

Warren County Board of Supervisors

RESOLUTION NO. 459 OF 2012

Resolution introduced by Supervisors Girard, Thomas, Loeb, Wescott and Mason

TO ENACT LOCAL LAW NO. 8 OF 2012

WHEREAS, a proposed Local Law was duly presented to the Board of Supervisors and considered by them, said proposed Local Law being entitled, “A Local Law Superceding County Law Section 215 and Authorizing the Lease of a Portion or All of Certain Warren County Owned Property in the Town of Queensbury without Public Advertisement or Auction”, and

WHEREAS, the Board of Supervisors adopted Resolution No. 403 of 2012 on June 15, 2012, authorizing a public hearing to be held by the Board of Supervisors on the 20th day of July, 2012, at the Supervisors’ Room in the Warren County Municipal Center on the matter of the proposed Local Law, and notice of such public hearing having been duly published and posted as required by law, and said public hearing having been held and all persons appearing at said public hearing desiring to be heard, having been heard, now, therefore, be it

RESOLVED, the Board of Supervisors of the County of Warren, New York, on this 20th day of July, 2012, does hereby enact and adopt Local Law No. 8 of 2012 as set forth in Schedule “A” annexed hereto, and be it further

RESOLVED, that the Chairman of the Board of Supervisors, Clerk of the Board of Supervisors, County Administrator and County Attorney are hereby authorized to make such minor modifications to the Local Law as deemed necessary, and are authorized to execute, file and publish the Local Law and take all necessary actions for the promulgation thereof.

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COUNTY OF WARREN

LOCAL LAW NO. 8 OF 2012

**A LOCAL LAW SUPERCEDING COUNTY LAW SECTION 215 AND AUTHORIZING
THE LEASE OF A PORTION OR ALL OF CERTAIN WARREN COUNTY OWNED
PROPERTY IN THE TOWN OF QUEENSBURY WITHOUT PUBLIC ADVERTISEMENT OR
AUCTION**

BE IT ENACTED, by the Board of Supervisors of the County of Warren, New York, as follows:

SECTION 1. Legislation Intent and Purpose. This Local Law is enacted to supercede County Law Section 215 and authorize the Warren County Board of Supervisors (“Board of Supervisors”), in the name of and on behalf of the County of Warren, to enter into a lease of the property identified in Section 3 hereof and thereby obtain a reasonable return on property not needed for County purposes. The purpose of superceding County Law Section 215 is to avoid the need to advertise and lease a portion or all of the property identified in Section 3 hereof to the highest bidder following public auction. This will provide the Board of Supervisors, for the benefit of the County, authority to lease a portion or all of the property identified in Section 3 to a single tenant or to multiple tenants that the Board of Supervisors determines to be compatible with the nature of the property, the County’s ownership rights and County goals and interests - as opposed to selecting a tenant based on the amount bid in response to specifications. Of concern is the retention of the ability to select and maintain sufficient control over a tenant, the use of the property and the terms of the lease agreement to: (1) help protect the County from liability arising out of possible environmental contamination for which the County agreed to be responsible for in an agreement made with Ciba-Geigy Corporation at the time of acquisition of certain real property (the real property described in Section 3 being a portion thereof) in 1991; (2) continue the use of a portion or all of the property as a recycling facility or other compatible uses; and (3) be able to terminate any lease on six (6) months notice in order to allow the property to be used for other more economically beneficial uses that may be identified by the Local Development Corporation for Warren County.

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SECTION 2. County Law Section 215 Amended and/or Superseded. It is the intent of this Local Law to supersede County Law Section 215(6) which provides that property no longer necessary for public use "...may be sold or leased only to the highest responsible bidder after public advertisement." It is desired to provide authority for a private lease of certain County property more specifically described in Section 3 hereof under the circumstances set forth in this Local Law and without public advertisement or auction.

SECTION 3. Description of County Owned Real Property Affected by Local Law. The property which is the subject of this Local Law is described as follows: all or a portion of a recycling building and the bailer, scale and scale house, and other fixtures contained therein, and 5.1 acres of land or a part or portion thereof and a limited non-exclusive and non-transferrable license to use designated access roads. The property lies and exists on the southerly side of New York State Routes 254 and 32B (also known as Lower Warren Street) in the Town of Queensbury, Warren County, New York. While this Local Law anticipates initially a lease to a single specific entity, it is anticipated that the County shall lease only a portion of the identified property to a single specified entity and the property description shall not be deemed to require the County to lease all of the identified property. Notwithstanding the foregoing, the Board of Supervisors is authorized to lease a portion of the property to a single specified entity and/or thereafter amend the lease with the single specified entity to include additional portions of the property or the property that are not the subject of the initial or any amended lease agreement between the County and the single specified entity, or enter into leases with one or more other tenants to be determined and as deemed appropriate by the Board of Supervisors for the rental of portions of the property not leased to the single specified entity. Further, any lease of a portion or all of the property may be subject to any terms or conditions deemed advisable by the Board of Supervisors. The Board of Supervisors shall also, at all times, have the authority hereunder to add other property rights as may be reasonably related to the described property.

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SECTION 4. Authorization to Lease Certain County Property in the Town of Queensbury. The Board of Supervisors is hereby authorized and empowered, without public advertisement or auction and in the name of and on behalf of the County, to enter into a lease with D&G Recycling, LLC for a portion or all of the County owned real property described in Section 3 hereof together with such other reasonably related property rights as the Board of Supervisors may deem appropriate, provided that: (A) the monthly rental is in an amount determined by the Board of Supervisors to represent a reasonable return; (B) the lease is for a term up to but no longer than five (5) years; (C) the use of the property be limited to that of a recycling business or other uses the Board of Supervisors determines to be compatible with and appropriate for the property; (D) the Lessee provides insurance and agrees to defend, indemnify and hold harmless the County, its boards, officers, employees and agents to the extent to be determined by the Board of Supervisors; and (E) the lease agreement may contain such other and further terms and conditions as may be deemed advisable by the Board of Supervisors and be generally in a form approved by the County Attorney. Notwithstanding any terms herein to the contrary, this Local Law empowers the Board of Supervisors to enter into an amended or additional lease agreement with D&G Recycling, LLC or leases with other entities to rent all or part of the remaining portions of the real property described in Section 3 hereof that are not subject to the initial lease agreement between Warren County and D&G Recycling, LLC, provided that any such lease is subject to the terms and conditions specified "A" through "E" of this Section 4, and specifically the monthly or periodic rent represents a reasonable return and is in an amount approved by Resolution adopted by a majority vote of the Board of Supervisors, and, prior to execution of any such lease, the Board of Supervisors, by resolution adopted by a majority vote has made a determination as to whether the portion of the property described in Section 3 hereof to be leased is needed for County purposes.

SECTION 5. Nature and Extent of Authority. Determination that the County property is not needed. The authority provided in Section 4 hereof is optional and the Board of Supervisors shall at all times have the option of authorizing or not authorizing a lease of any portion or all of the property as allowed herein

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for by this Local Law or State Statute. Further, this Local Law shall not be deemed to require the Board of Supervisors to authorize a lease of the property in part or in entirety to D&G Recycling, LLC or any other entity or individual if the Board of Supervisors is unable to obtain an agreement upon terms agreeable to the Board of Supervisors, or if the Board of Supervisors should determine, at any time including after the date this Local Law shall become effective, that it is in Warren County's best interest, for whatever reason, not to complete any of the transactions authorized by this Local Law. Finally, the Board of Supervisors shall, by resolution adopted by majority vote and before authorizing any lease agreement, make a determination as to whether the portion of the property to be leased is needed for County purposes.

SECTION 6. Local Law Subject to Referendum on Petition. This Local Law shall not take effect until at least forty-five (45) days after its adoption nor until approved by the affirmative vote of a majority of the qualified electors of Warren County voting on a proposition for its approval if, within forty-five (45) days after adoption, there shall be filed with the Clerk, a petition protesting against such Local Law, signed and authenticated as required by the Municipal Home Rule Law of the State of New York. The Clerk shall publish this Local Law or abstract thereof and take such further action as may be required by the Municipal Home Rule Law concerning this Local Law.

SECTION 7. Severability. If any clause, sentence, paragraph, subdivision, section or part of this Local Law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any Court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Local Law, or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

SECTION 8. Effective Date. This Local Law shall take effect immediately upon filing in the Office of the Secretary of State.