

**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, June 4, 2012, 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**

**PRESENTATION**

Proclamation - 80<sup>th</sup> Anniversary of The Little Theatre of Watertown, Inc.

**PRIVILEGE OF THE FLOOR**

**RESOLUTIONS**

- Resolution No. 1 - Approving Public Benefits Services Agreement Between the City of Watertown and the Volunteer Transportation Center, Inc.
- Resolution No. 2 - Approving Agreement for Public Benefit Services Between the City of Watertown and the Community Action Planning Council of Jefferson County, Inc.
- Resolution No. 3 - Approving Amendment No 86. to the Management and Management Confidential Pay Plan
- Resolution No. 4 - Finding That the Approval of the Zoning Classification Change for a 1.7 Acre Portion of Vacant Land at the End of the 600 Block of Main Street East From Heavy Industry to Residence C as Added to the LWRP Zone Change Will Not Have a Significant Impact on the Environment
- Resolution No. 5 - Accepting Bid for Ready Mix Concrete, Watertown Concrete, Inc.

- Resolution No. 6 - Approving Production Agreement Between the City of Watertown and Steve Weed Productions
- Resolution No. 7 - Authorizing the Mayor to Enter Into and Execute a State of New York Agreement for the Soldiers and Sailors Monument Restoration Project
- Resolution No. 8 - Public Hearing Authorizing Spending From Capital Reserve Fund
- Resolution No. 9 - Readopting Fiscal Year 2011-12 General and Library Fund Budgets
- Resolution No. 10 - Accepting Bid for HVAC Installations at Flower Memorial Library and City Hall, Hyde-Stone Mechanical Contractors, Inc.
- Resolution No. 11 - Approving Amendment No. 1, Geothermal Professional Services Agreement, Sack & Associates

## **ORDINANCES**

## **LOCAL LAW**

## **PUBLIC HEARING**

- 7:30 p.m. Changing the Approved Zoning Classifications of Various Properties on the River Side of East Main Street and the North Side of Water Street in Order to Implement the Local Waterfront Revitalization Program

## **OLD BUSINESS**

1. Tabled - Resolution Supporting Additional Apartment Approval, North Country Transitional Living Services, Inc., 725 Davidson Street
2. Tabled - Resolution Accepting the Bid for the Construction of the Marble Street Park Restroom Facility, 34 & Co., Inc.

## **STAFF REPORTS**

1. Skate Park Equipment
2. Letter from Conboy, McKay, Bachman & Kendall, LLP
3. Letter from Figure Skating Club of Watertown

**NEW BUSINESS**

**EXECUTIVE SESSION**

**WORK SESSION**

**ADJOURNMENT**

**NEXT REGULARLY SCHEDULED CITY COUNCIL MEETING IS MONDAY,  
JUNE 18, 2012.**

Res No. 1

May 28, 2011

To: The Honorable Mayor and City Council

From: Elliott B. Nelson, Assistant to the City Manager

Subject: Approving Public Benefit Services Agreement,  
Volunteer Transportation Center, Inc.

Attached for City Council's consideration is a Public Benefit Service Agreement between the City of Watertown and the Volunteer Transportation Center, Inc (VTC). Mr. Sam Purington, Executive Director of the VTC has made a funding request for the amount \$2,200 to assist in the operations of the organization. With the adoption of the Fiscal Year 2012-2013 budget, the City Council approved an appropriation to fund Mr. Purington's request.

In 2011, The Volunteer Transportation Center traveled over 19,000 miles transporting City residents to doctor's offices, to shop for groceries, and to other vital appointments. The VTC often transports clients during hours when other transportation options are not available or to areas where public transportation is not provided. The VTC reimburses their drivers \$0.42 per mile to assist with the costs associated with vehicle wear and tear and fuel.

A resolution approving the Public Benefit Services Agreement with the Volunteer Transportation Center is attached for City Council approval.

# RESOLUTION

Page 1 of 1

Approving Public Benefits Services Agreement  
Between the City of Watertown and the  
Volunteer Transportation Center, Inc.

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 .....

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***Introduced by***

WHEREAS the City Council received a request for funding to support the efforts of the Volunteer Transportation Center, Inc., and

WHEREAS the City Council of the City of Watertown appropriated \$2,200 in the FY 2012-13 General Fund operating budget to support the activities of the Volunteer Transportation Center, and

WHEREAS the Volunteer Transportation Center will expend the funds to provide transportation assistance to individuals and families in the City of Watertown, where there is no alternative transportation available, and

WHEREAS the City of Watertown wishes to enter into an Agreement for Public Benefit Services between the City of Watertown and the Volunteer Transportation Center, Inc., a copy of which is attached and made a part of this resolution,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby approves a Public Benefit Services Agreement between the City of Watertown, New York, and the Volunteer Transportation Center, Inc., and

BE IT FURTHER RESOLVED that John C. Krol, City Manager is hereby authorized and directed to execute the Agreement on behalf of the City of Watertown.

***Seconded by***

**AGREEMENT FOR PUBLIC BENEFIT SERVICES**

**BETWEEN**

**THE CITY OF WATERTOWN, NEW YORK**

**and**

**THE VOLUNTEER TRANSPORTATION CENTER, INC.**

This Agreement made by and between the City of Watertown, New York (CITY)  
and the Volunteer Transportation Center, Inc. (VTC).

WITNESSETH

For and in consideration of the mutual covenants and agreements hereinafter contained, the parties hereto for themselves, their successors and assigns, have mutually agreed and do agree with each other as follows:

Article I. DESCRIPTION OF SERVICES. The Volunteer Transportation Center, Inc. provides services that are considered to be for a public purpose. The Volunteer Transportation Center provides services which promote the health and welfare of the citizens of the City of Watertown.

Article II. ELIGIBLE ACTIVITIES. Eligible activities of the Volunteer Transportation Center reimbursable by the City shall promote a public purpose. Specifically, the Volunteer Transportation Center shall assist citizens of the City of Watertown by providing essential transportation services when no other transportation alternatives are available.

Article III. INELIGIBLE ACTIVITIES. Activities of the Volunteer Transportation Center which do not promote a public purpose shall be ineligible for reimbursement. Activities which are ineligible for reimbursement shall include, but not be limited to, land acquisition, salaries, utilities, fuel, insurance, interest, purchase of equipment, or program activities that do not provide essential transportation services to the citizens of the City of Watertown.

Article IV. TERM OF THIS AGREEMENT. The term of this Agreement shall be from July 1, 2012, through June 30, 2013.

Article V. MANNER OF PAYMENT.

a. The City agrees to provide One Thousand Six Hundred Dollars (\$2,200) to the Volunteer Transportation Center, Inc. for the term specified above.

b. Payment shall be made by the City Comptroller. Payment will be made on or after July 1<sup>st</sup>. Payment will only be made upon the City's receipt of a fully executed copy of this Agreement and a signed City Invoice form.

Article VI. PROVISIONS OF LAW. All provisions of law required to be made as part of this Agreement are hereby deemed incorporated in this Agreement. Performance of the terms and conditions of this Agreement shall be subject to and performance of all applicable laws.

Article VII. TERMINATION OF AGREEMENT. This Agreement may be terminated by either party, at any time, by the delivery to the other party of a written notice of termination by the Agreement, stating in good faith and for good and valid reasons by such party is unable to comply with and carry out the terms and substantive obligations of the Agreement in a meaningful manner. In the event of such termination, the City and the VTC shall perform such services and pay such monies as are necessary to carry out their respective obligations under the Agreement up to the date of termination of the Agreement. Any notice shall be delivered in person or by first class mail, return receipt requested, at the address of such party as hereinafter set out.

Article VIII. EXTENT OF AGREEMENT. This Agreement represents the entire Agreement between the City and the VTC. This Agreement may be amended only by written instrument signed by both parties and such amendment shall be attached to this Agreement.

Article IX. ANNUAL REPORT. The VTC will provide the City of Watertown with a copy of their annual financial report. If not included in the annual financial report, an additional report shall be submitted which details the services provided by the VTC to the citizens of Watertown.

Article X. NOTICES. All notices required to be given under this Agreement shall be in writing and shall be deemed to have been duly given on the date mailed, if sent by certified mail, return receipt requested or delivered in person to:

THE CITY:

City Manager  
City of Watertown  
245 Washington Street  
Suite 302  
Watertown, New York 13601

THE VOLUNTEER TRANSPORTATION CENTER, INC.:

Executive Director  
Volunteer Transportation Center, Inc.  
203 North Hamilton Street  
Watertown, New York 13601

A party may change the address to which notices are to be sent by written notice actually received by the other party.

IN WITNESS WHEREOF, the City of Watertown and the Volunteer Transportation Center, Inc. have caused this Agreement to be executed by authorized agents to be effective as of the date heretofore written.

THE CITY OF WATERTOWN, NEW YORK

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BY: CITY MANAGER

THE VOLUNTEER TRANSPORTATION CENTER, INC.

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BY: EXECUTIVE DIRECTOR



**Volunteer Transportation Center, Inc.**

203 North Hamilton Street

Watertown, NY 13601

Phone: (315) 788-0422 Fax: (315) 788-8021

Email: volctr@westelcom.com



United Way  
of Northern New York, Inc.

May 4, 2012

City of Watertown  
245 Washington Street  
Watertown, NY 13601

Budget allocation for 2012

Dear Honorable Mayor and City Council:

I would like to extend a heartfelt thank you from our organization, volunteer drivers, and most critically for the City residents who received volunteer rides to medical appointments funded in part with your investment of \$1,600 in 2011.

At the end of 2009, we were forced to limit our service to non-emergency medical and health related critically needed transportation. Your funding is a key reason why we have been able to continue to provide service to your residents with critical needs. Nevertheless, the growth in requests is the #1 reason for having to say "no" to some types of travel. Because of insufficient resources, we are no longer able to provide quality of life transports such as; hairdresser appointments, nursing home visits, etc. However, with your help, we will continue to provide critical needs transportation to our clients. Fortunately in 2010/2011 we have been able through efficiently combining trips of over 150,000 miles to make our limited funds stretch even further.

Last year, we performed 10,218 one-way trips, and provided 328,865 miles of service to our clients. Our drivers provided 1,012 one-way trips and drove 19,698 miles for the City of Watertown residents in 2011. These trips are provided for City residents who are seniors, disabled, visually impaired or blind and are for medical appointments that are outside the City transit system. Meeting this critical need in the community is accomplished by a dedicated cadre of volunteer drivers that use their own vehicles, and receive a mileage reimbursement to perform this service. Being good stewards of our resources, we have had to constantly evaluate the assignment of drivers to reduce miles per trip and carry more than one passenger where possible.

We have had a target of raising \$18,000 from 22 Towns; this target was allocated by Town population. Since the City of Watertown has the 5<sup>th</sup> highest amount of miles provided we would humbly request \$2,200 for 2012, 18% of the cost to provide this service to the residents of the City who have no other option.

Sincerely yours,

Sam Purington, Executive Director

*Please let me know if you would like me to speak to the City Council. Sam*

cc: Howie Ganter, President | Ben Coe, Treasurer  
encl: 2011 Transportation by Town/City



*Board of Directors:*

Richard Brooks  
Benjamin Coe  
Dr. Henry L. George  
Sam Purington, Executive Director

Jessica Brosch  
Jeany Danielsen  
Tom Spaulding

Lee Clary  
Michelle Farrell  
Nancy J. Spicer

Martin Clement  
Howie Ganter  
Denise Young

Res No. 2

May 31, 2012

To: The Honorable Mayor and City Council

From: John C. Krol, City Manager

Subject: Agreement for Public Benefit Services, Community Action  
Planning Council of Jefferson County, Inc.

Attached for City Council consideration is a Public Benefit Services Agreement between the City of Watertown and the Community Action Planning Council of Jefferson County, Inc. Since 1967, when the CAPC was incorporated and designated as the official anti-poverty agency in Jefferson County, the City of Watertown and Jefferson County provided the local match used to leverage State and Federal program service dollars.

The Community Action Planning Council provides services that promote the education, charity, health, safety and welfare of the citizens of the City of Watertown. This contract specifically identifies the services that will be provided to the citizens of this community and funded by the City of Watertown. City Council discussed this funding request at their meeting of March 19, 2012. The term of this Agreement is for one year beginning July 1, 2012, and ending June 30, 2013. Funding in the amount of \$52,000 to support this initiative was provided for in the FY 2012-2013 Budget.

A resolution approving the Agreement between the City of Watertown and the Community Action Planning Council of Jefferson County, Inc. has been prepared for City Council consideration.

# RESOLUTION

Page 1 of 1

Approving Agreement for Public Benefit Services Between the City of Watertown and the Community Action Planning Council of Jefferson County, Inc.

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 .....

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***Introduced by***

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WHEREAS the Community Action Planning Council of Jefferson County (CAPC) was incorporated and designated in 1967 as the official anti-poverty agency for Jefferson County, and

WHEREAS since that time, CAPC has received funds from local governments as the local share required to leverage State and Federal program service dollars, and

WHEREAS the services provided by the CAPC promotes a public purpose, and

WHEREAS the services promote the education, charity, health, safety and welfare of the citizens of the City of Watertown,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby approves the Agreement for Public Benefit Services between the City of Watertown and the Community Action Planning Council of Jefferson County, Inc., a copy of which is attached and made a part of this resolution, and

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

**Seconded by**

**AGREEMENT FOR PUBLIC BENEFIT SERVICES**

**BETWEEN**

**THE CITY OF WATERTOWN, NEW YORK**

**and**

**THE COMMUNITY ACTION PLANNING COUNCIL OF JEFFERSON COUNTY, INC.**

This Agreement made by and between the City of Watertown, New York (CITY) and the Community Action Planning Council of Jefferson County, Inc. (CAPC).

WITNESSETH

For and in consideration of the mutual covenants and agreements hereinafter contained, the parties hereto for themselves, their successors and assigns, have mutually agreed and do agree with each other as follows:

Article I. DESCRIPTION OF SERVICES. The Community Action Planning Council of Jefferson County, Inc. provides services that are considered to be for a public purpose. The Community Action Planning Council provides services which promote the education, charity, health, safety and welfare of the citizens of the City of Watertown.

Article II. ELIGIBLE ACTIVITIES. Eligible activities of the Community Action Planning Council reimbursable by the City shall promote a public purpose. Specifically, the Community Action Planning Council shall provide the following services to the citizens of the City of Watertown:

- a. Assist individuals and families to secure and retain meaningful employment.
- b. Assist individuals and families to attain an adequate education.
- c. Assist individuals and families to counteract conditions of starvation and malnutrition.
- d. Assist individuals and families to make a better income.
- e. Assist individuals and families to obtain emergency assistance.
- f. Assist individuals and families to obtain and maintain adequate housing.
- g. Assist individuals and families to remove obstacles that block self-sufficiency.

Article III. INELIGIBLE ACTIVITIES. Activities of the Community Action Planning Council, which do not promote a public purpose, shall be ineligible for reimbursement. Activities which are ineligible for reimbursement shall include, but not be limited to, land acquisition, salaries, utilities, fuel, insurance, interest, purchase of equipment, or program activities solely directed toward or restricted to organizational membership.

Article IV. TERM OF THIS AGREEMENT. The term of this Agreement shall be from July 1, 2012, through June 30, 2013.

Article V. MANNER OF PAYMENT.

a. The City agrees to provide Fifty Two Thousand Dollars (\$52,000) to the Community Action Planning Council for the term specified above.

b. Payment shall be made by the City Comptroller. One half of the annual payment will be made on or after December 1<sup>st</sup>, and the second will be made on or after April 1<sup>st</sup>. Payment will only be made upon the City's receipt of a fully executed copy of this Agreement and a signed City Invoice form.

Article VI. PROVISIONS OF LAW. All provisions of law required to be made as part of this Agreement are hereby deemed incorporated in this Agreement. Performance of the terms and conditions of this Agreement shall be subject to and performance of all applicable laws.

Article VII. TERMINATION OF AGREEMENT. This Agreement may be terminated by either party, at any time, by the delivery to the other party of a written notice of termination by the Agreement, stating in good faith and for good and valid reasons by such party is unable to comply with and carry out the terms and substantive obligations of the Agreement in a meaningful manner. In the event of such termination, the City and the CAPC shall perform such services and pay such monies as are necessary to carry out their respective obligations under the Agreement up to the date of termination of the Agreement. Any notice shall be delivered in person or by first class mail, return receipt requested, at the address of such party as hereinafter set out.

Article VIII. EXTENT OF AGREEMENT. This Agreement represents the entire Agreement between the City and the CAPC. This Agreement may be amended only by written instrument signed by both parties and such amendment shall be attached to this Agreement.

Article IX. ANNUAL REPORT. The CAPC will provide the City of Watertown with a copy of their annual financial report. If not included in the annual financial report, an additional report shall be submitted which details the services provided by CAPC to the citizens of Watertown.

Article X. NOTICES. All notices required to be given under this Agreement shall be in writing and shall be deemed to have been duly given on the date mailed, if sent by certified mail, return receipt requested or delivered in person to:

THE CITY:

City Manager  
City of Watertown  
245 Washington Street  
Suite 302  
Watertown, New York 13601

THE COMMUNITY ACTION PLANNING COUNCIL:

Executive Director  
Community Action Planning Council of Jefferson County, Inc.  
518 Davidson Street  
Watertown, New York 13601

A party may change the address to which notices are to be sent by written notice actually received by the other party.

IN WITNESS WHEREOF, the City of Watertown and the Community Action Planning Council of Jefferson County, Inc. have caused this Agreement to be executed by authorized agents to be effective as of the date heretofore written.

THE CITY OF WATERTOWN, NEW YORK

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BY: CITY MANAGER

THE COMMUNITY ACTION PLANNING COUNCIL OF JEFFERSON COUNTY, INC.

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BY: EXECUTIVE DIRECTOR

Res No. 3

May 29, 2012

To: The Honorable Mayor and City Council

From: Elliott B. Nelson, Assistant to the City Manager

Subject: Amendment No. 86 to the Management and Management  
Confidential Pay Plan

Attached for Council's consideration is a resolution establishing the salary for the position of Program Manager for the Department of Parks and Recreation. It is staff's recommendation that the salary for this position be established at \$53,500 with a \$1,000 raise upon the successful completion of one year of service in the position.

Once Council has officially established the salary for the position, it is our intention to appoint Celia E. Cook as Program Manager. Ms. Cook is currently employed by the Disabled Person's Actions Organization where she supervises a staff of nine caseload workers. She also has an extensive history working with children and other human service related contexts. Ms. Cook is an Adams resident, a Jefferson Community College Alumni and holds a bachelors degree in Recreation from SUNY Courtland.

We are excited to have Ms. Cook join the City's Management Team.

# RESOLUTION

Page 1 of 1

Approving Amendment No 86. to the Management and Management Confidential Pay Plan

- 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 .....

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***Introduced by***

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NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby approves Amendment No. 86 to the Management and Management Confidential Pay Plan, for the position listed below, as follows:

| Position                             | Salary   |
|--------------------------------------|----------|
| Parks and Recreation Program Manager | \$53,500 |

Upon successful completion of one year of service in this position, the salary will increase by \$1,000.

***Seconded by***

Res No. 4

May 24, 2012

To: The Honorable Mayor and City Council

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

Subject: Finding That the Approval of the Zoning Classification Change for a 1.7 Acre Portion of Vacant Land at the End of the 600 Block of Main Street East From Heavy Industry to Residence C as Added to the LWRP Zone Change Will Not Have a Significant Impact on the Environment

The City Council has already completed an Environmental Review of the zone changes related to the Local Waterfront Revitalization Program (LWRP) when it completed the State Environmental Quality Review Act procedure for the LWRP. However, the zone change currently being considered includes a parcel that is partially outside the LWRP boundary. A 1.7 acre portion of Parcel No. 4-16-105 at the end of the 600 block of East Main Street is outside the boundary and was therefore not included in the original environmental review.

The attached resolution states that the change to the additional 1.7 acres will not have a significant impact on the environment. The City Council must complete Part II and Part III of the attached Environmental Assessment Form before it may vote on the Resolution.

# RESOLUTION

Page 1 of 2

Finding That the Approval of the Zoning Classification Change for a 1.7 Acre Portion of Vacant Land at the End of the 600 Block of Main Street East From Heavy Industry to Residence C as Added to the LWRP Zone Change Will Not Have a Significant Impact on the Environment

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 .....

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### *Introduced by*

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WHEREAS the City Council of the City of Watertown, New York, has before it an Ordinance for the zoning classification change of various properties on the river side of East Main Street and the north side of Water Street in order to implement the Local Waterfront Revitalization Program, including changing Parcel No. 4-16-105 from Heavy Industry to Residence C, and

WHEREAS the City Council must evaluate all proposed actions submitted for its consideration in light of the State Environmental Review Act (SEQRA), and the regulations promulgated pursuant thereto, and

WHEREAS the adoption of the proposed Ordinance would constitute such an “Action,” and

WHEREAS the City Council has completed the environmental review for the zone changes within the LWRP boundary, and

WHEREAS a 1.7 acre portion of Parcel No. 4-16-105 located at the end of the 600 block of Main Street East is outside the LWRP boundary so must be reviewed for its environmental impacts, and

WHEREAS the City Council has determined that the re-zoning of the additional 1.7 acres is an Unlisted Action as that term is defined by 6NYCRR Section 617.2, and

# RESOLUTION

Page 2 of 2

Finding That the Approval of the Zoning Classification Change for a 1.7 Acre Portion of Vacant Land at the End of the 600 Block of Main Street East From Heavy Industry to Residence C as Added to the LWRP Zone Change Will Not Have a Significant Impact on the Environment

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 .....

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WHEREAS to aid the City Council in its determination as to whether the proposed zone change will have a significant impact on the environment, Part I of a Short Environmental Assessment Form has been prepared by staff, a copy of which is attached and made part of this Resolution,

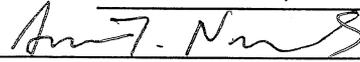
NOW THEREFORE BE IT RESOLVED by the City Council of the City of Watertown, New York, that:

1. Based upon its examination of the Short Environmental Assessment Form and comparing the proposed action with the criteria set forth in 6NYCRR Section 617.7, no significant impact is known and the adoption of the zone change will not have a significant impact on the environment.
2. The Mayor of the City of Watertown is authorized to execute the Environmental Assessment Form to the effect that the City Council is issuing a Negative Declaration under SEQRA.
3. This Resolution shall take effect immediately.

**Seconded by**

**Appendix C**  
**State Environmental Quality Review**  
**SHORT ENVIRONMENTAL ASSESSMENT FORM**  
**For UNLISTED ACTIONS Only**

**PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)**

|   |  |
|---|--|
| 1. APPLICANT/SPONSOR<br>City of Watertown   | 2. PROJECT NAME<br>LWRP Zone Changes Phase 4 - East Side |
| 3. PROJECT LOCATION:<br>Municipality City of Watertown County Jefferson   |  |
| 4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map)<br>A portion of the large parcel at the east end of the 600 Block, Main Street East.   |  |
| 5. PROPOSED ACTION IS:<br><input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration   |  |
| 6. DESCRIBE PROJECT BRIEFLY:<br>The City is rezoning properties near the Black River in order to implement the Local Waterfront Revitalization Program. This phase of rezoning includes a rezoning a portion of a parcel that lies outside the LWRP boundary, and thus was not previously reviewed under SEQRA. This parcel is being changed from Heavy Industry to Residence C.  |  |
| 7. AMOUNT OF LAND AFFECTED:<br>Initially <u>1.7</u> acres    Ultimately <u>1.7</u> acres  |  |
| 8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS?<br><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If No, describe briefly<br>The restrictions are being altered.   |  |
| 9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT?<br><input checked="" type="checkbox"/> Residential <input checked="" type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input checked="" type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other<br>Describe:<br>The immediate are is mostly vacant land and houses. There are some operating industrial facilities down the street. |  |
| 10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)?<br><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals:  |  |
| 11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL?<br><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals:  |  |
| 12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION?<br><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No   |  |
| I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE<br>Applicant/sponsor name: <u>Andrew Nichols, Planner</u> Date: <u>5/8/2012</u><br>Signature: <u></u>  |  |

**If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment**

**PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)**

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.

Yes  No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.

Yes  No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?

Yes  No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?

Yes  No If Yes, explain briefly:

**PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)**

**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide, on attachments as necessary, the reasons supporting this determination.

5/8/2012

\_\_\_\_\_  
Name of Lead Agency

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print or Type Name of Responsible Officer in Lead Agency

\_\_\_\_\_  
Title of Responsible Officer

\_\_\_\_\_  
Signature of Responsible Officer in Lead Agency

\_\_\_\_\_  
Signature of Preparer (If different from responsible officer)

Reset

Res No. 5

May 31, 2012

To: The Honorable Mayor and City Council

From: John C. Krol, City Manager

Subject: Accepting Bid for Ready Mix Concrete  
Watertown Concrete, Inc.

The City Purchasing Department has advertised and received sealed bids for the purchase of Ready Mix Concrete for use by all City Departments during Fiscal Year 2012-2013, on an as needed basis, per our specifications.

Invitations to bid were issued to three (3) prospective bidders with three (3) bids received and publicly opened and read in the City Purchasing Department on Wednesday, May 23, 2012, at 11:00 a.m.

City Purchasing Manager Amy Pastuf reviewed the bids received, and it is her recommendation that the City accept the bid from Watertown Concrete, Inc., Watertown, New York, as the lowest qualifying bidder meeting our specifications. The bids received are outlined in Ms. Pastuf's report, which is attached.

A resolution for City Council consideration is attached.

**RESOLUTION**

Page 1 of 1

Accepting Bid for Ready Mix Concrete,  
Watertown Concrete, Inc.

***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 |
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WHEREAS the City Purchasing Department has advertised and received sealed bids for the purchase of Ready Mix Concrete for use by all City Departments during Fiscal Year 2012-2013, and

WHEREAS invitations to bid were issued to three (3) prospective bidders with three (3) bids received and publicly opened and read in the City Purchasing Department on Wednesday, May 23, 2012, at 11:00 a.m., and

WHEREAS City Purchasing Manager Amy Pastuf reviewed the bids received, and it is her recommendation that the City Council accept the bid submitted by Watertown Concrete, Inc., Watertown, New York, as detailed below, all with a 2 yard minimum delivery:

|                                     |                     |
|-------------------------------------|---------------------|
| 4000 lb. Coarse                     | \$ 92.00/cubic yard |
| 4000 lb. Fine Mix                   | \$ 92.00/cubic yard |
| 5000 lb. Fine Mix                   | \$ 95.00/cubic yard |
| 4000 lb. Course / Heated Concrete   | \$102.00/cubic yard |
| 4000 lb. Fine Mix / Heated Concrete | \$102.00/cubic yard |
| 5000 lb. Fine Mix / Heated Concrete | \$105.00/cubic yard |

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown, New York accepts the bid submitted by Watertown Concrete, Inc., Watertown, New York, as detailed above, for the purchase of Ready Mix Concrete for use by all City Departments.

**Seconded by**



Res No. 6

May 29, 2012

To: The Honorable Mayor and City Council

From: Elliott B. Nelson, Assistant to the City Manager

Subject: City Council Meeting Production Agreement,  
Steve Weed Productions

Attached for Council's consideration is a resolution approving a Production Agreement between the City of Watertown and Steve Weed Productions. This Agreement provides the City with a videotaped record of all City Council meetings and Work Sessions. Steve Weed Productions has provided this service to the City since November, 2006. The recordings are produced by Steve Weed Productions and provided to Time Warner Cable to be aired on the Public Access Channel. Recorded Council meetings are also hosted on the Steve Weed Productions website.

The term of the Agreement is for one (1) year commencing on July 1, 2012 and terminating on June 30, 2013. Under the terms of the contract, Steve Weed Productions will be paid \$175.00 per session. This amount is an increase of \$25.00 per session or approximately \$900.00 per year. This is the first time the contractual rate has increased since the original contract was signed in 2006.

# RESOLUTION

Page 1 of 1

Approving Production Agreement  
Between the City of Watertown and  
Steve Weed Productions

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 .....

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***Introduced by***

WHEREAS The City of Watertown meets every month for City Council and Work Sessions, and

WHEREAS meetings of the City Council are open to the public and Council wishes to have them recorded and available for public access television and the internet, and

WHEREAS the City of Watertown has contracted with Steve Weed Productions to record City Council meetings since 2006, and

WHEREAS Steve Weed Productions is willing to continue to provide their services to the City under the term of the attached Agreement, and

WHEREAS the City of Watertown wishes to continue to retain the services of Steve Weed Productions under the terms of the attached Agreement,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby approves the Production Agreement between the City of Watertown and Steve Weed Productions, a copy of which is attached and made part of this resolution, and

BE IT FURTHER RESOLVED that John C. Krol, City Manager, is hereby authorized and directed to execute the Agreement on behalf of the City.

***Seconded by***

**PRODUCTION AGREEMENT  
BY AND BETWEEN  
THE CITY OF WATERTOWN, NEW YORK  
AND  
STEVE WEED PRODUCTIONS**

This contract is entered into this \_\_\_\_ day of \_\_\_\_\_, 2012 between the City of Watertown, a municipal corporation of the State of New York, hereafter called "City" and Steve Weed d/b/a Steve Weed Productions, a sole proprietorship, hereafter called "Contractor" of the State of New York.

All notifications necessary under this contract shall be addressed to:

City of Watertown  
John C. Krol, City Manager  
245 Washington St., Suite 302  
Watertown, NY 13601  
315-785-7730

Steve Weed Productions  
7 Paddock Arcade  
Watertown, NY 13601  
315-782-8383

**1. TERM**

1.1 This contract shall be effective from July 1, 2012 through June 30, 2013.

**2. SCOPE OF SERVICES**

2.1 Contractor shall videotape all City Council meetings at 7:00 p.m. on the first and third Mondays of each month (unless the Monday is a holiday in which case the meetings are held the following Tuesday). Videotaping shall also include City Council Work Sessions which fall on the second or fourth Monday of the month. In addition, Contractor will also be asked from time to time to videotape special or adjourned meetings that fall outside the times listed above. All meetings shall be recorded in the Super VHS format.

2.2 City Council meetings are held in the City Council Chamber located at the City of Watertown City Hall. A larger meeting room is scheduled when greater than normal public interest in a subject or issue is anticipated. Contractor shall provide appropriate camera equipment necessary to videotape meetings held in alternative locations. Contractor will be notified in advance if a change of venue is anticipated.

2.3 Contractor shall provide all necessary supplies and resources to complete the productions including but not limited to cameras, videotapes, DVD's, appropriate electronic equipment, staff, etc. City will provide all Super VHS videotapes required for recording of City Council meetings.

- 2.4 Contractor shall not edit audio or video recordings of City Council meetings.
- 2.5 All meeting recordings shall become the property of the City of Watertown. Contractor shall be allowed to post recorded City Council meetings on personal website located at URL [www.steveweedproductions.com](http://www.steveweedproductions.com). No advertisements of any kind shall be sold, included or displayed relating to recorded City Council meetings on Contractor's website.
- 2.6 In the event the Contractor's video recording equipment fails and the Contractor is unaware of an equipment problem prior to a session, or if such an issue arises during a session, the Contractor will not be expected to provide backup equipment and will not be held accountable for failing to record that session. Additionally, the City will not be charged for the recording of that meeting.
- 2.7 Contractor shall deliver the master recording on Super VHS and one copy on DVD to the City of Watertown City Manager's Office at 245 Washington St., Suite 302 no later than the close of business the day after the City Council meeting.
- 2.8 Contractor shall assist the City in reviewing ways to improve cable casting of City Council meetings, including advising the City relative to procedures, equipment, programming of equipment, or training relative to these services. Contractor will assist the City in training City staff to operate and maintain the City's videotaping system or portions thereof.
- 2.9 All recordings of City Council meetings must adhere to the broadcasting rules and regulations of Time Warner Cable and their Public, Educational and Governmental (P.E.G.) access channel.
- 2.10 Contractor shall be responsible for archiving and hosting all meetings of the Watertown City Council dating back to February 2006.

### **3. COMPENSATION**

- 3.1 In consideration of Contractor's performance of all of its obligations here under, City agrees to pay Contractor \$175.00 per recorded City Council session. For sessions which will require minimal recording time, limited camera views and generally be used for documentation purposes only, Contractor will be allowed to use one camera for appropriated session. Contractor will be notified of short meetings in advance and will be paid \$100.00 per recorded session. A session is defined as the Council convening at 7:00 p.m., or a special convening of the City Council at another time (i.e. 5:30 p.m.), and ending when the meeting has been officially adjourned by the City Council.

- 3.2 City agrees to pay Contractor on a monthly basis upon receiving an invoice for services satisfactorily performed.
- 3.3 Contractor shall be compensated with an annual payment of \$100.00 in consideration of the archive space necessary to store and host digital recordings of all meetings of the Watertown City Council dating back to February 2006.

#### **4. LIABILITY**

- 4.1 Contractor shall indemnify, protect, defend, and hold City, its officers, agents, volunteers, and employees harmless against any actions, claim for injury or damage and all loss, liability, cost or expense, including court costs and attorneys fees, growing out of or resulting directly or indirectly from the performance of this contract, except for that resulting from the sole negligence of the City.
- 4.2 The Contractor agrees to furnish the City with a Certificate of Insurance naming the City as an additional insured covering public liability in the amounts of \$500,000 per person and \$1,000,000 per occurrence and property damage in the amount of \$100,000.
- 4.3 The Contractor shall procure and obtain Workers' Compensation Insurance in accordance with the laws of the State of New York. Said insurance shall cover all persons defined or determined to be employees of Contractor by the laws of the State of New York.

#### **5. GENERAL PROVISIONS**

- 5.1 **ASSIGNABILITY:** This contract calls for personal performance by Contractor, and Contractor may not assign its obligations here under.
- 5.2 **TERMINATION:** City may terminate this contract in the event Contractor fails to comply with any of the terms or conditions set forth herein or if City determines Contractor is in any way unfit, unqualified, or unable to perform all of the services outlined in this contract. City will provide 30 days prior written notice by certified mail, return receipt requested of its intent to terminate or have it hand delivered.
- 5.3 **WAIVER:** Waiver of any breach of any provision of this contract by either party shall not operate as a waiver of any subsequent breach of the same or any other provision of this contract.

5.4 ATTORNEY'S FEES: In the event either party shall initiate any suit, action or appeal on any matter related to this contract, then the court before whom such suit, action or appeal is taken shall award to the prevailing party such attorney's fees as the Court shall deem reasonable, considering the complexity, effort and result against the party who shall not prevail, and such award and all allowable costs of the event may be either added to or deducted from the balance due under this contract, or be a separate obligation as appropriate.

5.5 EXTENT OF CONTRACT: This contract supersedes any prior or contemporaneous oral or written agreements or understandings entered into by the parties.

IN WITNESS WHEREOF, the parties have herewith executed their signatures.

THE CITY OF WATERTOWN, NEW YORK

By: \_\_\_\_\_  
John C. Krol, City Manager

STEVE WEED PRODUCTIONS

By: \_\_\_\_\_  
Steve Weed, Owner

Res No. 7

May 31, 2012

To: The Honorable Mayor and City Council

From: Michael A. Lumbis, Planner

Subject: Authorizing the Mayor to Enter into and Execute a State of New York Agreement for the Soldiers and Sailors Monument Restoration Project

As the City Council is aware, the New York State Office of Parks, Recreation and Historic Preservation has awarded the City of Watertown a \$150,000 grant through the Environmental Protection Fund for the Soldiers and Sailors Monument Restoration Project. The grant will fund the cleaning and restoration of the 1891 Civil War Monument on Public Square.

The project requires a \$50,000 match which has already been appropriated in the 2011-2012 Capital Budget. The proposed schedule for the project calls for the restoration work to begin later this summer. Staff has recently issued a Request for Proposals for the restoration work. Proposals will be received on June 12 and it is our intent to have conservator selected and a contract in place so that the project can begin in early August.

The grant program requires the City of Watertown to enter into an agreement with the State of New York. A copy of the agreement is attached for Council review.

The attached resolution authorizes the Mayor, Jeffrey E. Graham, to sign legal documents on behalf of the City of Watertown for this project and to enter into and execute the State of New York Agreement on behalf of the City.

# RESOLUTION

Page 1 of 1

Authorizing the Mayor to Enter Into and Execute a State of New York Agreement for the Soldiers and Sailors Monument Restoration Project

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 |
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***Introduced by***

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WHEREAS the New York State Office of Parks, Recreation and Historic Preservation has awarded the City of Watertown a \$150,000 grant through the Environmental Protection Fund for the Soldiers and Sailors Monument Restoration Project, and

WHEREAS the City of Watertown must enter into and execute a State of New York Agreement with the New York State Office of Parks, Recreation and Historic Preservation for the grant, and

WHEREAS there are specific requirements and regulations governing the expenditure of these funds,

NOW THEREFORE BE IT RESOLVED that the administration of all funds under this grant will be in accordance with all terms and conditions contained in the "Guidelines & Contracts for Historic Preservation Projects under the Environmental Protection Act of 1993 – Fiscal Year 2010-2011", provided by the New York State Office of Parks, Recreation and Historic Preservation, and

BE IT FURTHER RESOLVED that the Mayor, Jeffrey E. Graham, is hereby authorized to enter into and execute the State of New York Agreement for this project and to sign legal documents for the project on behalf of the City of Watertown and that such signature is acknowledgement of the acceptance by the City Council of compliance with all terms and conditions of the grant agreement, to be executed for the grant.

**Seconded by**

STATE AGENCY (Name & Address):

**New York State Office of Parks,  
Recreation and Historic  
Preservation  
Albany, New York 12238**

NYS COMPTROLLERS NUMBER: **CE10066**

NYS AGENCY NUMBER: **EPF-E10066-H1**

ORIGINATING AGENCY CODE: **1290000**

REGION: **TI**

CONTRACTOR (Name & Address):

**City of Watertown  
245 Washington Street, Room 302  
Watertown, New York 13601**

TYPE OF PROGRAM

**ENVIRONMENTAL PROTECTION FUND  
HP**

CHARITIES REGISTRATION NUMBER:  
N/A

INITIAL CONTRACT PERIOD:

**CONTRACTOR IS UP-TO-DATE  
with filing all required annual written reports  
with the Attorney General's Charities Bureau,  
or the appropriate oversight Agency**

FROM: **November 12, 2010**  
TO: **December 31, 2013**

FEDERAL TAX ID NUMBER:  
**15-6000419**

SFS VENDOR ID:  
**1000002584**

FUNDING AMOUNT FOR INITIAL PERIOD:  
**\$150,000.00**

STATUS:

MULTI-YEAR TERM: (if applicable)

**CONTRACTOR IS NOT A  
SECTARIAN ENTITY**

FROM: **November 12, 2010**  
TO: **November 11, 2015**

**CONTRACTOR IS NOT A  
NOT-FOR-PROFIT ORGANIZATION**

**APPENDICES ATTACHED AND PART OF THIS AGREEMENT:**

APPENDIX A...Standard Clauses for All New York State Contracts

APPENDIX A1...Clauses Required by Office of Parks, Recreation and Historic Preservation

APPENDIX B...Budget

APPENDIX C...Payment and Reporting Schedule

APPENDIX D...Program Workplan

APPENDIX X...Modification Agreement Form (to accompany modified appendices for changes in term or consideration on an existing period or for renewal periods)

APPENDIX E...Special Conditions and Requirements

APPENDIX F...Program Specific Requirements

IN WITNESS THEREOF, the parties hereto have executed or approved this AGREEMENT on the dates below their signatures.

PROJECT NUMBER: **EPF-E10066-H1**

CONTRACTOR:

STATE AGENCY:

**City of Watertown**

New York State Office of Parks, Recreation, and Historic Preservation

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

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

Printed Name: \_\_\_\_\_

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

Printed Title: \_\_\_\_\_

State Agency Certification:

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

“In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract.”

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

On the        day of                             in the year                     , before me, the undersigned,  
personally appeared                             , personally known to me or proved to me on the basis  
of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and  
acknowledged to me that he/she/they executed the same in his/her/their/ capacity(ies), and that by his/her/their  
signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed  
the instrument.

\_\_\_\_\_  
Notary Public, State of New York

ATTORNEY GENERAL:

Approved:

Thomas P. DiNapoli  
State Comptroller

By \_\_\_\_\_

Date \_\_\_\_\_

## STATE OF NEW YORK AGREEMENT

This AGREEMENT is hereby made by and between the State of New York agency (STATE) and the public or private agency (CONTRACTOR) identified on the face page hereof.

### WITNESSETH:

WHEREAS, the STATE has the authority to regulate and provide funding for the establishment and operation of program services and desires to contract with skilled parties possessing the necessary resources to provide such services; and

WHEREAS, the CONTRACTOR is ready, willing and able to provide such program services and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services required pursuant to the terms of this AGREEMENT.

NOW THEREFORE, in consideration of the promises, responsibilities and covenants herein, the STATE and the CONTRACTOR agree as follows:

### **I. Conditions of Agreement**

A. This period of this AGREEMENT shall be as specified on the face page hereof. Should funding become unavailable, this AGREEMENT may be suspended until funding becomes available. In such event the STATE shall notify the CONTRACTOR immediately of learning of such unavailability of funds, however, any such suspension shall not be deemed to extend the term of this AGREEMENT beyond the end date specified on the face page hereof.

B. Funding for the entire contract period shall not exceed the amount specified as "Funding Amount for Initial Period" on the face page hereof.

C. This AGREEMENT incorporates the face pages attached and all of the marked appendices identified on the face page hereof.

D. To modify the AGREEMENT, the parties shall revise or complete the appropriate appendix form(s). Any change in the amount of consideration to be paid, change in scope, or change in the term, is subject to the approval of the Office of the State Comptroller. Any other modifications shall be processed in accordance with agency guidelines as stated in Appendix A1.

E. The CONTRACTOR shall perform all services to the satisfaction of the STATE. The CONTRACTOR shall provide services and meet the program objectives summarized in the Program Workplan (Appendix D) in accordance with: provisions of the AGREEMENT; relevant laws, rules and regulations, administrative and fiscal guidelines; and where applicable, operating certificates for facilities or licenses for an activity or program.

F. If the CONTRACTOR enters into subcontracts for the performance of work pursuant to this AGREEMENT, the CONTRACTOR shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the STATE under this AGREEMENT. No contractual relationship shall be deemed to exist between the subcontractor and the STATE.

G. Appendix A (Standard Clauses as required by the Attorney General for all State contracts) takes precedence over all other parts of the AGREEMENT.

### **II. Payment and Reporting**

A. The CONTRACTOR, to be eligible for payment, shall submit to the STATE's designated payment office (identified in Appendix C) any appropriate documentation as required by the Payment and Reporting Schedule (Appendix C) and by agency fiscal guidelines, in a manner acceptable to the STATE.

B. The STATE shall make payments and any reconciliations in accordance with the Payment and Reporting Schedule (Appendix C). The STATE shall pay the CONTRACTOR, in consideration of contract services, a sum not to exceed the amount noted on the face page hereof. This sum shall not duplicate reimbursement from other sources for CONTRACTOR costs and services provided pursuant to this AGREEMENT.

C. The CONTRACTOR shall meet the audit requirements specified by the STATE.

### **III. Terminations**

A. This AGREEMENT may be terminated at any time upon mutual written consent of the STATE and the CONTRACTOR.

B. The STATE may terminate the AGREEMENT immediately, upon written notice of termination to the CONTRACTOR, if the CONTRACTOR fails to comply with the terms and conditions of this AGREEMENT and/or with any laws, rules, regulations, policies or procedures affecting this AGREEMENT.

C. The STATE may terminate this AGREEMENT without cause by ninety (90) days prior written notice.

D. The STATE may also terminate this AGREEMENT for any reason in accordance with provisions set forth in Appendix A1.

E. Written notice of termination, where required, shall be sent by personal messenger service or by certified mail, return receipt requested. The termination shall be effective in accordance with the terms of the notice.

F. Upon receipt of notice of termination, the CONTRACTOR agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the STATE.

G. The STATE shall be responsible for payment on claims pursuant to services provided and costs incurred pursuant to terms of the AGREEMENT. In no event shall the STATE be liable for expenses and obligations arising from the program(s) in this AGREEMENT after the termination date.

### **IV. Indemnification**

A. The CONTRACTOR shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the CONTRACTOR or its subcontractors pursuant to this AGREEMENT. The CONTRACTOR shall indemnify and hold harmless the STATE and its officers and employees from claims, suits, actions, damages and costs of every nature arising out of the provision of services pursuant to this AGREEMENT.

B. The CONTRACTOR is an independent contractor and may neither hold itself out nor claim to be an officer, employee or subdivision of the STATE nor make any claim, demand or application to or for any right based upon any different status.

### **V. Property**

Any equipment, furniture, supplies or other property purchased pursuant to this AGREEMENT is deemed to be the property of the STATE except as may otherwise be governed by Federal or State laws, rules or regulations, or as stated in Appendix A1.

### **VI. Safeguards for Services and Confidentiality**

A. Services performed pursuant to this AGREEMENT are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

B. Funds provided pursuant to this AGREEMENT shall not be used for any partisan political activity, or for activities that may influence legislation or the election or defeat of any candidate for public office.

C. Information relating to individuals who may receive services pursuant to this AGREEMENT shall be maintained and used only for the purposes intended under the contract and in conformity with applicable provisions of laws and regulations, or specified in Appendix A1.

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

**1. EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

**2. NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void.

Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a).

**4. WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect

unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**6. WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the

Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

**7. NON-COLLUSIVE BIDDING CERTIFICATION.**

In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

**8. INTERNATIONAL BOYCOTT PROHIBITION.**

In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

**9. SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent

to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.**

(a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is

requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

**12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.**

In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

**13. CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**14. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

**16. NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

**17. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of

process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS**

The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES**

In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**20. OMNIBUS PROCUREMENT ACT OF 1992**

It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development

Division for Small Business

30 South Pearl St -- 7th Floor

Albany, New York 12245

Telephone: 518-292-5220

Fax: 518-292-5884

<http://www.empire.state.ny.us>

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development

Division of Minority and Women's Business

Development

30 South Pearl St -- 2nd Floor

Albany, New York 12245

Telephone: 518-292-5250

Fax: 518-292-5803

<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

**21. RECIPROCITY AND SANCTIONS**

**PROVISIONS**. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

**22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND**

**NOTIFICATION ACT**. Contractor shall comply with the provisions of the New York State Information

Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

**23. COMPLIANCE WITH CONSULTANT**

**DISCLOSURE LAW**. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

**24. PROCUREMENT LOBBYING**. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally

false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

**25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.**

To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

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APPENDIX A1

Clauses Required by  
Office of Parks, Recreation and Historic Preservation

1. Changes to Budget and Program Workplan. Changes shall not be made in the work described in the Program workplan as described in Appendix D or the proposed expenditure of funds as shown in the Budget, Appendix B, without the prior written approval of the STATE. Such approval will be granted if the changes are not substantive and do not alter the scope, intent or basic elements of the contract. Changes may be made in the Budget to reallocate funds between budget items provided such changes do not exceed ten percent of any budget category and have the STATE's written approval. Changes in the Program Workplan which are substantive or alter the scope, intent or basic elements of the contract, or Budget changes which are in excess of ten percent of any budget category, if agreed to by the STATE, will be implemented by an amendment to this AGREEMENT which shall be approved by the Office of the State Comptroller (See Section I, Paragraph D of the AGREEMENT).
2. Termination.
  - A. In the event the project cannot be completed as agreed upon by the STATE and the CONTRACTOR, the CONTRACTOR shall bring it to a point of recreational usefulness agreed upon by the STATE and the CONTRACTOR.
  - B. The CONTRACTOR agrees that the benefit to be derived by the United States, the State of New York and the CONTRACTOR from compliance with the terms of this agreement is the preservation, protection and net increase in the availability and quality of public outdoor recreation facilities and resources available to the people of the United States, the State of New York and the CONTRACTOR and such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished under this agreement. Further, payment to the STATE of an amount equal to the amount of money made available under this agreement would be inadequate compensation for any breach by the CONTRACTOR of this agreement. Therefore, the appropriate remedy in the event of a breach of this agreement by the CONTRACTOR shall be the specific performance of this agreement.
3. Participation by New York State Businesses and Minority Group Members and Women with Respect to State Contracts; Omnibus Procurement Act. It is the policy of New York State to maximize opportunities for the participation of minorities and women as employees, and of New York State business enterprises, as subcontractors and suppliers on its procurement contracts.
  - A. Omnibus Procurement Act Provisions.
    - I. Information on the availability of New York State subcontractors and suppliers is available from:

Empire State Development  
Division Minority and Women's Business Development  
30 South Pearl Street  
Albany, NY 12245  
Phone: (518) 292-5250 / Fax: (518) 292-5803

Note: When requesting lists of potential subcontractors and suppliers please identify the SIC code, size and location of vendors.
    - II. If located in a foreign country the contractor is hereby notified that New York State may seek to obtain and assign or otherwise transfer offset credits created by this contract to third parties located in New York State. The contractor agrees to cooperate with the State in efforts to get foreign countries to recognize offset credits created by this contract.
  - B. Equal Employment Opportunity Provisions.
    - I. The CONTRACTOR and its subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, affirmative action shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

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- II. No later than seven days after being notified of the award of this contract the CONTRACTOR shall submit an Equal Employment Opportunity (EEO) policy statement to the STATE.
  - III. The CONTRACTOR's EEO policy statement shall contain, but not necessarily be limited to, and the CONTRACTOR, as a precondition to entering into a valid and binding State contract, shall, during the performance of the contract, agree to the following:
    - (a) The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts.
    - (b) The CONTRACTOR shall state in all solicitations or advertisements for employees that, in performance of this contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
    - (c) At the request of the STATE the CONTRACTOR shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the CONTRACTOR's obligation herein.
  - IV. No later than seven days after being notified of the award of this contract the CONTRACTOR may be required to submit to the STATE a staffing plan of the anticipated work force to be utilized on this contract or, where required, information on the CONTRACTOR's total work force, including apprentices, broken down by specified ethnic background, gender, and Federal Occupational Categories or other appropriate categories specified by the STATE. The form of staffing plan shall be supplied by the STATE.
  - V. On a schedule to be determined by the STATE, and in a form and manner required by the STATE, the CONTRACTOR shall submit to the STATE a work force utilization report, of the work force actually utilized on this contract, broken down by specified ethnic background, gender, and Federal occupational Categories or other appropriate categories specified by the STATE. The form of the staffing plan shall be supplied by the STATE.
  - VI. The CONTRACTOR shall include the language of sub-paragraphs (I) through (V) in every subcontract in such a manner that the requirements of the provisions will be binding upon each subcontractor as to work in connection with this contract, including the requirement that subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and, when requested, provide to the CONTRACTOR information on the ethnic background, gender, and Federal Occupational Categories of the employees to be utilized on this contract.
  - VII. The CONTRACTOR agrees to comply with all applicable Federal, State and local Civil Rights and Human Rights laws with reference to equal employment opportunities and the provision of services.
- C. Minority/Women Owned Business Enterprise Provisions.
- I. A directory of minority and women-owned business enterprises is available from:

Empire State Development  
Division Minority and Women's Business Development  
30 South Pearl Street  
Albany, NY 12245  
Phone: (518) 292-5250 / Fax: (518) 292-5803
  - II. Definition. For the purposes of these clauses, the following definition shall apply:
    - (a) "Certified business" shall mean either a business certified as a minority or women-owned business enterprise pursuant to section 314 of the Executive Law.

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- (b) "Director" shall mean the Director of the Division of Minority and Women's Business Development established by section 311 of the Executive Law.
- (c) "Minority group member" shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:
  - (1) Black persons having origins in any of the Black African racial groups;
  - (2) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;
  - (3) Native American or Alaskan native persons having origins in any of the original peoples of North America;
  - (4) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.
- (d) "Minority-owned business enterprises" shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is:
  - (1) at least fifty-one percent owned by one or more minority group members;
  - (2) an enterprise in which such minority ownership is real, substantial and continuing;
  - (3) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and
  - (4) an enterprise authorized to do business in this state and independently owned and operated.
- (e) "Subcontract" shall mean an agreement providing for total expenditures in excess of \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon between a contractor and any individual or business enterprise, including a sole proprietorship, partnership, corporation or not-for-profit corporation, in which a portion of a contractor's obligation under a state contract is undertaken or assumed.
- (f) "Women-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is:
  - (1) at least fifty-one percent owned by one or more United States citizens or permanent resident aliens who are women;
  - (2) an enterprise in which the ownership interest of such women is real, substantial and continuing;
  - (3) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise ; and
  - (4) an enterprise authorized to do business in this state and independently owned and operated.

III. Utilization Program Waivers.

- (a) If goals have been established by the STATE for the participation of certified M/WBE's on this agreement, at the direction of the STATE, but in no case later than execution of the agreement the contractor shall submit to the STATE a utilization program on forms to be provided by the STATE. The utilization program shall list all subcontractors and suppliers the contractor intends to use on the contract and indicate which are certified M/WBE's.
- (b) The STATE will review the utilization program and will issue to the contractor a written notice of acceptance or deficiency within twenty days of receipt. A notice of deficiency shall include;

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- (1) the name of any M/WBE which is not acceptable for the purpose of complying with M/WBE participation goals;
  - (2) elements of the contract scope of work which the STATE has determined can be reasonably structured by the contractor to increase the likelihood of participation of M/WBES; and
  - (3) other information which the STATE determines to be relevant to the utilization program.
- (c) The contractor shall respond to the notice of deficiency within seven days of receipt by submitting to the STATE a written statement which remedies the deficiencies in the original plan. If the written remedy which the contractor submits is not timely or is found by the STATE to be inadequate, the STATE shall so notify the contractor within five days and direct the contractor to submit a request for a partial or total waiver of M/WBE participation goals on forms to be provided by the STATE. The request for waiver must be submitted within five days of the contractor's receipt of a notice that the statement of remedy was untimely or inadequate.
- (d) A contractor who has made good faith efforts to obtain commitments from M/WBE subcontractors and suppliers prior to submitting its utilization program may request a waiver at the same time it submits its utilization program. If a request for waiver is submitted with the utilization program, and is not accepted by the STATE at that time, the provisions of clauses (b) and (c), regarding the notice of deficiency and written remedy will apply. In this case, the contractor may submit a second request for waiver as directed by the STATE.
- (e) If the contractor does not submit a request for waiver, or if the STATE determines that the utilization program does not indicate that the M/WBE participation goals will be met and that the good faith efforts of the contractor have been inadequate to justify the granting of the request for waiver, the STATE shall terminate the contract, or if the contract has not been executed, the STATE shall withdraw from contract negotiations. Notice of termination or withdrawal, along with a denial of a request for waiver, where applicable, shall be delivered to the contractor no later than twenty days after the STATE receives the request for waiver.
- (f) The contractor shall attempt to utilize, in good faith, any MBE or WBE identified within its utilization program, at least to the extent indicated in the program.

IV. Administrative Hearing on Disqualification of Contractor.

- (a) If the STATE disqualifies the contractor on the ground that the contractor has failed to remedy deficiencies in its utilization program or document good faith efforts to remedy such deficiencies, the contractor shall be entitled to an administrative hearing, on the record, before a hearing officer appointed by the STATE, to review the determination of disqualification of the contractor.
- (b) The hearing officer's determination shall be a final administrative determination of the STATE and shall be reviewable by a proceeding brought pursuant to the Civil Practice Law and Rules, provided such proceeding is commenced within thirty days of notice given by certified mail, return receipt requested, rendering such final administrative determination in accordance with the provisions of section 313 of the Executive Law.
- (c) Such review shall be commenced in the Supreme Court, Appellate Division, Third Department, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. Appeals taken to the Court of Appeals of the State of New York shall be subject to the same preference.

V. Good Faith Efforts. In order to show that it has made good faith efforts to comply with the M/WBE participation goals of this contract, the contractor shall submit such documentation as will enable the STATE to make a determination in accordance with the following criteria:

- (a) Did the contractor submit a completed, acceptable utilization program and EEO program aimed at meeting the goals for the participation of minorities and women in the contract?
- (b) Did the contractor place advertisements in appropriate general circulation, trade and minority or woman-owned publications in a timely fashion?

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- (c) Did the contractor make written solicitations to women and minority-owned business enterprises listed in the directory of certified businesses in a timely fashion and include plans, specifications and contract terms. Did the businesses solicited respond in a timely fashion?
- (d) Could the contractor have reasonably structured the work to be performed under subcontracts so as to increase the likelihood of participation by certified businesses?
- (e) Did the contractor attend any prebid or preaward meetings scheduled by the STATE with M/WBE's which the STATE determined were capable of performing work or supplying materials on the contract?
- (f) Were the subcontract terms and conditions offered to M/WBE's comparable to those offered in the ordinary course of the contractor's business to other subcontractors on the contract?
- (g) Did the contractor make payments to M/WBE subcontractors and suppliers in a timely fashion?

VI. Reports. The contractor shall submit, and shall require subcontractors to submit, reports showing the participation of all business enterprises on this contract, including minority and women-owned business enterprises on forms and at intervals to be established by the STATE. Reports not submitted at such times as shall be required by the STATE shall be cause for the STATE to delay implementing scheduled payments to the contractor.

VII. Contractor's Failure or Inability to Meet M/WBE Participation Goals.

- (a) If the contractor, after making good faith efforts, is unable to comply with a contract's M/WBE participation goals, the contractor may submit a request for a partial or total waiver on forms provided by the STATE. If the documentation required with the request for a waiver is complete, the STATE shall evaluate the request and issue a written notice of acceptance or denial within twenty days of receipt.
- (b) If the STATE, upon review of the contractor's utilization program and compliance reports, determines that the contractor is failing or refusing to comply with M/WBE participation goals, and no waiver has been issued in regards to such non-compliance, the STATE may issue a notice of deficiency to the contractor. The contractor must respond to the notice within seven days of receipt. This response may include a request for partial or total waiver of M/WBE participation goals.

VIII. Contractor and Agency Complaints, Arbitration.

- (a) If the contractor submits a request for a waiver of M/WBE participation goals and the STATE denies the request or fails to respond within twenty days of receiving it, the contractor may file a complaint with the Director according to the provisions of section 316 of Article 15-A of the Executive Law. The complaint must be filed within twenty days of the STATE's receipt of the request for waiver, if the STATE has not responded in that time, or within twenty days of a notification that the request has been denied by the STATE.
- (b) If the contractor fails to respond to a notice of deficiency, the STATE may file a complaint with the Director pursuant to section 316 of Article 15-A of the Executive Law.
- (c) A complaint shall set forth the facts and circumstances giving rise to the complaint together with a demand for relief.
- (d) The party filing a complaint, whether the contractor or the STATE, shall deliver a copy to the other party. Both the complaint and the copy shall be delivered by either personal service or by certified mail, return receipt requested.
- (e) Upon receipt of a complaint, the Director shall provide the party against whom the complaint has been filed with an opportunity to respond to the complaint. If within thirty days of receipt of the complaint, the Director is unable to resolve the complaint to the satisfaction of the STATE and the contractor, the complaint shall be referred to the American Arbitration Association for resolution pursuant to section 316 of Article 15-A of the Executive Law and the applicable requirements of Article 75 of the Civil Practice Law and Rules.

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- (f) Upon conclusion of the arbitration proceedings, the arbitrator will submit to the Director his or her award regarding the alleged violation of the contract or the refusal of the STATE to grant a waiver request by the contractor. The award of the arbitrator with respect to an alleged violation of the contract or the refusal of the state agency to grant a waiver shall be final and may be vacated or modified only as provided by Article 75 of the Civil Practice Law and Rules.
- (g) Upon conclusion of the arbitration proceedings and the rendition of an award, the arbitrator will also recommend to the Director a remedy, including, if appropriate, the imposition of sanctions, fines or penalties. The Director will either;
  - (1) adopt the recommendation of the arbitrator;
  - (2) determine that no sanctions, fines or penalties should be imposed; or
  - (3) modify the recommendation of the arbitrator, provided that such modification shall not expand upon any sanction recommended or imposed by any new sanction, or increase the amount of any recommended fine or penalty.
- (h) The Director, within ten days of receipt of the arbitrator's award and recommendations, will file a determination of such matter and shall cause a copy of such determination to be served upon the parties by personal service or by certified mail, return receipt requested. The determination of the Director as to the imposition of any fines, sanctions, or penalties shall be reviewable pursuant to Article 78 of the Civil Practice Law and Rules.
- (i) The determination of the STATE or the contractor to proceed with a complaint shall not preclude the STATE, in its discretion, from pursuing any-other remedies which it may have pursuant to law and the contract.

IX. Subcontracts. The contractor will include the provisions of sub-paragraphs (V) and (VIII) above in every subcontract, as defined in sub-paragraph (II), in such a manner that such provisions will be binding upon the subcontractor as to work in connection with this contract.

4. Non-Discrimination. The CONTRACTOR shall not limit access or discriminate in the operation of the facilities against any person on the basis of place of residence, race, creed, color, national origin, sex, age, disability or marital status.

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APPENDIX B - BUDGET

The detailed estimated budget for the project as outlined in this AGREEMENT is as follows:

**EXPENSES:**

**Construction**

To include: restoration of existing masonry and stonework, \$197,750.00  
restoration of bronze statues and plaque, landscaping, conservation  
oversight, project management and documentation by contractor

**Administration**

To include: grant administration, site supervision, CPA Audit, \$ 2,250.00  
project sign

**TOTAL COST: \$200,000.00**

**FUNDING BREAKDOWN:**

STATE Share \$150,000.00  
CONTRACTOR Share \$ 50,000.00

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APPENDIX C - PAYMENT AND REPORTING SCHEDULE  
DEVELOPMENT

I. Amount of Grant Award: **\$150,000.00**

II. The STATE agrees to make available to the CONTRACTOR a sum not to exceed the funding amount identified on the face page hereof. The STATE share shall cover no more than seventy five percent of eligible expenditures for any reimbursement request under this AGREEMENT. The grant reimbursement rate is determined by the ratio of funding amount to the total project cost in accordance with the budget (Appendix B).

III. The STATE'S share of the project cost as set forth in this AGREEMENT shall be paid to the CONTRACTOR electronically, in accordance with ordinary State procedures and practices. CONTRACTOR shall comply with the State Comptroller's procedures to authorize electronic payments which can be obtained at the State Comptroller's website at [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm), by email at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us), or by telephone at 518-474-4032. CONTRACTOR acknowledges that it will not receive payment on any invoice submitted under this contract if it does not comply with the State Comptroller's electronic payment procedures. Electronic payments will be made in installments as follows:

A. INSTALLMENTS: CONTRACTOR shall be reimbursed as expenditures accrue for costs incurred from the project as outlined in APPENDIX B. Payments shall be made upon review and approval of appropriate plans, specifications, expenditure and project documentation to the satisfaction of the STATE.

B. A FINAL INSTALLMENT of not less than 10% of the STATE'S share of the total cost shall be made upon, to the satisfaction of the STATE: (1) completion of the project to the satisfaction of the STATE, (2) expenditure and project documentation, (3) review and approval of the Project Completion Report, (4) performance of a Final On-Site Inspection by the STATE, (5) if an amendment is required, a fully executed document must be on file prior to release of final reimbursement and formal close-out of the project, (6) for Parks projects, a list of facilities developed and/or acres acquired, an as-built and/or as-acquired site map\* and a final boundary map\*. When parkland is involved, a map of the entire park, even if the subject of the grant involves property that is less than the entire park. The boundary map should show both: {a} the actual boundaries of the entire park in yellow, and in enough detail to be legally sufficient to identify the parkland, and {b} the actual boundaries of those parcels that are the subject of an acquisition or donation, color-coded and keyed to the "Schedule 1 - Summary Sheet Per Parcel" form. Acceptable methods of identification are: {1} metes and bounds (preferred), {2} deed references, {3} adjoining water bodies or other natural landmarks, {4} government survey, {5} adjoining ownership's and/or {6} adjoining easements of record. Where one or more of these methods are not suitable for identification, measurements from permanent locators may be used. It is recommended that the map itself clearly show pertinent features such as roads, road names and numbers, bodies of water, buildings, structures, etc. The map must also identify all known outstanding rights and interests held by others, as well as known easements, deed/lease restrictions, reversionary interests, etc. The map must also include the title and number of the project, date of map preparation and name and signature of authorized officer, (7) approval by the STATE of documentation showing efforts made to satisfy requirements for the participation by New York State Businesses and Minority Group Members and Women with Respect to State Contracts, (8) for all projects, an accounting of all expenditures. *See Appendix E for the requirement for this project.*

IV. Payment shall be made upon approval by the STATE and audit and warrant of the State Comptroller of vouchers executed by an authorized officer of the CONTRACTOR accompanied by such receipts and documents verifying expenditures as may be required by the STATE.

V. The CONTRACTOR shall submit, with each payment request, a certificate executed by an authorized officer, which shall attest that said payment does not duplicate a request for payment, or any payment received, from any other source for goods or services under this AGREEMENT.

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Soldiers and Sailors Monument Restoration  
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**VI.** The designated payment office shall be New York State Office of Parks, Recreation and Historic Preservation, Albany, New York 12238.

**VII.** Within fifteen days of receiving the voucher, the STATE shall notify the CONTRACTOR of any problem with the voucher; for example, whether there are mistakes on the voucher or additional documents must be submitted. Once the CONTRACTOR has submitted a voucher to the STATE, the STATE will review and audit the voucher and submit it to the State Comptroller within thirty days.

**VIII.** The STATE shall make periodic inspections of the project both during its implementation and after its completion to assure compliance with this AGREEMENT. The CONTRACTOR shall allow the STATE unrestricted access to work during the preparation and progress of the work, and provide for such access and inspection by the STATE in all construction contracts relating to the project.

**IX.** The CONTRACTOR can receive reimbursements of all or any part of the above referenced schedule provided the appropriate expenditure and project documentation is submitted and approved by the STATE.

\*May be prepared on one map.

City of Watertown  
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APPENDIX D - PROGRAM WORKPLAN

**I. PROJECT NARRATIVE:** The City of Watertown is requesting funding for the Soldiers and Sailors Monument Restoration Project which involves the cleaning and restoration of the Soldiers and Sailors Monument located in downtown Watertown in the Public Square Historic District. Nearly 120 years of exposure to the elements has taken its toll and the project will allow for the cleaning of all masonry surfaces, the repair of deteriorating mortar joints and the cleaning and waxing of the bronze elements. The monument was erected in 1891 in honor of Civil War veterans and is an historically significant piece of public art located in a City with a strong military influence and presence from nearby Fort Drum and the 10th Mountain Division.

**II. Article 15A PARTICIPATION:**

The STATE has established the following goals for the participation of certified minority and women-owned businesses (M/WBE's) on this project:

MBE's 8% of total dollar value

WBE's 7% of total dollar value

**III. PROJECT SCHEDULE:** The following schedule is a recommended timeframe for monitoring major thresholds, which will result in completion of the grant by the scheduled ending date. This does NOT describe all the required steps involved in meeting these thresholds, nor is it intended to be a precise calendar. Nevertheless, not only is the schedule to be used as a monitoring tool by the CONTRACTOR and by the STATE, non-adherence to these timeframes without acceptable justification will be used as criteria in determining grant cancellation. The project documentation listed below should be submitted for approval/acceptance by the STATE as follows:

**ITEM**

**DATE DUE**

**THE FOLLOWING ITEMS MUST BE SATISFIED BEFORE STARTING THE BIDDING PROCESS**

Final Plans and Specifications August 2012

**UPON SATISFACTION OF THE ABOVE, PROCEED WITH THE FOLLOWING:**

Construction Bidding Process Commences August 2012

Bid Award August 2012

M/WBE Utilization Program August 2012

Start of Construction September 2012

M/WBE Required Reports MONTHLY BEGINNING

Payment Requests ONGOING

Project Completion August 2013

Close-out Documentation Requirements (See Appendix C) December 2013

City of Watertown  
Soldiers and Sailors Monument Restoration  
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APPENDIX X - MODIFICATION AGREEMENT FORM

Period From: Agency Code: 1290000  
To: Project #: E10066  
Funding Amount for Period: Contract #: CE10066

This is an AGREEMENT between THE STATE OF NEW YORK, acting by and through the Office of Parks, Recreation and Historic Preservation, having its principal office at Albany, New York 12238 (hereinafter referred to as the STATE), and the City of Watertown, having its principal office at 245 Washington Street, Room 302, Watertown, New York 13601 (hereinafter referred to as the CONTRACTOR), for modification of Contract Number CE10066, as amended in this Appendix.

All other provisions of said AGREEMENT shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the dates appearing under their signatures.

CONTRACTOR:

City of Watertown

By:

Printed Name:

Printed Title:

Date:

STATE OF NEW YORK

County of

)  
) SS.:  
)

On the      day of                      in the year                      , before me, the undersigned, personally appeared                      , personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity (ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

ATTORNEY GENERAL

Agency Code: 1290000  
Project #: E10066  
Contract #: CE10066

STATE AGENCY:

New York State Office of Parks,  
Recreation and Historic Preservation

By:

Date:

State Agency Certification:

"In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract."

\_\_\_\_\_  
(Notary Public, State of New York)

Approved:

Thomas P. DiNapoli  
State Comptroller

By \_\_\_\_\_

Date \_\_\_\_\_

City of Watertown  
Soldiers and Sailors Monument Restoration  
EPF-E10066-H1

APPENDIX E - SPECIAL CONDITIONS AND REQUIREMENTS  
HP PROJECT  
NON-SECTARIAN ENTITY

- I. Non-Sectarian Certification.** The CONTRACTOR certifies that it is a non-sectarian entity and that funds made available under this AGREEMENT as shown in Appendix B shall not be used for any sectarian purposes.
- II. Secretary of the Interior's Standards.** All work undertaken on the project and the subject property shall conform to The Secretary of the Interior's Standards for the Treatment of Historic Properties 1995, The Secretary of the Interior's Standards and Guidelines for Archeological Documentation or any other applicable Secretary of the Interior's Standards (collectively referenced as STANDARDS), which are available from the STATE.
- III. Preservation Restriction.** In order to assure the preservation of the historic resource, the CONTRACTOR agrees to execute and keep in effect an agreement conveying an easement or preservation restriction to the STATE and such others as the STATE deems appropriate. The entity acquiring the easement or restriction and the form of the document shall be subject to the approval of the STATE.
- IV.** The Preservation Covenant must not be subordinate to any other security interest in the property including, but not limited to, purchase money mortgages.
- \*V.** All planning documents, plans and specifications must be approved by the STATE before the CONTRACTOR awards contracts for the project or the subject property. These must be prepared by a qualified professional as defined in Title 9 EPF Regulations.
- VI. Public Access:** the CONTRACTOR agrees to permit the public to have access to the subject property as follows: Since the SUBJECT PROPERTY is visible from a public right-of-way, no additional public access is required.
- \*VII.** With the commencement of the project, the CONTRACTOR shall erect a project sign at the project site noting the State's assistance to the project. The project sign specifications are available from the STATE. The project sign shall remain in place for a period of no less than **25** years from the execution of this AGREEMENT.
- \*VIII.** The CONTRACTOR shall provide the following documentation to the STATE prior to the final execution of this AGREEMENT:
- Equal Employment Opportunity Policy Statement.
  - An Opinion of Municipal Counsel.
- IX.** In the event of any unanticipated archeological discoveries, the CONTRACTOR shall stop all work and notify the STATE immediately. Work shall not resume until the STATE determines how any previously undiscovered archeological remains will be treated. Special attention shall be given to any discovery of burials, graves, or human remains.
- \*X.** Due to the potential for ground disturbance resulting from any ground disturbing activity (e.g. trenching, grading, demolition, new construction), an archeological survey is required unless substantial prior ground disturbance can be documented. Documentation of prior ground disturbance, or a proposal for archeological testing, must be reviewed and approved by the STATE before undertaking either the testing or ground disturbance.

City of Watertown  
Soldiers and Sailors Monument Restoration  
EPF-E10066-H1

APPENDIX F - PROGRAM SPECIFIC REQUIREMENTS

**I. Construction Requirements.**

A. Contract plans, specifications, and cost estimates shall be submitted to the STATE for review prior to the letting of any construction contract by the CONTRACTOR. Once all changes have been made and agreed to by the STATE and the CONTRACTOR, the CONTRACTOR shall submit three copies of the plans, specifications and cost estimates to the STATE. The STATE shall verify that the plans, specifications and cost estimates are in conformance with the work described in "APPENDIX B - BUDGET" and shall so notify the CONTRACTOR in writing; the STATE shall further verify that appropriate documents have been prepared by a professional licensed to practice in the State of New York. A complete set shall be returned to the CONTRACTOR by the STATE and shall be kept on the project site at all times. All plans and specifications as reviewed shall become part of this AGREEMENT, and no change or revision may be made to such plans and specifications without the express written consent of the STATE.

B. Contracts for construction in excess of thirty five thousand dollars (\$35,000) shall be awarded after competitive bidding in accordance with the provisions of the General Municipal Law. A certified copy of a summary of all bids shall be submitted to the STATE prior to awarding a contract, and an executed copy of the construction contract will thereafter be submitted to the STATE.

C. The CONTRACTOR shall be responsible for assuring that the project is designed and constructed in conformance with the Uniform Federal Accessibility Standards (UFAS -- Appendix A to 41 CFR part 101-19.6), the Americans with Disabilities Act Accessibility Guidelines (ADAAG -- Appendix A to 28 CFR part 36) and the New York State Uniform Fire Prevention and Building Code (parts 1100-1102 of Title 9 NYCRR). Where there are discrepancies among the sets of standards with regard to a particular design/construction requirement, the one providing for the greatest degree of accommodation for the disabled shall apply.

D. It is the CONTRACTOR'S responsibility to assure that all work on the project complies with all applicable state and/or local laws including, but not limited to, zoning ordinances and building codes.

E. All purchase contracts involving an expenditure of more than twenty thousand dollars (\$20,000) shall be awarded to the lowest responsible bidder furnishing the required security after advertisement for sealed bids in the manner provided for in section 103 of the General Municipal Law.

F. It is the CONTRACTOR's responsibility, pursuant to Section 57 of the Workers' Compensation Law, to maintain for STATE audit and review either proof that they have Workers' Compensation coverage for any employees, or a waiver statement from the New York State Department of Labor. The CONTRACTOR must also obtain from any contractor or sub-contractor hired to provide a service pursuant to this AGREEMENT, similar proof or waiver from the contractor or sub-contractor, and must maintain such documentation on file for audit.

G. Goods and services which are not required by this contract to be procured by the CONTRACTOR pursuant to competitive bidding must be procured in a manner so as to assure the prudent and economical use of grant moneys, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances, and to guard against favoritism, improvidence, extravagance, fraud and corruption.

**II. Fees.** The CONTRACTOR may charge a reasonable fee for the use of any facility, which is part of the project.

A. Except for the imposition of a differential fee schedule for non-residents of the municipality in which the project is located, the establishment of any preferential user fee for any person or entity is prohibited. Fees charged to non-residents shall not exceed twice those charged to residents.

City of Watertown  
Soldiers and Sailors Monument Restoration  
EPF-E10066-H1

B. Where there is no charge for residents but a fee is charged to non-residents, non-resident fees cannot exceed fees charged for residents at comparable State or local public facilities.

C. Reservation, membership or annual permit systems available to residents must also be available to non-residents and the period of availability must be the same for both residents and non-residents.

D. This provision does not apply to non-resident fishing and hunting license fees.

**III. Funding.** The CONTRACTOR hereby certifies that the funds made available by the STATE under this AGREEMENT shall not supplant local funds already appropriated or identified by the CONTRACTOR for the project.

**IV. Termination.** The CONTRACTOR shall complete the project as set forth in this AGREEMENT, and failure to render satisfactory progress or to complete the project to the satisfaction of the STATE may be deemed an abandonment of the project and cause for the suspension or termination of any obligation of the STATE. In the event the CONTRACTOR should be deemed to have abandoned the project for any reason or cause other than a national emergency or an Act of God, all monies paid to the CONTRACTOR by the STATE and not expended in accordance with this AGREEMENT shall be repaid to the STATE upon demand. If such monies are not repaid within one year after such demand, the State Comptroller of the State of New York may cause to be withheld from any State assistance to which the CONTRACTOR would otherwise be entitled an amount equal to the monies demanded (see Section III of this AGREEMENT).

**V. Alienation.**

A. The CONTRACTOR shall not alter, demolish, sell, lease or otherwise convey the project, in whole or in part, unless it shall have first received the written approval of the STATE.

B. The CONTRACTOR agrees to own or hold by lease and to maintain and operate the project for a period of 25 years from the date of the execution of this AGREEMENT. During such period, the CONTRACTOR shall not authorize the operation of the project, or any portion thereof, by any other person, entity, or organization pursuant to any management agreement, lease or other arrangement without first obtaining the written approval of the STATE.

IN WITNESS THEREOF, the parties hereto have executed or approved this AGREEMENT on the dates below their signatures.

PROJECT NUMBER: **EPF-E10066-H1**

CONTRACTOR:

**City of Watertown**

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

Printed Name: \_\_\_\_\_

Printed Title: \_\_\_\_\_

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

STATE AGENCY:

New York State Office of Parks, Recreation, and Historic Preservation

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

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

State Agency Certification:

“In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract.”

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

On the        day of                                in the year                                , before me, the undersigned, personally appeared                                , personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their/ capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public, State of New York

ATTORNEY GENERAL:

Approved:

Thomas P. DiNapoli  
State Comptroller

By \_\_\_\_\_

Date \_\_\_\_\_

Res No. 8

May 31, 2012

To: The Honorable Mayor and City Council  
From: James E. Mills, City Comptroller  
Subject: Authorizing Spending of Funds from the Capital Reserve Fund

Included in tonight's agenda is a resolution to accept the bid submitted by Hyde Stone for the installation of the Municipal Building HVAC upgrades and Library HVAC upgrades. Based on the current summary of costs provided in Kurt Hauk's memo both projects have funding shortfalls. It is my recommendation to deplete the approximate \$24,000 balance of the Capital Reserve Fund to partially address the shortfalls. On January 17, 2012 City Council authorized the spending of no more than \$365,000 from the Capital Reserve Fund in accordance with the Fiscal Year 2011-12 Capital Budget for these projects.

The additional appropriation of \$24,000 would require an additional public hearing in order to appropriate the remainder of the reserve fund. Accordingly, staff is recommending that a Public Hearing be set for June 18, 2012 at 7:30 p.m. to discuss the appropriation of the remaining capital reserve funds.

A history of the Capital Reserve Fund is as follows:

|  |                |                |
|--|----------------|----------------|
| <u>Sources:</u>                              |                |                |
| Budgetary Transfers (FY 2005-06, FY 2006-07) | \$600,000      |                |
| Interest Earnings                            | <u>50,173</u>  |                |
| Total Available                              |                | \$ 650,173     |
|  |                |                |
| <u>Uses:</u>                                 |                |                |
| DPW Plow Shed                                | \$ 75,000      |                |
| Thompson Park Clinic Building Roof           | 61,235         |                |
| Arena Concession Stand                       | 35,000         |                |
| Arena Roof                                   | 90,000         |                |
| Municipal Building HVAC                      | 250,000        |                |
| Library HVAC                                 | <u>115,000</u> |                |
| Total Uses                                   |                | <u>626,235</u> |
| Balance Available                            |                | \$23,938       |

**RESOLUTION**

Page 1 of 1

Public Hearing Authorizing Spending  
From Capital Reserve Fund

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 |
|-----|-----|
|     |     |
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|     |     |

***Introduced by***

WHEREAS on June 19, 2006, the City Council approved establishing a Capital Reserve Fund pursuant to Section 6-c of the General Municipal Law to finance future capital improvements, and

WHEREAS the Adopted 2011-12 Capital Budget included a project to replace Municipal Building chillers and tower at an estimated cost of \$250,000 and a project to replace the Library cooling tower at an estimated cost of \$200,000, and

WHEREAS on Monday, January 17, 2012 at 7:30 p.m., the City Council of the City of Watertown held a public hearing to discuss the expenditure of funds from this capital reserve fund and authorized the appropriation of \$365,000 from the Capital Reserve Fund, and

WHEREAS the current estimated costs of the projects are higher than budgeted, and

WHEREAS the City Council desires to use the remaining balance of the Capital Reserve Fund to offset the funding shortfalls of these projects, and

WHEREAS on Monday, June 18, 2012 at 7:30 p.m., the City Council of the City of Watertown held a public hearing to discuss the expenditure of funds from this capital reserve fund and authorized the appropriation of \$24,000 from the Capital Reserve Fund, and

WHEREAS it has been determined that the expenditure of these funds is in keeping with the purpose for the capital reserve fund,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby authorizes the appropriating of Capital Reserve funds in an amount not to exceed an additional \$24,000 to pay for the cost of the HVAC upgrades at the Municipal Building and Library.

**Seconded by**

Res No. 9

May 31, 2012

To: The Honorable Mayor and City Council

From: James E. Mills, City Comptroller

Subject: Authorizing Re-adoption of the FY 2011-12 General and Library Fund Budgets

Included in tonight's agenda is a resolution to accept the bid submitted by Hyde Stone for the installation of the Municipal Building HVAC upgrades and Library HVAC upgrades. Based on the current summary of costs provided in Kurt Hauk's memo both projects have funding shortfalls totaling \$277,707. City Council was presented earlier tonight with a resolution to appropriate the remaining \$24,000 from the Capital Reserve Fund to reduce the funding shortfall to \$253,707. Attached for City Council consideration is a Fiscal Year 2011-12 General and Library Funds budget re-adoption resolution to appropriate additional funds to complete the projects.

An alternative method to fund the shortfall would be to re-appropriate \$255,000 of the \$320,000 that was included in the Fiscal Year 2011-12 Capital Budget for the Karl R. Burns Learning Center to the HVAC projects. The funding for the Karl R. Burns Learning Center would then be funded through either the issuance of debt to be paid off within no longer than five years or through the re-adoption the Fiscal Year 2012-13 budget to appropriate the total funds necessary to complete the project once the construction costs are known. Currently the project cost is estimated to be \$420,000.

# RESOLUTION

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Readopting Fiscal Year 2011-12  
General and Library Fund Budgets

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 |
|-----|-----|
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***Introduced by***

WHEREAS on June 1, 2011 the City Council passed a resolution adopting the Budget for Fiscal Year 2011-12, of which \$38,023,157 was appropriated for the General Fund, and

WHEREAS on July 5, 2011 the City Council re-adopted the General Fund Budget to increase appropriations by \$25,240 to pay the costs of the Symphony Syracuse concert, and

WHEREAS on August 1, 2011 the City Council re-adopted the General Fund Budget to increase appropriations by \$45,150 to pay the costs of the change order to the contract with Bat-Con to reconstruct the J. B. Wise parking lot, and

WHEREAS on September 19, 2011 the City Council re-adopted the General Fund Budget to increase appropriations by \$38,000 to pay for the purchase of a pick-up for the Department of Public Works' roads maintenance department, and

WHEREAS on October 24, 2011 the City Council re-adopted the General Fund Budget to increase appropriations by \$56,073 to reflect the modified organizational structure of the Parks and Recreation Department and the related appropriations for certain departmental expenditures, and

WHEREAS on April 2, 2012 the City Council re-adopted the General Fund Budget to increase appropriations by \$23,856 to reflect the purchase of a replacement police vehicle, and

WHEREAS on May 7, 2012 the City Council re-adopted the General Fund Budget to increase appropriations by \$53,000 to reflect the expenditures from the Alex T. Duffy Fairgrounds Stadium Repair Reserve Fund for the masonry repairs, locker room and office flooring replacements, and heater replacements at the City's stadium and,

WHEREAS the Fiscal Year 2011-12 General Fund and Library Fund Budgets need to be re-adopted to appropriate additional funds to reflect the increased costs of the Municipal Building and Library HVAC upgrade projects approved in the Fiscal Year 2011-12 Capital Budget,

**RESOLUTION**

Page 2 of 2

Readopting Fiscal Year 2011-12  
General and Library Fund Budgets

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 |
|-----|-----|
|     |     |
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|     |     |
|     |     |
|     |     |
|     |     |

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Watertown, New York that it hereby re-adopts the General Fund Budget for Fiscal Year 2011-12 in the total amount of \$ 38,543,476 and

BE IT FURTHER RESOLVED by the City Council of the City of Watertown that the following adjustments be included in the re-adopted General Fund Budget:

Revenues

|             |                              |                  |
|-------------|------------------------------|------------------|
| A.0000.0889 | Capital Reserve Fund Balance | \$ 24,000        |
| A.0000.0909 | Fund Balance                 | <u>255,000</u>   |
|             | Total                        | <u>\$279,000</u> |

Expenditures

|             |                                   |                   |
|-------------|-----------------------------------|-------------------|
| A 9512.0900 | Transfer to Library Fund          | \$ 223,000        |
| A 9950.0900 | Transfer to Capital Projects Fund | <u>56,000</u>     |
|             | Total                             | <u>\$ 279,000</u> |

BE IT FURTHER RESOLVED by the City Council of the City of Watertown, New York that it hereby re-adopts the Library Fund Budget for Fiscal Year 2011-12 in the total amount of \$1,718,161 and

BE IT FURTHER RESOLVED by the City Council of the City of Watertown that the following adjustments be included in the re-adopted Library Fund Budget:

Revenues

|             |                     |                   |
|-------------|---------------------|-------------------|
| L.0000.5031 | Inter-fund Transfer | \$ 223,000        |
|             | Total               | <u>\$ 223,000</u> |

Expenditures

|             |                                   |                   |
|-------------|-----------------------------------|-------------------|
| L 9950.0900 | Transfer to Capital Projects Fund | <u>223,000</u>    |
|             | Total                             | <u>\$ 223,000</u> |

**Seconded by**



CITY OF WATERTOWN  
ENGINEERING DEPARTMENT  
MEMORANDUM

DATE: May 30, 2012

TO: John Krol, City Manager

FROM: Kurt W. Hauk, City Engineer

SUBJECT: HVAC Project Report for City Hall and Flower Library

This purpose of this memorandum is to provide a summary of the overall project costs for both City Hall and Flower Library. The project has four separate components; engineering, equipment purchase, installation, and controls.

The engineering component is being provided by Sack & Associates with the supplemental to the agreement for submittals review is pending before Council.

The equipment purchase component involved the City pre-purchasing HVAC equipment in advance of the project. These items have already arrived or are pending delivery.

The installation of the equipment and retrofit work to both buildings is under a separate contract that is also pending before Council.

The final portion involves the installation of equipment controls. Siemens currently provides the control software and hardware too both buildings. The controls portion of the work is divided into two portions. The first involves all control equipment that is available on state contract. These will be purchased separately by the City, and a list for both buildings is enclosed. The labor for the installation of all of the controls equipment and any control equipment that is not on state contract is included in the installation bid submitted by Hyde-Stone.

The final breakdown of costs by building is:

|                             | City Hall        | Flower Library   |
|-----------------------------|------------------|------------------|
| Bid Specifications          | \$ 5,000         | \$ 5,000         |
| Engineering Review:         | \$ 2,500         | \$ 2,500         |
| Equipment Purchase:         | \$ 85,824        | \$166,125        |
| Installation w/ Alternates: | \$205,187        | \$226,274        |
| Controls:                   | \$ 6,568         | \$ 22,729        |
| Total                       | \$305,079        | \$422,628        |
| 2011-12 Budget              | <u>\$250,000</u> | <u>\$200,000</u> |
| Shortfall                   | \$ 55,079        | \$222,628        |

These costs are less than the pre-design estimate provided by Sack & Associates for this alternative in their feasibility study. Their estimates were \$591,000 and \$786,000 for City Hall and Flower Library respectively. Copies of each estimate and budget sheets are enclosed.

6 Encl

cc: Jim Mills, City Comptroller  
Amy Pastuf, Purchasing Agent  
Barbara Wheeler, Library Director  
Shawn McWayne, Code Enforcement Supervisor  
Tom Maurer, CE-I  
File

Res No. 10

May 31, 2012

To: The Honorable Mayor and City Council

From: John C. Krol, City Manager

Subject: Accepting Bid for HVAC Installations at Flower Memorial Library and City Hall, Hyde-Stone Mechanical Contractors, Inc.

As approved at the January 17, 2012 City Council Meeting, the City Purchasing Department has advertised and received sealed bids for the installation of pre-purchased HVAC equipment at the Flower Memorial Library and City Hall.

Eight (8) sets of bid specifications and plans were requested or mailed with one (1) bid received and publicly opened and read in the City Purchasing Department on Tuesday, May 6, 2012, at 11:00 a.m.

City Purchasing Manager Amy Pastuf reviewed the bid received with City Engineer Kurt Hauk, and it is their recommendation that the City accept the bid from Hyde-Stone Mechanical Contractors, Inc. of Watertown, New York, including the alternative and the service contracts, as the lowest qualified bidder meeting our specifications. Ms. Pastuf's report is attached. These projects were approved in the 2011-12 Capital Budget; however, the funding provided is inadequate and will require the budget readoption prior to this resolution.

A resolution for City Council consideration is attached.

# RESOLUTION

Page 1 of 1

Accepting Bid for HVAC Installations at Flower Memorial Library and City Hall, Hyde-Stone Mechanical Contractors, Inc.

***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 |
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WHEREAS the City Purchasing Department has supplied bid specifications and plans for the installation of pre-purchased HVAC equipment at the Flower Memorial Library and City Hall, and

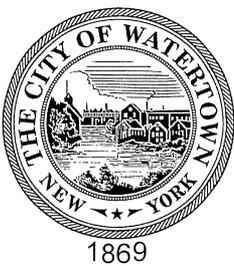
WHEREAS one (1) bid was received and publicly opened and read in the City Purchasing Department on Tuesday, May 6, 2012, at 11:00 a.m., and

WHEREAS City Purchasing Manager Amy Pastuf reviewed the bid received with City Engineer Kurt Hauk, and it is their recommendation that the City Council accept the bid submitted by Hyde-Stone Mechanical Contractors, Inc. of Watertown, New York, including the alternative and the service contracts,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown, New York accepts the bid submitted by, for the installation of pre-purchased HVAC equipment at the Flower Memorial Library and City Hall, including the alternative and the service contracts, as the lowest qualified bidder meeting our specifications, and

BE IT FURTHER RESOLVED that the award of this bid and the work called for thereby is expressly conditioned upon the City Council approving a resolution readopting the FY 2011-12 Operating Budget.

**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  
Phone (315) 785-7749 Fax (315) 785-7752

Amy M. Pastuf  
Purchasing Manager

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## MEMORANDUM

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**TO:** John C. Krol, City Manager  
**FROM:** Amy M. Pastuf, Purchasing Manager  
**SUBJECT:** Bid 2012-12 – HVAC Installations – FML and City Hall Bid Recommendation  
**DATE:** 5/30/2012

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The City's Purchasing Department advertised in the Watertown Daily Times on May 1, 2012 calling for sealed bids for the installation of pre-purchased HVAC equipment at the Flower Memorial Library and City Hall. The purchase of the equipment was approved at the January 17, 2012 City Council Session. Bid Specifications were filed with the Northern New York and Syracuse Builders Exchange, the Dodge Reports and The Contract Reporter. The project will install the equipment as well as new control instrumentation and software.

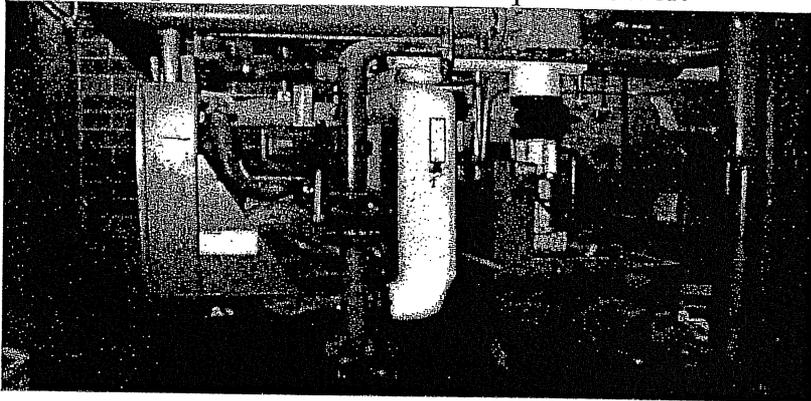
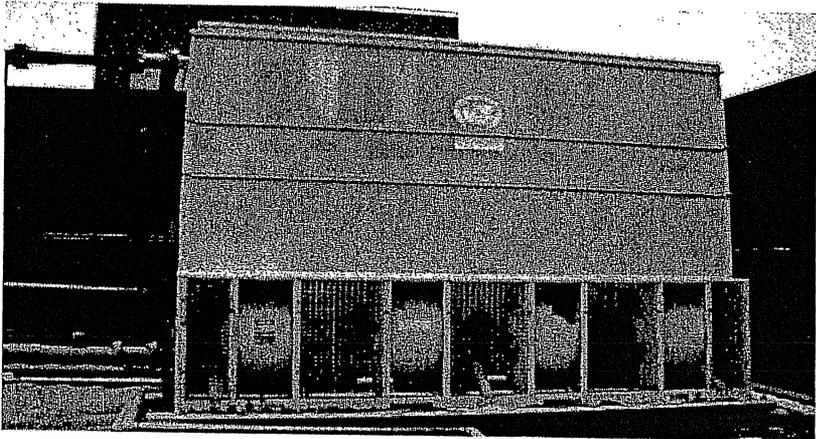
Eight (8) sets of bid specifications and plans were requested or mailed to HVAC companies in the Upstate area. One (1) sealed bid was submitted to the Purchasing Department. The sealed bid was publically opened and read on Tuesday, May 6, 2012 at 11:00 am, local time. The bid tally is provided below.

| Item Description                      |   | Hyde-Stone Mechanical Contractors, Inc. |
|---------------------------------------|---|---|
| City Hall                             | City Hall Installation                              | \$187,005.00                            |
| City Hall                             | Alternative 1 - Chilled Water Loop Pump Replacement | \$9,818.00                              |
| City Hall                             | Two-year maintenance - City Hall                    | \$8,364.00                              |
| FML                                   | Flower Memorial Library Installation                | \$219,658.00                            |
| FML                                   | Two-year maintenance - Flower Memorial Library      | \$6,616.00                              |
| Total Base Bid                        |   | \$406,663.00                            |
| Total Alternatives                    |   | \$9,818.00                              |
| Total Optional Maintenance Agreements |   | \$14,980.00                             |
| Bid Total                             |   | \$431,461.00                            |

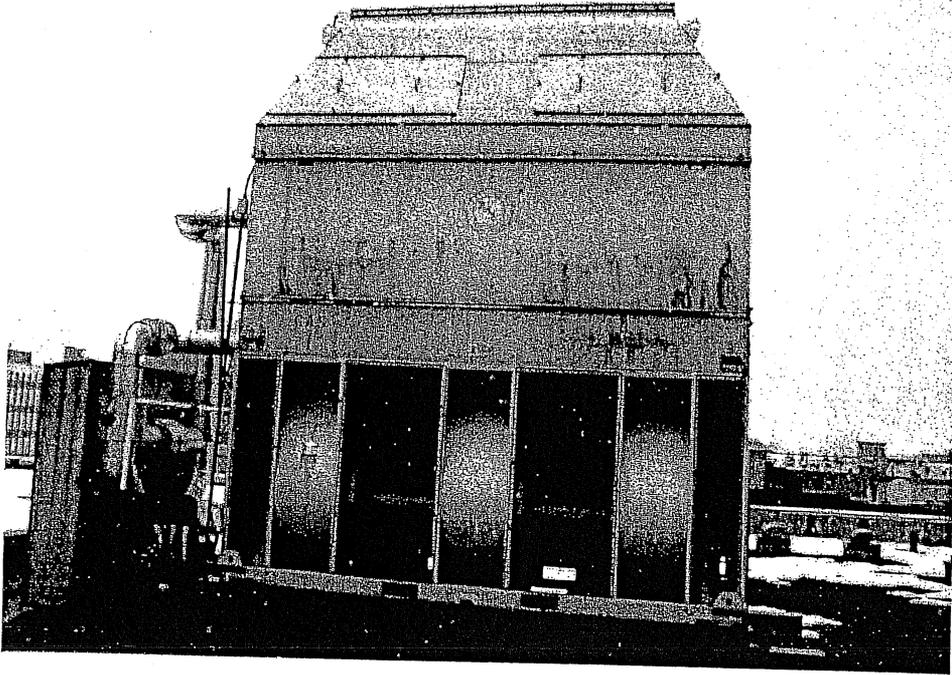
The only responsive bid received was from Hyde-Stone Mechanical Contractors, Inc. The bid was reviewed by Kurt Hauk, City Engineer, who confirmed that the bid conformed to the specifications set forth in the bid packet. It is recommended that the entire bid, including the alternative and the service contracts, be awarded to Hyde-Stone Mechanical Contractors, Inc as the lowest responsive responsible bidder.

If there are any questions concerning this recommendation, please contact me at your convenience.

FISCAL YEAR 2011-2012  
 CAPITAL BUDGET  
 FACILITY IMPROVEMENTS  
 CITY HALL

| PROJECT DESCRIPTION   | COST             |
|---|------------------|
| <p>Municipal Building Chiller and Tower Replacement:</p> <p>These two air conditioning chillers (one installed in the early 1960's and one replaced in mid 1980's) are well beyond their useful life and require replacement. The units would be replaced with a high efficiency chiller. The cooling tower installed in the early 1960's is also beyond it useful life and would also be replaced with a variable speed tower.</p>   <p>Funding to support this project will be through a transfer from the Capital Reserve Fund.</p> | <p>\$250,000</p> |
| <p>TOTAL</p>  | <p>\$250,000</p> |

FISCAL YEAR 2011-2012  
CAPITAL BUDGET  
FACILITY IMPROVEMENTS  
LIBRARY

| PROJECT DESCRIPTION   | COST                    |
|---|-------------------------|
| <p>Cooling tower replacement</p> <p>The cooling tower on the Library roof needs to be replaced. It is nearing fifteen years old and the life of this type of equipment is typically about ten years. The cooling tower has been leaking, causing damage to surrounding areas of the roof which has caused some internal leaks inside the library. The work involves replacing it with a high efficiency tower, and an energy recovery unit.</p>  | <p>\$200,000</p>        |
| <p><b>TOTAL</b></p>   | <p><b>\$200,000</b></p> |

Funding to support this project will be through a transfer from the Capital Reserve Fund (\$115,000) and a transfer from the Library Fund (\$85,000).

Res No. 11

May 31, 2012

To: The Honorable Mayor and City Council

From: Elliott B. Nelson, Assistant to the City Manager

Subject: Amendment No. 2 of the Geothermal Professional Services Agreement, Sack & Associates

Sack & Associates, Consulting Engineers, PLLC presented their Feasibility Study for both the City Hall and Flower Memorial Library buildings to the City Council on April 4, 2011. Based on their presentation and the follow-up presentation by City Engineer Kurt W. Hauk, it was determined that we would move forward with putting the bid specifications together and ordering the new high-efficiency equipment needed for City Hall and the Flower Memorial Library. The equipment has now been delivered and we are ready to enter the installation phase.

Attached for Council's consideration is a resolution approving Amendment No. 2 to the Professional Service Agreement between Sack & Associates and the City of Watertown. Under the terms of this amendment, the consulting engineers will review and approve shop drawings as well as perform site visits during the installation phase. The full contract amendment and report from City Engineer Kurt Hauk is attached for your reference. The maximum amount paid under this contractual amendment will not exceed \$5,000.

If the contract with Hyde-Stone included in tonight's agenda is not approved by Council, the additional services with Sack & Associates will not be required. City Staff will be present at the Council meeting to answer any questions.

June 4, 2012

# RESOLUTION

Page 1 of 1

Approving Amendment No. 2,  
Geothermal Professional Services  
Agreement, Sack & Associates

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 |
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### *Introduced by*

WHEREAS City Council reviewed a feasibility presentation by Sack & Associates on the installation of a geothermal system at the April 4, 2011 City Council Meeting, and

WHEREAS City Council wishes to install and perform upgrades for high efficiency equipment for the HVAC systems at the Flower Memorial Library and City Hall, and

WHEREAS Sack & Associates agreed to review submittals and provide oversight for the City, as detailed in the attached Amendment No. 1 to their Agreement with the City, which is made a part of this resolution,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby approves Amendment No. 2 to the Geothermal Professional Services Agreement for document review and oversight of the installation of high efficiency HVAC equipment at the Flower Memorial Library, and

BE IT FURTHER RESOLVED that City Manager, John C. Krol, is hereby authorized and directed to take any necessary steps to formalize acceptance of this Amendment to the Agreement with Sack and Associates, on behalf of the City.

### **Seconded by**



CITY OF WATERTOWN  
ENGINEERING DEPARTMENT  
MEMORANDUM

DATE: May 29, 2012

TO: John Krol, City Manager

FROM: Kurt W. Hauk, City Engineer

SUBJECT: Amendment #2 to the Geothermal Professional Services Agreement

Enclosed is the scope and rate schedule for supplemental work to be performed as part of the Professional Services Agreement for the evaluation of City facilities for the feasibility of using geothermal system versus a conventional system upgrade.

Amendment #2 includes the review and approval of shop drawings and submittals as well as site visits during installation of the HVAC equipment that was pre-purchased by the City to be installed at City Hall and Flower Library. It will be installed by a contractor under a separate contract.

The work will be billed at the hourly rate by the enclosed rate schedule for a total not to exceed cost of \$5,000.

Please prepare a Resolution for City Council consideration. The original copies are in the Engineering Office and will be forwarded for your signature after the Resolution has been approved.

cc: Jim Mills, City Comptroller  
Barbara Wheeler, Library Director  
Shawn McWayne, Code Enforcement Supervisor  
File



**SACK & ASSOCIATES**  
CONSULTING ENGINEERS, PLLC

May 4, 2012

Mr. Kurt W. Hauk, P.E., City Engineer  
Department of Engineering  
Room 305, City Hall  
City of Watertown, New York  
245 Washington Street  
Watertown, NY 13601

Re: City of Watertown – City Hall and Library  
Pre-purchased HVAC Equipment – Installation Phase

Dear Mr. Hauk:

In response to your request for a proposal to provide Engineering Services for the installation phase of the pre-purchased HVAC equipment for the City Hall and Library, we offer the following:

Scope of Services

Engineering Services will include the following:

1. Site visits as needed (estimated two or three at approximately \$1,000/day)
2. Review of shop drawings/submittals for items related to the installation of the pre-purchased equipment.

Fee

We propose to provide Engineering Services as described above on an hourly basis according to the enclosed A-2012 rate schedule up to a total not-to-exceed amount of **FIVE THOUSAND DOLLARS (\$5,000)**. Our fee does not include reimbursable expenses.

Thank you for this opportunity to submit our proposal for this portion of the overall project. Please call if you have any questions.

Very truly yours,

SACK & ASSOCIATES  
CONSULTING ENGINEERS, PLLC

Elizabeth P. Fisher, EIT

/kl

Enclosure (2012A Rate Schedule)

T:\MARKETING\2012\FEE LETTERS City of Watertown-Prepurchase Equip Installation-EPF-Fee-LTR.doc



**SACK & ASSOCIATES**  
*CONSULTING ENGINEERS, PLLC*

**STANDARD RATE SCHEDULE A-2012  
 FOR PROFESSIONAL SERVICES**

| <u>Title</u>                           | <u>Hourly Rates</u> |
|--|---------------------|
| Principal .....                        | \$175.00            |
| Manager: Project Engineer .....        | \$140.00            |
| Manager: Engineer.....                 | \$125.00            |
| Engineer, Senior.....                  | \$117.00            |
| Associate Engineer, Senior .....       | \$107.00            |
| Engineer .....                         | \$100.00            |
| Associate Engineer.....                | \$96.00             |
| Designer, Senior.....                  | \$86.00             |
| Engineer, Intern.....                  | \$86.00             |
| Designer .....                         | \$81.00             |
| Manager, Administration .....          | \$75.00             |
| Drafter, Senior.....                   | \$70.00             |
| Administrative Assistant, Senior ..... | \$70.00             |
| Administrative Assistant.....          | \$53.00             |
| Drafter.....                           | \$53.00             |

**REIMBURSABLE EXPENSES**

The following items are not included in the fee for professional services and will be invoiced at their corresponding cost with adjustment as stated in the proposal/agreement:

|                                       |                       |
|---------------------------------------|-----------------------|
| <b>In-house Reproduction Services</b> |                       |
| Bond Plots or Copies .....            | \$0.12/SF             |
| Contracted Reproduction Services..... | At cost               |
| Photocopies.....                      | \$0.08/page           |
| Long-distance Phone Calls .....       | At cost               |
| Courier Service .....                 | At cost               |
| Express Mail .....                    | At cost               |
| Mileage .....                         | Current IRS Rate/Mile |

Public Hearing – 7:30 p.m.

May 23, 2012

To: The Honorable Mayor and City Council

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

Subject: Changing the Approved Zoning Classifications of Various Properties on the River Side of East Main Street and the North Side of Water Street in Order to Implement the Local Waterfront Revitalization Program

The City Council has scheduled a public hearing on the attached Ordinance at 7:30 p.m. on Monday, June 4, 2012. The Planning Board reviewed the zone changes at its April 3 and May 1 meetings and adopted a motion recommending approval at the latter meeting.

This fourth phase of zone changes will affect parts of the east side of the City, including East Main Street, and the north side of Water Street. The only existing use that will become non-conforming is a storage garage on Water Street. The changes in the 200 block of East Main Street and on East Street change some non-conforming houses to Residence C from Heavy Industry and eliminates some split zone situations, including the industrial parcel that is partially Residence C.

Copies of maps showing the existing zoning and this proposed rezoning are included within City Council Members' agenda packages. Attached to this memo are copies of the reports prepared for the Planning Board and excerpts from the Planning Board Minutes.

The SEQRA Resolution related to this zone change must be approved before the City Council may vote on the Ordinance.

# ORDINANCE

Page 1 of 6

Changing the Approved Zoning Classifications of Various Properties on the River Side of East Main Street and the North Side of Water Street in Order to Implement the Local Waterfront Revitalization 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 .....

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### *Introduced by*

\_\_\_\_\_ Council Member Teresa R. Macaluso

BE IT ORDAINED where certain changes to Zoning District boundaries are required in order to implement the City of Watertown’s Local Waterfront Revitalization Program, and

WHEREAS City Staff have submitted a request to change the approved zoning classification of various properties on the river side of East Main Street and the north side of Water Street in order to implement the Local Waterfront Revitalization Program, and

WHEREAS the Planning Board of the City of Watertown considered the zone change request at its meetings held on April 3, 2012 and May 1, 2012, and adopted a motion recommending that the City Council approve the zone changes as requested, and

WHEREAS a public hearing was held on the proposed zone change on June 4, 2012, after due public notice, and

WHEREAS the City Council has made a declaration of Negative Findings of the impacts of the proposed zone change according to the requirements of SEQRA, and

WHEREAS the City Council deems it in the best interest of the citizens of the City of Watertown to approve the requested zone change,

# ORDINANCE

Page 2 of 6

Changing the Approved Zoning Classifications of Various Properties on the River Side of East Main Street and the North Side of Water Street in Order to Implement the Local Waterfront Revitalization 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 .....

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NOW THEREFORE BE IT ORDAINED that the zoning classification of each of the parcels in the following list is hereby changed to **Neighborhood Business District**:

- 4-14-120.000            534 PEARL ST
- 4-14-121.000            548 PEARL ST

And,

BE IT FURTHER ORDAINED that the zoning classification of each of the parcels in the following list is hereby changed to **Residence C District**:

- 3-02-110.000            408 EAST ST
- 3-02-111.000            410 EAST ST
- 3-02-112.000            418 EAST ST
- 3-02-116.000            260 MAIN ST E
- 3-02-117.000            266 MAIN ST E
- 3-02-126.000            298 MAIN ST E
- 3-02-127.000            300 MAIN ST E
- 4-02-121.000            300 MAIN ST E
- 4-14-104.000            V L WATER ST N SIDE
- 4-14-105.000            549 WATER ST
- 4-14-106.000            541 WATER ST
- 4-14-106.001            545 WATER ST
- 4-14-107.000            539 REAR WATER ST
- 4-14-108.000            535 WATER ST
- 4-14-109.000            527 WATER ST
- 4-14-110.000            525 REAR WATER ST
- 4-14-111.000            521 WATER ST
- 4-14-111.001            VL-3 WATER ST
- 4-14-112.000            517 WATER ST
- 4-14-113.000            517 WATER ST
- 4-14-114.000            513 WATER ST

# ORDINANCE

Page 3 of 6

Changing the Approved Zoning Classifications of Various Properties on the River Side of East Main Street and the North Side of Water Street in Order to Implement the Local Waterfront Revitalization 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.

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Total .....

- 4-14-125.000 610 MAIN ST E
- 4-14-126.000 616 MAIN ST E
- 4-14-127.000 624 MAIN ST E
- 4-14-128.000 630 MAIN ST E
- 4-14-129.000 636 MAIN ST E
- 4-16-102.000 VL-5 WATER ST
- 4-16-103.000 585 WATER ST
- 4-16-103.001 575 WATER ST
- 4-16-105.000 VL MAIN ST E
- 4-16-105.001 563 WATER ST
- 4-16-106.000 555 WATER ST
- 4-24-102.000 737 WATER ST
- 4-24-103.000 733 WATER ST
- 4-24-104.000 729 WATER ST
- 4-24-105.000 725 WATER ST
- 4-24-106.000 VL-13 WATER ST
- 4-24-107.000 717 WATER ST
- 4-24-108.000 707 WATER ST
- 4-24-109.000 703 WATER ST
- 4-24-110.000 701 WATER ST
- 4-26-201.000 941 WATER ST
- 4-26-202.000 25 WATER ST
- 4-26-203.000 933 WATER ST
- 4-26-204.000 23 WATER ST
- 4-26-205.000 925 WATER ST
- 4-26-206.000 921 WATER ST
- 4-26-207.000 19-20 WATER ST
- 4-26-208.000 19-20 WATER ST
- 4-26-209.000 911 WATER ST
- 4-26-210.000 907 WATER ST

# ORDINANCE

Page 4 of 6

Changing the Approved Zoning Classifications of Various Properties on the River Side of East Main Street and the North Side of Water Street in Order to Implement the Local Waterfront Revitalization 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.  
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- 4-26-211.000 903 WATER ST
- 4-26-212.000 47 OAK AVE
- 4-26-213.000 48 OAK AVE
- 4-26-214.000 46 NORTH ST
- 4-26-215.000 45 NORTH ST
- 4-26-216.000 43 44 NORTH ST
- 4-26-217.000 43 44 NORTH ST
- 4-26-218.000 VL REAR WATER ST
- 4-26-219.000 10 NORTH ST
- 4-26-220.000 40 NORTH ST
- 4-26-221.000 39 NORTH ST
- 4-26-222.000 38 NORTH ST
- 4-26-301.000 861 WATER ST
- 4-26-302.000 857 WATER ST
- 4-26-303.001 851 WATER ST
- 4-26-305.000 843 WATER ST
- 4-26-307.000 835 WATER ST
- 4-26-308.000 8 WATER ST
- 4-26-309.000 829 WATER ST
- 4-26-310.100 823 WATER ST
- 4-26-311.000 819 WATER ST
- 4-26-312.000 4 WATER ST
- 4-26-313.000 811 WATER ST
- 4-26-314.000 805 WATER ST
- 4-26-315.000 801 WATER ST
- 4-26-316.000 64 SPRING ST
- 4-26-317.000 63 SPRING ST
- 4-26-318.000 62 SPRING ST
- 4-26-319.000 61 SPRING ST
- 4-26-320.000 819 WATER ST

# ORDINANCE

Page 5 of 6

Changing the Approved Zoning Classifications of Various Properties on the River Side of East Main Street and the North Side of Water Street in Order to Implement the Local Waterfront Revitalization 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.

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Total .....

- 4-26-322.000 58 SPRING ST
- 4-26-323.000 57 SPRING ST
- 4-26-324.000 56 SPRING ST
- 4-26-332.100 853 WATER ST
- 4-26-332.200 839 WATER ST
- 4-26-401.000 75 NORTH ST
- 4-26-402.000 74 NORTH ST
- 4-26-403.000 73 NORTH ST
- 4-26-404.000 72 NORTH ST
- 4-26-405.000 71 NORTH ST
- 4-26-406.000 70 NORTH ST
- 4-26-407.000 68 69 NORTH ST
- 4-26-408.000 68 69 NORTH ST
- 4-26-409.000 67 NORTH ST
- 4-26-410.000 907 NORTH ST
- 4-26-411.000 903 NORTH ST
- 4-27-601.000 32 WATER ST
- 4-27-602.000 31 WATER ST
- 4-27-606.000 27-30 WATER ST
- 4-27-607.000 37 NORTH ST
- 4-27-608.000 36 NORTH ST
- 4-27-609.000 35 NORTH ST
- 4-27-610.000 34 WALNUT AVE
- 4-27-611.000 33 WALNUT AVE
- 4-27-701.000 79 WALNUT AVE
- 4-27-702.000 78 NORTH ST
- 4-27-703.000 77 NORTH ST
- 4-27-704.000 76 NORTH ST
- 4-27-705.000 81 WALNUT AVE
- 4-27-706.000 80 WALNUT AVE

# ORDINANCE

Page 6 of 6

Changing the Approved Zoning Classifications of Various Properties on the River Side of East Main Street and the North Side of Water Street in Order to Implement the Local Waterfront Revitalization 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 .....

| YEA | NAY |
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And,

BE IT FURTHER ORDAINED that that the approved zoning classification of the northwest portion of 491 Pearl Street, parcel number 4-02-101.100, be changed from Residence C District to Heavy Industry District, and

BE IT FURTHER ORDAINED that the Zoning Map of the City of Watertown shall be amended to reflect these changes, and

BE IT FURTHER ORDAINED this amendment to the Zoning Ordinance of the City of Watertown shall take effect as soon as it is published once in the official newspaper of the City of Watertown, or printed as the City Manager directs.

**Seconded by** Council Member Joseph M. Butler Jr.



# MEMORANDUM

CITY OF WATERTOWN, NEW YORK – PLANNING OFFICE  
245 WASHINGTON STREET, SUITE 304, WATERTOWN, NY 13601  
PHONE: (315) 785-7730 – FAX: (315) 782-9014

TO: Planning Board Members

FROM: Kenneth A. Mix, Planning and Community Development Coordinator *KAM*

SUBJECT: LWRP Zone Changes Phase 4 – East Side

DATE: March 23, 2012

Phase 4 of the LWRP changes many of the remaining parcels on the east side of the City. Change areas include the river side of Moulton Street, Main Street East, and Huntington Street blocks 1000-1100. Also included are the residential properties along the north side of Water Street.

Moulton Street will be changed from primarily Residence C to Waterfront. Main Street East will remain Residence C, but the split zoning condition will be cleaned up. Huntington Street will be going from Residence B/C to Waterfront. The north side of Water Street will be changed from Light Industry to Residence C. Additionally, split zoning conditions on the east side of the 500 block of Pearl Street will be fixed.

The change area includes 176 parcels with 74 different owners. For the most part, existing uses will not be affected. However, new single family residential development will not likely occur in the Waterfront District—except where owners of such properties are willing to provide “meaningful public access” to the waterfront. Existing single family homes in Waterfront Districts will be allowed to remain indefinitely as continuations under § 310-38.

cc: City Council Members  
Robert Slye, City Attorney  
Justin Wood, Civil Engineer II



# MEMORANDUM

CITY OF WATERTOWN, NEW YORK – PLANNING OFFICE  
245 WASHINGTON STREET, SUITE 304, WATERTOWN, NY 13601  
PHONE: (315) 785-7730 – FAX: (315) 782-9014

TO: Planning Board Members

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

SUBJECT: LWRP Zone Changes Phase 4 – East Side KAM

DATE: April 23, 2012

After discussion at the April 3, 2012 meeting, the proposed change areas for Phase 4 have been revised. Moulton Street and Huntington Street have been removed from consideration, as has the parcel at 301 Pearl Street owned by Railstar.

Three parcels near 517 Water Street that were previously marked for Neighborhood Business are now being changed to Residence C. This is a single-family home, and was recently changed to NBD in order to allow the owner to construct an addition. However, Res C is a better fit for the property's current use.

Three parcels near 907 North Street whose owners opposed the change, have nonetheless been kept in the change area for Res C. The parcels are small at 0.25 acres total, are located at the terminus of a dead end street, and are located in close proximity to the rear yards of existing residences. Given these factors, a residential use restriction is appropriate.

These changes will bring the area generally into compliance with the LWRP. Allowing some waterfront parcels to remain in residential zoning districts is clearly allowable. However, allowing a vacant waterfront parcel to remain in the Heavy Industry district may be in conflict with the draft LWRP Policies, specifically Policy 1.2, ensuring "development or uses take appropriate advantage of the waterfront location," which includes avoiding "uses on the waterfront which cannot by their nature derive economic benefit from a waterfront location, such as parking lots, warehouses, and storage." Site Plan Review could be used to enforce this policy, even in a Heavy Industry zone, assuming future Boards and Councils see fit to push the issue.

The change area now includes 135 parcels with 49 different owners.

cc: City Council Members  
Robert Slye, City Attorney  
Justin Wood, Civil Engineer II

## Excerpt from Planning Board's 4/3/12 Meeting Minutes

### LWRP ZONE CHANGES (PHASE IV) EAST SIDE – MOULTON, WATER, HUNTINGTON STREETS

The Planning Board then considered a request submitted by Staff to change the approved zoning classifications of various properties on the river side of Moulton Street, East Main Street, and the 1000 and 1100 blocks of Huntington Street, and on the north side of Water Street, in order to implement the Local Waterfront Revitalization Program.

Mr. Mix approached the Board to explain the proposal. He briefly described the change areas. The south side of Moulton would go from Residence C to Waterfront, split zoning would be cleaned up on East Main St., the former Black Clawson site on Pearl Street would go from Heavy Industry to Waterfront, split zoning would be cleaned up on the east side of Pearl Street, and the north side of Water Street would go from Light Industry to Residence C. A section of Huntington Street would be changed from Residence B and C to Waterfront. The only known nonconforming use that would be created as a result of the changes would be a small storage facility on the north side of Water Street.

Mrs. Freda asked if the residence to the east of Shooties Bar is being changed again, as she recalled there being a recent change to this property.

Mr. Mix responded that it was not being changed currently, but that the owner had previously asked for a change from Light Industry to NBD to allow an addition to their house. These parcels could also be change to Residence C.

Stephen McGowan asked for clarification of whether his property at 1117 Huntington Street was being changed, and for an explanation of what Waterfront District meant.

Mr. Mix confirmed that his property was in the change area. He explained that the Waterfront District is a mixed-use district for water-dependent and water-enhanced uses. Water-enhanced uses must provide meaningful public access to the water. Single family housing would be possible, but problematic because no homeowner would likely be willing to provide public access to the river. Things like restaurants, retail, or multi-family which are already semi-public would be a better fit.

Mr. Fontana asked about the existing single-family houses in this area.

Mr. Mix explained that they could remain indefinitely and would not have to provide public access, since the use is already established.

Mr. McGowan expressed that he was opposed to being required to offer public access in the event that he developed housing on his vacant lot. He was worried about liability in the event of a drunken person falling in the river. He mentioned that there were approved plans for an 8 unit residence for his parcel.

Mr. Mix acknowledged Mr. McGowan's opposition, but mentioned that other owners in the area may prefer the greater commercial opportunity allowed with a mixed-use district like Waterfront. It all depends on what an individual wants from their property.

A general discussion among property owners, Staff and Planning Board members then followed regarding this topic.

Ron Trottier of Railstar, owners of 301 Pearl Street, approached the Board. He explained that after selling a portion of their parcel to Empire Recycling, they were looking to develop a small industrial park on the remainder of the property. He explained that offering public access would be problematic due to the substantial cliff between the river and the parcel. He also shared Mr. McGowan's concern regarding liability in the event of an accident. He concluded by saying that Railstar would definitely oppose the change, as it would stymie their plans for development.

Cheri Cloe of 907 North Street approached the Board. She stated that she was opposed to changing her property from Light Industry to Residence C because she is considering selling all or part of her property for commercial or industrial purposes. She stated that a real estate agent had told her that the location would work well for a non-residential use.

Mrs. Freda asked if it would be acceptable to leave Huntington Street as Residence B and Residence C.

Mr. Mix said that it might be, but he could not speak for the Department of State. He said in general, residential uses along the waterfront comply with the goals of the LWRP.

Mr. Harris said that he would be in favor of leaving Huntington as-is.

Mr. Mix stated that eliminating Pearl Street from the change area would be more complicated, because you would have to make the argument for keeping industrial uses on the waterfront. However, the goal of the LWRP is to move past the industrial legacy, not necessarily eliminate all on-going industrial uses.

Mrs. Freda stated that there seemed to be consensus on removing Huntington and the Railstar property from the change area.

Mr. Mix asked if the Board would like to leave Moulton Street residential as well. The Board responded that they would.

Mr. Mix said that it would be best for the Board to table the application, so that a new map could be produced for next month.

Mr. Mix then briefly described the land use maps for Factory Street and the south side of Water Street. He asked the Board to review them for next month, noting that there would likely be similar issues with nonconforming uses and limitations on development.

Mr. Harris moved to table the request submitted by Staff to change the approved zoning classifications of various properties on the river side of Moulton Street, East Main Street,

and the 1000 and 1100 blocks of Huntington Street, and the north side of Water Street, in order to implement the Local Waterfront Revitalization Program—and the request submitted by Staff for review and discussion of existing land uses and proposes zoning on the river side of Factory Street, Water Street, and the 700 and 800 blocks of Huntington Street—until the next regularly scheduled Planning Board meeting on May 1, 2012.

Mrs. Gervera seconded the motion; all voted in favor.

## Excerpt from Planning Board's 5/1/12 Meeting Minutes

### LWRP ZONE CHANGES (REVISED PHASE IV) EAST SIDE – EAST MAIN ST AND WATER ST

The Planning Board then considered a request submitted by Staff to change the approved zoning classifications of various properties on the river side of East Main Street and the north side of Water Street in order to implement the Local Waterfront Revitalization Program.

Mr. Mix approached the Board to explain the proposal. He briefly described the change areas and the revisions. Several areas were removed from the proposal after hearing from property owners at the previous meeting. The areas removed from the zone change include Moulton Street, Huntington Street, and the Railstar property on Pearl Street. The properties at 907 North Street were not removed from the proposal, because the Board had expressed interest in visiting that area.

Mr. Harris said that the new map seems to make sense based on last month's discussion.

Robert Frederick of 703 Water Street approached the Board. He asked how the change would affect his property value.

Mr. Mix said that it would not have a major effect, but that it could improve the resale value because the house would no longer be an illegal use. He stated that banks seem to have become increasingly wary of offering mortgages for non-conforming properties.

Eleanor VanEpps of 717 Water Street asked if taxes would change.

Mr. Mix stated that it is unlikely to affect her assessment, but that the City Assessor could better describe how zoning is taken into account when determining taxable value.

Ms. VanEpps asked how this would revitalize the waterfront.

Mr. Mix stated that the zone changes are a small piece of the program, aimed mainly at promoting more residential and recreational use along the water, rather than industrial. The program also includes physical improvements, such as the river parks projects underway.

Mr. Frederick asked what "Residence C" means.

Mr. Mix summarized the uses allowed in the Residence C District, which are primarily residential, including multifamily.

Mr. Harris moved to recommend that City Council approve the request submitted by Staff to change the approved zoning classifications of various properties on the river side of East Main Street and the north side of Water Street in order to implement the Local Waterfront Revitalization Program.

Mr. Fipps seconded, all voted in favor.

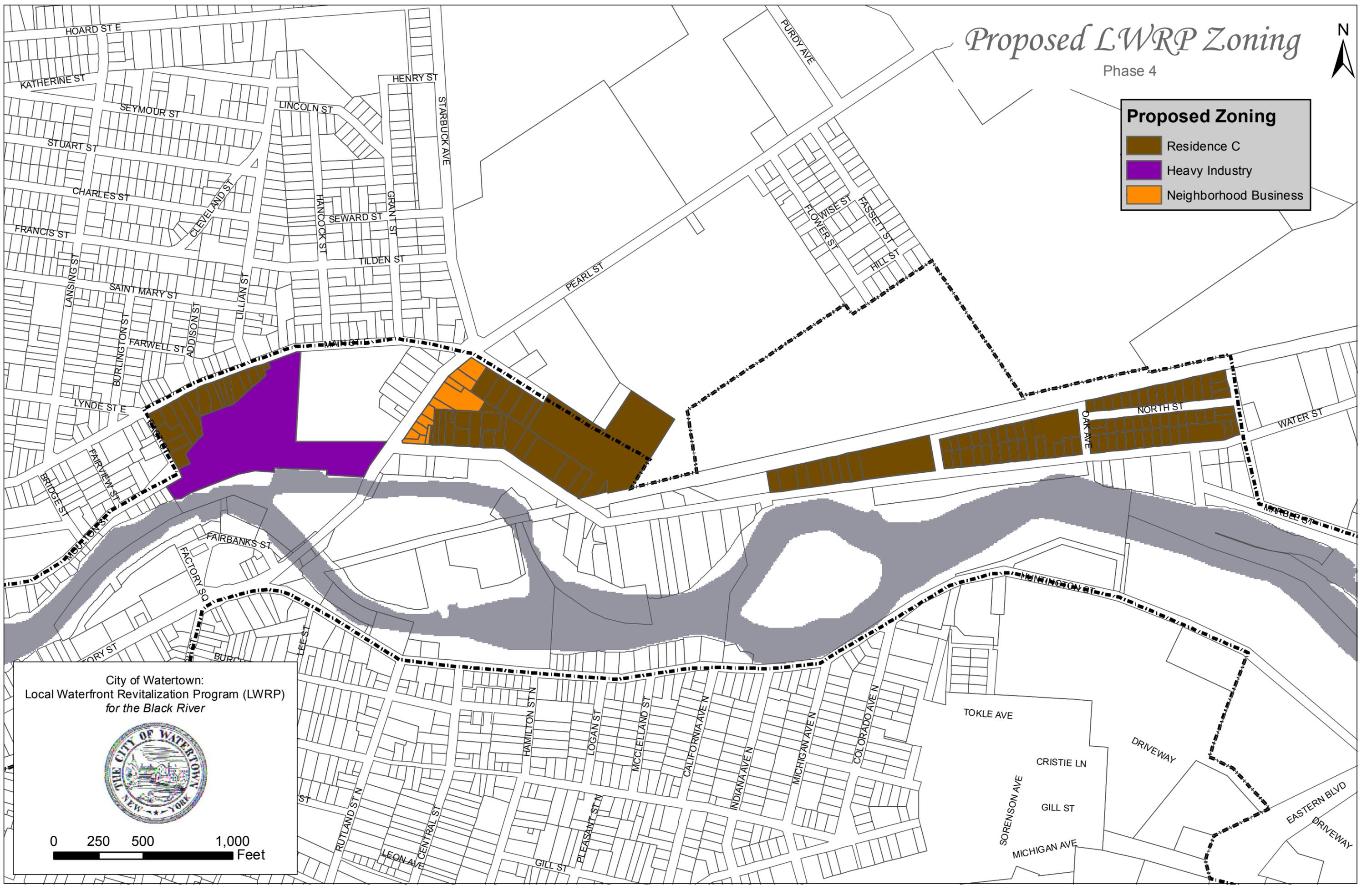
# Proposed LWRP Zoning

Phase 4

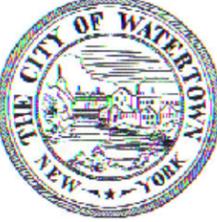


**Proposed Zoning**

-  Residence C
-  Heavy Industry
-  Neighborhood Business



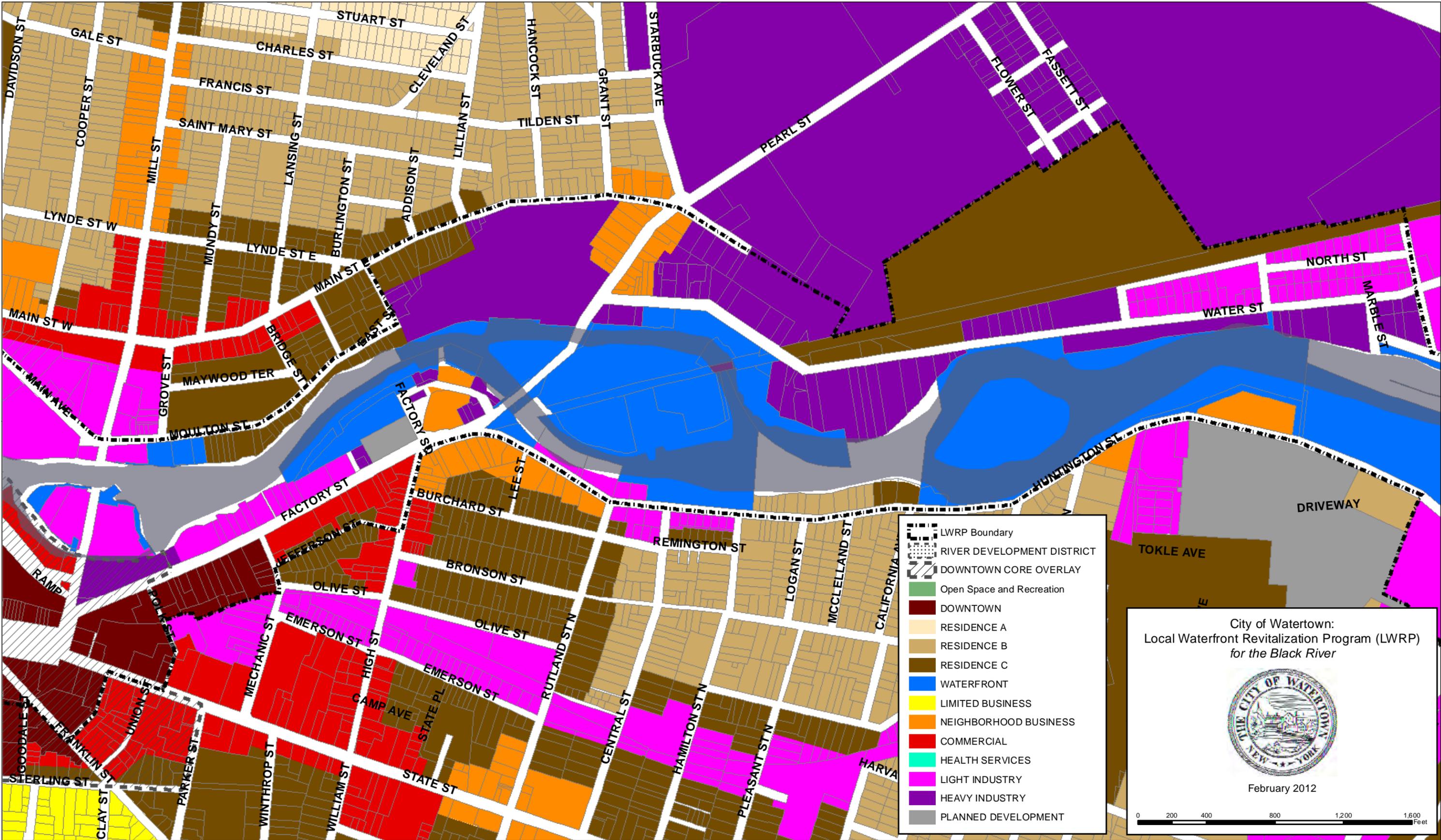
City of Watertown:  
Local Waterfront Revitalization Program (LWRP)  
for the Black River



0 250 500 1,000 Feet

# Existing Zoning

as of April 2<sup>nd</sup>, 2012



Tabled

May 30, 2012

To: The Honorable Mayor and City Council

From: Elliott B. Nelson, Assistant to the City Manager

Subject: Supporting the Addition of a Bedroom, North Country  
Transitional Living Services Apartment Treatment Program,  
725 Davidson Street

This resolution was introduced and tabled by the City Council at their regular meeting on May 21, 2012 after Council indicated they needed more explanation regarding the proposal. A representative from North Country Transitional Living Services will be in attendance at tonight's Council meeting to answer any questions.

Below is the information included in the original report from the May 21 Agenda.

North Country Transitional Living Services, Inc. (NCTLS) has submitted formal notification to the City of Watertown that it is interested in adding one additional bedroom to an existing apartment in the NCTLS Apartment Treatment Program located at 725 Davidson Street. NCTLS is a non-for-profit corporation that provides services to adults with serious and persistent mental illness and to children with emotional disturbances throughout Jefferson and other neighboring counties. NCTLS currently operates a 33 bed Apartment Treatment Program within the City of Watertown.

Under New York State Mental Hygiene Law, the sponsoring agency, NCTLS, must notify the municipality of its intent to modify this type of facility. This notification allows the host municipality to review the proposed site and to assess its suitability for the proposed use.

In response to this type of request, the City Council has four options:

- 1.) Support the request as submitted.
- 2.) Suggest a different site within the City that could better accommodate such a facility.
- 3.) Object to the addition to the facility as described above because to do so would result in such a concentration of community residential

facilities in the municipality or area that the nature and character of the areas within the City would be significantly altered.

- 4.) Take no action. If no action is taken by the City Council within 40 days, the site will be deemed approved.

As the attached letter from NCTLS Executive Director Stevie Smith indicates, she is requesting Council's endorsement of their proposal. The resolution attached for City Council approval supports the NCTLS request.

# RESOLUTION

Page 1 of 1

Supporting Additional Apartment  
Approval, North Country Transitional  
Living Services, Inc., 725 Davidson  
Street

|                                      |  |  |
|--------------------------------------|--|--|
| 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 |
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***Introduced by***

Council Member Jeffrey M. Smith

WHEREAS the North Country Transitional Living Services, Inc. desires to add an additional bedroom to an existing apartment in the North Country Transitional Living Services Apartment Treatment Program located at 725 Davidson Street, and

WHEREAS the North Country Transitional Living Services, Inc. currently operates a 33 bedroom Apartment Treatment Program at sites throughout the City of Watertown, and

WHEREAS under Section 41.34 of the New York State Mental Hygiene Law, North Country Transitional Living Services must notify the City of Watertown when it intends to add additional bedrooms to its Apartment Treatment Program locations, and

WHEREAS under the Mental Hygiene Law, the sponsoring agency, North Country Transitional Living Services, Inc., is asking the City of Watertown to consider its request, and

WHEREAS the City of Watertown has reviewed the request submitted by North Country Transitional Living Services, Inc.,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby approves the request to add an additional bedroom to an existing apartment in the North Country Transitional Living Program located at 725 Davidson Street.

***Seconded by*** Council Member Joseph M. Butler Jr.



# Transitional Living Services of Northern New York

482 Black River Parkway • Watertown, New York 13601 • Tel: 315-782-1777 • Fax: (315) 785-8628

May 4, 2012

Mr. John Krol  
Interim City Manager  
Municipal Building  
245 Washington St., Room 302  
Watertown, NY 13601



Dear Mr. Krol:

I am writing on behalf of North Country Transitional Living Services, Inc. (NCTLS), Transitional Living Services of Northern New York, to officially request approval to add an additional bedroom to an existing apartment in the NCTLS Apartment Treatment program at the location of 725 Davidson St.. This notification is provided in compliance with Section 41.34 of NYS Mental Hygiene Law as it will constitute the fourth apartment program bed to be located at this residence. Currently, two beds are approved in the upper apartment, and one in the lower.

North Country Transitional Living Services, Inc. is a Not-For Profit Corporation that has provided services to adults with serious and persistent mental illness and to children with emotional disturbances in Jefferson, Lewis, and St. Lawrence Counties since our incorporation in 1977. TLS currently operates a thirty-three (33) bed Apartment Treatment program in scattered sites throughout the city of Watertown (Jefferson County). These sites are certified and regularly reviewed by the New York State Office of Mental Health. The proposed additional bed at this location will complete the replacement of a three bedroom apartment located elsewhere in the City of Watertown in a building owned by TLS that we are preparing to sell.

Under Section 41.34 of the NYS Mental Hygiene Law, the City of Watertown has the option, within forty (40) days after the receipt of this notification to:

- approve the recommended additional apartment to this site,
- offer an alternate location,
- reject this site,
- or not reply at all, which would imply your approval.

Attached to this letter is a site selection fact sheet that outlines the specifics regarding the site and the nature of the program requirements.

I would like to request your endorsement of this proposal at your earliest convenience. For your ease of reference, I have included a copy of the correspondence exchanged between TLS and the City the last



In partnership with United Way

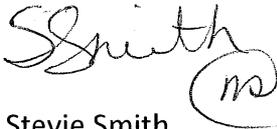
Making the Best Care Better

[www.tlsnny.com](http://www.tlsnny.com)

Mr. John Krol  
May 4, 2012  
Page 2

time a similar request was made. TLS looks forward to working cooperatively with you and the City of Watertown to make this enhancement to our program. I am available to meet with you at your convenience to discuss this proposal and address any concerns you may have and can be reached at (315) 782-1777 ext. 1017. Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Stevie Smith". The signature is written in black ink and is positioned above the printed name and title.

Stevie Smith  
Executive Director

C: Roger Ambrose

Enclosure

**North Country Transitional Living Services, Inc.**  
**Site Selection Fact Sheet**

**Municipal Officer:** Mr. John Krol  
Interim City Manager  
Municipal Building  
245 Washington St., Room 302  
Watertown, NY 13601

**Sponsoring Agency Contact:** Ms. Stevie Smith  
Executive Director  
482 Black River Parkway  
Watertown, NY 13601

**Site/Area Information:** City of Watertown

**Proposed Site:** 725 Davidson St. Lower Apartment

**Property Description:** The site is a rental property divided into upper and lower units, each having two bedrooms. It is well maintained and recently renovated by the property owner.

**Nature of Program  
Requirements:**

The reasons for the selection of this property are that NCTLS can obtain a lease for a reasonable rent, work with an excellent landlord who understands our population and shares our vision, and that our clients will have close proximity with other residents for support through their recovery. The apartment is located in a pleasant, safe residential neighborhood of single and double family homes, and is accessible by walking or use of the public bus system to community amenities such as mental health services, churches, and stores. The Apartment Treatment program provides an opportunity for residents to transition to more independent living in a community-based, supervised residential program. Trained personnel supervise the residents based on their specific needs (i.e., at least 2-3 times/week or daily if needed). Staff provides restorative services such as developing social skills, symptom management skills, daily living skills, medication management training, and community integration skills. Crisis supports are available to residents during non-business hours. Many residents participate in activities in the community such as volunteering, work and attending school.

Tabled

May 31, 2012

To: The Honorable Mayor and City Council

From: Michael A. Lumbis, Planner

Subject: Accepting the Bid for the Construction of the Marble Street Park Restroom Facility, 34 & Co., Inc.

At its May 21, 2012 meeting, the City Council tabled action on the above referenced bid pending additional information from Staff regarding the design criteria for the proposed restroom. As is detailed in the attached memo from City Engineer Kurt Hauk, the restroom as designed, services a user population of 160 people. There are two fields at the park which will be occupied by four teams. To determine the number of users, we have assumed a team size of 20 players and coaches for a total of 80 participants, plus 1 spectator for each participant. This yields a total of approximately 160 users, meaning that the restroom is designed and sized appropriately. Therefore, the option to redesign the building to make it a unisex facility or reduce the size or number of stalls is not feasible based on the anticipated usage at the park.

The tabled resolution accepts the base bid (\$99,000) for the restroom plus alternate # 2 (\$2,000) for a total of \$101,000. The available funding for the restroom is \$68,400 leaving a shortfall of \$32,600. Of the \$68,400 available in the project budget, one half or \$34,200 will be covered by the grant funding and the other half will be the City's share. In addition, the City would be responsible for the amount over budget. The City's cost breakdown is therefore as follows:

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| City grant match applied to the restroom                | \$34,200        |
| <u>City funds to cover the amount over the estimate</u> | <u>\$32,600</u> |
| Total City Cost for the Restroom                        | \$66,800        |

As previously noted, the building was designed to be a durable and vandal resistant building that would stand up under tough conditions and would last for many years. Building materials such as the standing seam roof and concrete block walls and partitions help to maximize the life span of the building, while the utilization of hidden restroom fixtures help make the facility vandal resistant. These features reduce maintenance costs over time.

This proposed facility is very similar in design and size to the recently installed J.B. Wise Restroom, which came pre-fabricated at a value of \$165,000. The site built structure for Marble Street Park is significantly less expensive and will engage local labor.

The City's cost for construction projects is typically higher than non-municipal construction. There are several items that factor into the increased costs such as prevailing wage rates, additional insurance and bonding requirements. The contractor for this project indicated that the prevailing wage rates added approximately 30% to the overall labor costs or approximately \$12,000. Additional required insurance coverage and bonding requirements will add another \$3,000. A licensed plumber is required for the project which will add 25% more to the plumbing cost or about \$5,000.

If the bid is accepted a resolution to re-adopt the General Fund Budget will be prepared for the next City Council meeting.



CITY OF WATERTOWN  
ENGINEERING DEPARTMENT  
MEMORANDUM

DATE: May 30, 2012

TO: John Krol, City Manager

FROM: Kurt W. Hauk, City Engineer

SUBJECT: Marble Park Restroom Capacity

This memorandum clarifies the capacity of the restroom proposed at Marble Street Park as requested by Council. The following is the requirement by current code.

A unisex restroom is allowed with a service population of up to 15.

Once you get to 15 or more you must provide a male/female configuration.

The Code gets a little trickier as the user population increases, but here are the rules that are relevant for outdoor sporting events/venues:

-For a service population of up to 1500 users you must provide one toilet for every 75 males and one for every 40 females.

-Your expected service population must be divided equally between males and females.

Using that and working backward, a four stall restroom 2 male/2 female can service a user population of 160. The female number controls the calculation leaving the second male stall, in this case a urinal, underutilized.

Comparing that with the possibility of four little league teams with approx 20 players per team using both fields at one time, that would leave a total of 80 spectators to watch both games.

This seems like a reasonable number. However, I would defer to Mr. Hayes and Ms. Gardiner, who are in a better position to comment about the size of sports teams and typical number of spectators.

cc: Jim Mills, City Comptroller  
Amy Pastuf, Purchasing Agent  
Mike Lumbis, Planner  
Rich Cohen, CE-I  
File

Res No. 3

May 16, 2012

To: The Honorable Mayor and City Council

From: Michael A. Lumbis, Planner

Subject: Accepting the Bid for the Construction of the Marble Street Park Restroom Facility, 34 & Co., Inc.

The City Purchasing Department has advertised and received sealed bids for the construction of the Marble Street Park Restroom Facility as part of the river parks improvement project currently underway in the park. Plans and specifications for the project were issued to nine (9) prospective bidders, with four (4) bids submitted to the Purchasing Department where they were publicly opened and read on Thursday, April 26, 2012, at 11:00 a.m.

City Purchasing Agent Amy M. Pastuf and has reviewed the bids and found that the lowest bid submitted by TMACHanical, Inc. was non-responsive to the bid specifications. The lowest qualifying bid that conformed to the bid specifications was received from 34 & Co., Inc. of Watertown, New York, in the amount of \$99,000.

As the City Council may recall, the proposed restroom facility was originally bid last fall as a prefabricated facility that was to be built off site and shipped to the park for installation by our DPW crews. When the bid price of \$94,471 for the prefabricated facility exceeded the original estimated project cost, it was decided to rebid the project as a site built facility, with the hope that the price would be less.

The lowest qualifying bid of \$99,000 for the site built structure is obviously not less than what was bid for the prefabricated facility. During the design of the site built structure, there were several changes to the building design that account for the difference in cost. First, as advised by the Codes Bureau, the overall size of the building was increased by 134 square feet to make the building more handicapped accessible. Secondly, the building was designed to be more durable and vandal resistant than the prefabricated facility. Examples of these design changes include the construction of concrete block wall toilet partitions rather than steel partitions and the utilization of restroom fixtures that have their supply lines, valves and other plumbing components hidden in the utility room.

In addition to the base bid, an alternate quote (Alternate # 2) for an electronic timed locking mechanism for the restroom doors was included as part of the bid package. The Department of Public Works is requesting that the City Council also approve Alternate # 2 in the amount of \$2,000. This equipment will allow the restroom doors to be locked automatically at the end of the day, avoiding additional manpower

costs to secure the facility and reducing the likelihood of vandalism in the overnight hours.

The \$101,000 total project cost is \$35,000 over the original estimate for the restroom. However, the remainder of the Bicentennial Park and Marble Street Park Improvements Project will be completed \$2,400 under budget, meaning that funding for the restroom is \$32,600 short.

There are two options to consider for moving ahead with the project. One would be to accept the bid and appropriate the \$32,600 shortfall through a readoption of the FY 2011-12 General Fund budget to increase the transfers to the capital fund appropriation. The second would be to investigate design and material alternatives to find possible savings.

It should be noted that although this one portion of the project is over budget, the City has realized significant savings by completing the construction in-house. Over the course of the project, we have submitted \$164,000 of our labor costs for a reimbursement of \$82,000, which was included in the last two General Fund budgets as revenue. In addition, the City has saved on the purchase of supplies and materials by purchasing directly and not paying markups typically passed on by a contractor.

The restroom facility for Marble Street Park is a portion of the Bicentennial Park and Marble Street Park Improvements Project. The improvements at the two sites are being funded with a 50/50 cost share grant from the New York State Department of State through a 2006 Environmental Protection Fund, Local Waterfront Revitalization Program grant that was awarded to the City.

The attached resolution prepared for Council consideration accepts the lowest qualifying bid that was submitted for the project along with Alternate # 2. If the bid is accepted a resolution to re-adopt the General Fund Budget will be prepared for the next City Council meeting.

May 21, 2012

# RESOLUTION

Page 1 of 1

Accepting the Bid for the Construction of the Marble Street Park Restroom Facility, 34 & Co., Inc.

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.

| YEA | NAY |
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**Introduced by**

Total .....

Council member Jeffrey M. Smith

WHEREAS the City’s Purchasing Department has advertised for sealed bids for the construction of a restroom facility at Marble Street Park as part of the Bicentennial Park and Marble Street Park Improvements Project, and

WHEREAS plans and specifications were issued to nine (9) prospective bidders, with four (4) bids being received and publicly opened and read in the City Purchasing Department on Thursday, April 26, 2012, at 11:00 a.m., local time, and

WHEREAS the City Purchasing, Engineering and Planning Departments have reviewed the bids and are recommending that the City Council accept the bid submitted by 34 & Co., Inc. of Watertown, New York in the amount of \$99,000 as the lowest qualifying bid meeting City specifications, and

WHEREAS the bid specifications also included “Alternate # 2” for the installation of an electronic timed locking mechanism for the restroom doors in the amount of \$2,000,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown, New York accepts the base bid submitted by 34 & Co., Inc. of Watertown, New York in the amount of \$99,000 for the construction of a restroom facility at Marble Street Park as the lowest qualifying bid meeting City specifications, and

BE IT FURTHER RESOLVED that the City Council also accepts Bid Alternate # 2 for the installation of an electronic timed locking mechanism for the restroom doors in the amount of \$2,000, and

BE IT FURTHER RESOLVED that the Mayor, Jeffrey E. Graham, is hereby authorized to enter into and execute a Project Agreement with 34 & Co., Inc. for the project.

**Seconded by** Council Member Joseph M. Butler Jr.

May 30, 2012

To: John C. Krol, City Manager

From: Erin E. Gardner, Superintendent of Parks and Recreation

Subject: Skate Park Equipment

Mr. Tony Gullo from the Sozo Teen Center, which is associated with the Children's Home of Jefferson County has requested to borrow two pieces of our skate park equipment for a function that they are having on June 16<sup>th</sup>. The equipment they are requesting is the fun box as well as the grind rail. This function is called "The Big Event" and it is an outreach program for teens in the community. A component of their main event is a skateboarding presentation. The teen center is located at 171 Polk Street.

The staff at the Parks and Recreation Department has some concerns with this request. We do not want to risk our skate park equipment getting damaged. In addition, the equipment is somewhat "molded" into the ground on our property, therefore it may potentially cause a problem when we try to put the equipment back. Finally, allowing one organization to borrow the skate park equipment may result in other organizations making the same requests.

If Council approves this request, the staff at Parks and Recreation would like to request that the teen center use a double ramp and the grind rail, as these pieces of equipment are more easily portable. Mr. Gullo has indicated that they could transport the equipment, however would prefer if the staff from Parks and Recreation transport the equipment.

# CONBOY, MCKAY, BACHMAN & KENDALL, LLP

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Watertown, New York

May 24, 2012



John C. Krol  
Interim City Manager  
City of Watertown  
245 Washington St., Rm. 302  
Watertown, NY 13601

Re: First Baptist Church – Clock Tower  
Our File No.:35206.000

Dear Mr. Krol:

I represent the First Baptist Church of Watertown with respect to the issue of the use of its clock and clock tower by the City for commemorative purposes.

As you may be aware, an issue arose when the City chose to light the clock green in honor of St. Patrick's Day. Senior Pastor Jeffery Smith, on behalf of the Church, objected. Pastor Smith wants to be clear that he has no problem with the Irish or with the commemoration of St. Patrick's Day. However, he does not believe it to be appropriate to use the Church tower for that purpose. In his view, and that of his parishioners, the Church is a house of worship; it should not be used as a billboard to commemorate various groups or special days. Pastor Smith and his parishioners are concerned that the use of the clock for such purposes may expand in the future, and they do not wish the Church to be drawn into potential conflicts over which events or causes are worthy of recognition. They feel it is certainly probable that many members of the public may not realize that the decisions about the use of the clock are being made by the City and not by the Church itself.

The Church and the City entered into a lease agreement in 2007. The parties acknowledged then that the Church owned the clock tower and the City owned the clock. The lease provided that the Church was to give the City access to the clock for purposes of maintaining, repairing, and/or replacing the clock. Significantly, the lease does not give the City the right to use the clock for commemorative purposes and does not require the Church to permit access for those purposes either. I believe the terms of the lease agreement are clear, but I also believe that any ambiguity would be resolved against the City because it drafted the lease.

PHILIP A. MAPHEY (1961-1997)

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In addition to the City's lack of legal authority pursuant to the lease, I respectfully submit that there are other reasons why the City should be hesitant to use the clock for commemorative purposes. The first reason is pragmatic, and the second is legal.

The City could be faced with a number of requests for the use of the clock to promote various causes. Without attempting to draft an exhaustive list, I can suggest that there could be requests to recognize: days important to various nationalities (St. Patrick's Day, Columbus Day, Cinco De Mayo); national holidays (4<sup>th</sup> of July, Martin Luther King Day); charities and causes (Breast Cancer Research, Autism, Gay Pride); or local high schools at graduation or on days of major events. City personnel will have to decide whether recognition is appropriate on each of these occasions, and City personnel will have to change the lights in the clock before and after each such occasion. The burden could potentially become significant.

Use of City property for these purposes also brings legal concerns. The City is under no obligation to use the clock in this manner. But once it has done so, I believe there is a legal obligation to be content natural; the City cannot discriminate based upon point of view. For example, if the City chooses to commemorate Christmas, it may have to commemorate holy days of other religions.

I was involved in similar case 10-15 years ago when a school was sued by a public interest law firm under the Federal Civil Rights Laws because it refused to allow a Church to conduct Sunday services in its cafeteria. The Federal Court ruled that the school had to permit such services because he had allowed a Christian concert in the past, which the Court viewed as sufficiently similar. Moreover, the school was required to pay the Church's substantial legal fees, which are recoverable under the Civil Rights laws.

I acknowledge that any discussion of whether the City should be involved in the commemoration of various days and events is a question of policy. However, I submit once again that it is important, out of respect to the First Baptist Church and its right to control to the use of its Church building, that the City should not implicate the Church in its policy decisions. If the City wishes to commemorate events and causes, it can and should do so on City owed property, such as the City Municipal Building or the park at Public Square.

Moreover, regardless of the City's policy decision, the fact remains that the City does not have a legal right to light the clock either by reason of its ownership of the clock or by reason of the 2007 lease. The First Baptist Church does not wish to make use of the clock a major issue or dispute, but it believes there must be a clarification of each party's rights now to protect the use of its Church.

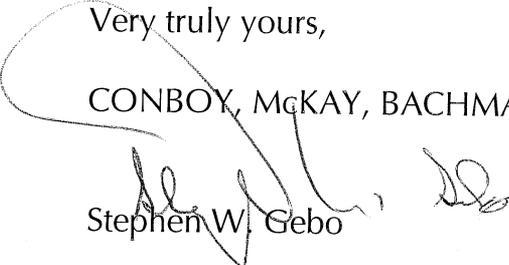
I respectfully suggest that we modify the lease agreement of 2007 to clarify the intent of the parties that the City's rights are limited to access to the clock for

maintenance, repair and replacement and that the City does not have the right to light the clock any color other than white or to use the clock for any commemorative purpose. I would be pleased to work with the City Attorney to draft an appropriate agreement.

Thank you for your consideration.

Very truly yours,

CONBOY, McKAY, BACHMAN & KENDALL, LLP



Stephen W. Gebo

SWG:sjh

cc: Robert Slye, Esq., City Attorney  
Senior Pastor Jeffrey Smith



City Manager  
Council

Dear Mayor Graham and Members of Watertown City Council:

As many of you know, the membership and board of the Figure Skating Club of Watertown has been following the evolving relationship between the Privateer hockey team and the City. We understand that the city's goals are, ultimately, to maximize utilization of the municipal arena and to reap economic benefits. However, we want to ensure that our concerns are on your radar, too.

From the standpoint of concerned citizens, we are wondering how much money the city will "fork over" to make the Privateers happy with the arena arrangement, when there does not appear to be evidence of a long-term commitment from the Privateers. Unfortunately, the Privateers were unable to cultivate a widespread fan base in the river communities over the seasons played at Bonnie Castle. Attendance figures are available on the internet. Will their marketing strategy change to reflect moving to Watertown? Has the city done any kind of market analysis to see if playing along with the demands of the Privateers will have economic benefit to the community, and if the demographics support a true fan base?

At this point, there seems to be an assumption that if we build it, the fans will come – and if the Privateers' history is any indicator – youth/high school hockey games and tournaments seem to have a greater draw in our community. We hope that as you progress in discussions with Nicole Kirnan, you will weigh the true potential benefits with the cost; in the sense of dollars and also in the sense of limiting ice time dedicated to area youth.

From the standpoint of dedicated athletes and their parents, we want you to know that figure skating is not a "hobby", it has been an Olympic sport since 1908. In fact, we have skaters representing Watertown who travel extensively to competitions, including the elite Empire State Games. And they win, too. Many of our higher-level skaters require double-digit ice hours per week to achieve their goals. *Our concern is that the Privateers' demands will significantly reduce our ice time.* The figure skating club has been a solid customer to you, purchasing the city's ice time for more than 30 years – and we pay our bills on time. We are also an employer of an accredited coaching staff of 6 coaches. We hope our coaches' incomes are not impacted by your decisions, as they are local residents with families, and they are also important parts of the lives of our children.

The Figure Skating Club has had representatives attending city council meetings to stay abreast of developments with this topic, and we urge you to have a discussion that is larger in scope than a shower stall in a locker room. We urge you to talk to the kids representing Watertown so beautifully outside of our area, but who are also serving as ambassadors of healthy lifestyles and dedication to their peers. Ask them about their experiences. Maybe join them for a physics lesson; we'd welcome the members of city council on the ice to see what these kids are trying to achieve.

Thank you for your service to the community, and your time on this issue.

The FSC of Watertown

Stacy Faunce – President

Eric Evans – Vice President

Jan Waite – Secretary

Dawn Sweeney - Treasurer