

**Drescher & Malecki LLP**  
3083 William Street, Suite 5  
Cheektowaga, New York 14227  
Telephone: 716.565.2299  
Fax: 716-565-2201

GA



Certified Public Accountants

November 12, 2012

Honorable Jolene M. Jeffe,  
Supervisor  
Town of Aurora, New York  
The Southside Municipal Center  
300 Gleed Avenue  
East Aurora, NY 14052-2983

Dear Supervisor Jeffe,

This letter is to confirm and specify the terms of our engagement and to clarify the nature and extent of the services we will provide to the Town of Aurora, New York (the "Town").

We will audit the statement of contract revenues and expenditures of the Majors Park (Pathway) project pursuant to NYS contract number C540115 and NYS grant project number EPF 540115. Also, the document we submit to you will include the following supplemental schedules:

- Schedule of project expenditures by vendor
- Schedule of revenues by source

The above mentioned schedules are for the purpose of additional analysis and are not a required part of the financial statement. Such information will be subjected to the auditing procedures applied in the audit of the financial statement.

Drescher & Malecki LLP ("D&M") is pleased to serve as independent accountants and auditors for the Town. While auditing and reporting on the Town's statement of contract revenues and expenditures of the Majors Park (Pathway) project pursuant to NYS contract number C540115 and NYS grant project number EPF 540115, is the service that we are to provide under this engagement letter, we would also be pleased to assist the Town with issues as they arise throughout the year. Hence, we hope that the Town will call on us whenever management believes we can be of assistance.

Thomas P. Malecki will serve as engagement partner on our audit of the Grant statements. He is responsible for supervising the engagement and signing the audit report.

This letter sets forth our understanding of the terms and objectives of our engagement, the nature and scope of the services we will provide, and the related fee arrangements.

In accordance with the requirements of *Government Auditing Standards*, we have attached a copy of our latest external peer review report of our firm as Appendix A for your consideration and files.

## **Audit of Financial Statements**

We will audit the Town's statement of contract revenues and expenditures of the Majors Park (Pathway) project pursuant to NYS contract number C540115 and NYS grant project number EPF 540115. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America (hereinafter referred to as "generally accepted auditing standards"); and, standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

The aforementioned generally accepted auditing standards require that we plan and perform our audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud. Accordingly, a material misstatement may remain undetected. Also, an audit is not designed to detect error or fraud that is immaterial to the financial statements. We will inform you on all matters of fraud that come to our attention. We will also inform you of illegal acts that come to our attention.

An audit includes obtaining an understanding of internal control, sufficient to plan the audit and to determine the nature, timing, and extent of audit procedures to be performed. An audit is not designed to provide assurance on internal control or to identify reportable conditions. However, we are responsible for ensuring that you are aware of any reportable conditions which come to our attention.

As part of our audit, we will consider the Town's internal control and assess control risk, as required by generally accepted auditing standards and *Government Auditing Standards*, for the purpose of establishing a basis for determining the nature, timing and extent of auditing procedures necessary for expressing an opinion on the financial statements, and not to provide assurance on the Town's internal control or to identify reportable conditions.

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

Our auditing procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, credits, and financial institutions. We will make audit inquiries and request written responses from your attorneys as part of the engagement, and they may bill you for responding to this inquiry.

The objective of our audit is (1) the expression of an opinion on the fairness of the presentation of the Town's statement of contract revenues and expenditures of the Majors Park (Pathway) project pursuant to NYS contract number C540115 and NYS grant project number EPF 540115 in conformity with accounting principles generally accepted in the United States of America (hereinafter referred to as "generally accepted accounting principles"), in all material respects, (2) reporting on the internal control relevant to an audit of the financial statements, (3) reporting on the Town's compliance with laws and regulations, which could have a material effect on the financial statements.

The report on our understanding of the Town's internal control and the assessment of control risk made as part of the Town's financial statement audit will include (1) the scope of our work in obtaining an understanding of the Town's internal control and in assessing the control risk, and (2) the reportable conditions, including the identification of material weaknesses identified as a result of our work in understanding and assessing the control risk. In addition, we will render a report on illegal acts, as required, depending on the results of our audit procedures.

Our ability to express an opinion and the wording of our opinion will, of course, be dependent on the facts and circumstances at the date of our report. If, for any reason, we are unable to complete the audit or are unable to form or have not formed an opinion, we may decline to express an opinion or decline to issue a report as a result of this engagement. If we are unable to complete our audit or if our auditors' report requires modification, the reasons will be discussed with the Town Board members and Town management.

We understand that our reports on the Town's internal control, as part of the financial statement audit and on compliance with laws and regulations, are intended for the information of the management, and others within the Town.

### **The Town Board's Responsibility**

The Town's Board (the "Board") is responsible for informing us of its views about the risk of fraud within the Town and its knowledge of any fraud or suspected fraud affecting the Town.

### **Management's Responsibility**

The financial statements are the responsibility of the Town's management. Encompassed in that responsibility, among other things, is the establishment and maintenance of effective internal control over financial reporting, the establishment and maintenance of proper accounting records, the selection of appropriate accounting principles, the safeguarding of assets, identifying and ensuring compliance with relevant laws and regulations and informing us of any known material violations of such laws or regulations, making appropriate accounting estimates, adjusting the financial statements to correct material misstatements, and making all financial records and related information available to us.

Additionally, management is responsible for the design and implementation of programs and controls to prevent and detect fraud and for informing us about all known or suspected fraud affecting the Town involving, (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Management is also responsible for informing us of its knowledge of any allegations of fraud or suspected fraud affecting the Town received in communications from employees, former employees, analysts, regulators, short sellers, or others.

We will make specific inquiries of the Town's management about the representations embodied in the financial statements. As part of our audit procedures, we will request that management provide us with a representation letter acknowledging management's responsibility for the preparation of the financial statements and affirming management's belief that the effects of any uncorrected financial statement misstatements aggregated by us during the current audit engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole. We will also request that management confirm certain representations made to us during our audit. The responses to those inquiries and related written representations of management required by generally accepted auditing standards

are part of the evidential matter that we will rely on as auditors in forming our opinion on the Town's financial statements. Because of the importance of management's representations, the Town agrees to release and indemnify D&M and its personnel from all claims, liabilities, and expenses relating to our services under this engagement letter attributable to any misrepresentation by management.

If the Town intends to publish or otherwise reproduce in any document, our report on the Town's financial statements, or otherwise make reference to our firm in a document that contains other information in addition to the audited financial statements, you agree to provide us with a draft of the document to read and obtain our approval for the inclusion or incorporation by reference of our report, or the reference to D&M, in such document before the document is printed and distributed. The inclusion or incorporation by reference of our report in any such document would constitute the reissuance of our report. The Town also agrees that its management will notify us and obtain our approval prior to including our report on an electronic site.

Our engagement to perform the services described above does not constitute our agreement to be associated with any such documents published or reproduced by or on behalf of the Town. Any request by the Town to reissue our report, to consent to its inclusion on an electronic site will be considered based on the facts and circumstances existing at the time of such request. The estimated fees outlined herein do not include any services that would need to be performed in connection with any such request; fees for such services (and their scope) would be subject to our mutual agreement at such time as we are engaged to perform the services.

#### **Other Communications Arising from the Audit**

In connection with the planning and the performance of our audit, generally accepted auditing standards and *Government Auditing Standards* require that certain matters be communicated to the Town Board. We will report directly to the Town Board any fraud of which we become aware that involves senior management, and any fraud (whether caused by senior management or other employees) of which we become aware that causes a material misstatement of the financial statements. We will report to senior management any fraud perpetrated by lower level employees of which we become aware that does not cause a material misstatement of the financial statements; however, we will not report such matters directly to the Town Board, unless otherwise directed by the Town Board.

We will inform the appropriate level of management of the Town and determine that the Town Board is adequately informed with respect to illegal acts that have been detected or have otherwise come to our attention in the course of our audit, unless the illegal act is clearly inconsequential.

If, after determining that the Town Board has been adequately informed of an illegal act that has been detected or which has otherwise come to our attention in the course of our audit, we conclude that (1) the illegal act has a material effect on the financial statements; (2) senior management has not taken, and the Town Board has not caused senior management to take, timely and appropriate remedial actions with respect to the illegal act; and (3) the failure to take appropriate remedial actions is likely to result in a departure from the standard auditors' report or warrant our resignation from the audit engagement, we will directly report our conclusions to the Town Board and take such actions as are required by state or federal law to report such matters to funding agencies and appropriate legal authorities.

We will also report directly to the Town Board and the Town's management matters coming to our attention during the course of our audit that we believe are reportable conditions. Reportable conditions are significant deficiencies in the design or operation of internal control that could adversely affect the Town's ability to initiate, record, process, and report financial data consistent with assertions of management in the financial statements. In addition, we will communicate to the Town Board, or determine that the Town Board is informed, about certain other matters related to the conduct of our audit.

We may also have other comments for the Town Board and the Town's management on matters we have observed and possible ways to improve the efficiency of the Town's operations or other recommendations concerning internal control.

**Access to Working Papers by Regulators**

In accordance with the requirements of *Government Auditing Standards*, we are required to provide access to our working papers and photocopies thereof to a federal agency or the Comptroller General of the United States upon their request for their regulatory oversight purposes. If such a request is made, we will inform you prior to providing such access. The working papers for this engagement are the property of D&M and constitute confidential information. Access to the requested working papers will be provided to representatives of the United States General Accounting Office or other appropriate government audit staffs under the supervision of D&M audit personnel and at a location designated by our firm. If photocopies are requested, we will mark all information confidential and maintain control over the duplication of all information. All professional and administrative services relating to such access (including photocopying) will be charged as an additional expense to the engagement. The working papers relating to this audit will be retained by us for a minimum of three years from the date of the reports issued, or such longer periods as may be required to satisfy legal and administrative requirements.

**Audit Timetable**

We will plan the performance of our audit in accordance with the following estimated timetable:

	<u>Begin</u>	<u>Targeted for Completion</u>
<b>Audit Performance Schedule:</b>		
Planning audit procedures	November 13	November 16
Audit procedures	November 13	November 16
<b>Audit Committee Communications:</b>		
Review drafts with management		Mid December
Report on audit (including communications to the Town Board)		Mid December
Reportable conditions, if any		Mid December
Other management comments		Mid December

Assistance to be supplied by the Town's personnel, including preparation of schedules and analyses of accounts, is described in the fee section. Timely completion of the Town's work will facilitate the completion of our audit by the targeted completion dates. We will notify you

promptly of any circumstances we encounter that could significantly change the targeted completion dates.

**Other Services**

In addition to the services described above, based on information provided by the Town, we will also:

- Assist the Town in compiling a statement of contract revenues and expenditures of the Majors Park (Pathway) project pursuant to NYS contract number C540115 and NYS grant project number EPF 540115.

In conjunction with the above mentioned nonattest services the Town agrees to perform the following functions:

- Make all management decisions and perform all management functions.
- Designate Nicole Serra, Assistant to the Supervisor, and Jolene Jeffe, Supervisor, whom we believe have suitable skill, knowledge and/or experience, to oversee these services.
- Evaluate the adequacy and results of the services performed.
- Accept responsibility for the results of the services.

D&M will not perform management functions or make management decisions on behalf of the Town. However, we will provide advice and recommendations to assist management in performing its functions and making decisions. D&M will perform nonattest services in accordance with applicable professional standards issued by the American Institute of Certified Public Accountants.

**Fees**

Our fees will be billed as work progresses and are based on the following per diem rates: Partner \$125/hour; Supervisor \$100/hour; Staff \$75/hour. We estimate our fees for the aforementioned audit services will not exceed \$2,500, inclusive of expenses. The estimate of our fees is based on the assumption that all reimbursement requests and all support relating to those requests as well as the project contracts and any amendments will be available. Should we be requested to compile the aforementioned records, our not to exceed fee increases to \$5,500.

\* \* \* \* \*

RECEIVED

NOV 08 2012

TOWN OF AURORA  
TOWN CLERKS OFFICE

Ric

GB

rglover@verizon.net

November 7, 2012

Mr. Don Owens

Chairman

Town of Aurora Planning and Conservation Board

Mr. Owens,

It is with regret that I hereby tender my resignation from the board effective immediately. It has been a pleasure to work with you and the other members of the board for many years. However, due to personal considerations, I find it necessary to relinquish my position.

It is time for new faces and fresh ideas to work on the important issues of code revision and master planning.

Yours truly,

Dick Glover



6C

Power Generation Systems Specialists

Date of Proposal: 11/15/2012  
Renewal#: 13CB-7FA6-DD

**EMERGENCY GENERATOR SET PLANNED MAINTENANCE AGREEMENT PREPARED FOR:  
Town of Aurora**

Penn Power Systems hereby agrees to perform regularly scheduled maintenance and inspections of the emergency power generation systems as listed:

**SERVICES TO BE PERFORMED:**

1. Check fuel system day tank operation, fuel lines, connections, vents, main and day tank fuel levels.
2. Change fuel filter and water separator elements during the full P.M. service annually.
3. Visually check fuel system injection pump, solenoid(s), check valves governor controls, linkages.
4. Check oil lube system inclusive of the engine and governor oil levels, oil heater, lines and connections.
5. Change the lube oil and filters during the full P.M. service annually.
6. Check the cooling system inclusive of the coolant level, antifreeze, freeze point, inhibitor level, louvers, radiator air flow and core condition. Block heater(s), hoses, connections, pressure test radiator cap, belt condition and tension, fan shrouds, guards and brackets.
7. Check for external fuel, lube oil, coolant and exhaust leaks.
8. Check and record lube oil pressure, fuel oil pressure and engine coolant temperature gauge readings.
9. Check exhaust system, flex connection, supports, insulation and rain cap. Drain condensation drip legs.
10. Check batteries, charging system, terminals and cables. Check electrolyte level and specific gravity.
11. Load test Batteries. Clean battery post and terminals apply corrosion inhibiting film.
12. Check electrical system wiring connections and condition. Inspect lamps and fuses.
13. Check engine and generator instruments and meters for proper operation.
14. Check and test alarm sending units, pre-alarms, and safety shutdowns.
15. Check remote annunciator operation.
16. Check air intake piping, hoses, clamps, louvers, bypass actuators and air box Dampers.
17. Visually check air filter elements, air box canisters, breathers and crankcase ventilation systems.
18. Check engine and generator mounting bolts and vibration isolators.
19. Visually check generator bearings.
20. Check exciter assembly, stator and field for cleanliness and integrity.
21. Visually check rotating rectifiers and surge suppressor.
22. Check and record residual, no-load voltage.
23. Check voltage regulator and adjust if necessary.
24. Visually inspect generator breaker and bus bar connections for cleanliness and signs of overheating.
25. Check transfer switch compartment and components for cleanliness, integrity, overheating and wear.
26. Evaluate time delay settings
27. Check transfer switch exercise functions.
28. Perform start and stop functions from transfer switch with no load condition.
29. All readings, temperatures, transfer and retransfer times, Hour meter readings, and discrepancies annotated and submitted with detailed report to the appropriate individual(s) following each round of service.

Adjustments, calibrations and repairs will be made at an additional charge upon customer approval and a firm Purchase Order is issued.

*A Division of Penn Detroit Diesel Allison, LLC.*

**SALES • RENTALS • PARTS • SERVICE**

PHILADELPHIA	PITTSBURGH	HARRISBURG AREA	SYRACUSE	BUFFALO
8330 State Road Philadelphia, PA 19136-2986 215-335-5010 Fax: 215-335-2163	21260 Route 19 Cranberry Twp., PA 16066-5808 724-631-1260 Fax: 724-631-1206	13974 Kutztown Rd. Fleetwood, PA 19522-8653 717-273-4544 Fax: 610-944-6019	7044 Interstate Island Rd Syracuse, NY 13209-9799 315-451-3838 Fax: 315-461-8662	350 Bailey Avenue Buffalo, NY 14210-1737 716-822-0051 Fax: 716-826-1544



**Renewal #: 13CB-7FA6-DD**

Both parties further agree as follows:

A. **This is a Two Year Agreement**

B. **Firm pricing for all units included within this Agreement shall be:**

<u>Period</u>	<u>Package Type</u>	<u>Total Value Per Year</u>	
01/01/2013 to 12/31/2014	Two Year Package	Equipment:	\$458.00
		Taxes:	\$0.00
		<b>Total:</b>	<b>\$458.00</b>

C. **Equipment:** 1 Generator Set(s) and Transfer Switch(s)

<u>Site</u>	<u>Location</u>	<u>Equipment Mfr.</u>	<u>Qty</u>	<u>Amount</u>	<u>Ext Amount</u>
1	Town of Aurora	15kW Generac	1	\$458.00	\$458.00

# of Inspections: Two  
 # of PMs: Two

**Schedule:** March 2013, March 2014-(first Inspection visit and testing services)  
 September 2013, September 2014-(second Full PM visit and testing services)

D. Load Bank Test not provided

E. Penn Power Systems shall provide the Client with a Certificate of Insurance, directly from the policyholder. Insurance coverage includes general, automotive, garage and inland marine liability. There shall be no waivers of subrogation.

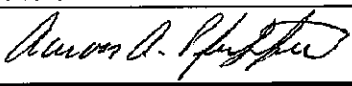
F. All additional and/or emergency repairs shall be invoiced at the following rates for the duration this Agreement remains valid.

Straight time	Monday – Friday	7:30 AM – 4:30 PM	\$ 100.00 per hour
Overtime	Monday – Friday	4:30 PM – 7:30 AM	\$ 141.50 per hour – non holiday
	Saturday	All day	\$ 141.50 per hour – non holiday
Double Time	Sunday	All day	\$ 186.00 per hour
	Holiday	All day	\$ 186.00 per hour
Mileage			\$ 2.00 per mile portal to portal

G. Penn Power Systems attached standard terms and conditions apply

H. All planned inspection services will be performed during standard business hours unless both parties have agreed otherwise.

**Notes: Two year semi-annual generator and transfer switch PM agreement as per PPS terms and conditions**

<b>Purchase Order #:</b>	<b>Agreed and accepted by Client #15202:</b>
Denise Dell Penn Power Systems 350 Bailey Avenue Buffalo, NY 14210 716-822-0051	Joeleen M. Jeffe Town of Aurora 5 South Grove Street East Aurora, NY 14052 (716) 652-3280
	
Signature	Signature

# TERMS AND CONDITIONS

Penn Detroit Diesel Allison, LLC, is a Pennsylvania Limited Liability Company doing business under the name Penn Detroit-Allison, as well as through certain named divisions, including but not limited to Penn Power Systems and Carrier Transicold of Pennsylvania East and West, of North Jersey and of Upstate New York. All current and future dealings and/or transactions between Penn Detroit Diesel Allison, LLC, any of its divisions, related entities and/or successors in interest and the Applicant, or any entity related to said Applicant, shall be subject to the following terms and conditions unless modified, in writing, by Penn Detroit Diesel Allison, LLC, and said terms and conditions shall supersede any inconsistent terms and conditions submitted by the Applicant or any other individual or entity unless expressly accepted in writing by Penn Detroit Diesel Allison, LLC.

Penn Detroit Diesel Allison, LLC ("PennDDA") agrees to extend credit, provide goods and/or services, rent equipment, and transact other business, as is from time to time necessary in accordance with the following terms and conditions ("Terms and Conditions").

**1. Orders.** Orders are subject to acceptance by PennDDA, in writing, and shall not be subject to cancellation or change in specifications, shipping schedules or other conditions originally agreed upon without PennDDA's written consent, and then only upon agreement to compensate PennDDA for loss caused by such cancellation or change, including costs of purchased materials, engineering costs, and reasonable profit.

**2. Payment.** Subject to the establishment of satisfactory credit, terms of payment are as set forth on any invoice; however, in no case shall the terms exceed net (thirty (30) days from the date of said invoice. Partial billing will be made for partial shipments and stored materials. No retainage will be allowed unless agreed to in writing by PennDDA. Any sum that Applicant owes under an invoice, but fails to pay when due, shall be subject to a finance charge computed by applying a monthly periodic rate of 1.5% (corresponding annual rate of 18%), or the highest rate permitted by applicable law, if less, to the adjusted balance of an account. All prices are F.O.B. point of manufacture unless specified otherwise by PennDDA. Quotations expire thirty (30) days from the date issued, and are subject to termination within that period. At its sole discretion, PennDDA may extend quotations.

Goods held beyond delivery date for convenience of Applicant will be invoiced on the date of completion and terms of payment in such case will apply from invoice date. Such goods will be subject to charges for warehousing and other expenses incident to such delays.

The Applicant shall immediately inform PennDDA of any change in its financial condition or in the structure of its business entity, including, but not limited to, changes to or additions of bank or brokerage accounts, mergers and/or acquisitions, asset purchases or sales, name changes, changes of officers, and any litigation to which the Applicant is a party, including pending and/or threatened suits, both civil and criminal.

If the financial condition or the business structure of Applicant at any time does not, in the sole judgment of PennDDA, justify the continued extension of credit or the continuance of the work performed or the goods to be supplied on the terms of payment as set forth above, PennDDA may require partial or full payment in advance, or shall be entitled to cancel any part of any order then outstanding, and shall be entitled to payment for reasonable cancellations charges.

In the event of bankruptcy or insolvency of Applicant, or in the event any proceeding is brought against Applicant, whether voluntary or involuntary, under the bankruptcy or any insolvency laws, PennDDA shall be entitled to cancel any credit account and/or any order or portion thereof then outstanding at any time during the period for filing claims against the estate, and shall be entitled to payment for reasonable cancellation charges.

**3. Designs.** All designs and specifications shown in PennDDA's catalogues are subject to change without notice. PennDDA shall not be obligated to furnish Applicant with such changes on equipment previously delivered.

**4. Force Majeure.** PennDDA shall not be liable for any loss, damage, failure, inability and/or delay in delivery or performance due to: the acts of any government, acts of civil or military authority, accidents; fires; wars; act of terrorism; insurrections; civil disorders; floods; strikes; or other labor disturbances or difficulties; shortages of fuel or power; breakdowns of machinery; acts of God; acts of Applicant; failures in source of supply; or any other cause beyond the control of PennDDA; and PennDDA shall then have the right to cancel any order or pending work, or extend any shipping or delivery date, if one or more such contingencies prevent or delay shipment or performance hereunder.

**5. Claims.** All material is carefully packed for shipment. Risk of loss shall pass to Applicant after delivery to the transportation carrier, and Applicant shall continue to be obligated to pay the purchase price for the goods in the event of any damage, loss or destruction after delivery at the F.O.B. point. PennDDA will provide Applicant with all reasonable assistance in securing satisfactory adjustment of claims.

**6. Equipment and Services Provided by Others.** PennDDA shall not be responsible for equipment and/or materials supplied by others, nor for the overall operation of any system comprised of both equipment and/or materials furnished by PennDDA and others. Accordingly, any comments from PennDDA regarding Applicant-furnished drawings are responsive only and PennDDA shall have no liability therefore. PennDDA offers no opinion of a professional nature, including, but not limited to, the preparation or approval of plans, opinions, reports, surveys, designs, specifications and/or supervisory, inspection, or engineering services provided by others.

**7. Installation and Start-Up.** If requested in writing, PennDDA will provide field service technicians and engineers, if available, to supervise installation and start-up of its equipment at then-current rates.

**8. Warranty.** PennDDA warrants each product of its manufacture to be free from defects in materials and workmanship at the time of delivery. This warranty is non-assignable and shall not inure to the benefit of any person or entity other than Applicant.

This warranty covers only malfunctions resulting from defects in materials or workmanship. The Applicant is responsible for proper equipment installation and the performance of regular maintenance services as specified in the written materials accompanying the equipment or elsewhere.

This warranty does not cover conditions arising from the misuse, negligence, alteration, accident or lack of performance of normal maintenance services; any equipment which shall have been repaired by other than a PennDDA-authorized service outlet so as in any way, in the sole judgment of PennDDA, to affect adversely its performance and/or reliability; the replacement of maintenance items made in connection with normal maintenance services; loss of time, convenience, anticipated profits, use of the equipment or any other incidental, indirect, punitive, special or consequential damages; or equipment removal or reinstallation costs incurred in connection with the repair or replacement of defective equipment.

If any equipment, parts and/or materials supplied by PennDDA are manufactured by someone other than PennDDA, and said manufacture provides its own warranty, PennDDA's warranty shall be superseded with respect to such equipment, parts and/or materials. In that event, the manufacturer's warranty shall be the sole applicable warranty and PennDDA shall have no further liability or responsibility whatsoever, including any failure on the part of any other manufacturer to meet the conditions of its warranty. There is no warranty liability hereunder unless payment in full for the equipment supplied pursuant to any invoice has been received by PennDDA.

The repair or replacement, at PennDDA's option, of defective equipment under this warranty shall be performed by a PennDDA-authorized service outlet using new parts or, where applicable, remanufactured parts. Said repair or replacement shall take place within a reasonable time following the delivery, transportation prepaid, and in accordance with PennDDA's instructions, of the equipment to PennDDA, or its service outlet's place of business. If Applicant believes any equipment obtained from PennDDA is defective within the meaning of this warranty, Applicant shall notify PennDDA, in writing, within thirty (30) days of the discovery of such defect.

No equipment shall be returned to PennDDA or its service outlet without written authorization and shipping instructions first having been obtained from PennDDA. PennDDA must be in timely receipt of the warranty registration materials which accompanied the equipment, properly filled out, before any such warranty authorization will be issued.

THIS WARRANTY IS THE ONLY WARRANTY MADE BY PENNDDA, AND IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY EXPRESS OR IMPLIED WARRANTY OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, USE OR WORKMANLIKE PERFORMANCE. EXCEPT AS OTHERWISE SPECIFICALLY SET FORTH HEREIN, REPAIR OR REPLACEMENT, AT PENNDDA'S OPTION, OF DEFECTIVE EQUIPMENT, IN THE MANNER PROVIDED HEREIN, SHALL CONSTITUTE FULFILLMENT OF ALL LIABILITIES OF PENNDDA TO APPLICANT, WHETHER BASED ON CONTRACT, NEGLIGENCE OR OTHERWISE, WITH RESPECT TO EQUIPMENT PROVIDED PURSUANT TO THIS INVOICE, AND IN NO EVENT SHALL PENNDDA BE LIABLE FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, FOR LOSS OF USE, LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF DATA, FAILURE TO REALIZE EXPECTED SAVINGS, DELAY, DETENTION, AND/OR ANY OTHER COMMERCIAL OR ECONOMIC LOSS OF ANY KIND. IN NO EVENT SHALL PENNDDA'S AGGREGATE LIABILITY TO APPLICANT, IN DAMAGES OR OTHERWISE, EXCEED THE TOTAL OF ALL PAYMENTS, IF ANY, RECEIVED BY PENNDDA FOR THE EQUIPMENT AND SERVICES PROVIDED PURSUANT TO THE TERMS OF ANY INVOICE. THE REMEDIES OF APPLICANT SHALL BE LIMITED TO THOSE PROVIDED HEREIN. IN NO EVENT SHALL PENNDDA BE LIABLE FOR ANY PERSONAL INJURY, INCLUDING DEATH, OR FOR DAMAGE TO PROPERTY OF THIRD PARTIES, UNLESS THE SAME IS THE RESULT OF THE SOLE GROSS NEGLIGENCE OF PENNDDA OR ITS EMPLOYEES.

**9. Taxes.** Prices quoted and/or invoiced are exclusive of taxes unless specifically stated. The amount of any present or any future sales, occupation, use, tariff, excise or other similar taxes and/or duties for which PennDDA may be liable, either on its own behalf or on behalf of Applicant, with respect to any orders for equipment and/or services, shall be in addition to the billing prices set forth in any invoice, and shall be paid by Applicant.

**10. Remedies.** Upon the failure of Applicant to make any payment when due under any invoice, to accept delivery at times stated, or to comply with all provisions of any invoice, and these Terms and Conditions, PennDDA shall have the right to suspend or cancel delivery to Applicant, and Applicant shall not have any cause of action or be entitled to any offset, counterclaim or recoupment against PennDDA by reason of such action. In addition to any remedies set forth in these Terms and Conditions, PennDDA shall be entitled to any and all rights and remedies available to it under law, and all rights and remedies available to PennDDA shall be cumulative. PennDDA shall be entitled to and Applicant responsible for any attorney's fees and costs incurred in connection with Applicant's failure to make any payment when due under any invoice, to accept delivery at times stated, retrieve any vehicle or other equipment from PennDDA property upon 30 days written notice or to comply with all provisions of any invoice and/or these Terms and Conditions.

**11. Title.** Title to any equipment provided by PennDDA shall not pass to Applicant until the purchase price for any such equipment and for services related thereto are paid in full. In order to ensure payment in full, Applicant grants to PennDDA a security interest in the said equipment and authorizes PennDDA to file applicable Uniform Commercial Code financing statements with respect to said equipment, and Applicant shall, upon request, execute such financing statements and/or other instruments deemed necessary by PennDDA. PennDDA shall release such filings upon full payment. Where PennDDA installs parts and/or performs service on and/or stores any equipment or vehicles owned by Applicant or others on behalf of or at Applicant's request or direction, Applicant agrees that such installation and/or service and/or storage shall create a lien against such equipment and/or vehicles and PennDDA shall be entitled to hold said equipments and/or vehicles in its sole possession until payment in full has been received by PennDDA. If, after 30 days written notice to Applicant of Applicant's failure to pay and PennDDA's request for removal of said equipment and/or vehicle from PennDDA's property Applicant has not made payment in full and removed vehicle from PennDDA's property, Applicant shall be deemed to have abandoned said equipment and/or vehicle and PennDDA may dispose of said equipment and/or vehicle or sell said equipment and/or vehicle and retain all proceeds of said sale which are in excess of the balance owed by Applicant to PennDDA as liquidated damages. If said equipment and/or vehicle is titled or otherwise registered in a way which prohibits transfer without the title holder or registrant's acknowledgement, authorization and/or signature, Applicant shall acknowledge, authorize and/or execute any required document to facilitate any transfer contemplated hereunder and if Applicant fails to do so, this Application shall act as Applicant's acknowledgement and authorization for any Court to Order such transfer without judgment and/or any other process including advertisement and or public or sheriff sale otherwise required by law or regulation.

**12. Export Shipments.** All equipment shall be delivered packed in accordance with PennDDA's standard domestic packing methods, unless export packing is expressly ordered, in which case special packing requirements must be specified. PennDDA does not assume responsibility for obtaining any export or import license or certificate. Export shipment is subject to PennDDA's ability to ship under the laws and/or regulations of the United States and other governments. PennDDA reserves the right to cancel any order, whether or not previously acknowledged, without liability, if at the time of the sale or shipment said shipment is subject to restrictions or prohibitions by any governmental agency or department of the United States or of any foreign country claiming jurisdiction over the shipment's transit route or destination.

**13. Indemnification.** To the fullest extent permitted by law, Applicant agrees to indemnify and hold harmless PennDDA and all of its agents and employees from all claims, damages, losses, liabilities, actions, causes of action, costs, fines and expenses, including, but not limited to, interest, penalties, reasonable attorneys' fees and expenses, and all other amounts reasonably incurred in investigation, defense or settlement of any of the foregoing, arising out of, relating to, or resulting from, any act or failure to act pursuant to any invoice and these Terms and Conditions, except to the extent caused solely by the gross negligence of PennDDA or its employees.

**14. Miscellaneous.** All clerical errors are subject to correction. None of Applicant's rights under these Terms and Conditions shall be assigned or transferred by Applicant to any other person or entity, whether by operation of law or otherwise, without PennDDA's prior written approval. The failure of PennDDA to enforce any rights under these Terms and Conditions shall not constitute a waiver of any such rights, or any other rights, under these Terms and Conditions. This invoice and these Terms and Conditions, as set forth herein, or as changed or modified by written instrument executed by persons duly authorized by PennDDA and Applicant, shall constitute the entire agreement between PennDDA and Applicant. Any invoice and these Terms and Conditions shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, notwithstanding any conflict of law provision to the contrary, and all disputes arising under any invoice and/or these Terms and Conditions shall be resolved in the state courts of the Commonwealth of Pennsylvania, or in the United States District Court for the Eastern District of Pennsylvania. All of the provisions of these Terms and Conditions are separate and severable. If any of the provisions hereof are held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of any other provision hereof.



7A

**TOWN OF AURORA  
DOG CONTROL REPORT**

**October 2012**

Sheryl Harris, Dog Control Officer

“Striving to serve the public as the frontline of defense to protect the health and safety of humans and animals”

Phone Calls to DOG CONTROL OFFICE	TOWN	VILLAGE	OTHER	WALES
Adoption			7	
Attack/Fighting	/1			
Barking	9	2		
Bites	1			
Cats	1	3	3	2
Damage by Dogs				
Found Dogs	2		1	4
Licensing	2		1	
Loose/Unleashed Dogs	5	2	1	1
Lost Dogs	3		3	1
Miscellaneous Calls	2			
MVC – Dogs/Cats				
Other Animals		2	1	
Permits				
Threatening Dogs		1		
Welfare	1	2		
Historian		1	4	
<b>*TOTAL PHONE CALLS RECEIVED-*69</b>	<b>27</b>	<b>13</b>	<b>21</b>	<b>8</b>

*\*Total does not include calls received at personal residence and cell phone. No office phone service 9/27/12-10/6/12 in new building.*

Phone Calls to EAPD/NYSPD/ECSD	TOWN	VILLAGE	OTHER	WALES
Assist EAPD/NYSPD/ECSD				
Attack/Fighting				
Barking				
Bites				
Damage by Dogs				
Found	4	1		1
Loose/Unleashed Dogs	5	2		
Lost Dogs	2			
MVC- Dog/Cat				
Other Animals				
Threatening Dogs				
Welfare				
Other				
Cats		1		
<b>TOTAL PHONE CALLS RECEIVED-16</b>	<b>11</b>	<b>4</b>		<b>1</b>

October 2012 DCO Report

**Impoundments**

**10/11/12 Impounded Pit Bull from Hunters Creek Rd., surrendered to SPCA**

**10/24/12 Seized Labrador Retriever from Olean/Blakeley Rd., \$100.00**

**10/31/12 Impounded Labrador Retriever from 1154 Olean Rd., \$95.00**

**Total- \$195.00 (\$175.00 impoundment fees + \$20.00 kenneling)**

**Kennel Permits**

\*1714 Emery Rd. (K. Cordova) scheduled 9/20/12, adjourned until 10/18/12 with restrictions;

1) Empty outside kennels (4) of all dogs over 4 mos. old

2) License 3<sup>rd</sup> dog?

3) Devise solution to prevent dogs barking outside i.e.: anti bark collars

**10/18/12- tabled until 11/15/12**

\*Letter was sent to South St. resident for the keeping of more than 2 dogs in the village-alledged violation- final notice given

**Court**

\*Summons for Beth Hoskins, 3 unlicensed dogs, violation Art. 7, section 109 of Ag & Mkts Law- 9/26/12 court-no show, 10/10/12 court referred to Judge Markello

**10/22/12 is next scheduled court date shifted to Douglas Marky.**

**Still open in court**

\*9/26/12- DCO vs Marty McLaughlin 2 cts unlicensed Dogs- (Violation Art.7, section 109 Ag&Mkts Law), scheduled for court 10/10/12

**Both dogs licensed, fine \$25.00, 2cts.**

\*9/20/12-"Dangerous Dog Hearing"- People vs Karen Hintz, AM 123

**Ordered to install invisible fence, and carry insurance for 1 million dollars**

**Other**

\***Rabid animals in Erie County- October**

**10/18/12 Raccoon, Hamburg**

\*Applied for Kong donation for impounded dogs in kennel

**10/12/12-Received**