as required by Section 22 of the New York Lien Law, is attached hereto as Schedule "B" and made a part hereof. All proceeds of the Construction Loan advanced hereunder shall be subject to the trust fund provisions of Section 13 of the New York Lien Law.

(d) This Agreement may not be amended or modified unless in writing signed by both parties.

(e) Borrower and Lender may not assign their respective rights or obligations under this Agreement without the prior written consent of the other party and any purported assignment without such prior written consent shall be void. This Agreement shall be binding upon, and shall insure to the benefit of, the parties hereto and their respective successors and permitted assigns.

IN WITNESS WHEREOF, the parties have each duly executed this Agreement as of the ___ day of _____, 2013.

CITY OF WATERTOWN

By: _____

Name:
Title:

WOOLWORTH WATERTOWN LLC

By: Woolworth Watertown Managers LLC., its
Managing Member

By: G & G Woolworth LLC, Manager

By: G & G Property Holdings, LLC, Sole
Member

By: _____

Name:
Title:

SCHEDULE "A"

LEGAL DESCRIPTION OF THE LAND

SCHEDULE "B"

SECTION 22
LIEN LAW AFFIDAVIT

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

DAVID GALLO, being duly sworn, deposes and says that:

1. He has an address of 50 Jericho Quadrangle, Suite 200, Jericho, New York 11753, and is a member of G & G Property Holdings, LLC, which is the sole member of G & G Woolworth Holdings LLC, which is a member and manager of Woolworth Watertown Mangers LLC, which is the managing member of the New York limited liability company known as Woolworth Watertown LLC (the "Borrower");

2. The Borrower has entered into the annexed Loan Agreement dated as of _____, 2013 (the "Agreement") with the City of Watertown (the "Lender");

3. The Agreement relates to advances to be made for Project Costs in connection with the rehabilitation of a certain building and improvements located in the City of Watertown, County of Jefferson and State of New York, described with more particularity in the Agreement (the "Improvements");

4. The aggregate amount of the Construction Loan described in the Agreement is \$2,500,000.00;

5. The consideration paid, or to be paid, for the Loan is \$-0-;

6. The expenses incurred or to be incurred in connection with and paid with the proceeds of the Loan are as follows: \$-0-;

7. The amount, if any, to be advanced from the Loan to reimburse the Borrower for costs expended by the Borrower in connection with the Improvements prior to the date hereof is \$-0-;

8. The net sum available to the Borrower from the Loan for the Improvements after the date hereof is \$2,500,000.00;

9. This statement is made pursuant to and in compliance with Section 22 of the New York Lien Law, as amended; and

10. The facts stated above and any costs itemized on this statement are true and accurate.

DAVID GALLO

Sworn to before me this
___ day of _____, 2013.

Notary Public - State of New York

WOOLWORTH WATERTOWN LLC

and

JEFFERSON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

to

CITY OF WATERTOWN

\$2,500,000.00

FEE AND LEASEHOLD MORTGAGE

DATED AS OF _____, 2013

This instrument affects real and personal property situated in the State of New York, City of Watertown and County of Jefferson located at 11 Public Square, Section 10, Block 1, Lot 107.000.

RECORD AND RETURN TO:

Geoffrey J. Cannon, Esq.
Cannon, Heyman & Weiss, LLP
54 State Street, 5th Floor
Albany, New York 12207

MORTGAGE

THIS FEE AND LEASEHOLD MORTGAGE (the “Mortgage”), is made as of the ___ day of _____, 2013, by WOOLWORTH WATERTOWN LLC, a New York limited liability company having its principal place of business at 50 Jericho Quadrangle, Suite 200, Jericho, New York 11753 (the “Owner”) and the JEFFERSON COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body politic and a public benefit corporation of the State of New York, with principal offices at 800 Starbuck Avenue, Watertown, New York 13601 (the “IDA” and together with the Owner, the “Mortgagors”), to the CITY OF WATERTOWN, a municipal corporation of the State of New York having an office 245 Washington Street, Watertown, New York 13601 (“Mortgagee”).

WITNESSETH:

WHEREAS, the Owner has acquired fee title to certain real property located in the City of Watertown and County of Jefferson, State of New York, as such real property is more particularly described in Schedule “A” annexed hereto and made a part hereof (the “Premises”); and

WHEREAS, the Owner has leased the Premises to the IDA pursuant to a certain Company Lease between the Owner and the IDA dated on or about the date hereof (the “Company Lease”); and

WHEREAS, the IDA has subleased the Premises back to the Owner pursuant to a certain Lease Agreement between the IDA and the Owner dated on or about the date hereof (the “Lease Agreement”), all for purposes of undertaking a certain project which will consist of the developing and rehabilitating a rental building, and associated improvements, consisting of approximately fifty (50) residential rental units for persons and families of low-income and approximately 19,413 square feet of retail or commercial space (the “Project”) to be located upon the Premises; and

WHEREAS, this Mortgage is made to secure payment of a loan (the “Loan”) made by the Mortgagee to Owner in the principal amount of Two Million Five Hundred Thousand and 00/100 Dollars (\$2,500,000.00), which Loan is payable according to a certain promissory note executed by the Owner dated as of the date hereof in a like amount (the “Note”). This Mortgage also secures the Mortgagors’ performance and observance of all of the provisions, obligations and covenants under this Mortgage, the Note and all other instruments delivered in connection with the debt evidenced by the Note, including a certain loan agreement, dated as of even date hereof, executed by the Owner and Mortgagee (the “Loan Agreement”). This Mortgage, the Note, the Loan Agreement and all such other documents are hereinafter collectively referred to as the “Loan Documents”;

NOW, THEREFORE, in consideration of the Loan, the Mortgagor hereby mortgages to the Mortgagee all of the Mortgagors’ respective interests in the Premises and the Project.

TOGETHER with all of the Mortgagors’ respective interests in the improvements, buildings and appurtenances now or hereafter erected on the property, and all easements, rents, royalties, rights in and to any land lying in the streets and ways adjacent thereto, mineral, oil and gas rights and profits, water, water rights, all leasehold rights of any kind, now or hereafter obtained and all fixtures now or hereafter attached to or used in connection with the property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, natural gas, water, air and light; all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Mortgage; and all payments at any time owing or due to the Mortgagor by virtue of any sale, lease, transfer, conveyance or condemnation of any part thereof or interest therein including proceeds of insurance, all of which are herein, collectively referred to as the “Mortgaged Property”.

TO HAVE AND TO HOLD UNTO the Mortgagee, its successors and assigns forever.

ARTICLE I

COVENANTS OF THE MORTGAGORS

Section 1.01 Mortgagors each represent and warrant that:

A. Owner is the fee title owner of the Mortgaged Property and the IDA is the owner of a valid leasehold interest in the Mortgaged Property, subject to no lien, charge or encumbrance, other than easements encumbrances and restrictions of record and a construction loan mortgage given by the Mortgagor to TD Bank, N.A. (“TD Bank”) in the principal amount of [Six Million Five Hundred Fifty-Three Thousand Five Hundred Three and 00/100 Dollars (\$6,553,503.00)] (the “Superior Mortgage”) to secure a loan from TD Bank to the Mortgagee.

B. This Mortgage is and shall remain a valid and enforceable mortgage lien on the Mortgaged Property, subject and subordinate to the Superior Mortgage and any extensions, consolidations, modifications (including, without limitation, increases in the principal amount thereof and increases in the interest rate), restatements or renewals thereof. Mortgagor, at its own cost and without expense to Mortgagee, will preserve such title and will defend the validity and priority of the lien hereof against the claims of any and all other persons. The Mortgagee shall not exercise any right of re-entry, reversion or foreclosure or any other remedy described herein unless and until the holders of the Superior Mortgage shall consent thereto or the Superior Mortgage shall be paid in full.

Section 1.02 The Owner will punctually pay such sums as become due under the Note at the time and place and in the manner specified in the Note.

Section 1.03 The Owner will pay, when due, all taxes (or payments in lieu thereof), assessments, water rates and sewer rents, and all other public charges and utilities imposed against the Mortgaged Property. The Owner will, upon the request of Mortgagee, deliver to Mortgagee

receipts evidencing such payments.

Section 1.04 The Owner will keep the Mortgaged Property insured at all times against loss by fire, casualty and other hazards in such amounts as may be required by Mortgagee, or in such greater amounts or coverages as shall be required by the Superior Mortgage, for the benefit of the Mortgagee. Loss payments under all such insurance policies shall be payable to Mortgagee, subject to the rights of the holders of the Superior Mortgage, and such policies shall contain a standard New York mortgagee endorsement. Mortgagee shall allow, subject to the rights of the holders of the Superior Mortgage, insurance proceeds received by it as a result of loss or damage to the Mortgaged Property to be used for purposes of the restoration, repair or replacement of the Mortgaged Property, provided the Owner can demonstrate to the Mortgagee's reasonable satisfaction that sufficient funds are available to complete any such restoration, repair or replacement work.

Section 1.05 The Owner, within ten (10) days upon request in person, or within fifteen (15) days upon request by mail, will furnish to Mortgagee a written statement duly acknowledged by a manager of the Owner certifying the principal amount then outstanding on the Note and certifying that no offsets or defenses exist against the indebtedness evidenced by the Note.

Section 1.06 Owner will, at all times, maintain the Mortgaged Property in good operating order and condition and will promptly make, from time to time, all necessary or desirable repairs, renewals, replacements, additions, and improvements. The Mortgaged Property shall not be removed, demolished or altered without the prior written consent of Mortgagee and subject to compliance with the Superior Mortgage.

Section 1.07 Owner will comply at its own expense with all the laws, ordinances and regulations affecting the Mortgaged Property and the conduct of Owner's business operations.

Section 1.08 The Loan and this Mortgage are subject to the trust fund provisions of Section

ARTICLE II

EVENTS OF DEFAULT AND REMEDIES

Section 2.01 It shall be an event of default (an “Event of Default”) under this Mortgage if:

- (a) default shall be made in the payment of any amount due under the Note and such default shall have continued and remain uncured for a period of thirty (30) days after written notice specifying such default and demanding that the same be remedied shall have been given to Mortgagor and the holders of the Superior Mortgage by Mortgagee; or
- (b) default shall be made in the payment of any tax or other obligation required by Section 1.03 to be paid and such default shall have continued and remain uncured for a period of fifteen (15) days after written notice specifying such default and demanding that the same be remedied shall have been given to Mortgagor and the holders of the Superior Mortgage by Mortgagee; or
- (c) default shall be made in the due observance or performance of any other covenant or condition on the part of Owner contained in the Loan Documents, and such default shall have continued and remain uncured for a period of thirty (30) days after written notice specifying such default and demanding that the same be remedied shall have been given to Mortgagor and the holders of the Superior Mortgage by Mortgagee, or, if such default cannot with due diligence be cured within such period, Owner shall have failed to commence to cure within such period, or having commenced, shall thereafter fail to prosecute and complete such cure with due diligence; or
- (d) Owner shall make an assignment for the benefit of creditors, or shall institute any proceeding seeking relief on its behalf as debtor, or it is adjudicated bankrupt or insolvent.

Upon the occurrence of any such Event of Default, the following remedies are available to

the Mortgagee subject to the terms and the rights of the holders of the Superior Mortgage:

(i) The Mortgagee may accelerate the entire principal amount of the Note then outstanding, together with interest and all other charges due and owing under the Note, by declaring such amounts to be immediately due and payable, and demand full payment thereof; or

(ii) Upon notice to Mortgagor and the holders of the Superior Mortgage, Mortgagee may enter into and upon the Mortgaged Property, may exclude Owner from the Mortgaged Property and may use, operate, manage and control the Mortgaged Property and conduct the business thereof; and upon every such entry, Mortgagee, at the expense of the Owner, subject to the rights of the holders of the Superior Mortgage,

(a) make all necessary or proper repairs, renewals and replacements and such useful alterations, additions, betterments and improvements thereto and thereon as it may deem advisable, and

(b) complete the construction of the Mortgaged Property and Mortgagee shall be entitled to collect and receive any and all income of the Mortgaged Property; and after deducting the expenses of conducting the business thereof and of all maintenance and improvements and amounts necessary to pay for taxes, assessments, insurance or other proper charges upon Mortgaged Property, as well as all costs and expenses of, and reasonable compensation for the services of, Mortgagee or its attorneys, contractors, agents and employees, Mortgagee shall apply such income first to the payment of the principal amount of the Note, the interest and charges thereon, and second to the payment of any other sums required to be paid by Owner under the Note and under this Mortgage. No such entry or action by Mortgagee shall create any liability to Mortgagor to any party holding under or claiming through Mortgagor, nor shall such entry or action be deemed an eviction of any lessee of the Mortgaged Property or any part thereof; or

(iii) with or without entry, and subject to the provisions of the Superior Mortgage, Mortgagee may institute proceedings for the foreclosure of this Mortgage; or

(iv) Mortgagee may take such steps to protect and enforce its rights, whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement contained in the Loan Documents and this Mortgage, or in aid of the execution of any power herein or therein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy as Mortgagee shall elect; or

(v) Mortgagee may pay any and all taxes due and owing on the Mortgaged Property and any and all payments due on any other mortgages, liens or other claims affecting the property. Such expenditures shall be at the expense of the Owner and secured by this Mortgage.

Section 2.02 (a) Subject to the satisfaction and discharge of the Superior Mortgage, the proceeds of any foreclosure sale shall be applied in the following order of priority:

(i) To the payment of the costs and expenses of such sale, including reasonable compensation to Mortgagee's agents and counsel, any judicial proceedings, the expenses of any receiver, and of all expense, liabilities and advances made or incurred by Mortgagee under this Mortgage, including the costs of taking possession of, maintaining and preserving the Mortgaged Property, and of completing the rehabilitation and renovation of the Mortgaged Property, and all taxes or assessments, except any taxes, assessments or other charge subject to which the Mortgaged Property shall have been sold;

(ii) To the payment of any amounts due, owing or unpaid upon the Note; and

(iii) To the payment of the surplus, if any, to whomever may be lawfully entitled to receive the same.

(b) Upon any sale made under or by virtue of this Article II, judicial proceedings or of a

judgment or decree of foreclosure and sale, Mortgagee may bid for and acquire the Mortgaged Property or any part thereof and may credit to the purchase price the amount required to be paid by Owner to the Mortgagee and secured by this Mortgage, the expenses of the sale, the costs of the action and any other sums which Mortgagee is authorized to collect on this Mortgage.

Section 2.03 No remedy herein conferred upon or reserved to Mortgagee is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given under the Loan Documents or hereunder or now or hereafter existing at law or in equity. No delay or failure of Mortgagee to exercise any right, power or remedy hereunder or under the Loan Documents shall impair any such remedy of Mortgagee or shall be construed to be a waiver thereof. No waiver of any breach shall constitute a waiver of any other then existing or subsequent breach.

Section 2.04 After the happening of any Event of Default and during its continuance, Mortgagee shall be entitled to the appointment of a receiver of the Mortgaged Property and of any and all the income thereof.

Section 2.05 Notwithstanding any agreement, representation, warranty or undertaking set forth in this Mortgage or the Loan Documents, it is agreed that neither Mortgagee, any successor or assign of the Mortgagee nor any other person shall have any claim to proceed personally against Mortgagor, its partners, any officer, director, employee or agent thereof or any other person having an interest in the Mortgaged Property, or any assignee, successor, heir or representative of any of the foregoing, for any deficiency or any other sum owing by virtue of this Mortgage, the Note or the Loan Documents or for any obligation or liability hereto or thereunder, and Mortgagee for itself and any successor Mortgagee waives and releases such personal liability and agrees to look solely to the

Mortgaged Property for any sums due with respect to this Mortgage, the Note and the Loan Documents.

ARTICLE III

MISCELLANEOUS

Section 3.01 In the event any one or more of the provisions contained in this Mortgage or the Loan Documents shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Mortgage, but this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

Section 3.02 All notices hereunder shall be in writing and shall be deemed to have been sufficiently given or served for all purposes when sent by certified or registered mail, return receipt requested, to the addresses set forth above, or at such other address to which the party to receive such notice shall have notified the party giving such notice in writing, except that any notice of such a change of address shall be deemed given when it is received.

Section 3.03 All of the covenants, terms, provisions and conditions herein shall run with the land, shall apply to and bind the successors and assigns of Mortgagor and all subsequent owners, encumbrances and tenants of the Mortgaged Property, and shall inure to the benefit of the successors and assigns of Mortgagee and all subsequent holders of this Mortgage.

Section 3.04 This Mortgage shall be construed and enforced in accordance with and shall be governed by the laws of the State of New York.

Section 3.05 This Mortgage may be amended or modified only by a written instrument executed by Mortgagee and Mortgagor.

[Signature Page Follows]

IN WITNESS WHEREOF, this Mortgage has been duly executed by Mortgagor as of the date first written above.

WOOLWORTH WATERTOWN LLC.

By: Woolworth Watertown Managers LLC, its
Managing Member

By: G & G Woolworth LLC, Manager

By: G & G Property Holdings, LLC, Sole Member

By: _____
Name:
Title:

JEFFERSON COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Name:
Title:

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

On the ____ day of _____, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his/her capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public - State of New York

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

On the ____ day of _____, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his/her capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public - State of New York

SCHEDULE "A"
DESCRIPTION OF PROPERTY

PROMISSORY NOTE

\$2,500,000.00

_____, New York
_____, 2013

FOR VALUE RECEIVED, WOOLWORTH WATERTOWN LLC, a New York limited liability company (“Borrower”), with an office at 50 Jericho Quadrangle, Suite 200, Jericho, New York 11753, promises to pay to the order of the CITY OF WATERTOWN, a municipal corporation of the State of New York (the “Lender”), with an office at 245 Washington Street, Watertown, New York 13601, or, at the option of the holder of this Note (the “Holder”), at such other place as may be designated in writing from time to time by the Holder, the principal sum of Two Million Five Hundred Thousand and 00/100 Dollars (\$2,500,000.00) in lawful money of the United States of America, or so much thereof as may be advanced pursuant to a certain loan agreement dated the date hereof between Borrower and Lender (the “Principal Sum”), plus interest thereon computed at the rate and in the manner described below.

The following terms shall have the following meanings:

- (a) “Closing Date” shall mean the date set forth above.
 - (b) “Event of Default” shall mean any default or non-compliance with this Note or any Event of Default under the Mortgage which shall remain uncured after notice and the opportunity to cure provided in such documents.
 - (c) “Interest Rate” shall mean zero percent (0%) per annum.
 - (d) “Maturity Date” shall mean the [fortieth (40th)] annual anniversary of the Closing Date.
 - (e) “Mortgage” shall mean a mortgage in the principal amount of \$2,500,000.00, held by the Holder securing this Note.
1. Interest shall accrue on the outstanding principal balance of this Note (only) at the Interest Rate from the date(s) on which the Principal Sum or portions thereof are advanced to the Borrower through and including the Maturity Date.
 2. On the Maturity Date the entire unpaid principal balance of this Note, and all accrued but unpaid interest, shall be immediately due and payable.
 3. All parties to this Note:
 - (a) Agree that this Note shall be secured by the Mortgage, and that all the covenants, terms and conditions of Mortgage (including all rights of acceleration) are made a part hereof;

(b) Agree that the occurrence of any Event of Default under the Mortgage shall be an Event of Default hereunder and (at the option of the Holder) cause the entire Principal Sum to become immediately due and payable, and that failure of the Holder to exercise such option shall not constitute a waiver of the right to exercise the same thereafter;

(c) Severally waive presentment for payment, demand, protest, notice of protest, and notice of dishonor;

(d) Agree that the agreements herein made and expressed shall not be changed, modified, waived or discharged orally; and

(e) Agree that the Borrower shall pay all costs and expenses incurred by the Holder in enforcing this Note or in collection of the Principal Sum, including, without limitation, if the Holder retains counsel for any such purpose, reasonable attorneys' fees and expenses.

4. This Note is subject to the express condition that at no time shall the Borrower be obligated or required to pay, nor shall the Holder be permitted to collect, interest at a rate in excess of the maximum rate permitted by law. If by the terms of this Note or any related loan documents, the Borrower is required to pay interest at a rate in excess of such maximum rate, the rate of interest shall be deemed to be reduced immediately to such maximum rate, and every such excess payment previously made shall be immediately and automatically applied to the unpaid balance of the Principal Sum and not to the payment of interest.

5. The Holder of this Note agrees that for payment of this Note it will look solely to the premises described in the Mortgage and such other collateral, if any, as may now or hereafter be given to secure payment of this Note, and no other property or assets of the Borrower shall be subject to levy, execution or other enforcement procedures of any kind or character. This Note shall be nonrecourse to the Borrower, and none of the Borrower or any partner, officer, director or employee thereof, or any other person, shall be responsible or liable for the payment or performance of the covenants and obligations contained in this Note or the Mortgage.

6. This Note shall be governed by and construed according to the laws of the State of New York.

7. This Note may be prepaid, in whole or in part, at any time without premium or penalty.

[Signature Page Follows]

IN WITNESS WHEREOF, this Note has been executed as of the date set forth above.

WOOLWORTH WATERTOWN LLC

By: Woolworth Watertown Managers LLC, its
Managing Member

By: G & G Woolworth LLC, Manager

By: G & G Property Holdings, LLC, Sole Member

By: _____

Name:

Title:

Res No. 5

October 28, 2013

To: The Honorable Mayor and City Council

From: Kenneth A. Mix, Planning and Community Development Coordinator

Subject: Authorizing Budget Modification No. 2 Request for FY 2011
Small Cities Community Development Block Grant

The 2011 Small Cities Community Development Block Grant is funding the rental rehabilitation program. The grant budget contains three activities: Multi-Unit Rehabilitation, Program Delivery and Grant Administration. The Office of Community Renewal has to approve any shifting of funds from one activity to another.

We are nearing the completion of the renovation of nineteen rental units with the 2011 funds and need to reconcile the budget for each activity with what will actually be spent. The amount committed to rehabilitation projects exceeds the Budget by \$3,457, but there will be money left in Administration.

The proposed budget modification shifts \$3,457 from Grant Administration to Multi-Unit Rehabilitation. A resolution authorizing the budget modification request has been drafted for City Council consideration.

Resolution No.

November 4, 2013

RESOLUTION

Page 1 of 1

Authorizing Budget Modification No. 2 Request for
FY 2011 Small Cities Community Development
Block Grant

Council Member BURNS, Roxanne M.
 Council Member BUTLER, Joseph M. Jr.
 Council Member MACALUSO, Teresa R.
 Council Member SMITH, Jeffrey M.
 Mayor GRAHAM, Jeffrey E.

Total

YEA	NAY

Introduced by

WHEREAS the Grant Agreement with the New York State Housing Trust Fund Corporation represented by the Office of Community Renewal for the City of Watertown’s FY 2011 Small Cities Community Development Block Grant contains budget amounts for each activity, and

WHEREAS a budget modification must be approved by the Office of Community Renewal if the budget amounts are to be altered, and

WHEREAS to allow the shifting of funds from Grant Administration to Multi-Unit Rehabilitation as shown on Form 7-1, which is attached and made part of this resolution,

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Watertown, New York, that it hereby authorizes the proposed Budget Modification No. 2 request for the FY 2011 Small Cities Community Development Block Grant, and

BE IT FURTHER RESOLVED that the Mayor, Jeffrey E. Graham, is hereby authorized and directed to sign the budget modification form on behalf of the City.

Seconded by

FORM 7-1

BUDGET MODIFICATION*

Recipient: City of Watertown

Project #: 1207HR57-11

Modification #: 2

OFFICE USE ONLY	ACTIVITY	OFFICE OF COMMUNITY RENEWAL APPROVED BUDGET			PROPOSED MODIFICATION (+/-)		AFTER MODIFICATION			
		IDIS #	NAME/USE	CDBG	OTHER SOURCES	TOTAL	CDBG	OTHER SOURCES	Budget	
CDBG	OTHER SOURCES								TOTAL	CDBG
	Multi-Unit Rehabilitation	\$328,000.00	\$540,000.00	\$868,000.00	\$3,457.00	\$0.00	\$331,457.00	\$540,000.00	\$871,457.00	\$0.00
	Multi-Unit Program Delivery	\$42,750.00	\$0.00	\$42,750.00	\$0.00	\$0.00	\$42,750.00	\$0.00	\$42,750.00	\$0.00
	Grant Administration	\$29,250.00	\$0.00	\$29,250.00	-\$3,457.00	\$0.00	\$25,793.00	\$0.00	\$25,793.00	\$0.00
		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Certification to the best of my knowledge and belief the modification indicated have been duly authorized by the governing body of the applicant.

Signature of Chief Elected Official _____ Date _____
 Jeffrey Graham _____ Mayor
 Typed Name of Chief Elected Official _____ Title _____

For Office Use Only		FMS Budget Modified Date: _____	Initials: _____
Program Staff Review _____ (Update FMS Substages 201/211 & 202/212)			
Approved: _____	Denied: _____	Date: _____ (Update FMS Substage 203/213)	Authorized Signature: _____ Title: _____

* MODIFICATIONS TO BUDGET ALSO MODIFY SCHEDULE B OF THE NYS CDBG AGREEMENT. BUDGET MODIFICATIONS MUST BE REFLECTED ON ALL FUTURE REQUESTS FOR FUNDS REQUEST FOR FUNDS FORM 1-4A, COLUMN A)

Res No. 6

October 29, 2013

To: The Honorable Mayor and City Council

From: Sharon Addison, City Manager

Subject: Approving Agreement Between the New York State Unified Court System and the City of Watertown

Chapter 686 of the Laws of 1996 requires the State of New York to contract with political subdivisions of the State for the cleaning of court facilities, as well as minor emergency repairs to the facilities.

As the landlord for the State's City Court facilities, the City of Watertown has been asked to enter into an Agreement to provide the aforementioned services. The term of the Agreement is effective April 1, 2013 for a maximum of five (5) years through March 31, 2018, unless terminated earlier or extended pursuant to its terms. The initial period of this contract is April 1, 2013 through March 31, 2014.

Once this Agreement is approved by the City Council, the City will submit the required budget documents to the NYS Unified Court System for approval and the budget will be incorporated as Appendix B of this Agreement.

A resolution has been prepared for City Council consideration.

RESOLUTION

Page 1 of 1

Approving Agreement Between the
New York State Unified Court System
and the City of Watertown

Council Member BURNS, Roxanne M.
 Council Member BUTLER, Joseph M. Jr.
 Council Member MACALUSO, Teresa R.
 Council Member SMITH, Jeffrey M.
 Mayor GRAHAM, Jeffrey E.

Total

YEA	NAY

Introduced by

WHEREAS the City of Watertown is required by law to furnish and maintain adequate court facilities for use by Trial Courts of the State of New York, and

WHEREAS Chapter 686 of the Laws of 1996 was enacted to invest the State of New York with the fiscal responsibility of managing the interior cleaning of court facilities and performance of minor repairs therein, and with the ability to cover the cost thereof, and

WHEREAS Chapter 686 of the Laws of 1996 requires the State of New York to contract with political subdivisions of the State for the cleaning of court facilities, as well as minor emergency repairs thereof, and

WHEREAS the City of Watertown is responsible for furnishing and maintaining the City Court facility,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown approves the Agreement between the New York State Unified Court System and the City of Watertown, a copy of which is attached and made a part of this resolution, and

BE IT FURTHER RESOLVED that the City Manager, Sharon Addison, is hereby authorized and directed to execute this Agreement on behalf of the City of Watertown.

Seconded by



STATE OF NEW YORK
UNIFIED COURT SYSTEM
FIFTH JUDICIAL DISTRICT
ONONDAGA COUNTY COURTHOUSE
600 S. STATE STREET
SYRACUSE, NEW YORK 13202-3099
(315) 671-2111
FAX: (315) 671-1175

J. GAIL PRUDENTI
Chief Administrative Judge

MICHAEL V. COCCOMA
Deputy Chief Administrative Judge
Courts Outside New York City

JAMES C. TORMEY
Justice of Supreme Court
District Administrative Judge
Fifth Judicial District

MICHAEL A. KLEIN, ESQ.
District Executive

JAMES P. SHANAHAN
Principal Administrative
Assistant

October 25, 2013

Sharon Addison, City Manager
City of Watertown
City Hall, Suite 105
Watertown, NY 13601

Dear Ms. Addison,



Enclosed please find two original contracts between the City of Watertown and the New York State Unified Court System. These contracts are for the purpose of court cleaning and minor repairs, as well as preventative building and property maintenance.

Please sign and date them and return to me. Our Director of Financial Management, Maureen McAlary, will sign them and I will return a copy to you for your records.

Thank you for your cooperation and assistance in helping us keep our Courts clean and maintained.

Sincerely,

A handwritten signature in cursive script that reads "Angela Albanese".

Angela Albanese
Sr. Court Analyst
Unified Court System

aa/enclosures

**AGREEMENT BETWEEN THE
NEW YORK STATE UNIFIED COURT SYSTEM
AND
CITY OF WATERTOWN**

This Agreement, between the New York State Unified Court System ("UCS"), with an address at 25 Beaver Street, New York, New York 10004, and the:

City of Watertown
City Hall, Suite 105
Watertown, NY 13601

("Municipality"), is for the purpose of obtaining cleaning services for the interior of the

City of Watertown ("Court Facilities") as well as minor and
emergency repairs, and preventive building and property maintenance services for that facility.

WHEREAS, counties and cities are required by law to furnish and maintain adequate court facilities for use by trial courts of the State of New York; and

WHEREAS, Chapter 686 of the Laws of 1996 was enacted to invest the State of New York with the fiscal responsibility of managing the interior cleaning of COURT FACILITIES and the performance of minor repairs therein, and with the ability to cover the costs thereof; and

WHEREAS, Chapter 686 of the Laws of 1996 requires the State of New York to contract with political subdivisions of the State for the cleaning of court facilities, as well as minor and emergency repairs thereof, and

WHEREAS, MUNICIPALITY is responsible for furnishing and maintaining COURT FACILITIES;

NOW, THEREFORE, in consideration of the promises herein contained, the parties agree as follows:

I. TERM

A. When signed by the parties and approved by all necessary government agencies, the Agreement shall be effective beginning **April 1, 2013** for a maximum of five (5) years through **March 31, 2018**, unless terminated earlier or extended pursuant to its terms. This term shall consist of parts or Periods (hereinafter "Period"), each of which shall have its own maximum amount of monetary reimbursement by UCS to MUNICIPALITY for that Period.

B. The initial Period of this maximum five-year term shall commence on **April 1, 2013** and terminate on **March 31, 2014**.

C. The parties agree that a change in the dates of each subsequent Period, as well as the maximum compensation and budget for that Period and any revised scope of services for that Period, shall be established by the mutual written agreement of the parties, and shall be subject to

approval by the Comptroller of the State of New York in cases where the annual budget increase over the prior Period exceeds four (4) percent. The budget, scope of services and maximum compensation for each Period will be attached to and incorporated into the agreement as Appendix B for the applicable Period. Appendix B for the initial Period is attached hereto and incorporated herein.

D. Upon completion of the five-year contract, UCS will submit to the Office of the State Comptroller (OSC) a cumulative reconciliation identifying approved contract amounts and actual expenditures for each budget category listed in Appendix B. Upon OSC review and approval of the reconciliation, OSC will eliminate any remaining contract authority.

II. EXTENSION AND TERMINATION

A. This Agreement may be extended only by written agreement of the parties and approval by all necessary government agencies.

B. If at any time the Chief Administrator or her/his designee determines that MUNICIPALITY is not adequately providing services pursuant to this Agreement or that MUNICIPALITY is otherwise violating any material provision(s) of this Agreement, UCS may, upon approval by the Court Facilities Capital Review Board pursuant to section 39-b of the New York State Judiciary Law, implement an alternative plan for the cleaning of the interior of the COURT FACILITIES, including but not limited to, a plan pursuant to which MUNICIPALITY continues to perform some of the services described in Section III below, and UCS may contract with a third party to perform the remaining services described in Section III below.

III. SCOPE OF SERVICES

A. MUNICIPALITY shall, in accordance with the provisions of 22 NYCRR Parts 34.1 and 34.2 provide for the cleaning of the interior of COURT FACILITIES including all facilities used for the transaction of business by state-paid courts and court-related agencies of UCS and by judicial and nonjudicial personnel thereof, including rooms and accommodations for the courts and court-related agencies of UCS, the judges, justices and the clerical, administrative and other personnel thereof. Specific tasks to be performed and the cost associated with those tasks shall be as delineated in the Appendix B for the applicable Period.

B. MUNICIPALITY shall be responsible for the performance of all minor repairs to the interior of COURT FACILITIES as are required to replace a part, to put together what is torn or broken, or to restore a surface or finish, where such repairs are needed to preserve and/or to restore the COURT FACILITIES to full functionality.

C. MUNICIPALITY shall be responsible for the performance of emergency repairs to the interior of the COURT FACILITIES necessitated by a sudden and unexpected failure or by some accident or external force, resulting in a situation that adversely affects the suitability and sufficiency of the COURT FACILITIES for the dignified transaction of the business of the courts.

D. MUNICIPALITY's performance of the building and property maintenance work specified in the Appendix B for the applicable Period is included within the scope of this Agreement.

E. MUNICIPALITY shall maintain and operate the COURT FACILITIES in accordance with 22 NYCRR Parts 34.1 and 34.2.

IV. **INSPECTION OF COURT FACILITIES**

UCS shall cause an inspection of the COURT FACILITIES to ensure that MUNICIPALITY is complying with 22 NYCRR Parts 34.1 and 34.2, at least quarterly during the initial Period of this Agreement and any subsequent Period thereof and at any such other times as UCS shall deem necessary. At the conclusion of each such inspection, UCS shall notify MUNICIPALITY in writing that the inspection was completed. If UCS finds that MUNICIPALITY is not in compliance with 22 NYCRR Parts 34.1 and 34.2, or has not performed specific tasks as set forth in Appendix B, such written notice shall specify the specific provisions of 22 NYCRR Parts 34.1, 34.2 and/or Appendix B with which MUNICIPALITY is not in compliance. MUNICIPALITY shall correct the deficiency within twenty-four (24) hours after receiving such written notice or within such other amount of time as is mutually agreed upon, in writing, by the parties. MUNICIPALITY shall notify UCS, in writing, when such deficiency is corrected.

V. **MAINTENANCE OF EFFORT**

A. Nothing in this Agreement alters or affects the obligations of MUNICIPALITY to provide goods and services to the COURT FACILITIES pursuant to section 39 of the New York State Judiciary Law.

B. MUNICIPALITY shall certify in each Claim for Payment submitted to UCS pursuant to Section VII below that it has complied with section 39 of the New York State Judiciary Law during the time covered by the Claim for Payment.

VI. MAXIMUM COMPENSATION

Except as provided in section VII (F) below, the maximum total compensation to MUNICIPALITY from UCS for the services provided pursuant to this Agreement for any Period shall not exceed the amount approved for reimbursement as set forth in the Appendix B applicable to the Period.

VII. REIMBURSEMENT AND PAYMENT

A. On or before May 1 of the initial Period of this Agreement, MUNICIPALITY shall submit to UCS, on a form prescribed by UCS, a proposed itemized interim budget detailing the services to be provided pursuant to this Agreement and the projected costs MUNICIPALITY expects to incur in providing those services during the initial Period of this Agreement. UCS shall notify MUNICIPALITY, in writing, of the extent to which the proposed scope of services and projected costs detailed in such proposed itemized interim budget have been approved for reimbursement in accordance with Chapter 686 of the Laws of 1996 and Chapter 213 of the Laws of 1998 as soon thereafter as is practicable. Pursuant to Section I(C) above, the final approved scope of services and reimbursement amounts for the initial Period are appended to this Agreement as Appendix B.

B. On or before August 1 of the initial Period of this Agreement and each subsequent Period thereof, MUNICIPALITY shall submit to UCS, on a form prescribed by UCS, a proposed itemized budget detailing the services to be provided pursuant to this Agreement and the projected costs MUNICIPALITY expects to incur in providing those services during New York State fiscal year commencing April 1 next thereafter. MUNICIPALITY may include in such proposed itemized budget any unreimbursed balance remaining for services performed pursuant to Section III(C) above during the immediately preceding Period of this Agreement. UCS shall notify MUNICIPALITY, in writing, of the extent to which the proposed services and projected costs detailed in such proposed itemized budget have been approved for reimbursement in accordance with Chapter 686 of the Laws of 1996 and Chapter 213 of the Laws of 1998 for such next commencing fiscal year no later than the first day of March after the proposed itemized budget has been submitted, or as soon thereafter as is practicable. Pursuant to Section I(C) above, the final approved scope of services and reimbursement amounts shall be appended to this Agreement as Appendix B for the applicable Period.

C. During the term of this Agreement, MUNICIPALITY shall be reimbursed for the costs actually expended in the provision of services pursuant to this Agreement in accordance with and not exceeding the amounts set forth in the Appendix B applicable to the Period. Subject to subdivisions E and F below, reimbursement shall be made upon approval by UCS of a Claim for Payment submitted to UCS by MUNICIPALITY as described in subdivision D below, in a format approved by UCS and the Office of the State Comptroller.

D. No later than thirty (30) days after the end of every quarter during which this Agreement is in effect, MUNICIPALITY shall submit a Claim for Payment to UCS, showing the actual expenses incurred by MUNICIPALITY during the immediately preceding quarter and the amount of reimbursement claimed. Such Claim for Payment shall include the certification referred to in Section V above and a certification that MUNICIPALITY is in compliance with the Maintenance and Operations standards set forth in 22 NYCRR Parts 34.1 and 34.2. Upon receipt and approval of the Claim for Payment, UCS shall certify said Claim for Payment to the State Comptroller for payment of the amount of reimbursement approved by UCS for payment to MUNICIPALITY. Nothing contained herein shall increase the maximum amount payable to MUNICIPALITY as set forth in Section VI above and in the Appendix B applicable to the Period.

E. Notwithstanding any other provision of this Agreement, MUNICIPALITY shall not be reimbursed for the costs of any services performed pursuant to this Agreement under the following circumstances:

(1) UCS has performed an inspection of the COURT FACILITIES pursuant to Section IV above, and MUNICIPALITY has failed to correct a violation within twenty-four (24) hours after receiving written notice thereof or within such other amount of time as was mutually agreed upon, in writing, by the parties; or,

(2) The need for the services performed pursuant to this Agreement is due to MUNICIPALITY's failure to follow the Maintenance and Operation Standards for Court Facilities set forth in 22 NYCRR Parts 34.1 and 34.2, as determined by UCS; or,

(3) The services performed pursuant to this Agreement will be undertaken in lieu of replacement of a building system that, in accordance with MUNICIPALITY's normal and usual policies, procedures and practice, should be replaced; or

(4) Except as provided in subdivision F of this section, the services performed were not approved for reimbursement pursuant to subdivision A or B of this Section during the New York State fiscal year for which the Claim for Payment is submitted; or

(5) Pursuant to the New York State laws, rules and regulations to which MUNICIPALITY is subject, and to MUNICIPALITY's own normal and usual policies, procedures and practices, the services to be performed pursuant to this Agreement are being or could be bonded;

F. Notwithstanding that such cost was not approved in advance by UCS pursuant to subdivision A or B of this section, MUNICIPALITY may be reimbursed for the cost of services performed pursuant to Section III (C) of this Agreement up to the amount of \$15,000 during each Period of this Agreement.

MUNICIPALITY shall submit a request for reimbursement of the cost of such services on a standard Claim for Payment to UCS showing an itemized account of the services performed and the costs thereof. Upon receipt and approval of the Claim for Payment UCS shall certify said Claim for Payment to the State Comptroller for payment thereof to MUNICIPALITY.

VIII. AUDITING OF BOOKS

A. The Comptroller of the State of New York and UCS shall have the right to perform both pre and post-audits of the books of account of MUNICIPALITY with respect to the expenditures made or expenses incurred pursuant to this Agreement. Such books of account shall be open to inspection by the Comptroller of the State of New York and UCS at any mutually convenient time or times. Financial records of MUNICIPALITY pertaining to this Agreement shall be retained by MUNICIPALITY for a minimum of six (6) years after the expiration of this Agreement.

B. The UCS shall be entitled to recover any amounts paid to MUNICIPALITY, which are subsequently disallowed pursuant to a final audit.

IX. NOTICES

All notices to be given under this Agreement shall be made in writing and delivered either personally or by regular mail to MUNICIPALITY at its address as set forth herein and to UCS, attention:

Michael A. Klein, District Executive
Unified Court System
Fifth District Administrative Office
600 S. State St., Room 300
Syracuse, NY 13202

or to such person or such address as each party may provide in writing from time to time. Any such notice shall be deemed to have been given when delivered, if by personal delivery, or when deposited with the US Postal Service, three (3) days after mailing.

X. **MISCELLANEOUS PROVISIONS**

A. Appendix A, containing standard terms for New York State contracts, is attached hereto and made a part hereof.

B. The terms and conditions of this Agreement, together with its appendices and any documents incorporated herein by reference, represent the full understanding of the parties with regard to the subject matter hereof. This Agreement may be amended only upon the mutual written agreement of the parties hereto. Any amendment is subject to the approval of OSC.

C. The headings used in this Agreement are for reference purposes only and shall in no way be deemed to define, limit or describe the scope or intent of this Agreement, or any provision thereof, or in any way affect this Agreement.

D. If any term or provision of this Agreement shall be found to be illegal or unenforceable, then that term or provision shall be deemed stricken and the remaining provisions of this Agreement shall remain in full force and effect.

E. This Agreement and the performance of the obligations of each party hereunder shall be governed by and construed in accordance with the laws rules and regulations of the State of New York.

F. No failure by UCS to insist upon the strict performance of any covenant, term or condition of this Agreement, or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial performance during the continuance of any such breach, shall constitute a waiver of any such breach or such covenant, term or condition. No covenant, term or condition of this Agreement to be performed or complied with by Contractor, and no breach thereof, shall be waived, altered, or modified except by a written instrument executed by UCS. No waiver of any breach shall affect or alter this Agreement but each and every covenant, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

NYS Contract Number C300305

UCS Certification

UCS certifies that an original or photocopy of this signature page will be attached to every exact copy of this Agreement.

For: Municipality
City of Watertown

For: NEW YORK STATE
UNIFIED COURT SYSTEM

Name: Sharon Addison

Title: City Manager

Dated: _____

Maureen McAlary, Director
Division of Financial Management

Dated: _____

Ord No. 1

October 25, 2013

To: The Honorable Mayor and City Council
From: Sharon Addison, City Manager
Subject: Code Enforcement Fees

At the October 15, 2013 City Council Work Session, Staff was directed to prepare an Ordinance which stipulates the \$150.00 administration fee charged when Code Enforcement directs the Department of Public Works to remedy a violation. City Council also allowed the City Manager to have the authorization to abate that fee as appropriate.

Attached for Council's consideration is an ordinance that addresses these two directives.

ORDINANCE

Page 1 of 1

Amending City Municipal Code
§ A320-10

Introduced by

Council Member BURNS, Roxanne M.
 Council Member BUTLER, Joseph M. Jr.
 Council Member MACALUSO, Teresa R.
 Council Member SMITH, Jeffrey M.
 Mayor GRAHAM, Jeffrey E.
 Total

YEA	NAY

BE IT ORDAINED that Section A320-10, Schedule of Fees, of the City Code of the City of Watertown is hereby amended to add Section F. below to read as follows:

§ A320-10. Schedule of fees.

F. A fee of \$150.00 shall be levied by the City Engineering Department for enforcement of Section 53 of the City Charter and Sections 98.1, 161.1, 172-4, 265-24, and 310-27 of the City Code when City Code Enforcement and/or City Health Officer has determined that the violation must be remedied by the City of Watertown. This fee is in addition to any actual costs incurred by the City to remedy the violation. City Council hereby grants the City Manager the authority to abate the \$150.00 fee if the City Manager determines such abatement to be appropriate.

and,

BE IT FURTHER ORDAINED that this amendment shall take effect as soon as it is printed as directed by the City Manager.

Seconded by

Tabled

November 1, 2013

To: The Honorable Mayor and City Council
From: Sharon Addison, City Manager
Subject: City Employee Vision and Dental Insurance Plan

The attached resolution was included in the September 3, 2013 agenda. At that time, City Council elected to table the resolution because of their desire for more information on the matter. The resolution was moved from the table on September 16 for further discussion and tabled once again pending additional information.

On May 20, 2013, City Council approved the Vision and Dental Plan for City Employees, with premiums at no cost to the City, through the Guardian Network and administered by Relph Benefit Advisors effective April 1, 2013.

The plan sponsor, the City of Watertown, is obligated by federal law, the Employee Retirement Income Security Act of 1974, to offer COBRA to qualified beneficiaries who lose coverage. In order to ensure the City of Watertown remains compliant with federal law, our plan administrator performs COBRA notification and administration activities. Further discussion with an ERISA legal expert confirmed that the administrative fees cannot be incurred by individual employees.

Relph Benefit Advisors has revised their Agreement to reflect no cost to the City for these services. Attached for Council consideration is the tabled resolution for approval.

September 3, 2013

RESOLUTION

Page 1 of 1

Approving Agreement for Services for Vision and Dental City Employee Plan, Relph Benefit Advisors

Council Member BURNS, Roxanne M.
 Council Member BUTLER, Joseph M. Jr.
 Council Member MACALUSO, Teresa R.
 Council Member SMITH, Jeffrey M.
 Mayor GRAHAM, Jeffrey E.

Total

YEA	NAY

Introduced by

Council Member Teresa R. Macaluso

WHEREAS the City of Watertown approved on May 20, 2013 to allow its employees to participate in a vision and dental insurance policy as an Employee Welfare Benefits Plan within the meaning of the ERISA, which benefit is available to all City employees, and

WHEREAS in order to comply with the Employee Retirement Income Security Act, Relph Benefit Advisors will administer the COBRA plan on our behalf,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby approves the Agreement for Services with Relph Benefit Advisors, attached hereto and made part of this resolution, and

BE IT FURTHER RESOLVED that City Manager Sharon Addison is hereby authorized and directed to execute this Agreement on behalf of the City of Watertown.

Seconded by Council Member Joseph M. Butler Jr.

Agreement for Services

Agreement made this _____ day of _____, 2013, between City of Watertown, hereinafter referred to as "Employer," and Relph Benefit Advisors, including its affiliate Flexible Benefits System, Inc., hereinafter collectively referred to as "RBA".

Whereas, Employer is the Plan Sponsor for purposes of the Employee Retirement Income Security Act responsible for the administration of its employee benefit program; and

Whereas, Employer wants to retain RBA to provide administrative benefit relief services and to assist with Employer obligations; and

Now, therefore, in consideration of the promises and of the mutual covenants and agreements contained herein, the Employer and RBA agree as follows:

1. RBA agrees to offer administrative services relief to Employer, which may include administration of all applicable health insurance plans, COBRA services, Flexible Spending Accounts (FSA), Health Reimbursement Arrangements (HRA) and wellness programs. Attached Exhibit "A" will reflect the actual services to be provided as requested by Employer. RBA however shall not be responsible for the consequences of any action taken or omitted by the Employer as Plan Sponsor or Plan Administrator in connection with the administration of the Plan.
2. As designated on Exhibit "A", RBA agrees to make available COBRA services, FSA – cafeteria compensation plan, a HRA plan, all in accordance with Internal Revenue Code §125, §105(h) and all other applicable sections.
3. Employer designates and appoints RBA to perform the functions and duties necessary to prepare, implement and operate within the direction and scope and on behalf of Employer.
4. Employer agrees to provide employee/plan information to RBA in a format compatible and acceptable to RBA. Employer agrees that RBA will rely on the information provided by Employer in the performance of their duties under this Agreement.
5. RBA shall have the right to retain outside services, when deemed appropriate and economically feasible.
6. Employer agrees to provide all data as requested and to make necessary payroll deductions and assist RBA in implementing and operating its employee benefits program.
7. Employer has named RBA as Agent of Record for services as designated on Exhibit "A" and will utilize RBA as their agents or brokers in providing fringe benefits to employees for all benefit plans designated, now in place, introduced or elected in the future, while this contract is in place, which may include some or all of the following services:
 - Medical
 - Dental
 - Vision
 - Life
 - Accidental Death & Dismemberment
 - NYS Disability
 - Short Term Disability
 - Long Term Disability
 - Voluntary Benefit Plans
 - Employee Assistance Program (EAP)
 - COBRA
 - Flexible Spending Account(s)
 - Health Reimbursement Arrangement(s)
 - Administrative Services
 - Wellness Program
8. Employer agrees to keep all RBA documents confidential and to treat them as proprietary and agrees to restrict the use and agrees not to disclose details of the plan design(s) and/or supplemental documents to other parties unless Employer has received written permission from RBA or except where authorized or required by law. This section shall survive the termination of this Agreement.
9. Employer agrees to pay RBA an administrative fee for service based on the most current attached Exhibit "A", which may be updated annually or from time to time with 30 days prior written notice. Employer shall be billed and payment due 30 days from date billed.

General Terms:

10. **Term.** The term of this Agreement shall be for the following period: April 1, 2013 through December 31, 2014; and shall automatically renew.
11. **Termination.** This Agreement may be terminated upon any of the following:
 - a. Expiration of this Agreement
 - b. Written mutual agreement of parties to terminate
 - c. Written notice to Employer or RBA should either party materially fail to comply with the terms of this Agreement
 - d. Sixty (60) days written notice by either party to the other to terminate with or without cause (however, in the event of early termination by the Employer a \$500 fee shall apply to offset the administrative set-up costs as well as a transfer of record fee of \$1.00 per record or a minimum fee of \$300 whichever is greater)
 - e. Failure of Employer to pay service fee to RBA as agreed
 - f. Failure of Employer to keep adequate funding requirements as explained herein
12. **Independent Advice.** Employer understands that RBA is not giving Employer any legal, tax or financial advice concerning any of the matters relating to this Agreement. Employer acknowledges that it has had the opportunity to consult with its independent legal, tax and financial advisors and is not relying on RBA for any such advice and is not expecting RBA to provide any such advice to an account holder.
13. **Governing Law/Venue.** This Agreement shall be governed in all respects by the laws of the State of New York. Venue shall be in Monroe County, New York.
14. **Notice.** Employer authorizes RBA to accept directions and/or data transmitted to RBA through facsimile, electronic/data transmissions, U.S. Mail or other means (FedEx, UPS, etc.) by authorized representatives, including duly appointed third parties, of Employer. Employer acknowledges its responsibility for the accuracy and completeness of any communication and is solely responsible for any adverse consequences that may result from errors or inaccuracies caused by the quality of such transmissions. RBA may fully rely on any communication with no obligation to review it or verify its accuracy.
15. **Independent Relationship.** It is expressly acknowledged by the parties hereto that this Agreement is not intended to create nor shall it be deemed or construed to create any relationship between Employer and RBA other than that of independent entities contracting with each other solely for the purpose of effecting the provisions herein. Neither party, nor any of their respective officers, directors, or employees shall be construed to be the agent, employee, or representative of the other, except as specifically provided herein.
16. **Confidentiality.** For the purposes of this Agreement, the term "Confidential Information" means non-public information about the disclosing Party's business or activities that is proprietary and confidential, which shall include, without limitation, all business, financial, technical and other information of a Party marked or designated "confidential" or by its nature or the circumstances surrounding its disclosure should reasonably be regarded as confidential. Confidential Information includes written or other tangible information but will not include information that (a) is in or enters the public domain without breach of this Agreement; (b) the receiving Party lawfully receives from a third party without restriction on disclosure and without breach of a nondisclosure obligation; (c) the receiving Party can establish that it developed independently. The terms and conditions of this Agreement will be deemed to be the Confidential Information of each Party and will not be disclosed without the prior written consent of the other Party. All Personally Identifiable Information collected through the RBA process will be deemed to be the Confidential Information of Employer. Each Party agrees (a) that it will not disclose to any third party or use any Confidential Information disclosed to it by the other except as expressly permitted in this Agreement; and (b) that it will take all reasonable measures to maintain the confidentiality of all Confidential Information of the other Party in its possession or control, which in no event will be less than the measures it uses to maintain the confidentiality of its own information of similar importance.
17. **Indemnity.** RBA agrees to and shall indemnify, defend and hold Employer, its subsidiaries and affiliates, and their respective directors, officers, agents and employees harmless from and against any and all claims, costs, damages, demands, lawsuits, liabilities and expenses (including reasonable attorney's fees, including the allocable expense of in-house counsel and interest), and for any and all injuries or damages to persons (including death) or to property, arising out of, resulting from, or in any way connected with the acts or omissions of RBA, its agents or employees, under this Agreement.

Employer agrees to and shall indemnify, defend and hold RBA, its subsidiaries and affiliates, and their respective directors, officers, agents and employees harmless from and against any and all claims, costs, damages, demands, lawsuits, liabilities and expenses (including reasonable attorney's fees, including the allocable expense of in-house counsel and interest), and for any and all injuries or damages to persons (including death) or to property, arising out of, resulting from, or in any way connected with the acts or omissions of Employer, including failure to follow the advice of RBA, its agents or employees, under this Agreement.
18. **Limitation of Liability.** To the extent permitted by applicable law neither party will be liable to the other party or any third party for any special, indirect, consequential or punitive damages or costs arising out of or related to this Agreement.

19. **Fraud, Waste and Abuse Prevention.** Services that are provided to Employer are subject to both federal and state laws and contract requirements designed to prevent fraud, waste and abuse. RBA has a comprehensive compliance program to address the prevention and detection of fraud, waste and abuse. RBA reserves the right to independently pursue all suspected cases of fraud, waste and abuse either in conjunction with Employer and/or appropriate government authorities.
20. **Entire Agreement.** This Agreement and its attached Exhibits contain all the terms and conditions agreed upon by the parties regarding the subject matter of the Agreement. Any prior agreements, promises, negotiations or representations, either oral or written, relating to the subject matter of this Agreement not expressly set forth in the Agreement are of no force or effect.
21. **Amendment.** Except for Exhibit "A" updates, this Agreement may not be amended or modified except by written agreement signed by both parties.
22. **Addenda.** Each Exhibit/Addendum to this Agreement is made part of this Agreement as though set forth fully herein. Unless otherwise specifically set forth in an Addendum, any provision of this Agreement that is in conflict with any provision set forth in an Addendum will take precedence and supersede the conflicting provision of the Addendum with respect to the subject matter covered by that provision of this Agreement.
23. **Cost of Enforcement.** In the event of any default on the part of either party to this Agreement and the necessity to initiate court action for the enforcement of any right hereunder, then in such event, the prevailing party in such action shall be entitled to recover all reasonable costs and expenses of such action, including reasonable attorney's fees and allocable costs of in-house counsel, court cost and fees at all levels of mediation, arbitration, trial and appellate levels.
24. **Force Majeure.** Neither RBA nor Employer will be liable for any delay in, or failure of, its performance of any of its obligations under this Agreement if such delay or failure is caused by events beyond the reasonable control of the affected party, including but not limited to strikes (other than strikes within such party's own labor force), riots, war, fire, acts of God, disruption or failure of electronic or mechanical equipment or communication lines, telephone or other interconnections, unauthorized access, theft, or acts in compliance with any law or government regulation.
25. **Standalone COBRA.** Employer shall remain responsible for the Initial General COBRA Notice which is the first of three (3) required COBRA notices. The initial notice must be provided to covered individuals "within 90 days after coverage begins" (*an exception to the 90-day rule is when a qualifying event occurs before the initial notice is provided, and then an initial notice must be provided along with the election notice and election form) and is intended to provide a summary of their rights, options, and notification responsibilities under COBRA. This is not the COBRA Election Notice.

The Initial General COBRA Notice contains the following information: (1) Summary of continuation benefits/description of COBRA terms; (2) Listing of qualifying events; and (3) Outline of employee/dependent notification responsibilities.

Employer is required to provide an initial notice to the covered employee, spouse, domestic partner, and covered dependent children (if any), of their rights under COBRA. (Notice should be customized depending on whether the employee is single, married, in a domestic partnership, or have dependent children. You may also customize the notice to identify more than one benefit to which there is an enrollment in coverage - e.g., medical, dental, and vision).

Important Note: The importance of the initial notice cannot be understated. If covered individuals lose group coverage in the future and later claim that they were not aware of their COBRA rights and notification responsibilities, then the Employer will be able to prove that covered individuals were sent an initial notice.

This Agreement shall be binding upon both parties, its successors, or assignees.

City of Watertown
245 Washington Street
Watertown NY 13601

Flexible Benefits System, Inc.
400 WillowBrook Office Park, Suite 400
Fairport NY 14450

Authorized Representative or Officer

Authorized Representative or Officer

Authorized Signature

Date

Authorized Signature

Date

Print Name

Print Name

Title of Authorized Representative or Officer

Title of Authorized Representative or Officer

Phone & E-mail

Phone & E-mail

City of Watertown — Exhibit "A"

Effective Date: April 1, 2013

Pricing to be paid by Employer: No Cost

The following additional items may also apply:

- Minimum monthly billing fee or \$.00
- Employers who opt not to use the auto-pay feature may be charged an additional fee of \$10 per month (\$120 annually)
- Late fee of 2% on charges not paid within 30-days

If Employer does not pay any fee due RBA prior to the first day of the month following the month in which RBA bill is rendered, RBA will notify Employer ten (10) days prior to the suspension of services. **In the event RBA suspends its services because of failure to pay the service fee, RBA shall have no liability or responsibility for any claims, taxes, penalties, fees, fines or liabilities incurred by Employer or the employees of the Employer as a result of such suspension.** During any suspension of services, Employer is obligated to pay the base fee until this Agreement is terminated.

Basic services provided by RBA

- MyRelphHealth advisor wellness program
- 24/7 internet account access
- Customer care center
- Spreadsheet or online enrollment
- Online forms

Additional services as designated:

Benefit Plans

- Medical
- Dental
- Vision
- Life
- Accidental Death & Dismemberment
- NYS Disability
- Short Term Disability
- Long Term Disability
- Voluntary Benefits
- Employee Assistance Program (EAP)

Cobra Administration

Flexible Spending Account(s)

- Section 125 FSA Administration
- Employee account balance tracking
- Claims processing
- Employee claims reimbursement checks
- Employer monthly reports
- Plan maintenance and support
- Plan end of year reports
- Compliance tracking
- 5500 form completion
- Summary Plan Description (for applicable plans)

Health Reimbursement Arrangement(s)

- Section 105 HRA Administration
- Employee account balance tracking
- Claims processing
- Employee claims reimbursement checks
- Employer monthly reports
- Plan maintenance and support
- Plan end of year reports
- Compliance tracking
- 5500 form completion
- Summary Plan Description (for applicable plans)

1PointPlus

- Employee enrollment services
- Employee annual group meetings and/or individual onsite enrollment meetings
- Employee enrollment materials
- Employee educational services/material
- Employee elections and processing ongoing enrollments
- Employee – Adds, Changes and Terminations with notification to carriers
- Availability of employee benefit statements
- Employer group insurance bill adjudication
- Plan maintenance and support
- Plan end of year reports
- Compliance tracking
- 5500 form completion
- Summary Plan Description (for applicable plans)

1Point

- Employee enrollment services
- Employee annual group meetings and/or individual onsite enrollment meetings
- Employee enrollment materials
- Employee educational services/material
- 5500 form completion*
- Summary Plan Description (for applicable plans)*

Administrative services for Self-Funded plans (i.e. Vision)

Non-discrimination testing (only if requested)

Dependent Audit/Affidavit*

Debit Cards**

**Additional charges may apply*

***Important debit card information: Your account will need to have a minimum funding amount on reserve with the bank of record (currently BanCorp) of (3% daily or 5% weekly) for the debit card option. Your Account Manager will notify you of the actual minimum funding amount required for your group set-up. This amount will roll forward each plan year and may require additional funding called a "true-up".*

1PointPlus is our premier benefit package which includes all of the services mentioned above. If you have questions about the 1PointPlus package, any of the services mentioned above, or if you would like to upgrade your services, please contact your Relph Benefit Advisor Account Executive at 1.800.836.0026.

October 30, 2013

To: The Honorable Mayor and City Council

From: Michael A. Lumbis, Planner

Subject: NYS Department of Environmental Conservation Urban and Community Forestry Grant Program

The NYS Department of Environmental Conservation has recently announced that funding is available through the Urban and Community Forestry Grant Program for urban forestry related projects. Applications are being accepted through December 5, 2013 for projects such as tree inventories, tree management plans, invasive insect detection surveys and tree planting. The minimum grant amount is \$2,500 while the maximum grant award is \$25,000.

Applications for tree inventories and tree management plans do not require a match from the City. Applications for tree planting and invasive insect detection surveys require matching funds totaling 50% of the project cost.

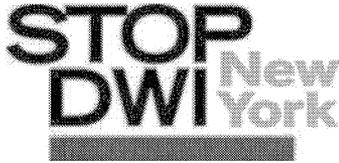
The grant program has been discussed at recent meetings of Tree Watertown, the City's Street Tree Advisory Board. Due to the fact that this grant opportunity would not require a local match this year, both Tree Watertown and Staff are recommending that the City apply for \$25,000 in funding for a tree inventory.

The City last completed a tree inventory in 1999 after the 1998 ice storm. Since that time many new trees have been planted, some of our older trees have been removed and others have declined in health. An updated tree inventory will provide the City with accurate information on the health of our trees. The City will be provided with an assessment of the condition of each individual tree, identifying those that may require something as simple as minor pruning to those that are potentially hazardous and may require removal. This information will allow the City to better prioritize our maintenance efforts and reduce the potential liability that results from hazardous trees.

The tree inventory will also provide key data about the state of the urban forest including species and size class distribution and will provide the basis for determining annual environmental, aesthetic and economic benefits that the urban forest provides. Finally, the tree inventory will identify potential planting sites throughout the City allowing Staff to target neighborhoods and better identify areas that are in need of planting.

In the past, the City has successfully applied for funding through this program and has completed various tree maintenance and tree planting projects throughout the City.

If the City Council would like to apply for funding through this program, Staff will prepare a resolution for Council consideration at the November 18, 2013 meeting.



October 16, 2013

Chief Gary R. Comins
Watertown City Police Department
751 Waterman Drive
Watertown, NY 13601

Dear Chief Comins:

On behalf of the NYS STOP-DWI Foundation and Mothers Against Drunk Driving New York State (MADD), it is our pleasure to inform you that the Watertown City Police Department has been selected to receive a 2013 Recognition Award. Your Department was nominated by Lt. Michael J. LaBarge.

Since 1995, New York State highway safety partners have proudly hosted this annual recognition to acknowledge outstanding efforts and achievements in deterring impaired driving. This recognition program is supported by member agencies of the Governor's Traffic Safety Committee, the NYS STOP-DWI Association & Foundation and the Mothers Against Drunk Driving. The Watertown City Police Department is among only twenty-six individuals or agencies statewide to be selected for this award. Congratulations to the Watertown City Police Department on this most worthy accomplishment.

We are delighted to invite you, the award winner and guest as well as the nominator (up to 5 individuals) to attend an awards luncheon to be held at **Mallozzi's Restaurant and Banquet House, 1930 Curry Road, Schenectady, NY 12303 on Tuesday, November 12, 2013 at 11:30 am.** All of the 2013 award recipients will be honored at this event, which is intended to raise awareness about the critical importance of highway safety and impaired driving issues.

A formal invitation from the New York State STOP-DWI Foundation and MADD is forthcoming in the near future. We sincerely hope you can join us. If you have any questions or would like additional information, please contact Pam Aini of the NYS STOP-DWI Association at info@stopdwi.org or 607-281-7428.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry Weiss".

Barry Weiss
Chairman,
NYS STOP-DWI Foundation, Inc.

A handwritten signature in black ink, appearing to read "Michele Fonda".

Michele Fonda
Program Specialist
MADD – NY

Cc: Rick Barrisford, Jefferson County
STOP DWI Coordinator

October 29, 2013

To: The Honorable Mayor and City Council
From: Sharon Addison, City Manager
Subject: Board and Commission Appointments

Below is a listing of current and upcoming vacancies on City Boards and Commissions for City Council review.

With Council approval, Staff will contact members for reappointment.

Board or Commission	Appointed By	Term	Name of Member	Date of Appt.	Term Expires
Board of Assessment Review	Council	5 Years	Linda J. Fields	7/18/2011	9/30/2016 Resigned
Board of Assessment Review	Council	5 Years	James W. Fraser	9/2/2008	9/30/2013
Board of Ethics	Council	1 Year	Rande S. Richardson	3/18/2013	12/31/2013
Board of Ethics	Council	1 Year	James St. Croix	3/18/2013	12/31/2013
Board of Ethics	Council	1 Year	James E. Mills	3/18/2013	12/31/2013
Board of Ethics	Council	1 Year	Jean A. Bilow	3/26/2013	12/31/2013
Flower Library	Mayor	11 Years	Linda C. Dittrich	10/19/2009	12/31/2013
Plumbing Board	Mayor	3 Years	George Bibbins	11/17/2010	12/31/2013
Jeff. County CAPC	Council	2 Years	Stanley Zarembo	11/7/2011	12/31/2013
Jeff. County CAPC	Council	2 Years	Christina E. Stone	11/7/2011	12/31/2013
Jeff. County CAPC	Council	2 Years	Thomas J. Bruno	11/7/2011	12/31/2013
City Constable	Council	1 Year	Patricia J. Hennegan	12/3/2012	12/31/2013
Deputy City Constable	Council	1 Year	Michael J. Hennegan	12/3/2012	12/31/2013

November 1, 2013

To: The Honorable Mayor and City Council

From: Sharon Addison, City Manager

Subject: Request to Waive Connection Fee for Water and Sewer Service at
123 East Lynde Street, Owned by Thousand Islands Area Habitat
Humanity

Attached is a request from Thousand Islands Area Habitat for Humanity to waive the connection fee for sewer and water hookup at the house they are building located at 123 East Lynde Street.

If City Council agrees, Staff will prepare a resolution approving this request for the November 18, 2013 City Council Meeting.



Paddock Arcade
1 Public Square, Suite 24
P.O. Box 31
Watertown, NY 13601
(315) 785-0308
www.tiahabitat.org

Building houses, building hope

November 1, 2013

Dear Ms. Addison,

On behalf of the Thousand Islands Area Habitat for Humanity, I am requesting the City Council to again donate the services to connect the water and sewer at our next build site. Our building committee has been preparing 123 E. Lynde Street so that the foundation can be poured within the next two weeks.

123 E. Lynde Street is our affiliate's eighteenth build...sixteen of which are located within the City of Watertown. We have greatly appreciated the City donating the hook-up of the sewer and water at our other house locations. Thank you for considering this request at 123 E. Lynde Street, which will enable our affiliate to move forward with another decent, affordable house for another low-income family in our community.

Sincerely,

A handwritten signature in black ink that reads "Lynn Morgan". The signature is fluid and cursive.

Lynn Morgan
Executive Director
Thousand Islands Area
Habitat for Humanity

