

**Minutes of the
REGULAR MEETING
CITY COUNCIL
October 1, 2009**

ROLL CALL:

MR. WOJCIK, MR. MCGRATH, MR. RYAN, MR. DUNNE, MR. ZALEWSKI, MR. GALUSKI, MR. BROWN, MR. BAUER and PRESIDENT CAMPANA
ABSENT:

Call to Order: 7:00 p.m.

TABLED
Public Hearing on October 22, 2009 at 7:00PM

LOCAL LAW #4

**LOCAL LAW NO. 4 (INTRO #4 FOR 2009) AMENDING CHAPTER 285 OF THE
CITY CODE OF ORDINANCES**

BE IT ENACTED, by the City Council of the City of Troy, as follows:

SECTION 1: Sections 285-12, 285-25, 285-45, 285-51, 285-53 and 285-91 of Chapter 285 of the City Code of Ordinances entitled Zoning are amended, to provide and read as follows with new matter underlined and matter to be deleted stricken through.

SEE PAGES "1" THROUGH "21"

Public Hearing on October 22, 2009 at 7:00PM

ORD. # 1

**ORDINANCE AMENDING THE 2009 GENERAL FUND
CITY BUDGET TO ACCEPT FUNDS FROM THE NYS DEPARTMENT OF
ENVIRONMENTAL CONSERVATION TO FUND EXPENSES RELATED TO THE
REMOVAL OF CONCRETE SLABS AND BROKEN DECKING FROM THE
FORMER JACK'S JUNKYARD INGALLS AVENUE SITE.**

The City of Troy, convened in city Council, ordains as follows:

Section 1. The 2009 City General Fund Budget is hereby amended to accept a NYSDEC grant and modify appropriations within the 2009 Planning Department Operating Budget as provided in Schedule "A" entitled:
"Quadricentennial Park Grant"

which is attached hereto and made a part hereof.

Section 2. This act shall take effect immediately.

Ordinance ADOPTED by the following vote:

AYES: 9
NOES: 0
ABSTAIN: 0

Troy City Clerk

Executive Action

Sent to the Mayor 10/2/09 Approved X Date 10-7-09
Received from the Mayor 10-13-09 Veto _____ Not Endorsed _____
City Clerk _____ Mayor _____

DEPARTMENT OF PLANNING
MEMORANDUM OF SUPPORT FOR AMENDING THE BUDGET

Title: Ordinance amending the 2009 General Fund city budget to accept a NYSDEC grant for reimbursement of expenses related to the former Jack's Junkyard Ingalls Avenue site.

Effect on Present Law: None

Purpose: The City of Troy has been approved for a \$22,500 grant for the purpose of being reimbursed for expenses related to the following items:

- Demolition of decking above existing foundation
- Clean-up of debris from foundation and securing of foundation
- Removing slabs from property
- Backfilling foundation area
- Purchasing and installing crushed stone
- Purchasing and grading topsoil and hydro-seeding
- Installing a fence along the northern property line

Fiscal Impact: None - 100% Reimbursable.

SCHEDULE A
City of Troy 2009 Budget Amendment

Planning Department
Quadricentennial Park Grant

	<u>Original *</u> <u>Budget</u>	<u>Change</u>	<u>Revised</u> <u>Budget</u>
2009 September Budget Amendment			
<u>General Fund</u>			
Revenue - A510			
A7000-3897 NYSDEC Revenue	\$ -	\$ 22,500	\$ 22,500
Total Revenue Increase		<u><u>\$ 22,500</u></u>	
Expenditures - A960			
A8020-0409-0000 Consulting Services	\$ -	\$ 22,500	\$ 22,500
Total Expenditures Increase		<u><u>\$ 22,500</u></u>	

ORD. #2

**ORDINANCE AMENDING THE 2009 CAPITAL BUDGET
TO ADD ADDITIONAL FUNDS RECEIVED THROUGH THE ISSUANCE OF AN
INSTALLMENT BOND FOR THE PURPOSE OF FURTHER IMPLEMENTATION OF
A PARKING METER PROJECT**

The City of Troy, in City Council, convened, ordains as follows:

Section 1. The City of Troy 2009 Capital Budget is herein amended as set forth in Schedule A entitled:

“Parking Meter Capital Account Amendment”

which is attached hereto and made a part hereof

Section 2. This act will take effect immediately.

Ordinance ADOPTED by the following vote:

AYES: 9

NOES: 0

ABSTAIN: 0

Troy City Clerk

Executive Action

Sent to the Mayor 10/2/09

Approved X Date 10-7-09

Received from the Mayor 10-13-09 Veto _____ Not Endorsed _____

City Clerk _____ Mayor _____

MEMO IN SUPPORT

Title: Ordinance amending the 2009 Capital Fund to add additional funds from issuance of an installment bond for the purpose of purchasing parking meters.

Summary of Provisions: This legislation will amend the 2009 Capital Budget and amend the Parking Meter Capital Account to add \$500,000 received by the City through an issuance of an installment bond for the purpose of further advancing a parking meter project. This initiative will address the task of solving downtown parking problems in the City of Troy. With growth continuing in the City of Troy, it has become increasingly difficult to handle vehicles parked on downtown streets for lengthy periods of time, leaving few spaces for shoppers and others who visit Troy. Our solution to this would be to install additional parking meters, especially within the central business district, to charge for the use of parking spaces, and to quickly turn over those spaces that would otherwise have been filled by all day parkers. In addition, the parking meters will generate additional revenue for our growing city.

Present Law: N/A

SCHEDULE A
Capital Fund
2009 Budget Amendment
Parking Meters

Capital Fund

	<u>Original Budget*</u>	<u>CHANGE</u>	<u>Revised Budget</u>
<u>Revenue H510</u>			
H2705			
Gifts and Donations (Troy Redevelopment Foundation)	\$130,000.00	\$0.00	\$130,000.00
H5031			
Interfund Transfer From Special Revenue (Troy Redevelopment Foundation)	96,968.02	0.00	96,968.02
H5720			
Statutory Installment Bonds	0.00	500,000.00	500,000.00
Total	<u>\$226,968.02</u>	<u>\$500,000.00</u>	<u>\$726,968.02</u>
<u>Expenditures H960</u>			
H526-5997-203-6349			
Parking Meters (Transportation _Other Equipment)	<u>\$226,968.02</u>	<u>\$500,000.00</u>	<u>\$726,968.02</u>

ORD. #3

**ORDINANCE AMENDING THE 2009 CITY BUDGET TO TRANSFER FUNDS
WITHIN THE GENERAL, WATER, AND SEWER FUNDS BUDGET LINES**

The City of Troy, in City Council, convened, ordains as follows:

Section 1. The City of Troy 2009 GENERAL, WATER, AND SEWER FUNDS budgets is herein amended and set forth in Schedule A entitled:

October 2009 Budget Amendment

General Fund			Original	Change	Revis
Department	Account No.	Description	Budget*	(+ / -)	Budg
City Clerk	A1410-0101-0000	Permanent Salaries	94,101	-5,000	89,1
City Clerk	A1410-0809-0000	Worker's Compensation	0	5,000	5,00
DPW - Engineering	A1440-0101-0000	Permanent Salaries	237,532	-2,500	235,0
DPW - Engineering	A1440-0103-0000	Overtime	0	2,500	2,50
DPW - Engineering	A1440-0301-0000	Office Supplies	3,000	-1,200	1,80
DPW - Engineering	A1440-0303-0000	Other Materials & Supplies	1,200	-316	884
DPW - Engineering	A1440-0404-0068	Repairs to Equipment	0	1,516	1,51
City Services Administration	A1490-0409-0001	Anti-litter program	25,000	11,647	36,6
City Services Administration	A1490-0101-0000	Permanent Salaries	343,565	-1,500	342,0
City Services Administration	A1490-0102-0000	Temporary Salaries	25,999	1,500	27,4
DPW - Facilities Maintenance	A1620-0401-0053	Utilities - Telephone	316,200	11,100	327,3
DPW - Central Garage	A1640-0304-0057	Vehicle Expense - Parts & Supplies	220,000	5,000	225,0
DPW - Central Garage	A1640-0304-0058	Vehicle Expense - Repairs	125,000	-5,000	120,0
Information Services	A1680-0410-0000	Training	2,850	-1,900	950
Police Department	A3120-0301-0000	Office Supplies	15,500	-500	15,0
Police Department	A3120-0301-0013	Office Supplies - Juvenile Services	0	500	500
Police Department	A3120-0409-0000	Confidential Funds	3,500	-1,000	2,50
Police Department	A3120-0409-0025	Weed and Seed Consultants	48,421	-575	47,8
Police Department	A3120-0411-0000	Travel	20,500	1,000	21,5
Traffic Control	A3320-0101-0000	Permanent Salaries	265,331	-2,500	262,8
Traffic Control	A3320-0103-0000	Overtime	15,000	2,500	17,5
Traffic Control	A3320-0401-0072	Utilities - Traffic Signals	110,000	-5,000	105,0
DPW - Streets	A5110-0101-0000	Permanent Salaries	1,012,629	-7,500	1,005,
DPW - Streets	A5110-0103-0000	Overtime	60,500	17,500	78,0
DPW - Streets	A5110-0103-0012	Overtime Snow	160,000	-10,000	150,0
DPW - Streets	A5110-0405-0000	Rentals	25,000	-1,850	23,1
Recreation	A7150-0102-0000	Temporary Salaries	270,000	575	270,5
Recreation	A7150-0303-0033	Other Materials & Supplies - facilities	35,000	4,500	39,5
Recreation	A7150-0303-2431	Other Materials & Supplies - pools	11,000	-2,500	8,50
Recreation	A7150-0304-0056	Vehicle Expense - Gas & Oil	30,000	-2,000	28,0
Recreation	A7150-0401-0054	Utilities - Gas & Electric	250,000	-2,000	248,0
Planning Department	A8020-0303-0000	Other Materials & Supplies	0	5,000	5,00
Planning Department	A8020-0403-0098	Printing and Advertising	22,000	-5,000	17,0
Planning/CDBG/Housing	A8022-0101-0000	Permanent Salaries	397,780	-8,000	389,7
Planning/CDBG/Housing	A8022-0102-0000	Temporary Salaries	10,000	8,000	18,0
DPW - Sanitation	A8160-0101-0000	Permanent Salaries	1,063,901	-10,000	1,053,
DPW - Sanitation	A8160-0103-0000	Overtime	40,000	10,000	50,0
DPW - Sanitation	A8160-0302-0000	Small Tools and Equipment	350	-350	0
DPW - Sanitation	A8160-0405-0076	Refuse Tipping Fee	1,300,000	-11,647	1,288,
Flood and Erosion Control	A8745-0409-0022	Hudson and Black River District	67,000	9,730	76,7

Contingency	A1990-04180-0000	Contingency	50,000	-9,730	40,2
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Total General Fund Budget Expenditure Increase			\$0.00	
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Water Fund			Original	Change	Revis
Department	Account No.	Description	Budget*	(+ / -)	Budg
DPU - Central Garage	F1640-0304-0057	Vehicle Expense - Parts and Supplies	60,000	10,000	70,0
DPU - Pumping Station	F8320-0303-0000	Other Materials & Supplies	5,700	6,000	11,7
DPU - Pumping Station	F8320-0404-0068	Repairs to Equipment	6,250	-6,000	250
DPU - Purification	F8330-0409-0000	Consultant Services	37,500	-10,000	27,5

Total Water Fund Budget Expenditure Increase			\$0.00	
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Sewer Fund			Original	Change	Revis
Department	Account No.	Description	Budget*	(+ / -)	Budg
DPU - Sanitary Sewers	G8120-0404-0068	Repairs to Equipment	27,500	-5,000	22,5
DPU - Sanitary Sewers	G8120-0405-0068	Rentals	27,500	10,000	37,5
DPU - Sanitary Sewers	G8120-0409-0000	Consultant Services	15,000	-5,000	10,0

Total Water Fund Budget Expenditure Increase			\$0.00	
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ORD. #4

TABLED
ORDINANCE AUTHORIZING AND DIRECTING SALE OF CITY OWNED REAL PROPERTY

The City of Troy, in City Council convened, ordains as follows:

Section 1. Pursuant to Section C-73 of the Charter of the City of Troy, the City Council may direct the sale of City owned property.

Section 2. On the 15th day of June 2009 the City published a “Solicitation for Offer for the Sale of Real Property, Uncle Sam Parking Garage (USPG)”. One bid was received, that being from Uncle Sam Garages, LLC, the present tenant, in the amount of Two Million One Hundred Thousand Dollars (\$2,100,00.00). That offer was subsequently increased to Two Million One Hundred Thousand Fifty Dollars (\$2,150,000.00).

Section 3. The Mayor is hereby authorized and directed to sell and convey the hereinafter described real property to the following named purchaser for the sum below offered by purchaser and which is hereby determined to be a fair price for the same upon the terms and conditions set forth below.

Section 4. The purchaser, purchase price and terms and conditions of sale are as follows: 418

PURCHASER: Uncle Sam Garages, LLC
PURCHASE PRICE: \$ 2,150,000.00.

TERMS AND CONDITIONS:

- A. This conveyance is made subject to the conditions in the contract , attached hereto and made a part hereof, and said contract, or a version in material conformance thereof, shall be executed by the Mayor to bind both parties to the sale.
- B. Purchaser shall be liable for and pay all closing costs related to this sale including, but not limited to: filing fees, deed stamps, survey, title report and environmental reports..

Section 5. The said real property is described as follows: All those premises located between 4th Street and new 3rd Street at Fulton Street, Troy, New York known as Tax Map # 101.45-3-2

Section 6. This Ordinance shall take effect immediately.

Ordinance TABLED by the following vote:

AYES: 7
NOES: 2 Wojcik and McGrath
ABSTAIN: 0

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE (Agreement) is made and entered into as of the ____ day of _____ 2009 by and between **UNCLE SAM PARKING GARAGES, LLC, LLC**, a New York limited liability company with its principal office at 297 River Street, Troy, New York 12180 (**Purchaser**) and the **City of Troy, New York**, with an address at City Hall, River Street, Troy, New York 12180 (**Seller**).

R E C I T A L S:

A. Seller is the fee simple owner of that certain real property located between 4th Street and New 3rd Street at Fulton Street, Troy, New York and known as tax map number 101.45-3-2, such real property being more particularly described on Exhibit A attached hereto; and all right, title and interest of Seller, if any, that is appurtenant to the real property described on Exhibit A in and to the following: any land lying in the bed of any existing, dedicated street, road or alley, all strips and gores adjoining thereto and all appurtenances, rights, easements, rights-of-way, covenants, tenements, hereditaments and other rights incident thereto, including, without limitation, any right or option to acquire or benefit from any future easement or right-of-way to the extent that such rights and interests may benefit such real property (the **Property**);

B. Purchaser desires to acquire the Property, and Seller desires to sell the Property, all pursuant to the following terms.

NOW, THEREFORE, for and in consideration of the promises and mutual covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Purchase and Sale.** Purchaser agrees to acquire the Property and Seller agrees to sell the Property pursuant to the terms and conditions set forth herein.

2. **Purchase Price and Method of Payment.**

2.1 The purchase price for the Property (the **Purchase Price**) shall be **TWO MILLION ONE HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$2,150,000.00)**.

2.2 The Purchase Price shall be payable by wire transfer of immediately available funds or certified check of which the Deposit shall be a part, subject to such prorations and adjustments as are set forth hereinafter.

2.3 Purchaser has, previously, with the submission of his bid, posted **ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$100,000.00)** as a bid check, which sum shall be considered a deposit and applied towards the purchase price.

2.4 **Additional Consideration.** As additional consideration to the Purchase of this Property, Purchaser agrees that there shall be free parking and use of the parking garage during the evening after 5:00 pm, on weekends and during all nationally recognized holidays by the public, that all City of Troy signage shall be removed from the premises within thirty (30) days of the Closing Date and that a third level of parking shall be constructed and opened to the public within a period of time to be agreed upon by the parties herein but in no event later than two (2) years after the Closing Date. Purchaser further agrees, as part of its consideration in the purchase of this Property, not to challenge or otherwise contest the assessed value of this Property for a period of five (5) years from the Closing Date, provided that the Seller does not reassess said Property. These considerations shall be binding on all subsequent purchasers and or assigns. This Agreement of Purchase and Sale shall be filed in the Office of the Rensselaer County Clerk together with the Deed of this transaction.

3. **Sellers Representations and Warranties.** In order to induce Purchaser to enter into this Agreement and to purchase the Property, Seller makes the following representations and warranties, each of which being material, and each of which being true and correct in all material respects as of the date hereof and each of which shall be true and correct in all material respects on the Closing Date.

3.1 Authority. Seller has full power and authority to enter into this Agreement and sell the Property to Purchaser and to otherwise perform its obligations hereunder. Seller is not a foreign person as that term is defined by Section 1445 of the Internal Revenue Code of 1986, as amended.

3.2 Property. For purposes of this Agreement, the term **Encumbrances** shall mean any liens, mortgages, security interests, options, easements, or covenants. To Sellers knowledge, the Seller is the sole owner of fee simple, marketable and fully insurable title to the Property. Between the date hereof and the Closing of the transactions herein contemplated, Seller will not create or permit to be created any Encumbrances on the Property, other than those which may be fully satisfied from the proceeds of sale at the Closing. Prior to or at the Closing, Seller shall cause all Encumbrances on the Property, other than the Permitted Exceptions (below defined), to be duly canceled, removed and discharged of record and in fact and shall deliver proof thereof satisfactory to Purchaser and the Title Company.

3.3 Agreements. No agreement has been entered into with any person or entity relating to or connected with the ownership, construction, use, operation, maintenance or condition of the Property which would be binding upon Purchaser at or subsequent to the Closing.

3.4 Hazardous Wastes. With respect to the Property (including, without limitation, the soil and ground water underneath the Improvements), no summons, citation, directive, notice or complaint issued by the United States Environmental Protection Agency or other federal or local Government authority has been received by Seller, concerning any alleged violations of any environmental laws and regulations or any investigation or request for information relating to the handling, packaging, transportation, treatment, storage or disposal of Hazardous Substances on-site or when transported off-site. To Sellers knowledge, the Property is in compliance with all laws, regulations, orders, decrees and agreements relating to Hazardous Substances and there are no Hazardous Substances on, at or under the Property as of the date hereof. The term **Hazardous Substances** has the meaning set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.), and all regulations thereunder.

3.5 Condemnation. No taking by power of eminent domain or condemnation proceeding has been instituted or, to Sellers knowledge, threatened for the permanent or temporary taking or condemnation of all or any portion of the Property.

3.6 Litigation. There is no pending or, to Sellers knowledge, threatened, litigation, proceeding or investigation relating to the Property, Sellers title thereto, Sellers right to sell the Property or the zoning or use of the Property.

3.7 Commitments. Seller has not made, and prior to Closing hereunder shall not make, any commitments to any Government authority or agency, utility company, or to any other organization, group or person relating to the Property that would impose on Purchaser or the Property (or any future owner thereof) the obligation to make on or after the Closing any contributions of money, dedication of land or grants of easements, rights-of-way or other things, or to construct, install or maintain any improvements, public or private, on or off the Property.

3.8 Liens. No labor has been performed or materials furnished at the request or direction of Seller that could result in a material mans or mechanics lien filed against the Property except as shall be fully paid or released prior to Closing. All real estate taxes on the Property which have become due and payable prior to Closing have been or will be paid by Closing.

3.9 USTs. No underground storage tanks are located on or under the Property (or any component thereof).

4. Inspection

4.1. As-Is and Where Is Condition. The Purchaser acknowledges that it is accepting the Property as is and where is, in its present physical condition, however in the event that any underground storage tank(s) (UST) or Hazardous Substances are found on the site, then Seller agrees to remove such UST and/or Hazardous Substances, at Sellers expense prior to closing or at Purchaser option to reimburse Purchaser for the expense of removing such UST and/or Hazardous Substances, such removals to be conducted in accordance with all governmental laws, rules and regulations. Except as specifically provided in this agreement, the Purchaser acknowledges that Seller has made no representations or warranties to the Purchaser regarding the condition of the Property.

4.2 Title Commitment. Purchaser shall obtain, at Purchaser's expense, a preliminary title report prepared by a nationally recognized title insurance company. Within five (5) days of receipt of the title report, Purchaser shall notify Seller in writing whether any items therein are unacceptable to Purchaser. All exceptions to title therein mentioned not objected to by Purchaser shall be deemed to constitute **Permitted Exceptions** for all purposes of this Agreement. Within twenty (20) days following its receipt of Purchaser's notice of title objections, Seller shall notify Purchaser in writing whether or not it will cure any such matters timely objected to by Purchaser. If Seller fails to elect to cure any particular items objected to by Purchaser, all such items thereafter shall also be considered as a Permitted Exception; provided, however, that Purchaser shall be entitled to terminate this Agreement (and receive a refund of its deposits) by written notice to Seller within five (5) business days following notice to Purchaser of Seller's failure to elect to cure such objections. In the event of termination of this Agreement, the parties shall have no further obligations under this Agreement.

5. **Negative Covenant.** Seller hereby agrees that it will not enter into any lease, sublease, letter of intent, joint venture agreement, contract or other agreement or negotiate with any party for the lease, sale, development or other disposition of the Property without the prior written consent of the Purchaser.

6. **Closing.** The purchase and sale contemplated herein shall be consummated at a settlement (**Closing**) which shall take place at the office of Seller's attorney on the date (the **Closing**) to be designated by Purchaser by written notice to Seller no less than five (5) business days prior thereto, but no later than sixty (60) days following the satisfaction of all contingencies.

7. **Seller's Deliveries.** Seller shall execute, as appropriate, and deliver to the Seller at Closing:

7.1 **Bargain and Sale Deed.** A Bargain and Sale Deed with covenant against Grantors acts (the **Deed**) in such form as shall be reasonably acceptable to the Purchasers counsel whereunder Seller grants and conveys fee simple title to the Property.

7.2 **Seller's Affidavit.** Such certificates, affidavits and other evidence signed and delivered by Seller, as may reasonably be required to induce the Title Company to issue the Title Policy, without exception except for the Permitted Exceptions, together with such other items and instruments as the Title Company may reasonably require.

7.3 **FIRPTA Affidavit.** An affidavit certifying that Seller is not a Aforeign person as that term is defined by Section 1445 of the Internal Revenue Code of 1986, as amended.

7.4 **Other Documents.** Such other items or documents as are required by this Agreement to be delivered by Seller at Closing or which may be reasonably necessary to effect the assignment, conveyance and transfer of the Property, and which are consistent with the obligations of Seller set forth in this Agreement.

8. **Purchaser's Deliveries.** At Closing Purchaser shall execute, as appropriate, and deliver, or cause the following to be delivered:

8.1 **Cash.** The Purchase Price by bank wire transfer or certified funds to the Seller.

8.2 **Other Documents.** Such other items or documents required by this Agreement to be delivered by Purchaser at Closing and which are consistent with the obligations of Purchaser set forth in this Agreement, including, but not limited to, a settlement sheet and all requisite recordation and transfer tax forms.

9. **Closing Charges; Prorations and Adjustments.**

9.1 Allocation of Closing Charges. Purchaser shall pay the cost of any recordation and transfer taxes and documentary stamp taxes on the sale. Purchaser shall pay the cost of the title insurance premium. Seller shall be responsible at its sole cost and expense for the cost to release any existing liens and Encumbrances on the Property other than the Permitted Exceptions. Purchaser shall be solely responsible for the costs incurred in obtaining or updating any ALTA surveys, if required, or in connection with obtaining, executing, and insuring any financing obtained by Purchaser. Purchaser and Seller each shall pay its own legal fees related to the preparation of this Agreement and all documents required to settle the transaction contemplated hereby.

9.2 Prorations and Adjustments. At Closing, all real and personal property taxes, water rents and sewer charges, and other similar charges affecting the Property, if any, shall be adjusted and prorated as of midnight of the day prior to the Closing Date.

10. Brokerage Commission. Seller and Purchaser represent and warrant to each other that they have dealt with no brokers or finders in connection with the sale of the Property. Seller and Purchaser hereby indemnify and hold the other harmless from any and all loss, costs or damage (including, without limitation, reasonable attorneys fees and expenses) arising out of any claims of any broker or agent so claiming based on action or alleged action of the indemnifying party. This Section 10 shall survive Closing.

11. Default Provisions; Remedies.

11.1 Purchaser's Default. If Purchaser fails to consummate the purchase and sale contemplated herein after all conditions precedent to Purchaser's obligation to consummate the transactions herein contemplated have been satisfied or waived by Purchaser, and Seller has notified Purchaser of such default and Purchaser has failed to cure such default within ten (10) days after Seller's notice, then the Deposit shall be retained by Seller as full and complete liquidated damages and the sole and exclusive remedy of Seller, the parties hereby agreeing that they have considered carefully the loss to Seller that would be a consequence of such default and that the Deposit is a reasonable estimate of such loss. Upon payment to Seller of the Deposit, this Agreement shall terminate, and neither party shall have any further obligations or liabilities to any other party, other than any obligations or liabilities with respect to any indemnifications contained herein.

11.2 Seller's Default. If Seller breaches its representations, warranties, covenants and agreements hereunder or fails to consummate the purchase and sale contemplated herein by the Closing Date, and Purchaser has notified Seller of such default and Seller has failed to cure such default within ten (10) days of Purchaser's notice, then the Deposit shall be returned Purchaser; provided, however, that such return shall not limit Purchase'rs right to all available remedies at law and/or in equity including, without limitation, its remedies for specific performance inasmuch as the parties⁴²⁴

recognize and acknowledge that the Property is unique, and that there is no adequate remedy at law to compensate fully Purchaser for a breach by Seller.

12. Miscellaneous Provisions.

12.1 Completeness and Modification. This Agreement constitutes the entire agreement between the parties hereto with respect to the transactions contemplated herein, and it supersedes all prior discussions, understandings or agreements between the parties. This Agreement shall not be modified or amended except by an instrument or writing signed by and on behalf of the parties.

12.2 Additional Documents. Purchaser and Seller agree that they will, at any time after the Closing, duly execute and deliver to each other any additional conveyances, assignments, documents and instruments, and shall take or cause to be taken such further actions (including the making of filings), which are necessary in connection with the consummation of the purchase and sale contemplated herein.

12.3 Construction. Each party hereto hereby acknowledges that all parties hereto participated equally in the negotiation and drafting of this Agreement and that, accordingly, no court construing this Agreement shall construe it more stringently against one party than against the other.

12.4 Pronouns. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the person or entity may require.

12.5 Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, devisees, personal representatives, successors and assigns. Purchaser has the right to assign this agreement without consent to Seller. Upon such assignment, Purchaser shall be released from any obligations hereunder.

12.6 Waiver; Modification. Failure by Purchaser or Seller to insist upon or enforce any of its rights hereto shall not constitute a waiver thereof.

12.7 Governing Law. This Agreement shall be governed by and construed under the laws of the state of New York.

12.8 Headings. The headings are used herein for convenience of reference only, and shall not be deemed to vary the content of this Agreement.

12.9 Exhibits. All Exhibits attached hereto are incorporated herein and made a part of this Agreement.

12.10 Counterparts. To facilitate execution, this Agreement may be executed in as many counterparts as may be required; and it shall not be necessary that the signature of each party, or that the signatures of all persons required to bind any party, appear on each counterpart; but it shall be sufficient that the signature of each party or that the signatures of the persons required to bind any party, appear on one or more such counterparts. All counterparts shall collectively constitute a single agreement. This document and any amendment hereto may be executed by facsimile and any such facsimile shall be deemed to constitute an original for all purposes hereof.

12.11 Notices. All notices, requests, consents, and other communications hereunder shall be in writing and shall be personally delivered, sent by facsimile transmission, sent by Federal Express or other recognized overnight delivery service, prepaid by the party sending such notice, to the addresses indicated below.

If intended for Purchaser to:

Uncle Sam Garages, LLC
297 River Street
Troy, New York 12180

If intended for Seller to:

CITY OF TROY
CORPORATION COUNSEL
CITY HALL
Troy, New York 12180

The addresses and parties set forth above may be changed from time to time by any party by notice to the other. For purposes of this Agreement, notices shall be effective upon receipt or refusal thereof.

12.12 Business Day. As used herein, the term **Business Day** shall mean any day other than a Saturday or Sunday, or other day recognized as a holiday by the U.S. Government, or the government of the State of New York, or upon which banks or similar financial institutions in State of New York are generally closed.

12.13 Survival. It is the express intention and agreement of the parties hereto that the covenants, agreements, statements, representations, warranties and indemnities made in this Agreement by Seller shall survive the execution and delivery of this Agreement for one (1) year following Closing. The representations, warranties and indemnities made in this Agreement by Purchaser under Section 4.1 shall survive for the execution and delivery of the Deed by the applicable statute of limitation periods.

12.14 Attorneys Fees. If either Purchaser or Seller institute any proceeding or action hereunder, the party prevailing in such action shall be entitled to be reimbursed by the non-prevailing party for its reasonable attorneys fees, costs and other expenses incurred in connection with such proceeding or action.

12.15 Waiver of Jury. Seller and Purchaser each hereby irrevocably waive trial by jury in any action or proceeding brought by or against the other party under or in connection with this Agreement.

THE BALANCE OF THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal as of the day and year first above written.

PURCHASER:

UNCLE SAM GARAGES, LLC

By: _____
David Bryce, authorized person

SELLER:

CITY OF TROY, NY

By: _____
Its:

In connection with obtaining approvals for the property, Seller shall cooperate with the Purchaser at no cost to Seller with the approval process and will provide the Purchaser with written authorizations may be required by the agencies having jurisdiction over the approvals to proceed with such approvals for the property.

EXHIBIT A

Legal Description

All of the following parcel(s) of real property situated in the City of Troy, New York namely:

See attached description and tax map sketch plan

ORD #5

**ORDINANCE AMENDING THE 2009 GENERAL FUND BUDGET
TO DOWN GRADE CERTAIN VACANT POSITIONS IN THE DEPARTMENT OF PUBLIC WORKS
AND THE RECREATION DEPARTMENT RESULTING IN A SAVINGS TO THE CITY OF TROY'S
GENERAL FUND BUDGET**

The City of Troy, in City Council, convened, ordains as follows:

Section 1. The 2009 Water Department Budget is herein amended as set forth in "Schedule A" entitled

"GENERAL FUND BUDGET CHANGES"

which is attached hereto and made a part hereof.

Section 2. This act will take effect immediately.

Ordinance ADOPTED by the following vote:

AYES: 9
NOES: 0
ABSTAIN: 0

Troy City Clerk
Sent to the Mayor 10/2/09
Received from the Mayor 10-13-09
City Clerk _____

Executive Action
Approved X **Date** 10-7-09
Veto _____ **Not Endorsed** _____
Mayor _____

Memorandum in Support

Title: Ordinance amending the 2009 General Fund Budget to down grade certain vacant positions in the Department of Public Works and the Recreation Department resulting in a savings to the City of Troy's General Fund Budget.

Summary of Provisions: This request for action by the City Council authorizes the City to amend the 2009 General Fund Budget to downgrade certain Department of Public Works and Recreation VACANT positions in an effort to save the City of Troy's General Fund in excess of \$95,000.

Present Law: N/A

Purpose: The City has determined that downgrading these positions is not detrimental to the operation of the City of Troy's Department of Public Works and Department of Recreation.

Furthermore, the positions changes will produce a budget savings in the permanent salary lines of the General Fund 2009 budget and in future budgets accordingly.

Fiscal Impact: Yields a total savings of \$96,443 savings in the General Fund budget.

Council Committee: Finance

SCHEDULE A

General Fund Position Changes

Account No. Description	Current Budget	Surplus (Deficit)	Change (+ / -)	Revised Budget
A1490-0101-0000 Solid Waste & Litter Enforcement Officer	\$45,860		(\$45,860)	\$0
A1490-0101-0000 Code Technician (Litter Enforcement)	\$0		\$34,575	\$34,575
A5110-0101-0000 MEO Light	\$41,851		(\$41,851)	\$0
A5110-0101-0000 Laborer	\$0		\$24,520	\$24,520
A7150-0101-0000 MEO Light	\$41,851		(\$41,851)	\$0
A7150-0101-0000 Laborer	\$0		\$24,520	\$24,520
A7150-0101-0000 MEO Light	\$41,851		(\$41,851)	\$0
A7150-0101-0000 Laborer	\$0		\$24,520	\$24,520
A8160-0101-0000 MEO Light	\$41,851		(\$41,851)	\$0
A8160-0101-0000 Laborer	\$0		\$24,520	\$24,520
A8160-0101-0000 MEO Light	\$40,354		(\$40,354)	\$0
A8160-0101-0000 Laborer	\$0		\$24,520	\$24,520
			(96,443)	

ORD. #6

**ORDINANCE AMENDING THE 2009 CITY BUDGET TO
ACCEPT FUNDS FROM THE NEW YORK STATE DEPARTMENT OF CRIMINAL JUSTICE
SERVICES FOR THE PURPOSE OF APPROPRIATING EXPENDITURES AS DEFINED IN THE
IMPACT VI
GRANT AGREEMENT AND BUDGET**

The City of Troy, in City Council, convened, ordains as follows:

Section 1. The City of Troy 2009 budget is herein amended as set forth in Schedule A entitled:

Impact VI Grant – 2009 Expenses

which is attached hereto and made a part hereof

**ORDINANCE AMENDING THE 2009 CITY BUDGET
TO ACCEPT THE “2009-2010 WEED AND SEED GRANT AWARD” AND INCREASE WEED AND
SEED FUNDS AND ALLOCATIONS IN 2009**

The City of Troy, convened in City Council, ordains as follows:

Section 1. The 2009 City Budget is hereby amended to provide for the increase in Weed and Seed funds as provided in Schedule “A” entitled:

“Weed and Seed OCTOBER 2009 Budget Amendment”

which is attached hereto and made a part hereof.

Section 2. This act shall take effect immediately.

Ordinance ADOPTED by the following vote:

AYES: 9

NOES: 0

ABSTAIN: 0

Troy City Clerk
Sent to the Mayor 10/2/09
Received from the Mayor 10-13-09
City Clerk _____

Executive Action
Approved x Date 10-7-09
Veto Not Endorsed
Mayor _____

BUDGET AMENDMENT SCHEDULE A	WEED & SEED	OCTOBER 2009	
<u>General Fund</u>	<u>Original *</u> <u>Budget</u>	<u>Change</u>	<u>Revised</u> <u>Budget</u>
Revenue - A510			-
A3000-2260-0418			
Weed & Seed	\$0.00	\$74,758.00	\$74,758.00
Total Revenue Increase		<u>\$74,758.00</u>	
Expenditures - A960			
A3120-0301-0418			
Supplies	\$0.00	\$650.00	\$650.00
A3120-0411-0418			
Travel	\$0.00	\$1,000.00	\$1,000.00

A3120-0409-0025

Weed and Seed Consultant Services	\$0.00	\$73,108.00	\$73,108.00
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Total Expenditure Increase

\$74,758.00

MEMO IN SUPPORT

Title: Ordinance amending the 2009 City Budget to accept the 2009/2010 Weed and Seed grant and appropriate the funds in 2009 to ensure that the City of Troy is able to provide services in support of the objectives of the Weed and Seed program.

Summary of Provisions: This legislation will allow for an increase in Weed and Seed funds to allow the City of Troy to provide for services in support of the objectives of the Weed and Seed program.

Present Law: N/A

Purpose: The City of Troy was awarded a \$150,000 Weed and Seed Federal Grant Allocation for expenses incurred in connection with the implementation of a Weed and Seed program in the City of Troy. The grant will run from September 1, 2009 through August 31, 2010. The attached Schedule A reflects those expenses that will occur between September 1, 2009 through December 31, 2009. The remaining dollars of the grant will be articulated in the proposed 2010 city budget.

Fiscal Impact: None. Fully funded by Weed and Seed grant monies.

RES #1

RESOLUTION APPOINTING COMMISSIONERS OF DEEDS FOR THE CITY OF TROY

BE IT RESOLVED, that the City Council hereby appoints the following persons, as identified in Schedule "A", attached hereto and made a part hereof, Commissioners of Deeds for the City of Troy for the terms identified in Schedule "A".

Resolution ADOPTED by the following vote:

AYES: 9

NOES: 0

ABSTAIN: 0

Troy City Clerk

Sent to the Mayor 10/2/09

Received from the Mayor 10-13-09

City Clerk _____

Executive Action

Approved X Date 10-7-09

Veto Not Endorsed

Mayor _____

RES. #2

RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE BEACON INSTITUTE, INC. FOR THE REDEVELOPMENT AND USE OF A PORTION ON THE RENSSELAER IRON WORKS PROPERTY

WHEREAS, the City of Troy acquired certain property known as the Rensselaer Iron Works Property from Scolite International in 2001 with the specific intention of creating a "Parkland" that shall forever benefit the residents of the City of Troy by allowing public access to the Riverfront; and

WHEREAS, the Beacon Institute, Inc. is a not-for-profit corporation with a mission of advancing the understanding of rivers, estuaries and their watersheds through integrated, collaborative research; and

WHEREAS, the Beacon Institute, Inc., in furtherance of its mission, desires to establish a facility dedicated to advancing its mission on the Rensselaer Iron Works property. Development of this facility will allow for a major waterfront revitalization project consistent with the South Troy Working Waterfront Revitalization Plan 2000 (STWWRP). Additionally, this project will allow for a public waterfront park with access to the river, a key link along the riverfront bikeway/walkway, poestenkill corridor Greenway trails, an economic development and business improvement generator and a catalyst for neighborhood revitalization. The project also represents a strong collaboration with the City of Troy, Rensselaer Polytechnic Institute, NYS Department of State, the Dormitory Authority of NYS, IBM and a multitude of other state, federal, academic and business partners; and

WHEREAS, the City of Troy and the Beacon Institute Inc., desire to commence a cooperative relationship through the Beacon Institute, Inc's. conduct of its programs at the Rensselaer Iron Works Property, including capital improvements to be constructed at the site by the Beacon Institue, Inc.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor is hereby authorized to enter into a Cooperative Agreement on behalf of the City of Troy with the Beacon Institute, Inc., the final content of said agreement to be substantially in the form of the agreement on file in the office of the Corporation Counsel and as attached hereto as schedule "A" and made a part hereof.

Resolution ADOPTED by the following vote:

AYES: 9
NOES: 0
ABSTAIN: 0

Troy City Clerk
Sent to the Mayor 10/2/09
Received from the Mayor 10-13-09
City Clerk _____

Executive Action
Approved X Date 10-7-09
Veto Not Endorsed
Mayor _____

Cooperative Agreement

between

The City of Troy, New York
and
The Beacon Institute , Inc.
Beacon, New York

This Cooperative Agreement (“Agreement”) made this ____day of _____, 2009 by and between the City of Troy, New York) and The Beacon Institute, Inc., a New York not-for-profit corporation with offices at 199 Main Street, Beacon, New York 12508 (hereinafter “Licensee”).

WITNESSETH:

WHEREAS, the City of Troy acquired certain property described as the Rensselaer Iron Works Property from Scolite International in 2001, using City of Troy taxpayer funds, with the specific intention of creating a “Parkland” that shall forever benefit the residents of the City of Troy by allowing public access to the Riverfront to the end of time, where all river access rights shall now and forever belong to the City of Troy, and.

WHEREAS, The City of Troy now desires to allow, through the use of this agreement, redevelopment and reuse of a portion of this property by the Licensee as described herein and in Map “A” which is attached hereto and made a part hereof.

WHEREAS, Licensee is a not-for-profit corporation duly organized and existing under The laws of the State of New York with a mission of advancing the understanding of rivers, estuaries and their watersheds through integrated, collaborative research and education; and

WHEREAS, Licensee in furtherance of its mission, intends to establish a facility dedicated to advancing its mission on the historic Rensselaer Iron Works Site; and

WHEREAS, the City of Troy and licensee desire to commence a cooperative relationship through Licensee’s conduct of its programs at the Rensselaer Iron Works Site including capital improvements to the site to be constructed by the Licensee as more fully set forth herein.

NOW, THEREFORE, in consideration of the terms and conditions set forth in this License, the City of Troy and Licensee agree as follows:

Term

The term of this lease shall be: An initial seven (7) year “construction term/phase” to commence upon the execution of the agreement and to run seven (7) years or to the issuance of the Certificate of Occupancy (CO) which shall designate completion of the construction term/phase. Upon the issuance of the CO, an initial thirty (30) year term shall commence and shall run ten years from the date of the issuance of the CO. Thereafter there shall be four (4) renewal option periods consisting of ten(10) years each, where such option shall be a consecutive renewal period that may be renewed by mutual consent of both parties to this agreement. Either party may propose a renewal by notifying the other party in writing. The option to renew each ten year period shall only be exercised in the final two years of each ten year term.

Grant of License

The City of Troy hereby grants to Licensee a license to occupy and use the property commonly known as the Rensselaer Iron Works Property. Said property is identified and described in Map A, together with the buildings, fixtures, improvements and other property located or to be located therein or thereon, for the purposes and

programs consistent with the mission of the Licensee. The parties agree that the licensee shall enjoy non-exclusive use of the areas adjacent to and surrounding the area identified and described in Map A for the purpose of conducting the programs.

The use of the shorefront by Licensee is not exclusive. Residents of the City of Troy shall have full unencumbered access to the entire shorefront with the exception of research dock(s) and security necessary to limit access to the portion of the shorefront abutting the dock. It is understood that public access to the shoreline may be temporarily interrupted from time to time to allow the Licensee or its agents or partners to transport equipment and supplies to and from boats, barges, docks, ramps, piers, etc., and the shoreline or bulkhead and the property and any trucks, trailers, buildings and facilities located there. Such transport will always be conducted in a manner to ensure public safety, and reasonable efforts will be made to minimize interruptions to public access. Alternative shoreline pathway routes will be provided during substantial interruptions to shoreline access.

Licensee shall be liable and responsible, at its own expense, for all maintenance and repairs to those portions of the shorefront utilized Licensee's purpose/ business, including, but not limited to seawall, bulkhead, docks, ramps, cranes, etc., as per attached Map "A". The property shall be taken in an "AS IS" condition by Licensee. Any environmental issues unearthed or discovered throughout the construction/ renovation/ or rehabilitation phase and/or throughout the License Agreement with Licensee, shall be remediated by the Licensee and at Licensee's expense and not the City of Troy, New York. This shall not in any way limit or impair the Licensee or the City of Troy's eligibility for DEC Brownfield remediation funds. Licensee shall take all necessary and essential remedial steps, as may be required by the City of Troy, the State of New York DEC or the Environmental Protection Agency, to dispose of and/or remedy any environmental issues that are discovered during the pendency of this agreement. The City of Troy shall provide to the Licensee, within 60 days of the execution of this Agreement, any and all documents, plans, reports, letters or other information or knowledge it may have regarding any environmental issues, hazards, contamination, concerns or conditions at the property, or any and all information regarding the structural condition of the Hudson River shorefront bulkhead or seawall, or damage done to the shorefront, or the estimated cost of repairs or upgrades to the river shorefront bulkhead or seawall.

The City of Troy shall be responsible for the remediation, to the extent required by State or Federal Environmental Agency, of any environmental issues known now or subsequently discovered on that portion of the site located outside Map A, and any required remediation shall be undertaken by the City or its agent(s) at the City's expense and not the Licensee's. The City of Troy shall make reasonable efforts to inform the Licensee of the status of any environmental investigation or remediation, and of any legal or court orders issued by or to the City of Troy pertaining to same.

Sub-Licensing

Upon the expressed written consent of the City of Troy, New York, Licensee may contract with or sub-license the use of the Licensed Premises to a not-for-profit sub-licensee with programs and services similar to those of Licensee. Any sub-license proposed by Licensee shall be in writing, and all performance by the sub-licensee shall be expressly subject to all terms of this License, and shall not relieve Licensee of any duty, obligation or responsibility owed to the City of Troy pursuant to this License, including the duty to pay license fees. . The City of Troy shall not unreasonably delay or deny its consent to such sub-license. A sub-licensee is expressly not authorized to assume the rights of the licensee in the event of the termination of this agreement absent additional written consent of the City of Troy.

Consideration

a) In consideration of the license granted herein, Licensee shall pay the City of Troy a fee in the amount of Five Hundred Dollars (\$500.00) per annum. Licensee shall operate and maintain the Licensed Premises in accordance with the terms and conditions set forth herein at Licensee's sole cost and expense.

b) Unless otherwise agreed to by the City of Troy in writing, the license fee payment shall be made to the City in one installment not later than April 1 of each year.

Rights of Use

Licensee's mission is to create a global center for interdisciplinary research, policy-making and education regarding rivers, estuaries and their connection with society. The Licensed Premises on the Rensselaer Iron Works Property will house changing exhibitions and educational programs, as well as function as a visitors' center. Exhibits and interactive displays will educate the public about on-going scientific research, the history of the site, and the global significance of the study of rivers and estuaries. It is a place where science, education, educators and the public can meet and mix freely in a setting of unparalleled and accessible natural beauty. The educational activities taking place here will include teacher-training, education, distance learning, and scientific conferences and meetings. Utilizing cutting-edge technology throughout the building, visitors will observe real-time scientific monitoring of the Hudson River, video-conferencing between scientists and educators around the world, and can participate in interactive learning opportunities that reveal and celebrate the vital and dynamic world of rivers and estuaries.

Licensee shall use and operate the Licensed Premises for the following purposes: As and for the operation of a scientific and research facility, an education facility and a visitors' center and related activities, consistent with the mission of Licensee. The Licensed Premises may be used by the Licensee as administrative offices, teaching and training facilities, technical and research laboratories, a boat storage facility, exhibit and/or educational space and for public events and related uses. The Licensee shall utilize the Licensed Premises for uses compatible with its Certificate of Incorporation, By-Laws and Mission Statement. At no time throughout the entire term of this agreement, and/or any option to extend therein, shall Licensee charge a resident of the City of Troy a fee for admission/membership/access to the Real property, shorefront or the "Institute" for any event, activity or function

Capital Improvements

All capital improvements, renovation, or disturbance of existing conditions at the Licensed Premises to be undertaken by Licensee shall be completed in accordance with all State codes, rules, and regulations, including, when applicable, historic preservation review and the State Environmental Quality Review Act (SEQRA).. All capital improvements are to be designed and completed at the sole expense of the Licensee. The parties may agree to an allocation of costs where certain work inures to the benefit of the City of Troy.

All Capital Improvements made to the Real property, fixtures and buildings on the licensed property defined herein shall become the lawful property of the City of Troy. Legal title to same shall transfer to the City of Troy upon the execution and delivery of the "Certificate of Occupancy" to the premises, after the completion of the renovation/restoration permitted Licensee shall maintain "insurable interest" on the real property, buildings - fixtures and equipment attached thereto- to the extent and insurable value as determined annually by the City of Troy, where such minimum value of the insurance maintained on the real property, fixtures and equipment attached thereto, shall cover the full replacement cost of the buildings, fixtures and equipment. Licensee shall also comprehensive full general liability coverage in the amount of 1 Million Dollars per occurrence/ 3 Million Dollars total coverage. The City of Troy shall be listed as "an Additional Insured and Loss Payee" on the policy. The insurance policy shall require defense and indemnification for the City of Troy for any action - brought in contract, tort or pursuant to any State or Federal Statute, in any Court of competent jurisdiction. The use of the property covered by this insurance shall include "Maritime Coverage" to defend and indemnify the City of Troy against any and all causes of action -in contract, tort or pursuant to State or federal Statute, that occurs or relates in any way to the shorefront, the Riverfront or while on the Hudson River whether in a vessel or standing/wading/swimming in the water.

Standards of Operation

Licensee shall maintain the Licensed Premises, and any equipment or ancillary facilities included under this License, in a reasonably attractive, safe, operable, and sanitary condition at all times. Licensee shall keep any sidewalks and grounds of the Licensed Premises in a safe, clean, neat, and attractive condition.

Advertising

All brochures, media advertisement, and similar copy pertaining to this License to be released, disseminated to the public or distributed in any manner shall be in good taste and consistent with both Licensee's and the City of Troy's mission and policies.

Termination

a) If any one or more of the following events shall occur, that is to say:

i. Licensee shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement or its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States or of any State thereof, or consent to the appointment of a receiver, trustee, or liquidator of all or substantially all its property; or

ii. By order or decree of a court, Licensee shall be adjudged bankrupt or an order shall be made approving a petition filed by any of the creditors seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any law or statute of the United States or of any State thereof; or

iii. A petition under any part of the federal bankruptcy laws or an action under any present or future insolvency law or statute shall be filed against Licensee and shall not be dismissed within forty-five (45) days after the filing thereof; or

iv. The purported letting hereunder of the interest or estate of Licensee under this License shall be transferred to, pass to or devolve upon, by operation of law or otherwise, any other person, firm or corporation except upon the express written approval of the City of Troy; or

v. By or pursuant to, or under authority of any legislative act, resolution or rule, any order or decree of any court or governmental board, agency or officer, a receiver, trustee, or liquidator shall take possession or control of all or substantially all the property of Licensee, or any execution or attachment shall be issued against Licensee or any of its property, whereupon possession of the Licensed Premises shall be taken by someone other than Licensee, and any such possession or control shall continue in effect for a period of fifteen (15) days; or

vi. Licensee shall cease to be legally qualified as a bona fide not-for-profit corporation under the laws of the State of New York and/or the Internal Revenue Code; or

vii. Licensee allows, issues or executes a "sub-license" without the express written consent of the City of Troy, provided Licensee does not immediately terminate said sub-license upon notification by the City of Troy

viii. Licensee fails to make the annual license payment, as provided hereinabove. . However, the City shall notify Licensee of such failure, in writing, and shall afford Licensee reasonable opportunity to make the annual license payment before initiating termination proceedings.

ix The occurrence of any material breach of this License and /or default which remains in breach or default for (30) days from the breach or default.

x. Licensee fails to commence construction of the building renovation/reconstruction of the building within One (1) year form the date of this Agreement or the Licensee fails to obtain a Certificate of Completion of the renovation/reconstruction of the building within seven (7) years of the date of this Agreement

Then upon the occurrence of any such event or at any time thereafter during the continuance thereof, the City of Troy may, by ten (10) days' notice, terminate this License, such termination to be effective upon the date specified in such notice.

b) The Licensee shall have the right upon thirty (30) days written notice to City of Troy to terminate this License for any of the following reasons:

i. if Licensee, in its sole discretion, elects to discontinue its program; and/or,

ii. if, for any reason, Licensee is unable to obtain any of the approvals required under this License; and/or,

iii. if Licensee, in its sole discretion, elects to relocate its program to another location; and/or,

iv. the occurrence of any material breach of this License and/or default by the City of Troy which remains in breach or default after thirty (30) days written notice from Licensee.

v. if Licensee determines, during or following the completion of project or site investigation, planning or design, that site conditions or other project requirements render the site impractical for development or use for the purposes set out herein; , In such event the License shall restore the site, as much as practical, to the same condition it was in prior to Licensee's entering into this Agreement.

c) The rights of termination described above shall be in addition to any other rights of termination provided in this License and in addition to any rights and remedies that the City of Troy would have at law or in equity consequent upon any breach of this License by Licensee.

Indemnification

Licensee shall maintain the minimum insurance as provided for hereinabove. Additionally, Licensee agrees to defend and indemnify the City of Troy against any cause of action, brought under any theory of law, against the City of Troy, for any activity -directly or indirectly related or associated with or to the Licensee and the real property- or activities thereon, which is the premised licensed herein. The City of Troy agrees to defend and indemnify the Licensee against any cause of action brought under any theory of law, against the Licensee, for any activity -directly or indirectly related or associated with events hosted by or activities of City of Troy and the real property- or activities thereon, adjacent to or upon the premised licensed herein.

Survey

Licensee shall commission and pay for a land survey of the entire site defined herein, and Licensee shall designate and delineate, within the entire survey, the area(s) Licensee requires under this License Agreement and define the Survey as Map "A", to accompany this agreement. The Map shall designate the area for the structure, area for parking and shoreline area required for use by Licensee.

Force Majeure

If either the City of Troy or Licensee shall be delayed or prevented from the performance of any act required by this License by reason of acts of God, weather, earth movement, lockout or labor trouble, unforeseeable restrictive governmental laws or regulation, or acts of war, riot or other similar causes, without fault and beyond the reasonable control of the party obligated, performance of such act shall be excused for the period of the delay and the period for the performance of such act shall be extended for a period equivalent to the period of such delay; provided, however, nothing in this section shall excuse Licensee from the prompt payment of any and all License fees or other charges payable pursuant to this License.

Compliance with all Laws, Rules and Regulations

Licensee shall comply with all present and future federal and State laws, codes and regulations applicable to the conduct of the activities authorized by this License, including those affecting the Licensed Premises in regard to maximum occupancy of structures and the use and storage of materials and shall procure at its own expense all licenses, permits and approvals necessary for the performance hereof.

Choice of Law/Damages

- a) This License shall be governed and interpreted in accordance with the laws of the State of New York.
- b) Any and all claims against Licensee for damages to the City of Troy shall be enforceable in any appropriate court in Rensselaer County, New York.

Integration Clause

This License shall not be materially amended, changed or otherwise modified except in writing signed by both parties. Except to the extent that documents are incorporated herein by reference, this License constitutes the entire agreement between the parties concerning the subject matter hereof and supercedes all prior agreements and understandings of the parties in connection therewith. No covenant, representation or condition not expressed herein shall be effective to interpret, change or restrict the express provisions of this License.

Rights of Third Parties

Nothing contained in this Agreement shall create or give to third parties any claim or right of action against the City of Troy, New York, and any of their officials or employees, or any interest in real or personal property of the City of Troy beyond that as may legally exist without regard to this Agreement.

No Agency

Nothing contained herein shall constitute or be construed to create or constitute a partnership, joint venture or an agency relationship between the parties.

Ingress and Egress

Licensee for itself, its officers, employees and such business invitees as are at the Licensed Premises shall have the right of ingress and egress between the Licensed Premises and the public streets and park roads. Such right shall be exercised by means of such public areas and pedestrian or vehicular ways, and by means of such other facilities for movement of persons or property, to be used subject to all the provisions of this License and in common with others having rights of passage and movement within the facility from time to time be designated by the City of Troy for the use of the public.

Notices

Any and all notices, elections, demands, requests and responses thereto Licensed or required to be given under this License (collectively "Notices") shall be in writing, signed by the party giving the same or such party's attorneys and shall be deemed to have been properly given and shall be deemed effective upon receipt when: (i) delivered by express overnight mail delivery service with receipt for delivery; or (ii) deposited in the United States mail, postage prepaid, certified with return receipt requested, to the other party at the address of such other party as set forth herein or at such other address as such party may designate by notice specifically designated as a notice of change of address and given in accordance herewith. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice has been received shall constitute receipt. Notices and copies of all Notices shall be delivered to the following:

If to the City of Troy:

Office of the Mayor
City Hall
One Monument Square
Troy, NY 12180

If to Licensee:

The Beacon Institute, Inc.
199 Main Street
Beacon, NY 12508

***SIGNATURE PAGE FOLLOWS**

Signature Page

The City of Troy certifies that copies of this signature page with original signatures will be attached to all other exact copies of the license.

IN WITNESS WHEREOF, the City of Troy and Licensee have executed this agreement on the day and year indicated.

Licensee:

By: _____

Printed Name: _____

Date: _____

City of Troy:

By: _____

Printed Name: _____

Date: _____

Resolution authorizing the implementation, and funding in the first instance 100% of the federal-aid and State "Marchiselli" Program-aid eligible costs, of a transportation federal-aid project, and appropriating funds therefore.

WHEREAS, a Project for the Reconstruction of NY2, from 5th Avenue to 11th Street (Congress Ferry Corridor), City of Troy, P.I.N. 1756.62 (the Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% non-federal funds; and

WHEREAS, the City of Troy desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of Preliminary Engineering and Right of Way Phases.

NOW, THEREFORE, the City Council, duly convened does hereby

RESOLVE, that the City Council hereby approves the above-subject project; and it is hereby further

RESOLVED, that the City Council hereby authorizes the City of Troy to pay in the first instance 100% of the federal and non-federal share of the cost of Preliminary Engineering and Right of Way work for the Project or portions thereof; and it is further

RESOLVED, that the sum of \$932,225.00 (Nine hundred thirty thousand dollars and no cents) has already been appropriated from the Capital Fund and made available to cover the cost of participation in the Preliminary Engineering and Right of Way phase of the Project; and it is further

RESOLVED, that the additional sum of \$63,400.00 (Sixty three thousand four hundred dollars and no cents) for the Preliminary Engineering Phase is hereby appropriated from H26-5197-0203-6452 Lower Congress Street Project and made available to cover the additional cost of participation in the Right of Way phase of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the City Council of the City of Troy shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and it is further

RESOLVED, that the Mayor of the City of Troy be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the City of Troy with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project. and it is further

RESOLVED, this Resolution shall take effect immediately

STATE OF NEW YORK)

)S.S:

COUNTY OF Rensselaer)

I, _____, Clerk of the _____ New York, do hereby certify that I have compared the foregoing copy of the resolution with the original resolution of file in my office and that the same is a true and correct transcript of said original resolution and of the whole thereof as duly adopted by said _____ at a meeting duly called and held at _____ on _____ by the required necessary vote of the members to approved the resolution.

WITNESS, my hand and the official seal of the _____ of _____, New York, the _____ day of _____, 2009.

Clerk

Resolution ADOPTED by the following vote:

AYES: 9
NOES: 0
ABSTAIN: 0

Troy City Clerk

Sent to the Mayor 10/2/09
Received from the Mayor 10-13-09
City Clerk _____

Executive Action

Approved X Date 10-7-09
Veto ___ Not Endorsed _____
Mayor _____

RES. #5

RESOLUTION APPOINTING MICHAEL J. DEREVLANY, ESQ. TO THE POSITION OF LEGISLATIVE COUNSEL TO THE CITY COUNCIL

WHEREAS, Richard Hanft, Esq. resigned his position as Legislative Counsel to the City Council, effective July 15, 2009, and

WHEREAS, the City Council of the City of Troy, pursuant to Charter C-11 (A), is authorized to appoint a Legislative Counsel to the City Council, to serve at the pleasure of the City Council, and

WHEREAS, the City Council desires to appoint Michael J. Derevlany, Esq. to the position of Legislative Counsel to the City Council with an annual salary of Fifteen Thousand Dollars (\$15,000).

NOW, THEREFORE BE IT RESOLVED, the City Council of the City of Troy hereby appoints Michael J. Derevlany, Esq. to the position of Legislative Counsel to the City Council with an annual salary of Fifteen Thousand Dollars (\$15,000). That this resolution shall take effect immediately.

Resolution ADOPTED by the following vote:

AYES: 7
NOES: 2 McGrath & Wojcik
ABSTAIN: 0

Troy City Clerk

Sent to the Mayor 10/2/09
Received from the Mayor 10-16-09
City Clerk _____

Executive Action

Approved ___ Date _____
Veto ___ Not Endorsed _____
Mayor _____

Per City Charter Section C-56 Executive Approval C. Failure to act. If within the ten-day period set forth above the Mayor shall fail to either approve or veto an enactment, such enactment shall be deemed to have been approved and shall take effect in due course without his/her endorsement.

Meeting Adjourned 8:42 p.m.