

**Sullivan County Legislature
Regular Meeting
August 20, 2009 at 2:00PM**

The Regular Meeting of the County Legislature was called to order at 2:04PM by Chairman Rouis with the Pledge of Allegiance.

Roll Call indicated Mr. Sager not present at roll call and Mr. Armstrong absent.

The Clerk Read the following communications:

1. Resolution No. 299-09 adopted by the Fulton County Board of Supervisors opposing Assembly Bill 1747 and Senate Bill S3344 which would include local correctional facilities within the definition of hospital under the jurisdiction of the NYS Department of Health
2. Letter from the Town of Bethel dated July 20, 2009 indicating their support of Sullivan County Legislature Resolution Nos 254-09 and 255-09.
3. Record Destruction Notification from Personnel dated July 1, 2009 and Legislature Dated August 19, 2009
4. Copy of letter dated June 30, 2009 from Jim Grier, Town of Fremont to numerous federal and state officials requesting the possibility of establishing cellular service in their area.
5. Town of Mamakating Public Notice regarding a Local Law amending Town of Mamakating Code Section 199-44 (Senior Mobile/Manufactured Housing Zone)
6. Resolution No. 77 of 2009 adopted by the Schoharie County Legislature Requesting New York State to Take Back Local Share of Medicaid as a Component of True Medicaid Reform
7. Copy of the Sullivan County Adult Care Center Financial Statements December 31, 2008 and 2007 received July 23, 2009
8. Petitions filed by Tom Manza on July 27, 2009 opposing the new jail site. Each legislator received a copy of the petitions.
9. Emergency Disaster Proclamation for the Townships of Callicoon, Delaware and Rockland dated July 31, 2009 filed by David Fanslau, Sullivan County Manager.
10. Legal Notice dated August 7, 2009 that Government Services Committee and Health and Family Services Committee meetings will be switching their day and time for the remainder of 2009
11. Flood Procedure, Preparation and Response Protocol filed by Manager Fanslau dated August 13, 2009
12. New York State Department of Transportation Official Order H2522 for the Discontinuance of State Maintenance on a Portion of the Liberty-County-Line Part 2, S.H. 5234 for Town of Rockland Streets, Sullivan County
13. Sullivan County Comprehensive Annual Financial Report for fiscal year ended December 31, 2008 received August 7, 2009
14. Independent Auditors Report on Communications of Internal Control Matters identified in the Audit received August 7, 2009
15. Letter dated August 11, 2009 from Manager David P. Fanslau accepting the resignation of Dr. William J. Pammer, Jr., Commissioner of Planning and Environmental Management
16. Letter dated August 12, 2009 from Manager David P. Fanslau appointing Luiz C. Aragon as the Commissioner of the Division of Planning and Environmental Management
17. Public Notice dated July 20, 2009 from the Town of Mamakating for September 16, 2009 at 7:00PM for a proposed local law to amend Article X Non Conformities of the Town Code Sections 199-50,-58

Chairman Rouis stated before we go to the presentation, he thought it would be appropriate to have a Moment of Silence for a few residents that passed away over the past month. The first was Harry Brantz who we all know was a long time concerned citizen and Community Services Advisory Board Member, Fred Stabber, Jr., Publisher, Sullivan County Democrat, Long-time Community Activist, Philanthropist who was committed to bettering the lives of Sullivan County residents and Margaret "Peggy" Golden who was the Mother to Patty Armstrong and Mother-in-Law to Frank Armstrong.

There was a couple of honors before we start with the presentation. First is the Sullivan Renaissance awards were handed out. All projects were worthwhile and have a dramatic impact on our communities. Congratulations to all completed projects and thank you to the Gerry Foundation and the Renaissance sponsors who make the program possible. Wurtsboro was deserving of the Golden Feather Award with their local plantings and linear part at the D&H Canal.

Finally we have had the honor of having our Summer Intern Hope Jennings working with us. She has done a great job in the short time she has been with us. He then wished Ms. Jennings good luck going back to school.

Presentation: ----Ronald Hiatt

Mr. Hiatt read the following proclamation and later gave to Joseph Todora, Executive Director of the Department of Community Services

Fetal Alcohol Syndrome and Spectrum Disorder Awareness Day

WHEREAS, the fetal alcohol spectrum disorders' has replaced fetal alcohol syndrome as the umbrella term describing the range of effects that can occur in an individual whose mother drank alcohol during pregnancy, and

WHEREAS, fetal alcohol spectrum disorders are the leading cause of mental retardation in western civilization, including the United States, and are 100 percent preventable, and

WHEREAS, fetal alcohol spectrum disorders are a major cause of numerous social disorders including learning disabilities, school failure, juvenile delinquency, homelessness, unemployment, mental illness, and crime, and

WHEREAS, the incidence rate of fetal alcohol syndrome is estimated at 1 out of 500 live births and of fetal alcohol spectrum disorders is estimated at 1 out of every 100 live births, and

WHEREAS, the economic cost of fetal alcohol syndrome alone to the Nation was \$5,400,000,000 in 2003 and that each individual with fetal alcohol syndrome will cost United States taxpayers between an estimated \$1,500,000 and \$3,000,000 in his or her lifetime, and

WHEREAS, in February 1999, a small group of parents of children who suffer from fetal alcohol spectrum disorders came together with the hope that in one magic moment the world could be made aware of the devastating consequences of alcohol consumption during pregnancy, and

WHEREAS, Bonnie Buxton of Toronto, Canada, the co-founder of the first International Fetal Alcohol Syndrome Awareness Day, stated the purpose of the observance as: 'What if . . . a world full of FAS/E parents all got together on the ninth hour of the ninth day of the ninth month of the year and asked the world to remember that during the 9 months of pregnancy a woman should not consume alcohol . . . would the rest of the world listen?', and

WHEREAS, on the ninth day of the ninth month of each year since 2004 the United State Government has recognized and observed International Fetal Alcohol Syndrome Awareness Day, and

NOW, THEREFORE, BE IT RESOLVED, that the Sullivan County Legislature designates September 9, 2010, as National Fetal Alcohol Spectrum Disorders Awareness Day, and observes National Fetal Alcohol Spectrum Disorders Awareness Day to promote awareness of the effects of prenatal exposure to alcohol, increase compassion for individuals affected by prenatal exposure to alcohol, minimize further effects; and ensure healthier communities across the United States, and observe a moment of reflection on the ninth hour of September 9, 2010, to remember that during the 9 months of pregnancy a woman should not consume alcohol.

Dated: August 20, 2009

Jonathan F. Rouis, Chairman
Sullivan County Legislature

Chairman Rouis indicated that we have seven speakers today at public comment. In an effort to try and keep things fair and organized, he is going to ask the Clerk to let each speaker know when they hit their three minute time and if each speaker could wrap up at that point so that everyone has a fair amount of time to speak.

Public Comment:

Chairman Rouis recognized the following speakers:

1. Herman Goldfarb stated he has been a resident of Sullivan County for over 50 years. He is here to apprise the Legislature of the fact that the county has a very wonderful resource for visitors here and it is called the Toronto Reservoir. This reservoir has traditionally been open to the public and was designated by the federal government as a recreation area for our county and which had two entrances to the public, one of which has been arbitrarily closed by owners of the Chapin Estates which surrounds the reservoir and they took away the rights of the public to enter the reservoir. They closed the entrance, put a gate up and in a sense, deprived the county of an extremely valuable recreational asset at a time when we are hurting here in the county and looking for more people to visit the county and when recreation is one of its trying attributes, we feel that this arbitrary and illegal closing of the entrance should be reversed. As legislators of the county, you should see to it that these people take down the wall and allow the general public and visitors to the county to utilize this very wonderful resource that we have.
2. Mary Ann Burke thanked the legislature for allowing her to speak on behalf of Friends of Toronto. About seven years ago in 2002, we discovered that our access was blocked. They went to the Bethel Town Board to ask for support and they turned that public access to the Toronto Dam and which Steve Dubrovsky had blocked, but they didn't want to hear them. At the time our Town Superintendent was actively supporting the developer as opposed to public rights. They collected over 2000 signatures to send to FERC. Their efforts helped FERC to keep the second public access. After many meetings and negotiations, Dubrovsky built an alternative road in 2005 which was solving his problems. He gave them access to the dam site. Everything was fine until he blocked that access in the fall and the winter. Now they are coming to the Legislature to ask for a resolution to support a public access as required by the FERC.
3. Nino Nannaroni stated he is here today to speak about the Toronto Reservoir. As he was referring to a map, there are public roads that lead to the public reservoir and these public roads have been blocked off by Steve Dubrovsky. We have been in this fight now for 8 or 9 years and we realize that we spend much of our time in Smallwood and Bethel and we realize that this affects Sullivan County. It affects everyone that want to use a reservoir coming out of state. For instance, the Public Works here in Sullivan County, have limited the season passes to Lake Superior because too many people were coming in from Pennsylvania and New Jersey. We want to promote economic development here in Sullivan County. We have Bethel Woods there and a public reservoir that is not being advertised. What is being advertised is a gated, secluded, private lake. Let's not make any bones about it. We are talking about Steve Dubrovsky coming into this county. They did not ask him to buy the land around it. He bought the land not the reservoir. The Reservoir is a public reservoir and they have access to it. The FERC License states very clearly in Article 405 Section A. This is the federally mandated license to Toronto Reservoir. Article 405 Section A states that two new public access areas each with a ten car trailer parking lot and boat ramp at Moscow Road off Routes 55 and the Eastern side of the Toronto Reservoir on Pine Grove Road be open to the public. The question before the County Legislature and this is where we are going and we are not stopping here, we want to get a resolution

before the resolution and they want to see if the legislature supports them or not because they want to be on record. They are going to leave a paper trail and they are just not going to stay back and talk about it among our own people. He wants to know what the legislature states. He then read a draft version of a resolution that the legislature would support. A Sullivan County Legislative Resolution on removing all barriers to public recreation for use of the Toronto Reservoir. Be it resolved that the Legislature of Sullivan County demands that all public access ways including Moscow Road access as well as the Eastern Dam side access to the Toronto Reservoir have now been established by the Federal Energy Regulatory Commission, under its licensing authority to be immediately open by the management of Chapin Estates and all barriers thereto be immediately dismantled. This resolution is undertaken to insure that the public, its historic right for unfettered recreational use of the Toronto Reservoir and to increase valuable tourism to the advantage of Sullivan County and to enable the current custodians of the Toronto Reservoir, the electric power company to fulfill its legal obligation under FERC license. He understands that Steve Dubrovsky has been up here and there have been things said about low assessments and things said about water levels. These are all distractions and are legitimate things and he is not saying that we should disregard them, but they are here to open up this public reservoir. That can be done immediately and that is why we are here today. Thank you.

4. Elaine Olshan stated she is someone who has lived in the area for 50 years. Her family enjoys the use of the reservoir for so long and now they don't have it anymore. We really miss it. The reason she is here today is to say that she and her family want the use of the reservoir back.
5. Florence Goldfarb stated she is a lifelong resident. She was born in Liberty, NY and has lived in Sullivan County her whole life. LaPolt was her maiden name, some of you may have known her brother John LaPolt. She sees this as the little guy being beaten down by big money. She sees it as an injustice and she feels that everyone should be able to go to your government to your representatives and they should be able to represent the public. They shouldn't be there to represent the minority that has a lot of money that can pay for lawyers, that can drag out legal things in courts until we are dead and our children's children won't remember going there kayaking and won't remember ever using that access. She is requesting that our government to represent the public and not to represent big money.
6. Conrad Raub stated he has lived in Sullivan County for over 60 years. He is a fisherman and particular he loves the place. He is not opposed to development. He thinks that development is very useful. Recently one of the developers wrote a short article in the newspaper stating there is an amicable solution to this problem. The only amicable solution to this problem is to give people their rights to access. This is a federally mandated law. It says in the license, to public access. The public access is not only to the reservoir, but it is also to one of the best fishing creeks in Sullivan County, outside to the ones that are left, namely Black Lake Creek. As part of the cooperative, the DEC set up years ago, as a collaboration between citizens and big industry, they pay their taxes and he was happy to be able to participate in that. So please, keep in mind, this is a federal issue ultimately and his children will inherit his interests as well as his property. They will also be inheriting his memory. Thank you.
7. June Bary stated that her roots run very deep in Sullivan County. Her father was born in Ferndale and her mother is from Forestburgh. When she retired from her teaching position in the city, she felt she could come home again. She came across a piece of writing that she wrote in 2004. It is about a place that is very very important to her. This is an answer to an article that was written by Sonja Heidlund and printed in *The Crier* in 2004 about an afternoon of canoeing on the Toronto Reservoir which appeared in the October 27th-November 2nd edition was lovely. The description is just the sort of picture we the Friends of Toronto wish to extend to all the wildlife enthusiasts in our Bethel Community. Although access is available to the reservoir from Moscoe Road, it is the access via Pine Grove Road and Town Road 62 that is the incomparable journey to a road teaming with wildlife and an experience becoming more and more rare here in Sullivan County and which will soon be available only to the people who can

afford the pricy houses built by developers such as Woodstone. The peace and beauty of the launch side of the reservoir, which Sonja describes so well has long been known to fishermen, hikers and nature lovers. Her father and brother in law spent many hours fishing the waters and enjoying the wildlife that surrounds it. It would be most difficult to launch any boat from the Moscoe road side when the water is let down by the Hydro Electric Company. Through the years there have been stories of cars and boats bogged down on those mud flats. The down side is the best side of that expansive water has experienced odors and fisherman know it and also what they know is within a short distance from the dam, nestled in the forest is the best trout stream around. We would like to thank Sonja for the glowing pictures that she painted with words of that whole area because it means so much too many of us. A federal license guarantees that an access be open to the public for many years to come. So we hope our good friend, Mary Ann Burke, will continue to share her canoeing expertise with others like Sonja and the lady that was here today speaking, in a place so extraordinarily lovely.

Chairman Rouis stated that there has been a request to take the addendum resolutions first.

Mrs. LaBuda stated that this is the first time since she has been on the legislature that we did a MOU to get into the Ag District and her question to the group is, in the future, will everyone be afforded this opportunity or is it just for this Forestburgh issue. She is certain that the issue will come up again. She sees the Supervisor from the Town of Forestburgh is here today and she is happy to see him here today. She not only took a tour of Hatchery Road but she also had a private tour guy take her through Hatchery Road. She can certainly understand why the constituents around that area do not want this area to be put in the Ag District. She would ask since it is a Home Rule state, and obviously she cannot vote for these resolutions because of that. She would ask the Town of Forestburgh because she thinks that this issue will come up in the future, she thinks we should try and lobby the state and ask the state if they could ask the townships to be on board. It is going to be a hot issue and she feels that we need to address the issue now and not wait since it is a Home Rule state. The Town of Forestburgh did not vote for this resolution and she cannot vote for these resolutions. She does, however, want to go on the record and mention in the future, are we going to allow all the Ag District applicants the option of a special MOU or is it just for today.

Mr. Hiatt stated the other Ag Districts that have passed are always without restriction. This MOU is to attempt to put some sort of envelope about the use of the property to provide some restrictions. Granted, there is a fair amount of latitude involved, but the latitude is designed to limit and to try and define what you can the uses it will be put to.

Mrs. LaBuda inquired who is going to be the enforcer. Mr. Hiatt stated that we can be the enforcer when it comes time to renew this area for the agricultural district. This legislature sees whether or not the individual proponent here exercises good faith. This legislature will have the hammer down to exclude these properties from the Agricultural District. He believes in the applicants good faith and he has seen some of the work that he has done with his own property and he has a certain amount of trust.

Mrs. Goodman stated she felt it was the proper thing to do. If someone else's property comes up to us and it is recommended from the DEC, she is sure that the rest of them will welcome the process.

RESOLUTION NO. 310-09 INTRODUCED BY THE PLANNING, ENVIRONMENTAL MANAGEMENT, AND REAL PROPERTY COMMITTEE TO AUTHORIZE THE COUNTY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH TIMBER RATTLESNAKE, LLC RELATED TO INCLUSION OF SBL 4.-1-10.14 IN THE TOWN OF FORESTBURGH INTO AGRICULTURAL DISTRICT #4, DUE TO ITS PROXIMITY ADJACENT TO THE NEVERSINK RIVER STATE UNIQUE AREA THAT IS A RESTRICTED AREA SUBJECT TO THE RULES AND REGULATIONS PROMULGATED BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

WHEREAS, the property owner of SBL 4.-1-10.14 in the town of Forestburgh has requested that the County of Sullivan include this parcel into agricultural district #4, and

WHEREAS, SBL 4.-1-10.14 in the town of Forestburgh is located adjacent to the Neversink River State Unique Area that is a restricted area subject to the rules and regulations of the New York State Department of Environmental Conservation, and

WHEREAS, the only way to access SBL 4.-1-10.14 in the town of Forestburgh is to traverse through the Neversink River State Unique Area's restricted area along Hatchery Road, a/k/a Eden Brook Road, and

WHEREAS, Timber Rattlesnake, LLC, the titled owner of SBL 4.-1-10.14 in the town of Forestburgh has access rights to traverse through the Neversink River State Unique Area's restricted area along Hatchery Road, a/k/a Eden Brook Road, subject to the rules and regulations of the New York State Department of Environmental Conservation, and

WHEREAS, the Legislature of the County of Sullivan held a Public Hearing on Thursday, July 16, 2009 on the proposed parcels for inclusion into Agricultural District #1 and Agricultural District #4, as part of the requirements of the New York State Department of Agriculture and Markets and as part of the lead agency status of the State Environmental Quality Review Act, and

WHEREAS, there was both oral and written testimony in opposition to the inclusion of SBL 4.-1-10.14 in the town of Forestburgh into Agricultural District #4, particularly related to increased commercial activity and Agri-tourism activity within the Neversink River State Unique Area that is a restricted area subject to the rules and regulations of the New York State Department of Environmental Conservation, and

WHEREAS, the Administrator of the New York State Department of Environmental Conservation Region III testified at the July 16, 2009 public hearing urging careful consideration and advising that the NYSDEC was an interested agency in the SEQRA process, and

WHEREAS, the proposed action stated at the July 16, 2009 public hearing was to develop a viable agriculture, such as ferns and moss, under the forest canopy, and that such action would not create a negative impact upon the environment, and

WHEREAS, it is in the best interest of Sullivan County to authorize the execution of a Memorandum of Understanding between Timber Rattlesnake, LLC and the County of Sullivan, attached hereto and made a part hereof as Schedule "A" related to inclusion of SBL 4.-1-10.14 in the Town of Forestburgh into Agricultural District #4, due to its proximity adjacent to the Neversink River State Unique Area that is A Restricted Area subject to the Rules and Regulations Promulgated by the New York State Department Of Environmental Conservation.

NOW, THEREFORE, BE IT RESOLVED that the Sullivan County Legislature hereby authorizes and directs the County Manager to execute a Memorandum of Understanding between Timber Rattlesnake, LLC and the County of Sullivan, attached hereto and made a part hereof as Schedule "A" related to inclusion of SBL 4.-1-10.14 in the Town of Forestburgh into Agricultural District #4, due to its proximity adjacent to the Neversink River State Unique Area that is A Restricted Area subject to the Rules and Regulations Promulgated by the New York State Department Of Environmental Conservation, and

BE IT FURTHER RESOLVED that the Clerk of the Legislature shall transmit a copy of this resolution and a copy of the fully executed Memorandum of Understanding to the New York State Department of Environmental Conservation Region III; the Sullivan County Farmland Protection Board, and the Town of Forestburgh, and

BE IT FURTHER RESOLVED that the Clerk of the Legislature shall record a copy of this resolution and a copy of the fully executed Memorandum of Understanding in the Office of the Clerk of the County of Sullivan.

Moved by Mrs. Goodman, seconded by Mrs. Binder, put to a vote with Mrs. LaBuda opposed and Mr. Armstrong absent, resolution carried and declared duly adopted on motion August 20, 2009.

**MEMORANDUM OF UNDERSTANDING
BETWEEN
TIMBER RATTLESNAKE, LLC
AND
THE COUNTY OF SULLIVAN**

RELATED TO THE INCLUSION OF SBL 4-1-10.14 (the "Property") IN THE TOWN OF FORESTBURGH INTO AGRICULTURAL DISTRICT #4, DUE TO ITS PROXIMITY ADJACENT TO THE NEVERSINK RIVER STATE UNIQUE AREA THAT IS A RESTRICTED AREA SUBJECT TO THE RULES AND REGULATIONS PROMULGATED BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

This Agreement, dated August ____, 2009, by and between Timber Rattlesnake, LLC, a New York limited liability company having an address at 1291 Cold Spring Road, Forestburgh, New York ("Owner") and the County of Sullivan, having an address at 100 North Street, Monticello, New York, a Municipal Corporation ("County").

WHEREAS, Owner has requested that the County include the Property into agricultural district #4; and

WHEREAS, the Property is located adjacent to the Neversink River State Unique Area, a restricted area subject to the rules and regulations of the New York State Department of Environmental Conservation; and

WHEREAS, the only way to access the Property is to traverse through the Neversink River State Unique Area along Hatchery Road a/k/a Eden Brook Road; and

WHEREAS, Owner has access rights to traverse through the Neversink River State Unique Area's restricted area along Hatchery Road a/k/a Eden Brook Road, subject to the rules and regulations of the New York State Department of Environmental Conservation; and

WHEREAS, the Legislature of the County held a Public Hearing on Thursday, July 16, 2009 on the proposed parcels for inclusion into Agricultural District #1 and Agricultural District #4, as part of the requirements of the New York State Department of Agriculture and Markets and as part of the lead agency status of the State Environmental Quality Review Act; and

WHEREAS, there was both oral and written testimony in opposition to the inclusion of the Property into Agricultural District #4, particularly related to increased commercial activity and Agri-tourism activity within the Neversink River State Unique Area.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties hereto hereby agree as follows:

- (1) The Property is adjacent to the Neversink River State Unique Area, and it presents a unique opportunity as a laboratory for the development of viable agriculture under the forest canopy;

- (2) This experiment will allow Sullivan County to become the leader in the development of "Green Industry."
- (3) Owner's intended uses of the Property are, in part, for horticultural purposes, while preserving the forest cover and providing valuable industry to Sullivan County.
- (4) The express goal is to limit environmental damage to forest cover.
- (5) Animals may be used for certain tasks rather than tractors and other machinery. Animals will be kept at the property only so long as it is necessary to complete the tasks required.
- (6) There will be **NO AGRI-TOURISM ON THE PROPERTY.**
- (7) Owner hereby agrees to restrict the use of the Property to uses that are more limited than those permitted by the Agricultural District or by the Town of Forestburgh. Notwithstanding the foregoing, the use of the Property shall not be more restrictive than the uses of other properties in the Neversink Gorge Area, which is adjacent to the Neversink River State Unique Area.
- (8) Owner does not anticipate the use of any chemical fertilizers or pesticides. If it is necessary or desirable to do so, Owner will make all reasonable efforts to use only certified organic products.
- (9) Owner reserves the right to have the Property permanently protected from development by selling its development rights to the Open Space Institute or similar organization.
- (10) Owner shall abide by the zoning and building code of the Town of Forestburgh with respect to any property owned by it that is not related to a viable agricultural use, as defined by the New York State Department of Agriculture and Markets.
- (11) The foregoing represents the entire agreement between the parties with respect to the subject matter hereof.
- (12) This Agreement may be enforced by a court of competent jurisdiction in the State of New York.
- (13) This Agreement may only be modified in writing. No officer or agent of owner or of the County may verbally alter or amend this Agreement. No officer or agent of Owner may rely upon any verbal statement or other written document that is not a part of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

TIMBER RATTLESNAKE, LLC

By: _____
Stuart Salenger, Managing Member

COUNTY OF SULLIVAN

By: _____
David P. Fanslau
County Manager

As to form:

County Attorney

RESOLUTION NO. 311-09 INTRODUCED BY THE PLANNING, ENVIRONMENTAL MANAGEMENT, AND REAL PROPERTY COMMITTEE TO ACCEPT THE FINDINGS OF THE NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS STATE ENVIRONMENTAL QUALITY REVIEW FULL ENVIRONMENTAL ASSESSMENT FORM RELATED TO INCLUSION OF SBL 4.-1-10.14 IN THE TOWN OF FORESTBURGH INTO AGRICULTURAL DISTRICT #4 AND THE FINDINGS OF THE NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS STATE ENVIRONMENTAL QUALITY REVIEW FULL ENVIRONMENTAL ASSESSMENT FORM RELATED TO INCLUSION OF SBL 4.-1-10. IN THE TOWN OF FORESTBURGH INTO AGRICULTURAL DISTRICT #4, AND AUTHORIZING THE CHAIRMAN OF THE SULLIVAN COUNTY LEGISLATURE TO EXECUTE THE EAF'S AS THE RESPONSIBLE OFFICER IN LEAD AGENCY

WHEREAS, the property owner of SBL 4.-1-10.14 in the town of Forestburgh has requested that the County of Sullivan include this parcel into agricultural district #4, and

WHEREAS, the property owner of SBL 4.-1-10. in the town of Forestburgh has requested that the County of Sullivan include this parcel into agricultural district #4, and

WHEREAS, the Sullivan County Farmland Protection Board has recommended that both SBL 4.-1-10.14 and SBL 4.-1-10. in the town of Forestburgh be included into agricultural district #4; and

WHEREAS, the Legislature of the County of Sullivan held a Public Hearing on Thursday, July 16, 2009 on the proposed parcels for inclusion into Agricultural District #1 and Agricultural District #4, as part of the requirements of the New York State Department of Agriculture and Markets and as part of the lead agency status of the State Environmental Quality Review Act, and

WHEREAS, the County Manager, Commissioner of the Division of Planning and Environmental Management, and their respective staffs conducted site visits, thoroughly read the transcripts of the July 16, 2009 public hearing and all written communication associated with said public hearing, and

WHEREAS, the attached New York State Department of Agriculture and Markets State Environmental Quality Review Full Environmental Assessment Form related to inclusion of SBL 4.-1-10.14 in the Town of Forestburgh into Agricultural District #4 is attached hereto and made a part hereof as Schedule "A", and

WHEREAS, the proposed action will not result in any large and important impact(s) and, therefore, is one which will not have a significant impact on the environment, and a conditional negative declaration is recommended as detailed in the attached Schedule "A", and

WHEREAS, the attached New York State Department of Agriculture and Markets State Environmental Quality Review Full Environmental Assessment Form related to inclusion of SBL 4.-1-10. in the Town of Forestburgh into Agricultural District #4 is attached hereto and made a part hereof as Schedule "B", and

WHEREAS, the proposed action will not result in any large and important impact(s) and, therefore, is one which will not have a significant impact on the environment, and a negative declaration is recommended as detailed in the attached Schedule "B".

NOW, THEREFORE, BE IT RESOLVED, that the Sullivan County Legislature hereby accepts the Findings of The New York State Department Of Agriculture And Markets State Environmental Quality Review Full Environmental Assessment Form related to inclusion of SBL 4.-1-10.14 in the Town of Forestburgh into Agricultural District #4; and

BE IT FURTHER RESOLVED, that the Chairman of the Sullivan County Legislature is hereby authorized and directed to execute the New York State Department of Agriculture And Markets State Environmental Quality Review Full Environmental Assessment Form related to inclusion of SBL 4.-1-10.14 in the Town of Forestburgh into Agricultural District #4, attached hereto and made a part hereof as Schedule "A".

BE IT FURTHER RESOLVED that the Sullivan County Legislature hereby accepts the Findings of The New York State Department of Agriculture and Markets State Environmental

Quality Review Full Environmental Assessment Form related to Inclusion Of SBL 4.-1-10. in the Town of Forestburgh into Agricultural District #4; and

BE IT FURTHER RESOLVED, that the Chairman of the Sullivan County Legislature is hereby authorized and directed to execute the New York State Department of Agriculture and Markets State Environmental Quality Review Full Environmental Assessment Form related to inclusion of SBL 4.-1-10. in the Town of Forestburgh into Agricultural District #4, attached hereto and made a part hereof as Schedule "B".

Moved by Mrs. Goodman, **seconded by** Mrs. Binder, put to a vote with Mrs. LaBuda opposed and Mr. Armstrong absent, resolution carried **and declared duly adopted on motion** August 20, 2009.

**MEMORANDUM OF UNDERSTANDING
BETWEEN
TIMBER RATTLESNAKE, LLC
AND
THE COUNTY OF SULLIVAN**

RELATED TO THE INCLUSION OF SBL 4-1-10.14 (the "Property") IN THE TOWN OF FORESTBURGH INTO AGRICULTURAL DISTRICT #4, DUE TO ITS PROXIMITY ADJACENT TO THE NEVERSINK RIVER STATE UNIQUE AREA THAT IS A RESTRICTED AREA SUBJECT TO THE RULES AND REGULATIONS PROMULGATED BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

This Agreement, dated August ____, 2009, by and between Timber Rattlesnake, LLC, a New York limited liability company having an address at 1291 Cold Spring Road, Forestburgh, New York ("Owner") and the County of Sullivan, having an address at 100 North Street, Monticello, New York, a Municipal Corporation ("County").

WHEREAS, Owner has requested that the County include the Property into agricultural district #4; and

WHEREAS, the Property is located adjacent to the Neversink River State Unique Area, a restricted area subject to the rules and regulations of the New York State Department of Environmental Conservation; and

WHEREAS, the only way to access the Property is to traverse through the Neversink River State Unique Area along Hatchery Road a/k/a Eden Brook Road; and

WHEREAS, Owner has access rights to traverse through the Neversink River State Unique Area's restricted area along Hatchery Road a/k/a Eden Brook Road, subject to the rules and regulations of the New York State Department of Environmental Conservation; and

WHEREAS, the Legislature of the County held a Public Hearing on Thursday, July 16, 2009 on the proposed parcels for inclusion into Agricultural District #1 and Agricultural District #4, as part of the requirements of the New York State Department of Agriculture and Markets and as part of the lead agency status of the State Environmental Quality Review Act; and

WHEREAS, there was both oral and written testimony in opposition to the inclusion of the Property into Agricultural District #4, particularly related to increased commercial activity and Agri-tourism activity within the Neversink River State Unique Area.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties hereto hereby agree as follows:

- (14) The Property is adjacent to the Neversink River State Unique Area, and it presents a unique opportunity as a laboratory for the development of viable agriculture under the forest canopy;
- (15) This experiment will allow Sullivan County to become the leader in the development of "Green Industry."

- (16) Owner's intended uses of the Property are, in part, for horticultural purposes, while preserving the forest cover and providing valuable industry to Sullivan County.
- (17) The express goal is to limit environmental damage to forest cover.
- (18) Animals may be used for certain tasks rather than tractors and other machinery. Animals will be kept at the property only so long as it is necessary to complete the tasks required.
- (19) There will be **NO AGRI-TOURISM ON THE PROPERTY.**
- (20) Owner hereby agrees to restrict the use of the Property to uses that are more limited than those permitted by the Agricultural District or by the Town of Forestburgh. Notwithstanding the foregoing, the use of the Property shall not be more restrictive than the uses of other properties in the Neversink Gorge Area, which is adjacent to the Neversink River State Unique Area.
- (21) Owner does not anticipate the use of any chemical fertilizers or pesticides. If it is necessary or desirable to do so, Owner will make all reasonable efforts to use only certified organic products.
- (22) Owner reserves the right to have the Property permanently protected from development by selling its development rights to the Open Space Institute or similar organization.
- (23) Owner shall abide by the zoning and building code of the Town of Forestburgh with respect to any property owned by it that is not related to a viable agricultural use, as defined by the New York State Department of Agriculture and Markets.
- (24) The foregoing represents the entire agreement between the parties with respect to the subject matter hereof.
- (25) This Agreement may be enforced by a court of competent jurisdiction in the State of New York.
- (26) This Agreement may only be modified in writing. No officer or agent of owner or of the County may verbally alter or amend this Agreement. No officer or agent of Owner may rely upon any verbal statement or other written document that is not a part of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

TIMBER RATTLESNAKE, LLC
 By: _____
 Stuart Salenger, Managing Member

COUNTY OF SULLIVAN
 By: _____
 David P. Fanslau
 County Manager

As to form: `

 County Attorney

RESOLUTION NO. 312-09 INTRODUCED BY THE PLANNING, ENVIRONMENTAL MANAGEMENT, AND REAL PROPERTY COMMITTEE TO ACCEPT THE FINDINGS

**OF THE NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS
STATE ENVIRONMENTAL QUALITY REVIEW ENVIRONMENTAL ASSESSMENT
FORM RELATED TO INCLUSION OF VARIOUS PARCELS INTO AGRICULTURAL
DISTRICT #1 AND OR AGRICULTURAL DISTRICT #4, AND AUTHORIZING THE
CHAIRMAN OF THE SULLIVAN COUNTY LEGISLATURE TO EXECUTE THE EAF
AS THE RESPONSIBLE OFFICER IN LEAD AGENCY**

WHEREAS, the property owners of various parcels in the Towns of Callicoon, Fallsburg, Mamakating, Neversink, Rockland, and Thompson have requested that the County of Sullivan include the parcels into Agricultural District #1 or Agricultural District #4, and

WHEREAS, the Sullivan County Farmland Protection Board has recommended that the proposed parcels be included into Agricultural District #1 or Agricultural District #4; and

WHEREAS, the Legislature of the County of Sullivan held a Public Hearing on Thursday, July 16, 2009 on the proposed parcels for inclusion into Agricultural District #1 and Agricultural District #4, as part of the requirements of the New York State Department of Agriculture and Markets and as part of the lead agency status of the State Environmental Quality Review Act, and

WHEREAS, the County Manager, Commissioner of the Division of Planning and Environmental Management, and their respective staffs thoroughly read the transcripts of the July 16, 2009 public hearing and all written communication associated with said public hearing, and

WHEREAS, the attached New York State Department Of Agriculture And Markets State Environmental Quality Review Environmental Assessment Form Related To Inclusion of the proposed parcels into Agricultural District #1 or Agricultural District #4 is attached hereto and made a part hereof as Schedule "A", and

WHEREAS, the proposed action will not have a significant adverse environmental impact and therefore an Environmental Impact Statement is not required.

NOW, THEREFORE, BE IT RESOLVED, that the Sullivan County Legislature hereby Accepts the Findings Of The New York State Department Of Agriculture And Markets State Environmental Quality Review Environmental Assessment Form Related To Inclusion of the proposed parcels into Agricultural District #1 or Agricultural District #4, and

BE IT FURTHER RESOLVED, that the Chairman of the Sullivan County Legislature is hereby authorized and directed to execute the New York State Department of Agriculture and Markets State Environmental Quality Review Environmental Assessment Form related to inclusion of the proposed parcels into Agricultural District #1 or Agricultural District #4, attached hereto and made a part hereof as Schedule "A".

Moved by Mrs. Goodman, seconded by Mrs. Binder, put to a vote with Mr. Armstrong absent, unanimously carried and declared duly adopted on motion August 20, 2009.

**RESOLUTION NO. 313-09 INTRODUCED BY PLANNING, ENVIRONMENTAL
MANAGEMENT & REAL PROPERTY COMMITTEE TO CORRECT TAX ROLL**

WHEREAS, an application dated March 14, 2009 having been filed by Peter S. Johnston & Susan Donleavy-Johnston with respect to property assessed to said applicant on the 2009 tax roll of the Town of Highland Tax Map #22.-2-27 pursuant to Section 556 of the Real Property Tax Law, to correct a clerical error on said tax roll resulting from the applicants not receiving a veterans exemption on the parcel.

WHEREAS, the Director of Real Property Tax Services has duly investigated the application and filed her report dated August 5, 2009 recommending this Board approve said application; and

WHEREAS, this Board has duly examined the application and report and does find as follows:

- (a) That the application be approved because of a clerical error

NOW, THEREFORE, BE IT RESOLVED, that the application be approved upon the grounds herein set forth; and

BE IT FURTHER RESOLVED, that the Chairman of the County Legislature be and he hereby is directed to note the decision of this Board on the application, execute and order to such effect to the officer having custody of the tax roll, send notice of approval to the applicant and file a copy of the records of this proceeding with the Clerk of the County Legislature; and

BE IT FURTHER RESOLVED, that the amount of any tax corrected pursuant to this Resolution shall be a charge upon the said municipal corporation or special district to the extent of any such municipal corporation or special district taxes that were so levied and that the amount so charged to any such municipal corporation or special district shall be included in the next ensuing tax levy and to the extent that the levy made pursuant to this resolution includes a relieved school tax, the Treasurer shall charge back such amount in accordance with law.

Moved by Mrs. Binder, seconded by Mr. Sorensen, put to a vote with Mr. Armstrong absent, unanimously carried **and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 314-09 INTRODUCED BY PLANNING, ENVIROMENTAL MANAGEMENT AND REAL PROPERTY COMMITTEE TO AUTHORIZE A PUBLIC AUCTION OF PROPERTY OWNED BY THE COUNTY OF SULLIVAN

WHEREAS, Haroff Auction & Realty, Inc. and Absolute Auction & Realty, Inc. were hired as the auctioneers o/b/o the County of Sullivan for the 2009 Public Auction, and

WHEREAS, the County is desirous of conducting an auction in October, 2009 to sell properties that were not sold as of the June, 2009 Auction, as well as other properties acquired, and

WHEREAS, the Real Property Advisory Board recommends it is necessary to conduct a Fall Public Auction for said parcels, and

WHEREAS, the Sullivan County Treasurers Office shall provide a list of such parcels for sale as appropriate.

NOW, THEREFORE, BE IT RESOLVED, the County Treasurer is hereby authorized to conduct a public auction for the sale of Real Property acquired by tax foreclosure, to be held on October 21, 2009 with the assistance of Haroff & Absolute, said auction to be governed by the current Terms of Sale.

Moved by Mrs. Goodman, seconded by Mrs. Binder, put to a vote with Armstrong absent, unanimously carried **and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 315-09 INTRODUCED BY THE CAPITAL PLANNING AND BUDGETING COMMITTEE ADOPTING THE 2010 – 2015 CAPITALPLAN FOR SULLIVAN COUNTY

WHEREAS, the Charter of the County of Sullivan, section C2.02 (N) requires that the County Legislature adopt a capital plan that establishes the recommended capital programs of the county, and

WHEREAS, the County Manager received requests of all County divisions, offices, agencies, and contracted services, regarding the 2010 – 2015 capital plan by the 1st day of June, in accordance with section C3.07(N) of the Charter of the County of Sullivan, and

WHEREAS, the County Manager, in accordance with section A3-3(P) of the Administrative Code of the County of Sullivan, has developed comprehensive information inclusive of all County divisions, offices, agencies, and contracted services, and he has made recommendations regarding the capital plan, and

WHEREAS, the County Legislature in accordance with the policy established by resolution number 479 of 2006, shall adopt a multi-year capital plan by the 1st day of September of each year , and

WHEREAS, the County Legislature has reviewed the County Manager’s recommendations for the 2010 – 2015 Capital Plan, and hereby adopts or amends those recommendations, as attached hereto as Schedule “A”.

NOW, THEREFORE, BE IT RESOLVED that the County Legislature hereby adopts the attached Schedule “A”, to be incorporated herein, as the Sullivan County 2010 – 2015 Capital Plan, and

BE IT FURTHER RESOLVED, that the County Manager is hereby directed to incorporate the recommended programs in 2010, to be funded by the operating budget of the county, into the tentative budget for 2010.

Moved by Mr. Wood, seconded by Mrs. Binder, put to a vote with Armstrong absent, unanimously carried **and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 316-09 INTRODUCED BY PLANNING, ENVIRONMENTAL MANAGEMENT AND REAL PROPERTY COMMITTEE TO INCLUDE VIABLE AGRICULTURAL LAND IN EXISTING CERTIFIED AGRICULTURAL DISTRICT WITHIN SULLIVAN COUNTY

WHEREAS, Section 303-b of the Agriculture and Markets Law authorizes the addition of viable agricultural land into certified agricultural districts; and

WHEREAS, the County of Sullivan’s Agricultural & Farmland Protection Board has recommended the following properties to be added to the existing certified Agricultural District No. 1 and the certified Agricultural District No. 4 within Sullivan County, and

WHEREAS, a public hearing was held on the inclusion of these parcels into the certified agricultural district on July 16, 2009 at 1:10p.m. at which time all comments were heard by the Sullivan County Legislature.

NOW, THEREFORE, BE IT RESOLVED, that the following said parcels are to be included in the following existing Agricultural District No. 1:

Town of Callicoon 19.-2-6

NOW, THEREFORE, BE IT RESOLVED, that the following said parcels are to be included in the following existing Agricultural District No. 4:

Town of Fallsburg 64.-1-5.3
Town of Forestburgh 4.-1-10.1
Town of Forestburgh 4.-1-10.14
Town of Mamakating 14.-1-9
Town of Mamakating 6.-1-25
Town of Mamakating 6.-1-31
Town of Mamakating 6.-1-32
Town of Mamakating 6.-1-33.1
Town of Mamakating 70.-1-35
Town of Neversink 25.-1-19
Town of Neversink 44.-1-6.16
Town of Neversink 9.-1-15.2
Town of Rockland 17.-1-40
Town of Rockland 25.-1-71.1
Town of Thompson 28.-1-5.1
Town of Thompson 28.-1-6
Town of Thompson 49.-1-5.9
Town of Thompson 49.-1-5.2

Moved by Mrs. Goodman, seconded by Mrs. Binder, put to a vote with Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

At this point, Mr. Sager left the meeting.

RESOLUTION NO. 317-09 INTRODUCED BY THE COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE TO SET A PUBLIC HEARING FOR PROPOSED LOCAL LAW OF 2009.

WHEREAS, there has been introduced and presented at a meeting of the Sullivan County Legislature held on August 20, 2009 a proposed Local Law entitled "A Local Law to Designate the Empire Zone Boundaries of a Regionally Significant Manufacturing Project in Bridgeville ,within the Town of Thompson, Sullivan County."

NOW, THEREFORE, BE IT RESOLVED, that a public hearing be held on said proposed local law by the Sullivan County Legislature on October 15, 2009 at 1:50 p.m., in the Legislative Chambers, County Government Center, Monticello, New York, and at least six (6) days' notice of public hearing be given by the Clerk of the Sullivan County Legislature by due posting thereof on the bulletin board of the County of Sullivan and by publishing such notice at least once in the official newspapers of said County.

Moved by Mrs. Binder, **seconded by** Mrs. Goodman, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously carried **and declared duly adopted on motion** August 20, 2009.

COUNTY OF SULLIVAN
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that there has been duly presented and introduced at a meeting of the Legislature of the County of Sullivan, New York, held on August 20, 2009, a proposed Local Law entitled " A Local Law to Designate the Empire Zone Boundaries of a Regionally Significant Manufacturing Project in Bridgeville ,within the Town of Thompson, Sullivan County."

NOTICE IS FURTHER GIVEN that the Legislature of the County of Sullivan will conduct a public hearing on the aforesaid proposed Local Law at the Legislature's Meeting Room, County Government Center, Monticello, New York, 12701, on October 15, 2009 at 1:50 p.m. at which time all persons interested will be heard.

DATED: August 20, 2009

ANNMARIE MARTIN
Clerk of the Legislature
County of Sullivan, New York

RESOLUTION NO. 318-09 INTRODUCED BY THE COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE TO SET A PUBLIC HEARING FOR PROPOSED LOCAL LAW OF 2009.

WHEREAS, there has been introduced and presented at a meeting of the Sullivan County Legislature held on August 20, 2009 a proposed Local Law entitled "A Local Law to Designate the Empire Zone Boundaries of a Regionally Significant Manufacturing Project in Kiamesha Lake, within the Town of Thompson, Sullivan County."

NOW, THEREFORE, BE IT RESOLVED, that a public hearing be held on said proposed local law by the Sullivan County Legislature on October 15, at 1:40 p.m., in the Legislative Chambers, County Government Center, Monticello, New York, and at least six (6) days' notice of public hearing be given by the Clerk of the Sullivan County Legislature by due posting thereof on the bulletin board of the County of Sullivan and by publishing such notice at least once in the official newspapers of said County.

Moved by Mrs. Binder, **seconded by** Mrs. Goodman, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously carried **and declared duly adopted on motion** August 20, 2009.

COUNTY OF SULLIVAN
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that there has been duly presented and introduced at a meeting of the Legislature of the County of Sullivan, New York, held on August 20, 2009, a proposed Local Law entitled "A Local Law to Designate the Empire Zone Boundaries of a Regionally Significant Manufacturing Project in Kiamesha Lake, within the Town of Thompson, Sullivan County."

NOTICE IS FURTHER GIVEN that the Legislature of the County of Sullivan will conduct a public hearing on the aforesaid proposed Local Law at the Legislature's Meeting Room, County Government Center, Monticello, New York, 12701, on October 15, 2009 at 1:40 p.m. at which time all persons interested will be heard.

DATED: August 20, 2009

ANNMARIE MARTIN
Clerk of the Legislature
County of Sullivan, New York

**RESOLUTION NO. 319-09 INTRODUCED BY HEALTH & FAMILY SERVICES
COMMITTEE TO AUTHORIZE A PUBLIC HEARING FOR THE SULLIVAN COUNTY
ANNUAL IMPLEMENTATION PLAN**

WHEREAS, the Sullivan County Office for the Aging is preparing a County Annual Plan for services to the 60+ population of the county, provided through the Older Americans Act and the New York State Community Services for the Elderly Program; and

WHEREAS, State and Federal guidelines require that a public hearing be held concerning this plan so that all interested parties can be heard.

NOW, THEREFORE, BE IT RESOLVED, that one public hearing is scheduled as follows, and that a notice of said public hearings be published in the official newspapers of the County:

Monticello	10/21/09	Monticello Neighborhood Facility	9:30 AM-12:00PM
		Monticello, NY	

Moved by Mrs. Binder, seconded by Mrs. Goodman, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously carried and declared duly adopted on motion August 20, 2009.

**RESOLUTION NO. 320-09 INTRODUCED BY EXECUTIVE COMMITTEE TO
CONFIRM THE APPOINTMENT OF LUIZ C ARAGON AS THE COMMISSIONER OF
THE DIVISION OF PLANNING AND ENVIRONMENTAL MANAGEMENT**

WHEREAS, Dr. William J. Pammer, Jr., has resigned as Commissioner of the Division of Planning and Environmental Management, effective August 21, 2009, and

WHEREAS, County Manager David P. Fanslau has accepted the resignation of Dr. Pammer, and

WHEREAS, a vacancy exists in the position of Commissioner of the Division of Planning and Environmental Management, and the County Manager has advertised said position in accordance with applicable laws, rules, and policies of the County of Sullivan, and

WHEREAS, pursuant to the provisions of Section C3.06 (g) of the Sullivan County Charter, Luiz C. Aragon has been appointed by County Manager David P. Fanslau to the position of Commissioner of the Division of Planning and Environmental Management, and

WHEREAS, pursuant to the provisions of Section C2.03 of the Sullivan County Charter, the County Legislature has the power and duty to confirm the appointment of the Commissioner of the Division of Planning and Environmental Management, made by the County Manager, pursuant to Section C3.06(g) of the Sullivan County Charter, and

WHEREAS, the confirmation of this appointment of Luiz C. Aragon as Commissioner of the Division of Planning and Environmental Management shall take effect on the adoption of this resolution, to serve at the pleasure of the County Manager pursuant to Section C3.06(g) of the Sullivan County Charter..

NOW, THEREFORE, BE IT RESOLVED, that the appointment of Luiz C. Aragon. as Commissioner of the Division of Planning and Environmental Management to serve at the pleasure of the County Manager is hereby confirmed as set forth in Section A3-3.(j) of the Sullivan County Administrative Code, and

BE IT FURTHER RESOLVED, that the salary for said position be set at \$85,000 per year, subject to annual merit increases, recommended by the county Manager and approved by the County Legislature.

Moved by Mrs. Goodman, seconded by Mrs. Binder, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously carried **and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 321-09 INTRODUCED BY HEALTH AND FAMILY SERVICES COMMITTEE TO APPOINT ONE MEMBER AND TO REAPPOINT THREE MEMBERS TO THE OFFICE FOR THE AGING ADVISORY COMMITTEE

WHEREAS, there is a need to appoint one (1) member and reappoint three (3) members to the Office for the Aging Advisory Committee, and

WHEREAS, the appointment for David Vazquez and reappointment for Liliam Stettner, Ann Danuff and Roslyn Sharoff shall be for a term to end July 31, 2012.

WHEREAS, all the above appointment and reappointments are to commence on the date this resolution is adopted.

NOW, THEREFORE, BE IT RESOLVED, that the Sullivan County Legislature does hereby appoint the following member and reappoint the following members to the Office for the Aging Advisory Committee, for the term to expire on the date opposite of name.

OFA APPOINTMENTS:
David Vazquez (Mamakating)
3 East Road
Wurtsboro NY 12790

TERM:
7/31/2012

OFA REAPPOINTMENTS:
Liliam Stettner (Liberty)
538 Willi Hill Road
White Sulphur Springs NY 12787

7/31/2012

Ann Danuff (Lumberland)
978 CR 31
Glen Spey NY 12737

7/31/2012

Roslyn Sharoff (Thompson)
21 Fraser Avenue
Monticello NY 12701

7/31/2012

Moved by Mrs. Binder, seconded by Mr. Wood , put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously carried and declared duly adopted on motion August 20, 2009.

RESOLUTION NO 322-09 INTRODUCED BY HEALTH AND FAMILY SERVICES COMMITTEE TO REAPPOINT FIVE MEMBERS TO THE RSVP ADVISORY COMMITTEE

WHEREAS, there is a need to reappoint five (5) members to the Retired Senior Volunteer Program Advisory Committee (RSVP), and

WHEREAS, the reappointment for Lois Head, Eleanor Glassel, Helen Kwasinowicz, Shirley Wood, and Laura Solomon shall be for a term to end July 31, 2012, and

WHEREAS, all of the above reappointments are to commence on the date this resolution is adopted.

NOW, THEREFORE, BE IT RESOLVED, that the Sullivan County Legislature does hereby reappoint the following members to the RSVP Advisory Committee, for the term to expire on the date opposite of name.

RSVP REAPPOINTMENTS:	TERM:
Lois Head (Callicoon) 1556 Shandelee Road Livingston Manor NY 12758	7/31/2012
Eleanor Glassel (Delaware) 175 Schwartz Road Callicoon NY 12723-5714	7/31/2012
Helen Kwasinowicz (Neversink) Willowemoc 195 Woodard Road Parksville NY 12768	7/31/2012
Shirley Wood (Rockland) P O Box 9 Roscoe NY 12776	7/31/2012
Laura Solomon (Thompson) P O Box 313 Kiamesha Lake NY 12751	7/31/2012

Moved by Mrs. Binder, seconded by Mr. Wood, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously carried and declared duly adopted on motion August 20, 2009.

RESOLUTION NO. 323-09 INTRODUCED BY THE CAPITAL PLANNING AND BUDGETING COMMITTEE TO AMEND THE CAPITAL PLAN TO AUTHORIZE THE PROCUREMENT OF AN AIRPORT RESCUE AND FIREFIGHTING VEHICLE, CONSTRUCTION/INSTALLATION OF AN ON-SITE AND CONSTRUCTION OF A GRAVEL PERIMETER SECURITY ROAD, UTILIZING AUTHORIZED FUNDS FROM THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION

WHEREAS, the County of Sullivan has been awarded additional State funds to improve the Sullivan County International Airport (SCIA) property, and

WHEREAS, it is in the best interest of the County to further the development and improvement of the SCIA, and

WHEREAS, the New York State Department of Transportation has awarded funding to Sullivan County for equipment procurement and project construction/implementation.

NOW, THEREFORE, BE IT RESOLVED, that the Legislature of the County of Sullivan, hereby amends the adopted Capital Plan in accordance with Section C2.02(N) of the Sullivan County Charter, upon a two-thirds vote of the membership thereof as follows:

1. The Division of Public Works is authorized to procure an airport rescue and firefighting vehicle \$230,000 (\$23,000 County Share, \$207,000 State Share)
2. The Division of Public Works is authorized to construct/implement an on-site potable water system to SCIA and the Airport Industrial Site \$1,135,000 (\$113,500 County Share, \$1,021,500 State Share)
3. The Division of Public Works is authorized to construct a gravel perimeter security road at the SCIA \$286,500 (No County Share)

Moved by Mrs. LaBuda, seconded by Mr. Hiatt, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously carried and declared duly adopted on motion August 20, 2009.

RESOLUTION NO. 324-09 INTRODUCED BY PERSONNEL COMMITTEE TO CREATE AND ABOLISH POSITIONS IN THE OFFICE OF THE COUNTY CLERK, AND TO REALLOCATE CERTAIN POSITIONS ON THE TEAMSTERS LOCAL 445 PAY SCHEDULES

WHEREAS, the County Clerk has presented a request to the County Manager to abolish eight (8) County Clerk Worker I positions, and to create eight (8) County Clerk Work II positions in the office of the County Clerk, and

WHEREAS, the County Clerk has stated that he anticipates that the associated cost of creating the higher level County Clerk Worker II positions will be covered by increased revenues from the various fees collected by the County Clerk's Office, and that he will assign the created positions higher-level work responsibilities , providing for a more efficient workforce, and

WHEREAS, the County Manager has concurred with the County Clerk's request, with the condition that the eight (8) County Clerk Worker I positions be permanently abolished, and

WHEREAS, the incumbents in the eight (8) County Clerk Worker I positions are on a certified civil service list to be appointed to the created County Clerk Worker II positions, and

WHEREAS, the incumbents in the eight (8) County Clerk Worker I positions shall be retroactively compensated at the salary rate for County Clerk Worker II, effective July 1, 2009.

NOW, THEREFORE, BE IT RESOLVED that the Sullivan County Legislature hereby abolishes and creates the following positions in the Office of the County Clerk:

Abolish

<u>Position Number</u>	<u>Title</u>	<u>Grade</u>
424	County Clerk Worker I	IV
743	County Clerk Worker I	IV
900	County Clerk Worker I	IV
1850	County Clerk Worker I	IV
2349	County Clerk Worker I	IV
2405	County Clerk Worker I	IV
2482	County Clerk Worker I	IV
2483	County Clerk Worker I	IV

Create

<u>Position Number</u>	<u>Title</u>	<u>Grade</u>
To be assigned	County Clerk Worker II	V
To be assigned	County Clerk Worker II	V
To be assigned	County Clerk Worker II	V
To be assigned	County Clerk Worker II	V
To be assigned	County Clerk Worker II	V
To be assigned	County Clerk Worker II	V
To be assigned	County Clerk Worker II	V

, and

BE IT FURTHER RESOLVED that the incumbents in the eight (8) County Clerk Worker I positions shall be retroactively compensated at the salary rate for County Clerk Worker II, effective July 1, 2009, and

BE IT FURTHER RESOLVED that the following positions be reallocated on the Teamsters Local 445 pay schedules, effective retroactively to July 1, 2009, as follows:

<u>Position Number</u>	<u>Title</u>	<u>Grade</u>
867	Coroner/County Clerk's Aide	IV
1849	Records Management Survey Technician	IV

Moved by Mr. Hiatt, seconded by Mrs. Binder, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously carried and declared duly adopted on motion August 20, 2009.

RESOLUTION NO. 325-09 INTRODUCED BY PERSONNEL COMMITTEE TO ABOLISH AND CREATE POSITIONS WITHIN THE OFFICE OF COUNTY TREASURER REPRESENTED BY THE TEAMSTERS LOCAL 445 COUNTY UNIT

WHEREAS, the County Manager, in conjunction with representatives of Teamsters Local 445 County Unit, have determined that there is a need to adjust titles and salary grades for certain positions the Office of County Treasurer represented by Teamsters Local 445 County Unit; and

WHEREAS, the adjustment of titles and salary grades for certain positions in the Office of County Treasurer represented by Teamsters Local 445 County Unit, which represents the largest numbers of County employees, is in the best interests of the County of Sullivan, permitting those represented positions to be adjusted that provides for a fair and objective process for compensation consideration; and

WHEREAS, the status of the incumbents in these positions will not be adversely impacted.

NOW, THEREFORE, BE IT RESOLVED that the Sullivan County Legislature hereby authorizes the creation and abolishment of the following positions in the Treasurer's Office, and placed upon the associated grade on the Teamsters Union pay scale:

<u>Abolish:</u>	<u>Grade:</u>
Tax Clerk	II
Senior Tax Clerk	III
Prop. Tax Enf. Spcst	V
Real Prop. Tax Services Spcst.	IV
Prop. Tax Sup./Tax Enf. Coord	VIII

<u>Create:</u>	<u>Grade:</u>
Tax Clerk I	IV
Tax Clerk II	V
Tax Clerk III	VII
Real Prop. Tax Services Spcst.	VII
Prop. Tax Sup./Tax Enf. Coord	XI

Moved by Mr. Hiatt, seconded by Mrs. Binder, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously carried and declared duly adopted on motion August 20, 2009.

RESOLUTION NO. 326-09 INTRODUCED BY DAVID A. SAGER, CHAIRMAN OF THE PERSONNEL COMMITTEE TO ABOLISH AND CREATE A POSITION WITHIN THE DEPARTMENT OF COMMUNITY SERVICES

WHEREAS, Sullivan County Department of Community Services has evaluated its staffing needs; and

WHEREAS, the duties of the Assistant Social Worker II should be changed to an Addiction Services Counselor I; and

WHEREAS, the Department of Community Services has determined the needs of the department to be more appropriately served by the creation of an Addiction Services Counselor I; and

WHEREAS, there are sufficient funds are appropriated in the 2009 Adopted Budget.

NOW, THEREFORE, BE IT RESOLVED, the Sullivan county Legislature hereby authorize the creation and abolishment of the following positions within the Department of Community Services and placed upon the associated grade on the Teamsters Union pay scale:

<u>ABOLISH</u>		
A4220	Assistant Social Worker II	Grade VIII
<u>CREATE</u>		
A4220	Addition Services Counselor I	Grade V

Moved by Mr. Hiatt, seconded by Mrs. Binder, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously carried and declared duly adopted on motion August 20, 2009.

RESOLUTION NO. 327-09 INTRODUCED BY JONATHAN F. ROUIS, CHAIRMAN OF THE LEGISLATURE TO APPORTION MORTGAGE TAX

WHEREAS, Section 261 of the Tax Law of the State of New York requires apportionment of the mortgage tax, and

WHEREAS, the County Clerk and the County Treasurer have submitted the quarterly report to the Clerk of the Legislature, and

WHEREAS, The County Legislature has apportioned, among the various towns and incorporated villages of the County of Sullivan, the equitable share of the mortgage tax;

NOW, THEREFORE, BE IT RESOLVED, that the County Treasurer draw checks for each of the towns and villages the quarterly mortgage tax so apportioned, as follows:

TOWNS	
Bethel	42,477.44
Callicoon	12,846.98
Cochecton	7,084.92
Delaware	14,140.66
Fallsburg	34,870.44
Forestburg	5,074.23
Fremont	
7,696.46	
Highland	15,758.59
Liberty	36,052.34
Lumberland	21,738.75
Mamakating	55,130.27
Neversink	10,795.95

Rockland	10,544.69
Thompson	39,856.28
Tusten	12,032.09

VILLAGES

Bloomingsburg	703.04
Jeffersonville	629.83
Liberty	6,307.82
Monticello	4,156.60
Woodridge	1,617.40
Wurtsboro	2,336.33

TOTAL

\$341,851.11

Moved by Mr. Wood, seconded by Mrs. Binder, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously carried and declared duly adopted on motion August 20, 2009.

RESOLUTION NO. 328-09 INTRODUCED BY THE MANAGEMENT AND BUDGET COMMITTEE TO APPORTION COST OF THE COUNTY SELF-INSURANCE PLAN AND LEVYING TAXES THEREFORE

WHEREAS, the Risk Management & Insurance Department (“Risk Management”) hereby files a report by which it has estimated that the sum of \$3,690,759.00 will be necessary for the calendar year 2010 to meet the payments and expenses of the Workers’ Compensation Self - Insurance Plan; and

WHEREAS, Risk Management has determined the share of such estimated amount chargeable to each participant of the County Workers’ Compensation Self Insurance Plan as provided by Local Law No. 5-1979, as well as provisions of the Workers Compensation Law; and

WHEREAS, the amount chargeable to each participant of the County Workers’ Compensation Self-Insurance Plan is detailed on the Self Insurance Fund Charges, attached hereto as Appendix I and by this reference made a part hereof; and

WHEREAS, the total amount of \$3,690,759.00 to be raised for the 2010 calendar year was calculated as detailed in the Estimate of Expenses to run the Self Funded Workers’ Compensation Plan for Sullivan County, attached hereto as Appendix II and by this reference made a part hereof; and

WHEREAS, Appendix I and Appendix II shall collectively be considered Risk Management’s 2010 calendar year’s report for the funding estimate and participant apportionment costs for the County’s Workers’ Compensation Self-Insurance Plan, (Risk Management’s 2010 Plan)

NOW, THEREFORE, BE IT RESOLVED, the Sullivan County Legislature hereby adopts Risk Management’s 2010 Plan and directs that the amount set opposite the name of each participant on Appendix I of the County Workers’ Compensation Self - Insurance Plan be apportioned and charged to each respectively; with such amount so apportioned to the County and the Towns be levied and raised by tax in the next annual tax levy against the taxable property of the County and the Towns and such amount apportioned to the Villages to be directly billed to the Villages by Risk Management; and

BE IT FURTHER RESOLVED, that the amount apportioned to the County and the Towns shall be collected by inclusion in the next succeeding tax levy of each Town, and that when collected such amount shall be paid by the respective tax collectors to the County Treasurer, said amounts to be credited to the County Workers’ Compensation Self - Insurance Fund and the amount billed to the Villages shall be paid directly to the Sullivan County Treasurer.

Moved by Mr. Wood, seconded by Mrs. Binder, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously carried and declared duly adopted on motion August 20, 2009.

RESOLUTION NO. 329-09 INTRODUCED BY MANAGEMENT AND BUDGET COMMITTEE TO MODIFY THE 2009 COUNTY BUDGET

WHEREAS, the County of Sullivan 2009 Budget requires modification,

NOW, THEREFORE, BE IT RESOLVED, that the attached budgetary transfers be authorized.

Moved by Mr. Hiatt, **seconded by** Mrs. Binder, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 330-09 INTRODUCED BY MANAGEMENT AND BUDGET COMMITTEE TO AUTHORIZE THE LANDFILL CLOSURE FUND AS DESIGNATED IN THE UNRESERVED FUND BALANCE TO ADVANCE MONIES UNTIL FUNDS ARE BORROWED IN ACCORDANCE WITH RESOLUTION 161-09

WHEREAS, The County has awarded a contract to Cornerstone Engineering, PLLC for the planning, permitting and design of a Materials Recovery Facility & Transfer Station (MRF/TS) at the Sullivan County Landfill by Resolution No. 158-09; and

WHEREAS, the permitting and design process has begun and costs are being incurred; and

WHEREAS, the funding for the planning, permitting, and design of Materials Recovery Facility & Transfer Station (MRF/TS) at the Sullivan County Landfill has been authorized by resolution 161-09, but funds have not yet been borrowed.

NOW, THEREFORE, BE IT RESOLVED, that the Landfill Closure Reserve Fund be authorized to advance monies to fund the project authorized in resolution 158-09 in a sum not to exceed \$1,250,000, until funds are borrowed as authorized by resolution 161-09.

Moved by Mrs. LaBuda, **seconded by** Mr. Sorensen, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

This document outlines actions the County will take or has already begun to undertake, to correct the internal control matters identified in the Management Letter prepared by the County's external auditor, O'Connor Davies Munns & Dobbins, LLP.

Audit Period: For the year ended December 31, 2008.

Budgetary Compliance

Finding:

Our audit disclosed a few instances where certain General Fund expenditures, some the result of year end accounting accruals, resulted in expenditures exceeding budgeted appropriations.

Recommendation:

We suggest that the County try to estimate the impact of these year end accruals, particularly in the area of social services expenditures, so as not to exceed budgetary authorizations.

Corrective Action:

There are some expense accruals that are booked following the close of the fiscal year. We have traditionally accrued expenses that were to be paid during the three months following the end of the fiscal period. The auditors suggested a process change for 2008. We concurred and made expense accruals for the twelve month period following the fiscal year. This change resulted in some over budget situations that were not contemplated when doing yearend budget modifications. The Budget Office will work with and require all departments to factor in twelve month yearend accruals when submitting their yearend budget modifications. This process will be operational for the 2009 fiscal year.

Year End Accounting Accruals

Finding:

As part of our audit of the General Fund, we review and evaluate the year end accruals that have been recorded by County finance personnel to ascertain that all significant revenues/expenditures applicable to the fiscal year under audit have been properly attributed to that fiscal year. To that end, we reviewed the year end accruals recorded for the County's largest department, Family Services. Based upon our experiences, we expect to see significant year end expenditure accruals required for programs

administered by this department, as there is usually a substantial time lag between the date that expenditures were incurred and the payment of the obligation. To offset these expenditures, several of these programs are eligible for State and Federal aid reimbursement and an accrual for these revenues should be recorded simultaneously with the accrual of the expenditure. Our audit revealed that the accrual of the revenues had been posted to the general ledger. However, only a portion of the total expenditure accrual had been booked. Accordingly, this was corrected upon audit, resulting in an additional expenditure accrual in excess of \$1 million.

Recommendation:

We suggest that procedures be revised to create better communication between County personnel to ensure that all revenues and expenditures are reflected in the proper period.

Corrective Action:

There are some expense accruals that are booked following the close of the fiscal year. We have traditionally accrued expenses that were to be paid during the three months following the end of the fiscal period. The auditors suggested a process change for 2008. We concurred and made expense accruals for the twelve month period following the fiscal year. The Budget Office will work with the fiscal staff to setup a process to communicate and disclose all accounts payable accruals which will include accruals for the twelve month period following the close of the fiscal year. This process will be operational for the 2009 fiscal year.

Capital Asset Reporting

Finding:

The Sullivan County Community College is reflected in the County's financial statements as a discretely presented component unit. A separate audit and financial statement are prepared for the College. In that statement, capital assets (land, buildings, infrastructure and equipment) are reported on its balance sheet but are disclosed in the notes to the financial statements as "assets made available to the College". This is because title to real property of the College vests with the County and bonds and notes for the College related to capital construction costs are issued by the County and are County debt. Therefore, when the College's financial information is incorporated into the County's financial statements, a conversion needs to be made to reflect its balance sheet without the capital assets and related debt. These capital assets would then be reported as part of the assets of the County within the governmental activities column on the Statement of Net Assets. This conversion was not performed in the current year.

Recommendation:

We suggest that finance personnel at both the County and the College develop a methodology to convert the College's financial information into a format that presents the capital assets in accordance with the above mentioned methodology.

Corrective Action:

The County fiscal staff will work with the Sullivan County Community College fiscal staff to analyze and determine the best methodology and protocol to incorporate the fixed assets listed on the College's financial statement into the County's financial statement. The goal is to have this completed before the external auditor commences the 2009 audit process.

Capital Projects Fund

Finding:

A lack of financial activity in a capital project over an extended period of time may be an indication of the project's completion. Our review of the Capital Projects Fund indicated that numerous projects have been inactive for periods in excess of one year. These projects represent a combined fund balance in excess of \$1.9 million at December 31, 2008. Upon determination that a capital project has been completed, the governing board should pass a resolution indicating this status and directing the disposition of the unexpended proceeds. If the unexpended balance of the project consists of monies provided from obligation or in certain instances, State of Federal grants, its use will be restricted to the payment of outstanding indebtedness. If the remaining balance consists of a return of a contribution from an operating fund, it should be returned to that fund to be used for any lawful purpose.

Recommendation:

We suggest that a review of all capital projects be undertaken to determine the status of completion and the proper disposition of available funds.

Corrective Action:

On August 16th, 2007 the County Legislature passed resolution 376-07, which authorized the closing of 19 Capital Accounts that were no longer required.

The Budget Office will work with the County Manager to compile a listing of all capital accounts and analyze the status of completion. Recommendations will be made to the Capital Planning and Budgeting Committee for closure of applicable capital accounts if any are deemed necessary to be closed.

As a matter of policy, staff will perform this review and provide recommendations to the Capital Planning and Budgeting Committee on a yearly basis.

Reserve for Debt Service

Finding:

A reserve for debt service has been established in the General, County Road, and Road Machinery funds pursuant to Local Finance Law. These amounts represent funds relating to the issuance of debt and its uses are restricted for the repayment of such debt. Currently, none of the income earned has been allocated to the reserve.

Recommendation:

Since these monies are earmarked for a specific purpose, we suggest that the appropriate amount of interest earnings be credited to these reserves.

Corrective Action:

It has been determined that the County will journal the appropriate amount of interest into the debt reserve funds during fiscal year 2009.

RESOLUTION NO. 331-09 INTRODUCED BY MANAGEMENT AND BUDGET COMMITTEE TO APPROVE A CORRECTIVE ACTION PLAN FOR THE 2008 MANAGEMENT LETTER

WHEREAS, the County's outside auditing firm has completed the 2008 financial audit and provided their management letter to the Management & Budget Committee, and

WHEREAS, the Commissioner of the Division of Management and Budget has formulated a corrective action plan to fix the problems listed in the management letter.

NOW THEREFORE, BE IT RESOLVED, that the Sullivan County Legislature hereby approves the Corrective Action Plan.

Moved by Mrs. LaBuda, seconded by Mr. Wood, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 332-09 INTRODUCED BY JONATHAN ROUIS, CHAIRMAN OF THE LEGISLATURE, RON HIATT, VICE CHAIRMAN OF THE LEGISLATURE, KATHLEEN LABUDA, MAJORITY LEADER, LENI BINDER, MINORITY LEADER, DAVID A SAGER, DISTRICT 1 LEGISLATOR, ELWIN “WOODY” WOOD, DISTRICT 3 LEGISLATOR, FRANK ARMSTRONG, DISTRICT 5 LEGISLATOR, JODI GOODMAN, DISTRICT 6 LEGISLATOR, AND ALAN SORENSEN, DISTRICT 9 LEGISLATOR, AMENDING RESOLUTION NO. 174 OF 1989 TO SPECIFICALLY AUTHORIZE THE USE OF VOLUNTEER LEAVE FOR AMBULANCE AND OR FIREFIGHTING VOLUNTEERS TO ASSIST WITH DECLARED FLOOD EMERGENCIES

WHEREAS, the Sullivan County Board of Supervisors adopted resolution number 174 of 1989 on May 8, 1989 that permitted department heads to authorize an employee’s absence from work without charge to accrued leave time when the employee’s absence occurs as a result of providing emergency services as an ambulance volunteer or firefighter, and

WHEREAS, the volunteer firefighters are routinely called upon to assist with natural disasters and other emergencies, and

WHEREAS, Sullivan County has been the victim of thirteen floods since 1996, five of which were severe enough to be declared disasters by the Federal Emergency Management Agency (FEMA), and

WHEREAS, most recently, between July 29, 2009 and August 3, 2009, Sullivan County experienced flash floods that resulted in significant damage in the Towns of Callicoon, Delaware, and Rockland, and

WHEREAS, the County Manger declared a limited State of Emergency on July 31, 2009 that were lifted on August 4, 2009, and

WHEREAS, the County Manager has issued a memorandum to the legislature regarding flood procedure, preparation, and response protocol, and

WHEREAS, the County Manager recommends that resolution number 174 of 1989 be amended to specifically authorize an employee’s absence from work without charge to accrued leave time when the employee’s absence occurs as a result of providing emergency services as an ambulance volunteer or firefighter in response to a declared State of Emergency or Limited State of Emergency declared by the County Manager and or by a Town Supervisor that has appropriate authority in cooperation with the County Manager, and

WHEREAS, it is in the best interest of Sullivan County to permit county employees that are also an ambulance volunteer or firefighter to assist their organization in responding to declared State’s of Emergency related to a flood event, contingent upon and consistent with the needs of the volunteer’s respective department .

NOW, THEREFORE, BE IT RESOLVED that the Sullivan County Legislature hereby amends resolution 174 of 1989 as follows:

1. That department heads are permitted to authorize an employee’s absence from work without charge to accrued leave time when the employee’s absence occurs as a result of providing emergency services as an ambulance volunteer or firefighter in response to a declared State of Emergency or Limited State of Emergency declared by the County Manager and or by a Town Supervisor that has appropriate authority in cooperation with the County Manager.
2. That the department heads shall not unreasonably deny requests for said volunteer leave based upon the operating needs of the department, the volume of volunteer time requested, and such other factors as may be relevant.
3. An employee denied volunteer leave shall have the ability to appeal said denial to the County Manager or his designee.

4. That this resolution amending resolution number 174 of 1989 shall be retroactively effective to July 29, 2009 upon adoption by the legislature.

Moved by Mr. Wood, seconded by Mrs. Binder, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously carried and declared duly adopted on motion August 20, 2009.

Chapter 140

PROCUREMENT POLICY

[HISTORY: Adopted by the Sullivan County Legislature on August 20, 2009 by Res. No. 333-09.

GENERAL REFERENCES

<p><u>ARTICLE I -General Provisions</u> <u>140-1.1. Purpose</u> <u>140-1.2. Applicability</u> <u>140-1.3. Exemptions</u> <u>140-1.4. Definitions</u> <u>140-1.5. Public access to procurement information</u></p> <p><u>ARTICLE II -Office of the Director of Purchasing</u> <u>140-2.1. Authority and duties</u> <u>140-2.2. Delegations to other County officials</u> <u>140-2.3. Procurement card program</u></p> <p><u>ARTICLE III -Source Selection, Bidder Qualifications, Contract Formation and Administration</u> <u>140-3.1. Competitive sealed bidding</u> <u>140-3.2. Competitive sealed proposals</u> <u>140-3.3. Contracting for professional services with predetermined rates</u> <u>140-3.4. Contracting for professional services</u> <u>140-3.5. Contracting for professional services with grant-approved organizations</u> <u>140-3.6. Purchases not subject to competitive bidding</u> <u>140-3.7. Sole source procurement</u> <u>140-3.8. Emergency procurements</u> <u>140-3.9. Cancellation of invitations for bids or request for proposals</u> <u>140-3.10. Responsibility of bidders and offerors</u> <u>140-3.11. Cost or pricing data</u> <u>140-3.12. Cost or price analysis</u> <u>140-3.13. Bid and performance bonds on supply or service contracts</u> <u>140-3.14. Types of contracts</u> <u>140-3.15. Contract clauses and their</u></p>	<p><u>ARTICLE V -Debarment or Suspension</u> <u>140-5.1. Authority to debar or suspend</u> <u>140-5.2. Decision to debar or suspend</u> <u>140-5.3. Notice of decision</u> <u>140-5.4. Finality of decision</u></p> <p><u>ARTICLE VI -Appeals and Remedies</u> <u>140-6.1. Bid protests</u> <u>140-6.2. Contract claims</u> <u>140-6.3. Reserved</u> <u>140-6.4. Authority of Director of Purchasing to settle bid protests and contract claims</u> <u>140-6.5. Remedies for solicitations or awards in violation of law</u></p> <p><u>ARTICLE VII -Ethics in Public Contracting</u> <u>140-7.1. Criminal penalties</u> <u>140-7.2. Employee conflict of interest</u> <u>140-7.3. Gratuities and kickbacks</u> <u>140-7.4. Prohibition against contingent fees</u> <u>140-7.5. Contemporaneous employment prohibited</u> <u>140-7.6. Waivers for contemporaneous employment prohibition and other conflicts of interest</u> <u>140-7.7. Use of confidential information</u> <u>140-7.8. Sanctions</u></p> <p><u>Artcile VIII – Additional Requirements for Federal Transit Administration Funded Contracts</u> <u>140-8.1. Disadvantaged Business Enterprise Program</u> <u>140-8.2. Required Contract Clauses</u> <u>140-8.3. National and Regional ITS architecture policy</u></p> <p><u>ARTICLE IX -Green Purchasing</u> <u>140-9.1 Purpose</u></p>
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<p>administration</p> <p><u>140-3.16. Approval of accounting system</u></p> <p><u>140-3.17. Right to inspect plant</u></p> <p><u>140-3.18 Right to audit records</u></p> <p><u>140-3.19. Reporting of anti-competitive practices</u></p> <p><u>140-3.20. County of Sullivan procurement records</u></p> <p><u>ARTICLE IV -Specifications</u></p> <p><u>140-4.1. Maximum practicable competition</u></p> <p><u>140-4.2. Brand name or equal specification</u></p> <p><u>140-4.3. Brand name specification</u></p>	
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ARTICLE I
General Provisions

§140-1.1. Purpose.

The purpose of this policy is to provide for the fair and equitable treatment of all persons involved in public purchasing by the County of Sullivan, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

§140-1.2. Applicability.

This policy applies to contracts for the procurement of all supplies, services, materials and equipment, and Public Works contracts, entered into by the County of Sullivan after the effective date of this policy. It shall apply to every expenditure of public funds by a public agency for public purchasing irrespective of the source of the funds. When the procurement involves the expenditure of federal assistance or contract funds, the procurement shall be conducted in accordance with any mandatory applicable federal law and regulations. Nothing in this policy shall prevent any public agency from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

§140-1.3. Exemptions.

Unless otherwise ordered by regulation the following commodities, supplies or services need not be procured through the Purchasing Division in accordance with the County's Procurement Policy; and shall be procured by the appropriate agency, department or committee:

- A. Works of art for public display.

§140-1.4. Definitions.

ARCHITECT-ENGINEER AND LAND SURVEYING SERVICES -- Those professional services within the scope of the practice of architecture, professional engineering, or land surveying, as defined by the laws of the State of New York.

BRAND NAME OR EQUAL SPECIFICATION -- A specification limited to one or more items by manufacturers' names or catalog numbers to describe the standard of quality, performance, and other salient characteristics needed to meet County requirements, and which provides for the submission of equivalent products.

BRAND NAME SPECIFICATION -- A specification limited to one or more items by manufacturers' names or catalog numbers.

BUSINESS -- Any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other private legal entity.

CHANGE ORDER -- A written order signed and issued by the Director of Purchasing, directing the contractor to make changes in relation to a specific purchase order or County contract.

CONFIDENTIAL INFORMATION -- Any information which is available to an employee only because of the employee's status as an employee of the County and is not a matter of public knowledge or available to the public on request.

CONSTRUCTION -- The process of building, altering, repairing, improving, or demolishing any public structure, building, road, highway, bridge or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

CONTRACT -- All types of County agreements, regardless of what they may be called, for the procurement of supplies, services or construction.

CONTRACT MODIFICATION (BILATERAL CHANGE) -- Any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

CONTRACTOR -- Any person having a contract with the County or a using agency thereof.

COST ANALYSIS -- The evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed.

COST DATA -- Factual information concerning the cost of labor, material, overhead, and other cost elements which are expected to be incurred or which have been actually incurred by the contractor in performing the contract.

COST-REIMBURSEMENT CONTRACT -- A contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and the provisions of this policy, and a fee for profit, if any.

DIRECT OR INDIRECT PARTICIPATION -- Involvement through decision, approval, disapproval, recommendation, preparation of any part

of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.

EMPLOYEE -- An individual drawing a salary or wages from the County, whether elected or not; any noncompensated individual performing personal services for the County or any department, agency, commission, council, board, or any other entity established by the executive or legislative branch of the County; and any noncompensated individual serving as an elected official of the County.

FINANCIAL INTEREST.

A. Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than \$100 per year, or its equivalent;

B. Ownership of 25% of any property or business; or

C. Holding a position in a business such as officer, director, trustee, partner, employee, or the like or holding any position of management.

GRATUITY -- A payment, loan, gift, subscription, advance, deposit of money, service, or anything else with a nominal value of \$75 or more.

IMMEDIATE FAMILY -- A spouse, children, parents, brothers, and sisters.

INVITATION FOR BIDS -- All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.

PERSON -- Any business, individual, union, committee, club, other organization, or group of individuals.

PRICE ANALYSIS -- The evaluation of price data, without analysis of the separate cost components and profit as in cost analysis, which may assist in arriving at prices to be paid and costs to be reimbursed.

PRICING DATA -- Factual information concerning prices for items substantially similar to those being procured. Pricing in this definition refers to offered or proposed selling prices, historical selling prices and current selling prices. The definition refers to data relevant to both prime and subcontract prices.

PROCUREMENT -- The buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection, and solicitation of sources, preparation and award of contract, and all phases of contract administration.

PUBLIC AGENCY -- A public entity subject to or created by the County.

REQUEST FOR PROPOSALS -- All documents, whether attached or incorporated by reference, utilized for soliciting proposals.

RESPONSIBLE BIDDER or OFFEROR -- A person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit which will assure good faith performance.

RESPONSIVE BIDDER -- A person who has submitted a bid that conforms in all material respects to the requirements set forth in the invitation for bids.

SERVICES -- The furnishing of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.

SPECIFICATION -- Any description of the physical or functional characteristics or of the nature of a supply, service, equipment or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, equipment or construction item for delivery.

SUPPLIES -- All property, including but not limited to equipment, materials, and printing, excluding land or a permanent interest in land.

USING AGENCY -- Any department, commission, board, or public agency requiring supplies, services, equipment, or construction procured pursuant to this policy.

§140-1.5. Public access to procurement information.

Procurement information shall be a public record to the extent provided in the New York State Freedom of Information Law (Public Officers Law, §§ 84 to 90), and shall be available to the public as provided in such statute.

ARTICLE II Office of the Director of Purchasing

§140-2.1. Authority and duties.

A. Principal public purchasing official. Except as otherwise provided herein, the Director of Purchasing shall serve as the principal public purchasing official for the County, and shall be responsible for the procurement of supplies, services, equipment, and public works projects in accordance with this policy, as well as the management and disposal of equipment.

B. Duties. In accordance with this policy the Director of Purchasing shall:

- (1) Procure or supervise the procurement of all supplies, services, materials and equipment;
- (2) Exercise direct supervision over the County's central stores and general supervision over all other inventories of supplies belonging to the County;
- (3) Sell, trade, or otherwise dispose of surplus supplies and equipment belonging to the County; and
- (4) Establish and maintain programs for specification development, contract administration and inspection and acceptance, in cooperation with the public agencies using the supplies, services, and construction.

C. Operational procedures. Consistent with this policy, the Director of Purchasing may adopt operational procedures relating to the execution of his duties.

§140-2.2. Delegations to other County officials.

With the approval of the County Manager, the Director of Purchasing may delegate authority to purchase certain supplies, services, equipment, or construction items to other County officials, if such delegation is deemed necessary for the effective procurement of those items.

§140-2.3. Procurement card program.

A. With the approval of the County Manager, the Director of Purchasing, under the authority provided in §140-2.1 of this policy, may establish a procurement card program to improve efficiency and streamline the purchasing process of small dollar items, thereby eliminating the need for many petty cash accounts, and also reducing the volume of individual purchase orders and payments processed by the County to suppliers. Audits shall be required to ensure that the cardholders and their respective department head or Commissioner are adhering to proper policies and procedures.

B. Conditions for use. The Director of Purchasing and the Commissioner of Office of Management and Budget and/or Audit and Control Department shall develop procurement card policies and procedures that detail the regulations which will govern the program. The Procurement Card Policy may be reviewed annually by the County Legislature in conjunction with its annual review of the County's Procurement Policy. The Procurement Card Policy shall include:

- (1) Purpose of the procurement card program.
- (2) Scope of the program.
- (3) Detailed listing of all card holders, card limits, and approved uses.
- (4) Applicability of the policies and procedures.
- (5) Responsibilities.
- (6) Assignment and control of the procurement cards.
- (7) Card holder use of the procurement card.
- (8) Prohibited use of the procurement card.
- (9) Procedures for making and paying for purchases.
- (10) Procedures for disputes.
- (11) Review of purchases by departments.
- (12) Audit requirements.

ARTICLE III
Source Selection, Bidder Qualifications, Contract
Formation and Administration

§140-3.1. Competitive sealed bidding.

A. Conditions for use. All contracts of the County of Sullivan shall be awarded by competitive sealed bidding except as otherwise provided in §§ 140-3.2 (Competitive sealed proposals), 140-3.4 (Contracting for professional services), 140-3.6 (Small purchases), 140-3.8 (Sole source procurement) of this policy or except as otherwise authorized by applicable State laws. Provided, however, that where applicable State law permits but does not mandate the award of a contract by means other than by competitive sealed bids, the County Manager shall, in his discretion first authorize such alternate form of contract letting.

B. Invitation for bids. An invitation for bids shall be issued and shall include specifications, and all contractual terms and conditions applicable to the procurement.

C. Public notice. Adequate public notice of the invitation for bids shall be published in the newspapers of general circulation as designated by the County Legislature. In no instance shall the public notice be less than five (5) business days. The public notice shall state the place, date and time of the bid opening.

D. Bid opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as the Director of Purchasing deems appropriate, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection in accordance with § 140-1.5 (public access to procurement information).

E. Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this policy. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria that are not set forth in the invitation for bids may be used in bid evaluations.

F. Correction or withdrawal of bids; cancellation of awards. Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written notice received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, correction of bids shall not be permitted. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the County or fair competition shall be permitted. In lieu of bid correction, a bidder alleging a material mistake of fact may be permitted to withdraw his bid if:

(1) The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or

(2) The bidder submits evidence that clearly and convincingly demonstrates that a mistake was made. All decisions to permit correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by written determination made by the Director of Purchasing.

G. Award. The contract shall be awarded with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids.

§140-3.2. Competitive sealed proposals.

A. Conditions for use. When the Director of Purchasing determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the County, a contract may be entered into by the use of the competitive sealed proposal method. Provided such competitive sealed proposal method is authorized by State law and is approved by the County Manager for the letting of such contract.

B. Request for proposals. Proposals shall be solicited through a request for proposals.

C. Public notice. Adequate public notice of the request for proposal shall be given in the same manner as provided in § 140-3.1C (Competitive sealed bidding, public notice); provided that in no instance shall the public notice be less than five (5) business days.

D. Receipt of proposals. No proposals shall be handled so as to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors during the process of negotiation. A register of proposals shall be prepared containing the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item offered. The register of proposals shall be open for public inspection only after contract award.

E. Discussion with responsible offerors and revisions to proposals. As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offerors. In conducting discussions, there shall be no disclosure of the identity of competing offerors or of any information derived from proposals submitted by competing offerors.

F. Award. Award shall be made to the responsible offeror whose proposal is determined in writing to offer the best value to the County, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award was made.

§140-3.3. Contracting for professional services with predetermined rates.

A. Authority. For the purpose of procuring certain Professional Services where the payment rates are established by the federal or state government, or when the County contracts with all qualified providers, Director of Purchasing/his designee on behalf of the using agency, may procure them without the requirement of issuing a request for proposal as per § 140-3.2 in accordance with the selection procedures specified in this section.

B. Selection procedure.

(1) Conditions for use. This section shall only apply to professional service contracts where the rates to be paid by the County are set by the

federal or state government, and where all qualified firms are considered for contracts.

(2) Statement of qualifications. Persons or firms engaged in providing the designated types of professional services may submit statements of qualifications or expressions of interest in providing such services to the Department of Purchasing & Central Services. An agency using such professional services may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.

§140-3.4. Contracting for professional services.

A. Authority. For the purpose of procuring the services of a) accountants, b) clergy, c) physicians, d) lawyers, e) dentists, f) registered nurses, and g) dieticians as defined by the laws of the State of New York, the Director of Purchasing/his designee on behalf of the using agency requiring such services may procure them in accordance with the selection procedures specified in this section. No contract for the services of legal counsel may be awarded without the approval of the County Manager and the County Attorney, other than the County Legislature which may approve its own such procurements, which shall be approved by the Legislature.

B. Selection procedure.

(1) Conditions for use. Except as provided under § 140-3.7 (Sole Source Procurement) or Section 140-3.8 (Emergency Procurements), the professional services designated in Subsection A of this section shall be procured in accordance with this subsection.

(2) Statement of qualifications. Persons engaged in providing the designated types of professional services may submit statements of qualifications or expressions of interest in providing such professional services. The Director of Purchasing/his designee on behalf of the using agency using such professional services may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.

(3) Requests for Proposals (RFP's). Purchases and contracts from \$10,000 to \$99,999.99 will require the issuance of a formal Request for Proposal, and the approvals of the County Manager, Deputy County Manager/Commissioner of Management and Budget, and Director of Purchasing and Central Services. Purchases and contracts over \$99,999.99 will require the issuance of a formal Request for Proposal, and the approval of the County Manager, Deputy County Manager/Commissioner of Management and Budget and the Legislature.

(4) Discussions. The head of a using agency requesting professional services or a designee of such officer may conduct discussions with any offeror who has submitted a statement of qualifications to determine such offeror's qualifications for further consideration. Discussions shall not disclose any information derived from statements of qualifications submitted by other offerors.

(5) Award. Award shall be made to the offeror determined in writing by the head of the using agency procuring the required professional services, or a designee of such officer, to be best qualified based on the agency's evaluation of the statement of qualifications, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best-qualified offeror, the negotiations will be formally terminated with the selected offeror. If statements of qualifications were submitted by one or more other offerors determined to

be qualified, negotiations may be conducted with such other offeror or offerors, in the order of their respective qualification ranking, and the contract may be awarded to the offeror then ranked best qualified if the amount of compensation is determined to be fair and reasonable.

C. Purchases Not Subject to Competitive Bidding.

Professional Service contracts, for licensed professionals and consultants, other than contracts set forth in §140-3.4”A” above, and contracts for an amount of \$9,999.99 and under, will be awarded at the discretion of the County Manager, Director of Purchasing and Central Services, or the Deputy County Manager/Commissioner of Management and Budget. One of the below methods should be used to acquire the services at the most advantageous price and condition:

- Written Quotes
- Bid
- Request for Proposals

The Department of Purchasing and Central Services shall determine the most advantageous and cost effective process.

In instances where the above methods are not practical, as agreed upon by the requesting department head, the County Manager, and the County Attorney, the County of Sullivan may enter into an agreement after negotiating with the vendor for professional services.

§140-3.5. Contracting for professional services with grant-approved organizations.

A. Authority. For the purpose of procuring certain professional services where the contractor has been identified in an approved grant application as the contractor to perform services covered by the grant, the Director of Purchasing/his designee on behalf of the using agency may procure them without the requirement of issuing a request for proposal as per § 140-3.2, in accordance with the selection procedures specified in this section.

B. Selection procedure.

(1) Conditions for use. This section shall only apply to professional service contracts where the contractor has been identified in an approved grant application as the contractor to perform services covered by the grant.

(2) Statement of qualifications. Prior to submitting a grant application, the County department shall obtain a minimum of three statements of qualifications and cost estimates for the services to be performed. Additional cost quotations shall be obtained if required under the terms and conditions of the grant.

§140-3.6. Purchases not subject to competitive bidding.

A. The following purchases are not subject to competitive bidding:

- (1) Purchases of \$10,000 or less for commodities, equipment, materials, supplies and services.
- (2) Purchases of \$20,000 or less for public works projects.

B. Section 104-b of New York State General Municipal Law requires that procedures for purchasing goods and services that fall below the monetary bid limits be established and approved by the governing board. The following shall constitute Sullivan County policy:

(1) Cumulative purchases.

(a) Purchases shall be evaluated with attention given to cumulative dollar amounts expected in a given fiscal year. The Director of Purchasing shall canvas using agencies to determine yearly value of a commodity or service. Past history can be taken into consideration when evaluating yearly costs associated with the purchase of a commodity or service. If the bid limit is suspected to be exceeded, competitive bidding shall be used. This decision shall rest with the Director of Purchasing.

(b) If there are several comparable separate public works projects for the same or various locations, in a foreseeable time frame, whose expected cumulative total is more than \$10,000, written quotes must be obtained from a minimum of three suppliers, when practicable.

(2) Methods of procurement not covered by competitive bidding.

(a) Purchases for commodities, equipment, supplies, materials and services in the amount of \$3,000 or less shall be awarded at the discretion of the Director of Purchasing; purchases more than \$3,000 up to and including \$10,000 shall require a minimum of three written or electronic quotes. All purchases more than \$10,000 shall be competitively bid.

(b) Purchases that are defined as public works projects in the amount of \$10,000 or less shall be awarded at the discretion of the Director of Purchasing; purchases more than \$10,000 up to and including \$20,000 shall require minimum of three written or electronic quotes. All purchases more than \$20,000 shall be competitively bid.

(c) Purchases and contracts defined as professional services in the amount of \$10,000 or less shall be awarded at the discretion of the County Manager, Director of Purchasing and the Commissioner or Department Head of the using agency. Purchases and contracts more than \$10,000 up to and including \$100,000 shall require the issuing of a formal request for proposal and the approval of the County Manager; purchases and contracts of more than \$100,000 shall require the issuing of a formal request for proposal, approval of the County Manager and approval of the County Legislature.

(3) Award. All awards from telephone, facsimile, e-mail or written quotes shall be made to the supplier offering the best value to the County. In determining the best value for the County, the purchase price and whether the goods or services meet specifications are the most important considerations. However, the Director of Purchasing may consider other relevant factors, including:

(a) Installation costs;

(b) Life cycle costs;

- (c) The quality and reliability of the goods and services;
- (d) The delivery terms;
- (e) Indicators of probable supplier performance under the contract such as past supplier performance, the supplier's financial resources and ability to perform, the supplier's experience or demonstrated capability and responsibility, and the supplier's ability to provide reliable maintenance agreements and support;
- (f) The cost of any employee training associated with a purchase;
- (g) The effect of a purchase on agency productivity; and
- (h) Other factors relevant to determining the best value for the County in the context of a particular purchase. (Deleted reference to "including the status of the vendor as a Sullivan County based small business.")

§140-3.7. Sole source procurement.

A. A contract may be awarded without competition when the Director of Purchasing determines in writing, after conducting a good faith review of available resources that there is only one source for the required commodity, supply, service or construction item. The Director of Purchasing shall conduct negotiations, as appropriate, as to price, delivery and terms. A record of sole source procurements shall be maintained as a public record and shall list each supplier's name, the amount and type of each contract, a listing of the item(s) procured under each contract, and the identification number of each contract file.

B. In determining whether procurement qualifies as a sole source, the Purchasing Division and the agency requesting the procurement shall show, at a minimum:

- (1) The unique benefits to the County of the item as compared to other products available in the marketplace;
- (2) That no other product provides substantially equivalent or similar benefits;
- (3) That, considering the benefits received, the cost of the item is reasonable in comparison to other products in the marketplace;
- (4) That there is no possibility of competition, as from competing dealers or distributors.

§140-3.8. Emergency procurements.

Notwithstanding any other provisions of this policy, the Director of Purchasing, with the approval of the County Manager or his designee, when practicable under the circumstances, may make or authorize others to make emergency procurements of commodities, supplies, services, or construction items when there exists a threat to public health, welfare, or safety; or County property; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular supplier shall be included in the contract file.

A. All Departments, except for Division of Public Works:

During periods of emergency, such as (1) natural catastrophes such as landslides, flooding or other acts of nature which prevent normal operations, (2) damage to buildings, roads, or other structures requiring immediate repair to prevent further deterioration or losses, and (3) breakdown of essential mechanical systems and

machinery, such as boilers, electrical circuits, water mains or pipes, the normal purchasing procedures are not practical. Therefore, special emergency procedures are established to aid the departments in their operations.

In those cases of emergency requiring immediate actions, the department head responsible for that operation will assume charge for the operation. The following procedure will then be used:

- (1) If possible, immediately notify the County Manager/his designee and the Director of Purchasing and Central Services of the nature of the emergency and your plans to cope with the situation.
- (2) Contact the vendor immediately and arrange the purchase.
- (3) Within five (5) days after the emergency purchase is made, the department head will prepare and forward to the Department of Purchasing and Central Services, a "receiving report" indicating descriptions of the purchase, and other information.

B. Division of Public Works:

For Field Employees-If an emergency purchase is required, such as:

- (1) Natural catastrophes (e.g. landslides, flooding or other acts of nature which prevent normal operations.)
- (2) Damage to buildings, roads, or other structures requiring immediate repair to prevent further deterioration or losses.
- (3) Breakdown of essential mechanical systems and machinery, such as boilers, electrical circuits, water mains or pipes.

Normal purchasing procedures are not practical. Therefore, the following should be followed:

1. Contact vendor
2. Notification to your Supervisor and/or Commissioner, as soon as practical.
3. Make purchase.
4. Commissioner or his designee shall contact the County Manager or his designee of the circumstances surrounding the emergency, immediately, if the emergency requires the input of the County Manager.

For Public Works Administration Office ONLY-

- (1) Commissioner/Department Head will contact County Manager/his designee, as soon as practical, explaining the nature of the emergency and the action taken.
- (2) Public Works Administration ONLY will provide documentation as to the item/service purchased, vendor, date and justification as to why this procedure was utilized, to Purchasing and Central Services via letter or e-mail.
- (3) Purchasing and Central Services will then document verification of purchase to Audit.

§140-3.9. Cancellation of invitations for bids or request for proposals.

An invitation for bids, a request for proposal, or other solicitation may be cancelled, or any or all proposals may be rejected in whole or in part as may be specified in the

solicitation, when it is for good cause and in the best interests of the County. The reasons therefore shall be made part of the contract file. Each solicitation issued by the County shall state that the solicitation may be cancelled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interests of the County. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurement of similar items. Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors.

§140-3.10. Responsibility of bidders and offerors.

A. Determination of nonresponsibility. If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility, setting forth the basis of the finding, shall be prepared by the Director of Purchasing. The unreasonable failure of a bidder or offeror promptly to supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to such bidder or offeror. The final determination shall be made part of the contract file and be made a public record.

B. Right of nondisclosure. To the extent permissible under the New York State Freedom of Information Law (FOIL), information furnished by a bidder or offeror pursuant to this section shall not be disclosed by the County outside of the office of the Director of Purchasing, or using agency, without prior written consent of the bidder or offeror.

§140-3.11. Cost or pricing data.

A. Required submissions relating to the award of contracts. A prospective contractor shall submit cost or pricing data when the contract is expected to exceed \$100,000 and is to be awarded by competitive sealed proposals (§ 140-3.2, Competitive sealed proposals), or by sole source procurement authority (§ 140-3.7, Sole source procurement).

B. Exceptions. The submission of cost or pricing data relating to the award of a contract is not required when:

- (1) The contract price is based on adequate price competition;
- (2) The contract price is based on established catalog prices or market prices;
- (3) The contract price is set by law or regulation; or
- (4) It is determined in writing by the Director of Purchasing that the requirements of §140-3.11A (Cost or pricing data, Required submissions relating to the award of contracts) may be waived, and the determination states the reasons for such a waiver.

C. Required submissions relating to change orders or contract modifications. A contractor shall submit cost or pricing data prior to the pricing of any change order or contract modification, including adjustments to contracts awarded by competitive sealed bidding, whether or not cost or pricing data was required in connection with the initial pricing of the contract, when the change or modification involves an increase or decrease in cost or change in specifications.

D. Exceptions. The submission of cost or pricing data relating to the pricing of a change order or contract modification is not required when unrelated and separately priced adjustments for which cost or pricing data would not be required are consolidated for administrative convenience.

E. Certification required. A contractor, actual or prospective, required to submit cost or pricing data in accordance with this section, shall certify that, to the best of its knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of a mutually specified date prior to the award of the contract or the pricing of the change order or contract modification.

F. Price adjustment provision required. Any contract award, change order, or contract modification under which the submission and certification of cost or pricing data are required shall contain a provision stating that the price to the County of Sullivan, including profit or fee, shall be adjusted to exclude any significant sums by which the County of Sullivan finds that such price was increased because the contractor-furnished cost or pricing data that was inaccurate, incomplete, or not current as of the date agreed upon between the County of Sullivan and the contractor.

G. In the event of submission of a change order(s), which is in aggregate of lesser of 10% of the original contract price or \$100,000.00, the change order shall be approved by the County Manager. If the change order exceeds 10% or \$100,000.00, then it must be approved by the County Legislature (Resolution No. 44-07).

§140-3.12. Cost or price analysis.

A cost analysis or a price analysis, as appropriate, shall be conducted prior to award of the contract other than one awarded under § 140-3.1 (Competitive sealed bidding). A written record of such cost analysis or price analysis shall be made a part of the contract file.

§ 140-3.13. Bid and performance bonds on supply or service contracts.

A. Bid and performance bonds or other security may be requested for supply contracts or service contracts as the Director of Purchasing or head of a using agency deems advisable to protect the County of Sullivan's interests. Any such bonding requirements shall be set forth in the solicitation. Bid or performance bonds shall not be used as a substitute for a determination of a bidder's or offeror's responsibility.

B. The County reserves its right to approve the form, sufficiency, or manner of execution of surety bonds and contracts of insurance furnished by the surety company selected by the bidder to underwrite such bonds or contracts. In addition, all surety companies shall be licensed by the State of New York and have a Best's rating on bonds and contracts of insurance of an A - or better.

C. In addition, the County reserves the right to approve or reject the contractor's proposed surety company. The County shall notify potential bidders, as part of the bid solicitation, of any surety company that has been deemed unacceptable to the County.

§140-3.14. Types of contracts.

A. General authority. Subject to the limitations of this section, any type of contract which is appropriate to the procurement and which will promote the best interests of the County of Sullivan may be used. A cost reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the County of Sullivan than any other type or that it is impracticable to obtain the supply, service, or construction item required under such a contract.

B. Multiterm contracts.

(1) Specified period. Unless otherwise provided by law, a contract for supplies or services may be entered into for any period of time deemed to be in the best interests of the County of Sullivan, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriations of funds thereafter.

(2) Determination prior to use. Prior to the utilization of a multiterm contract, it shall be determined in writing that:

(a) Estimated requirements cover the period of the contract and are reasonably firm and continuing; and

(b) Such a contract will serve the best interests of the County of Sullivan by encouraging effective competition or otherwise promoting economies in County of Sullivan procurements.

(3) Cancellation due to unavailability of funds in succeeding fiscal periods. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be cancelled.

C. Multiple source contracting.

(1) General. A multiple source award is an award of an indefinite quantity contract for one or more similar supplies or services to more than one bidder or offeror. The obligation to order the County of Sullivan's actual requirements is limited by the provision of Uniform Commercial Code Section 2-306(1).

(2) Limitations on use. A multiple source award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, or product compatibility. Any multiple source award shall be made in accordance with the provisions of § 140-3.1 (Competitive sealed bidding), § 140-3.2 (Competitive sealed proposals), § 140-3.6 (small purchases), and § 140-3.8 (Emergency procurements), as applicable. Multiple source awards shall not be made when a single award will meet the County of Sullivan's needs without sacrifice of economy or service. Awards shall not be made for the purpose of dividing the business, making available product or supplier selection to allow for user preference unrelated to utility or economy, or avoiding the resolution of tie bids. Any such awards shall be limited to the least number of suppliers necessary to meet the actual requirements.

(3) Contract and solicitation provisions. All eligible users of the contract shall be named in the solicitation, and it shall be mandatory that the actual requirements of such users that can be met under the contract be obtained in accordance with the contract, provided that:

(a) The County of Sullivan shall reserve the right to take bids separately if a particular quantity requirement arises which exceeds its normal requirement or an amount specified in the contract; and

(b) The County of Sullivan shall reserve the right to take bids separately if the Director of Purchasing approves a finding that the supply or service available under the contract will not meet a nonrecurring special need of the County of Sullivan.

(4) Intent to use. If a multiple source award is anticipated prior to issuing a solicitation, the County of Sullivan shall reserve the right to make such an award, and the criteria for award shall be stated in the solicitation.

(5) Determination required. The Director of Purchasing shall make a written determination setting forth the reasons for a multiple source award, which shall be made a part of the procurement file.

D. Multiple source contracting: purchase of office furnishings by percentage discount awards.

(1) General. A multiple source award for office furnishings is an award of an indefinite quantity contract on one or more office furnishings manufacturer's product lines to more than one bidder or offeror. The obligation to order the County of Sullivan's actual requirements is limited by the provisions of Uniform Commercial Code Section 2-306(1).

(2) Limitations of use. A multiple source award may be made when award to two or more bidders or offerors for similar product lines is necessary for adequate delivery, service or product compatibility. All multiple source awards shall be made in accordance with the provisions of § 140-3.1 (Competitive sealed bidding), § 140-3.2 (Competitive sealed proposals), § 140-3.6 (small purchases), and § 140-3.8 (Emergency procurements), as applicable. Multiple source awards shall not be made when a single award will meet the County of Sullivan's needs without sacrifice of economy or service. Awards shall not be made for the purpose of dividing the business, making available product or supplier selection to allow for user preference unrelated to utility or economy, or avoiding the resolution of tie bids. Any such awards shall be limited to the least number of suppliers necessary to meet actual requirements.

(3) Contract and solicitation provisions. Specifications shall be drafted to include and utilize a "mini-bid" system to ensure that the County receives the best value for dollars expended.

(4) Mini bid procurement process. The Purchasing Division shall issue bids for discounts off of manufacturers' product lines and suggested retail price list. Award will be made by product line to the bidder offering the highest discount. Departments may request a specific brand and item based on the bid awards made. The Purchasing Division shall review the requested requisition and obtain a minimum of three additional quotations from a minimum of three additional contract vendors for an "equivalent" item from other manufacturers. The Purchasing Division shall review all of the mini-bid quotations and select the vendor/manufacturer that meets the form, function, utility and quality of the requesting agency, and also offers the lowest price.

(5) Waiver of mini bid procurement process. The Director of Purchasing may waive the requirement of the Mini Bid process for those procurements that are additions to and alterations of existing systems furniture groups. The reasons for such waiver shall be documented in writing and made part of the procurement record.

E. Design service contracts for office furnishings.

(1) General. The Commissioner of Office of Management and Budget and or his/her designee may enter into separate contracts for design services or space planning services as deemed necessary for a particular project.

(2) Limitations on use. A design services or space planning services contract may be entered into in accordance with the provisions of § 140-

3.2 (Competitive sealed proposals), § 140-3.6 (small purchases), and § 140-3.8 (Emergency procurements), as applicable.

(3) Contract and solicitation provisions. All solicitations and contracts for design services and space planning services shall include the following requirements:

(a) All specifications prepared under this contract shall be drafted so as to promote overall economy for the purpose intended and encourage competition in satisfying the County's needs and shall not be unduly restrictive. Design service contractors are prohibited from recommending or specifying any manufacturer's products or brand names in their plans and specifications if the design services contractor currently holds a Bid Award for that product line/manufacturer with the County of Sullivan.

(b) When brand names are used in the plans and specifications developed by the Contractor, the contractor shall identify a minimum of three brand names that will satisfy the requirements of the plans and specifications.

§140-3.15. Contract clauses and their administration.

A. Contract clauses. All County of Sullivan contracts for supplies, services, materials and equipment, as well as public works projects, shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The Director of Purchasing, after consultation with the County Attorney, may issue clauses appropriate for supply, service, or public works contracts, addressing among others, the following subjects:

- (1) The unilateral right of the County of Sullivan to order in writing the changes in the work within the scope of the contract;
- (2) The unilateral right of the County of Sullivan to order in writing temporary stopping of the work or delaying performance that does not alter the scope of the contract;
- (3) Variations occurring between estimated quantities of work in contract and actual quantities;
- (4) Defective pricing;
- (5) Liquidated damages;
- (6) Specified excuses for delay or nonperformance;
- (7) Termination of the contract for default;
- (8) Termination of the contract in whole or in part for the convenience of the County of Sullivan;
- (9) Suspensions of work on a construction project or by the County of Sullivan; and
- (10) Site conditions differing from those indicated in the contract, or ordinarily encountered, except that a differing site conditions clause need not be included in a contract:
 - (a) When the contract is negotiated;
 - (b) When the contractor provides the site or design; or

(c) When the parties have otherwise agreed with respect to the risk of differing site conditions.

B. Price adjustments.

(1) Adjustments in price resulting from the use of contract clauses required by Subsection A of this section shall be computed in one or more of the following ways:

(a) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

(b) By unit prices specified in the contract or subsequently agreed upon;

(c) By the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;

(d) In such other manner as the contracting parties may mutually agree.

(2) A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of § 140-3.11 (Cost or pricing data).

C. Standard clauses and their modification. The Director of Purchasing, after consultation with the County Attorney, may establish standard contract clauses for use in County of Sullivan contracts. If the Director of Purchasing establishes any standard clauses addressing the subjects set forth in Subsection A of this Section, such clauses may be varied, provided that any variations are supported by a written determination that states the circumstances justifying such variations, and provided that notice of any such material variation be stated in the invitation for bids or requests for proposals.

§140-3.16. Approval of accounting system.

Except with respect to firm fixed-price contracts, no contract shall be awarded unless it has been determined in writing by the Director of Purchasing that:

A. The proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated; and

B. The proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted cost accounting principles.

§140-3.17. Right to inspect plant.

The County of Sullivan may, at reasonable times, inspect the part of the plant, place of business, or worksite of a contractor or subcontractor at any time which is pertinent to the performance of any contract awarded or to be awarded by the County of Sullivan.

§140-3.18. Right to audit records.

A. Audit of cost or pricing data. The County of Sullivan may at reasonable times and places, audit the books and records of any contractor who has submitted cost or pricing data pursuant to §140-3.11 (Cost or pricing data) to the extent that such books, documents, papers, and records are pertinent to such cost or pricing data. Any person who receives a contract, change

order, or contract modification for which cost or pricing data is required shall maintain such books, documents, papers, and records that are pertinent to such cost or pricing data for seven (7) years from the date of final payment under the contract.

B. Contract audit. The County of Sullivan shall be entitled to audit the books and records of a contractor or subcontractor at any time under any negotiated contract or subcontract other than a form fixed-price contract to the extent that such books, documents, papers, and records are pertinent to the performance of such a contract or subcontract. Such books and records shall be maintained by the contractor for a period of seven (7) years from the date of final payment under the contract and by the subcontractor for a period of three years from the date of final payment under the subcontract.

§140-3.19. Reporting of anti-competitive practices.

When for any reason collusion or other anti-competitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the County Attorney and County Manager or State Attorney General.

§140-3.20. County of Sullivan procurement records.

A. Contract file. All determinations and other written records pertaining to the solicitation, award, or performance of a contract shall be maintained by the County of Sullivan in a contract file by the Director of Purchasing.

B. Retention of procurement records. All procurement records shall be retained and disposed of by the County of Sullivan in accordance with record retention guidelines and schedules approved by the State of New York.

ARTICLE IV Specifications

§140-4.1. Maximum practicable competition.

All specifications shall be drafted so as to promote overall economy for the purposes intended and encourage competition in satisfying the County of Sullivan's needs, and shall not be unduly restrictive. The policy enunciated in this section applies to all specifications, including, but not limited to, those prepared for the County of Sullivan by architects, engineers, designers, and draftsmen.

§140-4.2. Brand name or equal specification.

A. Use. Brand name or equal specifications may be used when the Director of Purchasing determines in writing that:

- (1) No other design or performance specification is available;
- (2) Time does not permit the preparation of another form of purchase description, not including a brand name specification;
- (3) The nature of the product or the nature of the County of Sullivan's requirements makes use of a brand name or equal specification suitable for the procurement; or
- (4) Use of a brand name or equal specification is in the County of Sullivan's best interests.

B. Designation of several brand names. Brand name or equal specifications shall seek to designate three, or as many different brands as are practicable, as "or equal" references and shall further state that substantially equivalent products to those designated will be considered for award.

C. Required characteristics. Unless the Director of Purchasing determines in writing that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics that are required.

D. Nonrestrictive use of brand name or equal specifications. Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

§140-4.3. Brand name specification.

A. Use. Since use of a brand name specification is restrictive of product competition, it may be used only when the Director of Purchasing makes a written determination that only the identified brand name item or items will satisfy the County of Sullivan's needs. After the Director of Purchasing prepares the written determination, a request shall be forwarded to the County Legislature to pass a standardization resolution. Under no circumstances shall any solicitation offered by the County contain only one brand name, without allowing for "or equal" products, unless a standardization resolution has been passed by the County Legislature.

B. Competition. The Director of Purchasing shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under § 3-105 (Sole source procurement).

ARTICLE V Debarment or Suspension

§140-5.1. Authority to debar or suspend.

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Director of Purchasing, after consultation with the County Attorney, is authorized to debar a person for cause from consideration for award of contracts. The debarment shall be for a period of not more than three years. After consultation with the County Attorney, the Director of Purchasing is authorized to suspend a person from consideration for award of contracts if there is probable cause to believe that the person has engaged in any activity that might lead to debarment. The suspension shall be for a period not to exceed three years. The causes for debarment include:

A. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such a contract or subcontract;

B. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County of Sullivan contractor;

C. Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

D. Violation of contract provisions, as set forth below, of a character which is regarded by the Director of Purchasing to be so serious as to justify debarment action:

(1) Deliberate failure, without good cause, to perform in accordance with the specifications or within the time limit provided in the contract; or,

(2) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;

E. Any other cause the Director of Purchasing determines to be so serious and compelling as to affect responsibility as a County of Sullivan contractor, including debarment by another governmental entity for any cause listed in this Policy; and

F. For violation of the ethical standards set forth in Article VIII (Ethics in Public Contracting).

§140-5.2. Decision to debar or suspend.

The Director of Purchasing shall issue a written decision to debar or suspend. The decision shall state the reasons for action taken and inform the debarred or suspended person involved of its rights concerning judicial or administrative review.

§140-5.3. Notice of decision.

A copy of the decision required by §140-5.2 (Decision to debar or Suspend) shall be mailed or otherwise furnished immediately to the debarred or suspended person.

§140-5.4. Finality of decision.

A decision under § 140-5.2 (Decision to debar or suspend) shall be final and conclusive, unless fraudulent, or unless the debarred or suspended person, within 10 days after receipt of the decision, takes an appeal to the County Manager or commences a timely action in court in accordance with applicable law.

ARTICLE VI

Appeals and Remedies

§140-6.1. Bid protests.

A. Right to protest. Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the County Manager. Protestors are urged to seek resolution of their complaints initially with the Director of Purchasing. A protest with respect to an invitation for bids or request for proposals shall be submitted in writing prior to the opening of bids or the closing date of proposals, unless the aggrieved person did not know and should not have known of the facts giving rise to such protest prior to bid opening or the closing date

for proposals. The protest shall be submitted within three calendar days after such aggrieved person knows or should have known of the facts giving rise thereto.

B. Stay of procurements during protests. In the event of a timely protest under Subsection A of this Section, the Director of Purchasing shall not proceed further with the solicitation or award of the contract until all administrative and judicial remedies have been exhausted or until the County Manager makes a determination on the record that the award of a contract without delay is necessary to protect substantial interests of the County of Sullivan.

§140-6.2. Contract claims.

A. Decision of the Director of Purchasing. All claims by a contractor against the County of Sullivan relating to a contract, except bid protests, shall be submitted in writing to the Director of Purchasing for a decision. The contractor may request a conference with the Director of Purchasing on the claim. Claims include, without limitation, disputes arising under a contract, and those based upon breach of a contract, mistake, misrepresentation, or other causes for contract modification or revision.

B. Notice to the contractor of the Director of Purchasing's decision. The decision of the Director of Purchasing shall be promptly issued in writing, and shall be immediately mailed or otherwise furnished to the contractor. The decision shall state the reasons for the decision reached, and shall inform the contractor of its appeal rights under Subsection C of this section.

C. Finality of Director of Purchasing's decision; contractor's right to appeal. The Director of Purchasing's decision shall be final and conclusive unless, within five calendar days from the date of receipt of the decision, the contractor mails or otherwise delivers a written appeal to the County Manager or commences an action in a court of competent jurisdiction.

D. Failure to render timely decision. If the Director of Purchasing does not issue a written decision regarding any contract controversy within 20 days after written request for a final decision, or within such longer period as may be agreed upon between parties, then the aggrieved party may proceed as if an adverse decision had been received.

§140-6.3. Access to administrative forums. (Reserved)

§140-6.4. Authority of Director of Purchasing to settle bid protests and contract claims.

The Director of Purchasing is authorized to settle any protest regarding the solicitation or award of a County of Sullivan contract, or any claim arising out of the performance of a County of Sullivan contract, prior to an appeal to the County Manager or the commencement of an action in a court of competent jurisdiction.

§140-6.5. Remedies for solicitations or awards in violation of law.

A. Prior to bid opening or closing date for receipt of proposals. If, prior to the bid opening or closing date for receipt of proposals, the Director of Purchasing, after consultation with the County Attorney, determines that a solicitation is in violation of federal, state, or municipal law, then the solicitation shall be cancelled or revised to comply with applicable law.

B. Prior to award. If, after bid opening or the closing date for receipt of proposals, the Director of Purchasing, after consultation with the County Attorney, determines that a solicitation or a proposed award of a contract is in violation of federal, state, or municipal law, then the solicitation or proposed award shall be cancelled.

C. After award. If, after an award, the Director of Purchasing, after consultation with the County Attorney, determines that a solicitation or award of a contract was in violation of applicable law, then:

(1) If the person awarded the contract has not acted fraudulently or in bad faith:

(a) The contract may be ratified and affirmed, provided it is determined that doing so is in the best interests of the County of Sullivan; or

(b) The contract may be terminated and the person awarded the contract shall be compensated for the actual costs reasonably incurred under the contract, plus a reasonable profit, prior to the termination; or

(2) If the person awarded the contract has acted fraudulently or in bad faith, the contract may be declared null and void or voidable, if such action is in the best interests of the County of Sullivan.

ARTICLE VII

Ethics in Public Contracting

§140-7.1. Criminal penalties.

To the extent that violations of the ethical standards of conduct set forth in this article constitute violations of any New York State or Sullivan County law, they shall be punishable as provided therein. Such penalties shall be in addition to the civil sanctions set forth in this article. Criminal, civil, and administrative sanctions against employees or nonemployees which are in existence on the effective date of this Policy shall not be impaired.

§ 40-7.2. Employee conflict of interest.

It shall be unethical for any County of Sullivan employee to participate directly or indirectly in a procurement contract when the County employee knows that:

A. The County of Sullivan employee or any member of the County employee's immediate family has a financial interest pertaining to the procurement contract; or

B. Any other person, business, or organization with which the County employee or any member of a County employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement contract. A County of Sullivan employee or any member of a County employee's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest.

§140-7.3. Gratuities and kickbacks.

A. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in

connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

B. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

C. Contract clause. The prohibition against gratuities and kickbacks prescribed in this section shall be conspicuously set forth in every contract and solicitation therefor.

§140-7.4. Prohibition against contingent fees.

It shall be unethical for a person to be retained, or to retain a person, to solicit or secure a County contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

§140-7.5. Contemporaneous employment prohibited.

It shall be unethical for any County employee who is participating directly or indirectly in the procurement process to become or to be, while such a County employee, the employee of any person contracting with the governmental body by which the employee is employed.

§140-7.6. Waivers for contemporaneous employment prohibition and other conflicts of interest.

The County Board of Ethics may grant a waiver from the employee conflict of interest provision (§ 140-7.2, Employee conflict of interest) or the contemporaneous employment provision (§ 140-7.5, Contemporaneous employment prohibited) upon making a written determination that:

- A. The contemporaneous employment or financial interest of the County employee has been publicly disclosed;
- B. The County employee will be able to perform his/her procurement functions without actual or apparent bias or favoritism; and
- C. The waiver will be in the best interests of the County of Sullivan.

§140-7.7. Use of confidential information.

It shall be unethical for any County employee or former County employee to knowingly use confidential information for actual or anticipated personal gain, or for the actual or personal gain of any other person.

§140-7.8. Sanctions.

A. Employees. Sanctions against employees shall be in accordance with Local Law 2 of 98 of the Laws of Sullivan County (Code of Ethics).

B. Nonemployees. The Director of Purchasing may impose any one or more of the following sanctions on a nonemployee for violations of ethical standards:

- (1) Written warnings or reprimands;
- (2) Termination of contracts; or
- (3) Debarment or suspension as provided in § 140-5.2 (Authority to debar or suspend).

ARTICLE VIII
Additional Requirements for Federal Transit
Administration Funded Contracts

§140-8.1. Disadvantaged Business Enterprise Program.

The County of Sullivan has established a Disadvantaged Business Enterprise (DBE) Officer in accordance with regulations of the U. S. Department of Transportation (DOT), 49 CFR Part 26. The County of Sullivan has received federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the County of Sullivan acknowledges that the requirements of 49 CFR Part 26, as amended, shall be complied with. It is the policy of the County of Sullivan to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts.

§140-8.2. Required contract clauses.

It is the policy of the County of Sullivan to ensure that most current FTA-required contract clauses will be used in all FTA-funded contracts and that the FTA Website shall be checked prior to each procurement.

B. Compliance with the following FTA circulars shall also be certified:

- (1) C5010.1C - Grant Management Guidelines.
- (2) C6100.1B - Application Instructions and Program Management Guidelines.

Article IX
Green Purchasing

§140-9.1

Purpose: Green Purchasing shall include the acquisition of recycled content products, environmentally preferred products and services, biobased products, energy and water efficient products, alternate fuels for vehicles, products using renewable energy, and alternatives to hazardous or toxic chemicals in the following areas:

1. Green Cleaning Products
2. Recycled Manufactured Products
3. Energy Efficient Products, Renewable Power Sources and Alternative Fuel Vehicles

The County has committed to the assessment and adoption of practices to select, procure and use environmentally preferred products that will benefit the environment and health and safety of workers, occupants of and visitors to all County facilities.

The County will encourage contractors supplying goods and services to the County to select and procure such products.

Each department shall be required to document the reasons for selecting products that do not conform to the above. In order to avoid waste, each department shall assess existing inventories, establish availability of suppliers for new products, enable training of personnel in appropriate work practices for new products and allow for phase-out of products and practices currently being maintained.

RESOLUTION NO. 333-09 INTRODUCED BY THE GOVERNMENT SERVICES COMMITTEE TO ADOPT A REVISED PROCUREMENT POLICY

WHEREAS, the County of Sullivan (“County”) adopted a Procurement Policy in 1977 and said Policy has been revised over the years most recently in 1992, and

WHEREAS, it is the recommendation of the County Manager and the Director of Purchasing and Central Services that the County’s Procurement Policy be revised again, and

WHEREAS, the revisions are contained in the Procurement Policy attached hereto as Schedule A and by this reference made a part hereof, and

WHEREAS, in order to authorize the revisions to the Procurement Policy it will be necessary for the Sullivan County Legislature to adopt this resolution.

NOW THEREFORE, BE IT RESOLVED, that the Sullivan County Legislature does hereby adopt the attached Procurement Policy, and

BE IT FURTHER RESOLVED, that the revised Procurement Policy supersede and replace the current Procurement Policy.

Moved by Mr. Sorensen, seconded by Mrs. Binder, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously carried and declared duly adopted on motion August 20, 2009.

RESOLUTION NO. 334-09 INTRODUCED BY PUBLIC WORKS COMMITTEE TO AMEND TITLE VI OF THE SOLID WASTE MANAGEMENT RULES REGARDING THE CONTINUED ACCEPTANCE OF AND DISPOSAL FEES FOR MUNICIPAL TREATMENT PLANT SLUDGES AND ASBESTOS AT THE SULLIVAN COUNTY LANDFILL

WHEREAS, the Sullivan County Solid Waste Management Rules (hereinafter the Rules) were adopted by the County Legislature; and

WHEREAS, it has, from time to time, been necessary to modify and amend the Rules; and

WHEREAS, the continued acceptance of Municipal Treatment Plant sludges and asbestos presents operational concerns as a result of the limited remaining landfill capacity.

NOW, THEREFORE, BE IT RESOLVED that the following subsections d (1) and (3) of Section 620.1 of Title VI of the Rules be deleted and the subsection amended to read as follows:

- 620.1 Disposal Fees
- d) Regulated wastes with special NYSDEC permit only, and subject to approval by the Commissioner:
 - 1) Oil soaked debris and soils \$80.00 per ton,

BE IT FURTHER RESOLVED, that this amendment shall take effect immediately.

Moved by Mrs. Binder, seconded by Mrs. Goodman, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously carried and declared duly adopted on motion August 20, 2009.

RESOLUTION NO. 335-09 INTRODUCED BY THE VETERANS COMMITTEE TO URGE THE 111TH UNITED STATES CONGRESS TO AMEND TITLE 38 OF THE UNITED STATES CODE TO CLARIFY PRESUMPTIONS RELATING TO THE EXPOSURE OF CERTAIN VETERANS WHO SERVED IN THE VICINITY OF THE REPUBLIC OF VIETNAM.

WHEREAS, the United States Court of Appeals for Veterans Claims (“CAVC”) concluded in *Haas v. Peake*, that the Department of Veterans Affairs could not preclude a veteran who served on a ship or in an aircraft from the presumption of service for illness arising out of exposure to the herbicide and defoliant Agent Orange, and

WHEREAS, the Federal Circuit Court issued a decision on May 8, 2008, reversing the CAVC’s decision in *Haas* requiring a “foot on land” occurrence in order to qualify for presumption of service for diseases and illnesses identified in the statute for exposure to Agent Orange, and

WHEREAS, in order to address the inequity created by the Circuit Court’s decision in *Haas* legislative action is required, and

WHEREAS, the Agent Orange Equity Act of 2009 (“Act”) has currently been introduced to the House of Representatives as Bill HR2254 by the Chairman of the House Committee on Veterans Affairs, and

WHEREAS, the Act would expand the eligibility for presumptive conditions to combat veterans of the Vietnam War in naval or air service who served in the Republic of Vietnam and who received the Vietnam Service Medal, the Vietnam Campaign Medal or served on Johnston Island during a specified period.

NOW THEREFORE, BE IT RESOLVED, that the Sullivan County Legislature hereby urges the 111th United States Congress to adopt the Act introduced to the House of Representatives as Bill HR2254, and

BE IT FURTHER RESOLVED, that the Clerk of the Sullivan County Legislature is hereby directed to forward a certified copy of this resolution to President Barack Obama, Senators Kirsten Gillibrand and Charles E. Schumer and Congressman Maurice D. Hinchey.

Moved by Mrs. Binder, seconded by Mrs. Goodman, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously carried and declared duly adopted on motion August 20, 2009.

RESOLUTION NO. 336-09 INTRODUCED BY THE EXECUTIVE COMMITTEE TO DIRECT THE COUNTY REFUSE AGENCY TO PREPARE MAPS AND PLANS FOR THE ESTABLISHMENT OF A SULLIVAN COUNTY REFUSE DISTRICT

WHEREAS, the County Legislature has designated the County Manager to serve as the Sullivan County Refuse Agency, and

WHEREAS, the County Legislature desires to pursue the creation of the Sullivan County Refuse District,

NOW, THEREFORE, BE IT RESOLVED, that The Sullivan County Refuse Agency is hereby directed to prepare maps and plans in accordance with applicable statutes for the establishment of a Sullivan County Refuse District for the entire County or all potentially eligible areas thereof as applicable

Moved by Mrs. LaBuda, seconded by Mr. Hiatt, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously carried and declared duly adopted on motion August 20, 2009.

RESOLUTION NO. 337-09 INTRODUCED BY THE EXECUTIVE COMMITTEE TO ACQUIRE REAL PROPERTY ADJACENT TO THE LIVINGSTON MANOR STORM STATION

WHEREAS, pursuant to Resolution No. 87-09, adopted by the Sullivan County Legislature on March 19, 2009, County Officials were authorized to negotiate the terms of the transfer of real property totaling 1.5 acres which are designated on the Town of Rockland Tax Map known as Section 48 Block 10 Lots 9 and 10 (the "Property"); and

WHEREAS, the County Legislature is in receipt of a short Environmental Assessment Form ("Short EAF") regarding the acquisition of the Property and upon review of the Short EAF has determined that the action will not have a significant environmental impact; and

WHEREAS, in accordance with the directives of Resolution No. 87-09, an agreement has been negotiated for the acquisition of property adjacent to the Livingston Manor Storm Station in order to accommodate the storage of equipment and materials and necessary parking for employees; and

WHEREAS, the County Manager, the Commissioner of the Division of Public Works and the County Attorney or their respective designees, have cooperatively negotiated the terms of the transfer of the Property with the current owners at a price not to exceed \$40,000.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the State Environmental Quality Review Act, the Sullivan County Legislature issues a Negative Declaration regarding the environmental impact of the acquisition of the Property; and

BE IT FURTHER RESOLVED, the Sullivan County Legislature approves of the acquisition of the Property at a purchase price not to exceed \$40,000; and

BE IT FURTHER RESOLVED, that the Property shall be acquired by the County for the public purpose of the operation of a Storm Station; and

BE IT FURTHER RESOLVED, that Chairman of the Sullivan County Legislature is authorized to execute all documents necessary to acquire the Property, said documents to be in a form approved by the County Attorney's office.

Moved by Mr. Wood, seconded by Mrs. LaBuda, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 338-09 INTRODUCED BY THE EXECUTIVE COMMITTEE AUTHORIZING PAYMENT ON THE FINAL INVOICE ISSUED BY COMMUNITIES AGAINST REGIONAL INTERCONNECT (CARI)

WHEREAS, pursuant to Resolution No's. 275-06, 262-06, 171-07, and 154-09 adopted by the Sullivan County Legislature, respectively, the County authorized \$205,000 in funding for the efforts led by CARI to challenge New York Regional Interconnect (NYRI), a high-voltage electrical power transmission line project proposed to run through seven New York Counties including Sullivan, in United States Federal Court and through the New York State Public Service Commission; and

WHEREAS, the funds contributed to CARI led to a favorable ruling by the 4th Circuit Court of Appeals regarding the rights of states to pursue their orderly review of electrical transmission line projects without interference by the Federal Government through the Federal Energy Regulatory Commission via the Energy Policy Act of 2005; and

WHEREAS, CARI prevailed in challenging NYRI through the New York State Public Service Commission's Article VII proceedings, under which NYRI sought a Certificate of Environmental Compatibility and Public Need for the project, leading NYRI to withdraw its application as of April 8, 2009;

NOW, THEREFORE, BE IT RESOLVED, that the Sullivan County Legislature authorizes a final distribution of \$20,126.94 to CARI reflecting the County's pro-rata allocation of project costs, based on the final accounting for the revenues and expenses incurred by CARI to defeat the project, and in fulfillment of the Cooperation Agreement executed by the seven member counties in creating CARI, and

BE IT FURTHER RESOLVED, that the County Manager is hereby authorized to execute any and all documents to finalize Sullivan County's financial obligations to CARI in accordance with the cooperation agreement in a form acceptable to the County Attorney, and

BE IT FURTHER RESOLVED, that Sullivan County directs its authorized representative(s) to ensure that CARI collect the pro-rata share from all member counties, as a contingency to CARI receiving this final payment of \$20,126.94, and

BE IT FURTHER RESOLVED, that the County Manager is hereby directed to place CARI on notice that the \$20,126.94 represents Sullivan County's final payment, as the original purpose of CARI has been satisfactorily completed.

Moved by Mrs. Binder, seconded by Mr. Sorensen, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 339-09 INTRODUCED BY HEALTH AND FAMILY SERVICES COMMITTEE TO AUTHORIZE THE COUNTY MANAGER TO ACCEPT A GRANT-IN-AID FROM THE NEW YORK STATE OFFICE FOR THE AGING .

WHEREAS, the New York State Office for the Aging has awarded the Sullivan County Office for the Aging \$5,000.00 as a Legislative Grant-in-Aid through NYS Assemblywoman Gunther; and

WHEREAS, the funding will be used to purchase equipment (insulated hot boxes, hotel pans, steam tables, and refrigeration units for the OFA Meals on Wheels Program; and

WHEREAS, the contract period for this grant award is April 1, 2009 through March 31, 2010.

NOW, THEREFORE, BE IT RESOLVED, that the County Manager be and is hereby authorized to execute any and necessary documents to accept the grant award, as such form as the County Attorney shall approve; and

BE IT FURTHER RESOLVED, that should the funding be terminated, the County shall not be obligated to continue any action undertaken or contemplated to be undertaken for the sue of this funding.

BE IT FURTHER RESOLVED, that the form of said Grant-in-Aid be approved by the Sullivan County Department of Law.

Moved by Mrs. Binder, seconded by Mr. Hiatt, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 340-09 INTRODUCED BY THE PUBLIC WORKS COMMITTEE TO AUTHORIZE THE ACCEPTANCE OF AN AIRPORT IMPROVEMENT AND REVITALIZATION PROGRAM GRANT OFFER FROM THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION (NYSDOT) FOR THE SULLIVAN COUNTY INTERNATIONAL AIRPORT FOR ACQUISITION OF AN AIRPORT RESCUE AND FIRE FIGHTING (ARFF) VEHICLE

WHEREAS, the existing ARFF Vehicle has reached its serviceable life, the Federal Aviation Administration (FAA) has recommended replacement of the vehicle; and

WHEREAS, the Sullivan County Division of Public Works applied for a grant on February 11, 2008 to fund the equipment purchase at the Sullivan County International Airport under the Airport Improvement and Revitalization Program funded by the Rebuild and Renew New York Transportation Bond Act of 2005; and

WHEREAS, the NYSDOT has approved the Equipment Purchase and extended a grant offer in the amount of \$230,000.00; and

WHEREAS, the grant is issued at 90% State participation and 10% County participation.

NOW, THEREFORE, BE IT RESOLVED, that the Sullivan County Legislature approves the Equipment Purchase and authorizes the County Manager to execute all necessary agreements in order to accept the grant, said agreements to be in such form as the County

Attorney shall approve, on behalf of the County with the NYSDOT, in connection with the Equipment Acquisition; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be filed with the NYSDOT by attaching it to any necessary agreement in connection with the Equipment Acquisition; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

Moved by Mrs. Binder, seconded by Mr. Hiatt, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 341-09 INTRODUCED BY THE PUBLIC WORKS COMMITTEE TO AUTHORIZE THE ACCEPTANCE OF A BUSINESS AIRPORT DEVELOPMENT GRANT OFFER FROM THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION (NYSDOT) FOR THE SULLIVAN COUNTY INTERNATIONAL AIRPORT (SCIA) FOR CONSTRUCTION / INSTALLATION OF AN ON-SITE POTABLE WATER SYSTEM TO SCIA AND THE AIRPORT INDUSTRIAL SITE. (“THE PROJECT”)

WHEREAS, the existing water supply and distribution system at SCIA are sufficient for the existing conditions but not for future development; and

WHEREAS, improvements to the distribution system and a higher yield of water for potable use and fire suppression are needed for the proposed development of corporate hangars at SCIA and future development of the industrial site; and

WHEREAS, the Sullivan County Division of Public Works applied for a grant on February 11, 2008 to fund the Project at the Sullivan County International Airport under the Business Airport Development Program funded by the Rebuild and Renew New York Transportation Bond Act of 2005; and

WHEREAS, the NYSDOT has approved the Project and extended a grant offer in the amount of \$1,135,000; and

WHEREAS, the grant is issued at 90% State participation and 10% County participation.

NOW, THEREFORE, BE IT RESOLVED, that the Sullivan County Legislature approves the Project and authorizes the County Manager to execute all necessary agreements in order to accept the grant, said agreements to be in such form as the County Attorney shall approve, on behalf of the County with the NYSDOT, in connection with the Project; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be filed with the NYSDOT by attaching it to any necessary agreement in connection with the Project; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

Moved by Mrs. Binder, seconded by Mr. Hiatt, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 342-09 INTRODUCED BY THE PUBLIC WORKS COMMITTEE TO AUTHORIZE THE ACCEPTANCE OF A GENERAL AVIATION SECURITY GRANT OFFER FROM THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION (NYSDOT) FOR THE SULLIVAN COUNTY INTERNATIONAL AIRPORT (SCIA) FOR CONSTRUCTION OF A GRAVEL PERIMETER SECURITY ROAD

WHEREAS, In 2005, SCIA submitted and received approval of the Airport Security Plan required by the NYSDOT which detailed the security measures at SCIA; and

WHEREAS, the Airport Security Plan called for the complete replacement of the existing chain link fence around the airport, this project was completed in 2008; and

WHEREAS, the construction of the new Gravel Perimeter Road will allow airport staff a complete inspection route of the perimeter fence for security and wildlife hazard situations; and

WHEREAS, the Sullivan County Division of Public Works applied for a grant on February 11, 2008 to fund the Project at the Sullivan County International Airport under the General Aviation Airport Security Program funded by the Rebuild and Renew New York Transportation Bond Act of 2005; and

WHEREAS, the NYSDOT has approved the Project and extended a grant offer in the amount of \$286,500.00; and

WHEREAS, the grant is issued at 100% State participation.

NOW, THEREFORE, BE IT RESOLVED, that the Sullivan County Legislature approves the Project and authorizes the County Manager to execute all necessary agreements in order to accept the grant, said agreements to be in such form as the County Attorney shall approve, on behalf of the County with the NYSDOT, in connection with the Project; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be filed with the NYSDOT by attaching it to any necessary agreement in connection with the Project; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

Moved by Mrs. Binder, seconded by Mr. Hiatt, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 343-09 INTRODUCED BY THE PUBLIC SAFETY COMMITTEE TO ACCEPT A NYS CRIME VICTIMS BOARD GRANT

WHEREAS, the Sullivan County has been awarded funding in the amount of \$177,575 from the NYS Crime Victims' Board for the period of October 01,2009 to September 30, 2012, with two one-year renewal options. The annual award amount for 2009-2010 is \$57,280, for 2010-2011, the award amount is \$58,736 and for 2011-2012, the award amount is \$61,559, and

WHEREAS, this funding is designated for the continuation of the Sullivan County Crime Victims' Program, operated by the Probation Department,

NOW, THEREFORE, BE IT RESOLVED, that the County Manager be and is hereby authorized to execute any and all necessary documentation to accept the grant in such form as the County Attorney shall approve,

BE IT FURTHER RESOLVED, that should the NYS Crime Victims Board grant be terminated, the County shall not be obligated to continue any activity undertaken by the use of this grant.

Moved by Mrs. Binder, seconded by Mr. Hiatt, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 344-09 INTRODUCED BY THE PUBLIC SAFETY COMMITTEE TO AUTHORIZE SULLIVAN COUNTY TO APPLY FOR AND ACCEPT A GRANT AWARD FROM THE US DEPARTMENT OF JUSTICE.

WHEREAS, the Sullivan County Sheriff's Office and Sullivan County Probation Department utilize bulletproof vests to enhance the personal protection of Deputies and Officers, and

WHEREAS, bulletproof vests must be replaced at regularly scheduled intervals, and

WHEREAS, the United States Department of Justice has made funding available through the Bulletproof Vest Partnership to offset 50% of the costs of these bulletproof vests,

NOW, THEREFORE, BE IT RESOLVED, that the Sullivan County Sheriff's Office be and is hereby authorized to apply for the Bulletproof Vest grant award, and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the County Manager be and is hereby authorized to execute any and all necessary documents to accept the Bulletproof Vest grant award, in such form as the County Attorney shall approve.

Moved by Mrs. Binder, seconded by Mr. Hiatt, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 345-09 INTRODUCED BY HEALTH AND FAMILY SERVICES COMMITTEE TO AUTHORIZE THE PREPARATION OF A NEW YORK STATE DEPARTMENT OF HEALTH / BUREAU OF COMMUNITY CHRONIC DISEASE PREVENTION, OFFERING HEALTHY COMMUNITIES CAPACITY BUILDING INITIATIVE FUNDS, APPLICATION FOR SULLIVAN COUNTY

WHEREAS, the New York State Department of Health / Bureau of Community Chronic Disease Prevention has made available Healthy Communities Capacity Building Initiative funding, which can be utilized to build capacity and support local efforts to reduce chronic disease; and

WHEREAS, the objective of the funding is the development of a local action plan to implement policy and environmental changes to address the physical activity and nutrition objectives in the Department of Health's Prevention Agenda; and

WHEREAS, the New York State Department of Health / Bureau of Community Chronic Disease Prevention, has issued an award acceptance form for FY 2009 -2010 and set an award acceptance form deadline date of August 28, 2009; and

WHEREAS, each local health department is eligible to receive a non-competitive award in the amount of \$34,000.00 (per County) that is not subject to a matching requirement.

NOW, THEREFORE, BE IT RESOLVED, that Sullivan County Public Health Services is hereby authorized to prepare an application seeking funding from the Healthy Communities Capacity Building Initiative; and

BE IT FURTHER RESOLVED, that should an award acceptance form / application be prepared by Sullivan County Public Health Services seeking funding assistance from the Healthy Communities Capacity Building Initiative, the County Manager shall be authorized to execute any and all necessary documents to accept the funding award for the term August 1, 2009 to March 31, 2010, as such form as the County Attorney shall approve; and

BE IT FURTHER RESOLVED, that if a funding award is secured, Sullivan County Public Health Services shall administer the funding and the initiative; and

BE IT FURTHER RESOLVED, that should the funding be terminated, the County shall not be obligated to continue any action undertaken or contemplated to be undertaken for the use of this funding.

Moved by Mrs. Binder, seconded by Mr. Wood, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 346-09 INTRODUCED BY MANAGEMENT AND BUDGET COMMITTEE TO AUTHORIZE THE COUNTY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH THE NEW YORK STATE DEPARTMENT OF LABOR.

WHEREAS, the Center for Workforce Development rents space from the New York State Department of Labor (NYSDOL) to form the Sullivan Works One Stop Center which is required by the Workforce Investment Act, and

WHEREAS, the Department of Labor leases space at 50 North Street, Monticello, NY, and

WHEREAS, a lease agreement would cover the period July 1, 2008 through June 30, 2009, and

WHEREAS, the annual rent shall total \$55,227.90 (2,499 sq. ft at a rate of \$22.10 per sq. ft.), for charges which shall include cleaning, electricity, and all other costs relating to the use, occupation, operation and maintenance of the space.

NOW, THEREFORE, BE IT RESOLVED, that the County Manager is hereby authorized to enter into a lease agreement with NYSDOL, and such lease shall be in the form approved by the County Attorney.

Moved by Mr. Hiatt, seconded by Mrs. Binder, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 347-09 INTRODUCED BY THE PUBLIC SAFETY COMMITTEE TO AUTHORIZE EXECUTION OF ALTERNATIVES TO INCARCERATION CONTRACT THROUGH DECEMBER 31, 2009.

WHEREAS, the County has a five year contract with the New York State Division of Probation and Correctional Alternatives to provide an Alternatives to Incarceration (ATI) Community Service Program which includes Community Service and Pretrial Release, and

WHEREAS, Resolution No. 357-06 authorized the execution of the Alternatives to Incarceration contract through December 31, 2010, and

WHEREAS, State funding has been modified to \$35,694 for the Alternatives to Incarceration (ATI) Community Service Program for the contract year January 01, 2009 through December 31, 2009,

NOW, THEREFORE, BE IT RESOLVED, that the County Manager be authorized to execute a contract modification for the ATI Community Service Program to continue to provide a Community Service Program and Pretrial Services, for the term of January 01, 2009 through December 31, 2009, said contract to be in such form as the County Attorney shall approve, and

BE IT FURTHER RESOLVED, that the County Manager is hereby authorized to execute any documents necessary to receive State funding, in such form as the County Attorney shall approve.

Moved by Mrs. Binder, seconded by Mr. Wood, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 348-09 INTRODUCED BY PUBLIC SAFETY COMMITTEE TO AUTHORIZE THE SULLIVAN COUNTY SHERIFF TO ENTER INTO AN AGREEMENT WITH THE WESTCHESTER COUNTY DEPARTMENT OF CORRECTIONS TO HOUSE SULLIVAN COUNTY INMATES FOR MEDICAL TREATMENT AT THE WESTCHESTER COUNTY MEDICAL CENTER.

WHEREAS, the Sullivan County Jail houses inmates who, on occasion, require medical treatment not available in Sullivan County; and

WHEREAS, the Sheriff of Sullivan County must be able to use the Westchester County Medical Center when needed; and

WHEREAS, the Westchester County Department of Corrections has agreed to enter into an agreement in which they will receive and keep inmates of the Sullivan County Jail who are in need of medical treatment at the Westchester County Medical Center, at a rate not to exceed One Hundred and Sixty (\$160.00) Dollars, per day, per inmate, for the period from January 1, 2009 through December 31, 2010;

NOW, THEREFORE, BE IT RESOLVED, that the Sheriff of Sullivan County is authorized to enter into a contract with the Westchester County Department of Corrections to house Sullivan County Jail inmates who are in need of medical treatment at the Westchester County Medical Center; and

BE IT FURTHER RESOLVED, that the form of such agreement be approved by the Sullivan County Attorney's Office.

Moved by Mrs. Binder, seconded by Mr. Wood, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 349-09 INTRODUCED BY HEALTH & FAMILY SERVICES COMMITTEE TO CONTRACT WITH AUTHORIZED STATE EARLY INTERVENTION AND STATE EDUCATION DEPARTMENT PROVIDERS

WHEREAS, Sullivan County provides mandated Early Intervention and Developmental Educational Services to eligible children from Sullivan County; and

WHEREAS, the Service Provider(s) listed below have applied for and have been accepted by the authorized State Agency for delivery of said services; and

WHEREAS, Sullivan County is mandated to pay for Early Intervention Services and Developmental Educational Services at state-set rates for eligible children from Sullivan County.

NOW, THEREFORE, BE IT RESOLVED, that the County Manager be authorized to execute **Early Intervention contracts** with the following approved State Early Intervention provider(s) for the period 9/1/09 to 12/31/12; and

BE IT FURTHER RESOLVED, that the form of such contract(s) be approved by the Sullivan County Department of Law.

NYS Dept. of Health Early Intervention Services:

Catskill Regional Medical Center

P.O. Box 800

Harris, NY 12742

Services: Core/Supplemental Evaluations & Facility-Based Services – OT/ST/PT/Audiology

Moved by Mrs. Binder, seconded by Mr. Wood, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION 350-09 INTRODUCED BY HEALTH AND FAMILY SERVICES COMMITTEE TO AUTHORIZE COUNTY MANAGER TO EXECUTE AN AGREEMENT FOR THE PROVISION OF SERVICES BY THE SULLIVAN COUNTY UNIT OF THE TOWN OF WALLKILL BOYS AND GIRLS CLUB

WHEREAS, the County of Sullivan desires to contract with the Sullivan County Unit-Town of Wallkill Boys and Girls for the provision of youth preventive services; and

WHEREAS, funding to purchase such services through a COPS plan has previously been approved by the New York State Office of Children and Family Services (OCFS); and

WHEREAS, the Sullivan County Boys and Girls Club COPS plan totals \$143,000.00 with 2008-2009 state reimbursement at \$89,269.18 with a Local Share of \$ 53,730.82; and

WHEREAS, the amount authorized as the county's maximum funding level for the 9/1/08 through 8/31/09 contract period is \$75,000.00 pursuant to Resolution No. 31-09; and

WHEREAS, neither the State of New York nor the New York State Office of Children and Family Services (OCFS) has committed to funding 2009-2010 COPS plans which will cause a program deficit of \$68,000 for youth preventive services for the period 9/1/09 through 8/31/10; and

WHEREAS, the Sullivan County Unit - Town of Wallkill Boys and Girls Club, is capable and willing to provide such services at a cost not to exceed \$143,000.00, contingent upon OCFS approving funding for same in the COPS plan, as authorized by Sullivan County.

NOW, THEREFORE, BE IT RESOLVED, that the Sullivan County Legislature does hereby authorize the County Manager to execute an agreement with the Sullivan County Unit - Town of Wallkill Boys and Girls Club at a cost not to exceed \$143,000, contingent upon OCFS approving funding for same in the COPS plan, with a maximum county-share funding level of \$75,000.00 for a twelve month contract period from September 1, 2009 through August 31, 2010; and

BE IT FURTHER RESOLVED, that the form of said contract will be approved by the Sullivan County Department of Law.

Moved by Mrs. Binder, seconded by Mr. Wood, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 351-09 INTRODUCED BY THE PUBLIC WORKS COMMITTEE TO AUTHORIZE EXECUTION OF CONTRACT

WHEREAS, pursuant to Section 12 of the Highway Law relating to control of snow and ice on state highways in towns and incorporated villages, the County of Sullivan has previously entered into an agreement with the State of New York for such purposes; and

WHEREAS, the State of New York has prepared an agreement to extend the previous fixed lump sum municipal snow and ice agreement with maps of affected state highways for the season July 1, 2009 through June 30, 2010; and

WHEREAS, the Public Works Committee has discussed and the Commissioner of Public Works has recommended the acceptance of this extension agreement for contract price of \$132,355.20, plus any adjustments increasing this amount.

NOW, THEREFORE, BE IT RESOLVED, that the County Manager is hereby authorized and directed on behalf of the County of Sullivan to execute the extension of the Snow and Ice Agreement between New York State Department of Transportation and the "County of Sullivan" for the period commencing July 1, 2009 through June 30, 2010 said contract to be in such form as the County Attorney shall approve.

Moved by Mrs. Binder, seconded by Mr. Wood, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 352-09 INTRODUCED BY COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE TO AUTHORIZE AN AGREEMENT WITH SULLIVAN COUNTY BOCES TO PROVIDE SERVICES UNDER THE WORKFORCE INVESTMENT ACT

WHEREAS, the Center for Workforce Development is responsible for the implementation of the Title I provisions of the federal workforce Investment Act of 1998, and

WHEREAS, the Center for Workforce Development is looking to bid the provision of certain services for the adult and dislocated worker populations, and

WHEREAS, The Sullivan County BOCES ("BOCES") submitted the winning bid, and

WHEREAS, BOCES services meet all of the requirements under the Workforce Investment Act, and

WHEREAS, the BOCES will provide comprehensive employment, education and training services to eligible participants from September 1, 2009 through August 31, 2010 and

WHEREAS, amount to be charged by BOCES for the above referenced services shall not exceed \$148,714.00.

NOW, THEREFORE, BE IT RESOLVED, that the County Manager is hereby authorized to execute an agreement with BOCES as described above, said agreement to be in the form approved by the County Attorney, and

BE IT FURTHER RESOLVED, that the above contract will be contingent upon the County receiving the Federal allocations.

Moved by Mr. Wood, seconded by Mrs. Binder, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 353-09 INTRODUCED BY HEALTH AND FAMILY SERVICES COMMITTEE TO AUTHORIZE COUNTY MANAGER TO AMEND GRANT AGREEMENT WITH THE STATE OFFICE OF LONG TERM CARE AND REIMBURSE VENDOR FOR PER BED PER DAY SOFTWARE COSTS NEEDED TO IMPLEMENT GRANT FOR COMPUTERIZED PHYSICIAN ORDERS AND ELECTRONIC MEDICATION PASS

WHEREAS, the County of Sullivan through the Adult Care Center, has been awarded \$45,000 in grant funds from the Office of Long Term Care as authorized by Resolution 394-08; and,

WHEREAS, vendor has identified a need to increase training time for implementation of software and increase the cost of software; and,

WHEREAS, the County of Sullivan must amend the agreement to permit a redistribution of funds from reimbursing vendor for writing a interface between the ACC computer software Keane and eHealth Solutions software to reimburse the vendor for the training and implementation. This would eliminate the software interface between the two software programs from the grant. This interface would not be used at this time; and,

WHEREAS, the ACC needs to amend resolution #509-07 that authorized County Manager to enter into an agreement with eHealth Solutions at no cost to the county. The ACC now will reimburse the vendor \$.05/bed/day for a cost of \$243.33/month. The pharmacy will offset this increased cost by subtracting \$200 per month off the cost of pharmaceuticals. Therefore the final cost to the county will be \$43.33/month. The total cost of this for the three years is \$8,760/year less the \$7,200/year that the pharmacy will subtract from their voucher.

NOW, THEREFORE, BE IT RESOLVED, that the Sullivan County Legislature does hereby authorize the County Manager to amend the grant with the Office of Long Term Care and sign agreement to reimburse vendor for software costs of \$.05/bed/day based on 160 beds for three years; and,

BE IT FURTHER RESOLVED, that the form of said agreements be approved by the Sullivan County Department of Law.

Moved by Mrs. Binder, seconded by Mr. Wood, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 354-09 INTRODUCED BY GOVERNMENT SERVICES COMMITTEE TO AUTHORIZE MODIFICATION AGREEMENT WITH FRONTRUNNER NETWORK SYSTEM

WHEREAS, pursuant to Resolution No. 72-09, adopted by the Legislatures on February 19, 2009, Frontrunner Network Systems, continues to provide telephone maintenance services to the Sullivan County Jail Complex through August 31, 2009, at a contract cost not to exceed \$3,643.00,

WHEREAS, telephone maintenance services must be continued through February 28, 2010,

NOW, THEREFORE, BE IT RESOLVED, that the County Manager is authorized to enter into a Modification Agreement with Frontrunner Network Systems, extending the previous modification agreement through February 28, 2010 at a contract cost not to exceed \$3,353.00, said modification agreement to be approved to form by the County Attorney's office.

Moved by Mrs. Binder, seconded by Mr. Wood, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION 355-09 INTRODUCED BY HEALTH & FAMILY SERVICES COMMITTEE TO RENEW CONTRACTS WITH AUTHORIZED NEW YORK STATE EARLY INTERVENTION PROVIDERS FOR SERVICES RENDERED

WHEREAS, Sullivan County provides *mandated* Early Intervention and Developmental Educational Services to eligible children from Sullivan County and is mandated to pay for such services at State-set rates, and

WHEREAS, Sullivan County has existing Early Intervention contracts (which will expire 12/31/09) with the approved/authorized New York State Early Intervention service providers on the attached list.

NOW, THEREFORE, BE IT RESOLVED, that the County Manager be authorized to execute contract renewals with the authorized New York State Early Intervention service providers on the attached list for the period beginning January 1, 2010 through December 31, 2012, and

BE IT FURTHER RESOLVED, that the form of such contract renewals be approved by the Sullivan County Department of Law.

Moved by Mrs. Binder, seconded by Mr. Wood, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

Authorized NYS Early Intervention service providers:

*Includes both EI Services and EI Evaluations contracts

****Acker, Rebecca**

122 Fish Cabin Road
Glen Spey, NY 12737
Services: Occupational Therapy

****Austin Physical Therapy**

9 Rockland Road
Roscoe, NY 12776
Services: Physical Therapy

****Barrett, Dawn**

PO Box 673
Sparrowbush, NY 12780
Services: Speech Therapy

****Blythedale Children's Hospital**

Bradhurst Avenue
Valhalla, NY 10595

****Center for Discovery**

(Sullivan Diagnostic Treatment Center)
PO Box 840
Harris, NY 12742

****Children's Annex**

PO Box 657
Lake Katrine, NY 12449

****Children's Unit for Special Programs**

PO Box 6000
Binghamton, NY 13902

Developmental Pediatrics

7B Johnson Road
Crossroads Center Plaza
Latham, NY 12110

****Doyle, Tami**

301 Lt. Brender Highway
Ferndale, NY 12734
Services: Physical Therapy

****Easter Seals NY, Inc.**

(Project Excel)
555 Auburn Street
Manchester, NH 03103

****Family Empowerment Council**

225 Dolson Avenue, Suite 403
Middletown, NY 10940

****Hamburger, Leah**

25 Estate Drive
Fallsburg, NY 12733
Services: Special Education

****Hebrew Academy for Special Children**

5902 14th Avenue
Brooklyn, NY 11219

****Hibian, Maureen**

RD 1, Box 395
Hawley, PA 18428
Services: Special Education

****Karp, Sherry**
523 Route 17M
Middletown, NY 10940
Services: Occupational Therapy

****Katskill Kids, PT & SLP, LLC**
101 Klothe Drive
Grahamsville, NY 12740
Services: Occupational Therapy

Vivian Liff Speech Therapy, PC
Drawer L
Kauneonga Lake, NY 12749
Services: Speech Therapy

****McDonald, Nancy**
Best Friends Services, Inc.
504 Southwoods Drive Monticello, NY 12701
Services: Speech Therapy

****McMillan-Humphrey, Aundria**
PO Box 273
Grahamsville, NY 12740
Services: Speech Therapy

****Miller, Eileen**
20 Bowers Drive
Hurleyville, NY 12747
Services: Physical Therapy

****Mulhare, Laura**
145 Front Street
Port Jervis, NY 12771
Services: Physical Therapy)

****Novogrodsky, Dorothy**
PO Box 153
Woodridge, NY 12789
Services: Special Education

****O'Malley, Edward**
333 Chestnut Street
Liberty, NY 12754
Services: Occupational Therapy
& Special Education

****Orange County Association for the Help of Retarded Children**
379 Mount Hope Road
Middletown, NY 10940

****Orange County Cerebral Palsy (INSPIRE)**
2 Fletcher Street
Goshen, NY 10924

****Padawer, Leah**
164 Laurel Park Road
Fallsburg, NY 12733
Services: Speech Therapy

****R. Lee Speech-Language Interventions**
382 Hysana Road
Liberty, NY 12754
Services: Speech Therapy

****Sullivan ARC**
934 East Broadway
Monticello, NY 12701

****Scott, Karen Sue**
PO Box 48
Smallwood, NY 12778
Services: Speech Therapy

****Walker, Sarah**
33 Woodland Avenue
Liberty, NY 12754
Services: Special Education

RESOLUTION NO. 356-09 INTRODUCED BY THE EXECUTIVE COMMITTEE AUTHORIZING THE COUNTY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH SULLIVAN COUNTY COMMUNITY COLLEGE IN REGARD TO THE PLANNING AND CONSTRUCTION OF THE GREEN TECHNOLOGY PARK

WHEREAS, the County of Sullivan (“County”) has committed to funding the capital costs associated with the planning and construction of the Green Technology Park (“GTP”), and

WHEREAS, the GTP will be located at the Sullivan County Community College (“SCCC”) campus, and

WHEREAS, in order to provide for the parties respective duties, obligations and responsibilities in regard to the planning and construction of the GTP it will be necessary for the County and SCCC to enter into a Memorandum of Understanding (“MOU”), and

WHEREAS, due to its funding commitment, the County shall act as Project Manager, Clerk of the Works, and will coordinate with SCCC in planning and designing and, upon consultation with SCCC, the County shall have final determination as to hiring of professionals and project costs and the MOU shall contain a provision providing for said authority.

NOW, THEREFORE, BE IT RESOLVED, that the County Manager be hereby authorized to execute a MOU with SCCC, which shall provide for the respective responsibilities of the parties, including but not limited to the County’s status as Project Manager regarding the planning and construction of the GTP, said MOU to be in a form approved by the County Attorney’s Office.

Moved by Mrs. Binder, seconded by Mr. Wood, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

RESOLUTION NO. 357-09 INTRODUCED BY MANAGEMENT & BUDGET COMMITTEE TO AUTHORIZE 2009 ANNUAL SUPPORT FOR THE ALLEN TUNNEL TAX COLLECTION SYSTEM.

WHEREAS, the Allen Tunnel Tax Collection system provides essential capabilities to support tax collection activities; and

WHEREAS, the County wishes to continue utilizing the Allen Tunnel Tax Collection System and receive support as provided for in Schedule A of the January 1, 2003 Allen Tunnel Agreement; and

WHEREAS, the Allen Tunnel Corporation will provide 2009 Annual Support for a fee of \$32,750; and

NOW, THEREFORE, BE IT RESOLVED, that the Office of General Services is hereby authorized to execute a purchase order with Allen Tunnel Corporation for \$32,750 for 2009 Annual Support.

Moved by Mr. Hiatt, seconded by Mrs. Binder, put to a vote with Mr. Sager and Mr. Armstrong absent, unanimously **carried and declared duly adopted on motion** August 20, 2009.

There being no further business, Mrs. Binder moved to adjourn, seconded by Mrs. Goodman, put to a vote and carried. The Regular Meeting was declared closed at 2:42PM subject to the call of the Chairman.

ANNMARIE MARTIN, Clerk of the Legislature