RESOLUTION NO. 253-13: ADOPTION OF AMENDMENT TO LOCAL LAW REGARDING WAYNE COUNTY SELF INSURANCE PLAN FOR WORKERS’ COMPENSATION

Mr. Kelsch presented the following:

WHEREAS, a proposed local law in relation to removing the option for Towns to include the Workers’ Compensation premium equivalent paid to the Wayne County Self-Insurance Plan on their statement of Levy was presented to the Board of Supervisors on March 19, 2013, and

WHEREAS, a public hearing on the proposed amendment was held on Tuesday April 16, 2013, in accordance with the notice of hearing duly posted and published in the manner prescribed by law; now, therefore, be it

RESOLVED, that said amendment is hereby adopted and Local Law No. 5 of 2011 is amended to read as follows:

COUNTY OF WAYNE - STATE OF NEW YORK
LOCAL LAW NO. 1 FOR THE YEAR 2013

A Local Law Authorizing Amendment of the Wayne County Self Insurance Plan for Workers’ Compensation.

BE IT ENACTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF WAYNE, as follows:

SECTION 1. LEGISLATIVE INTENT

“A Local Law amending Local Law No. 5 of 2011, establishing a plan of self-insurance as provided for in Article 5 of the Worker’s Compensation Law, and providing for the administration thereof.

1. The plan of self-insurance provided by said Article 5 of the Worker’s Compensation Law is hereby established and shall be known by the name of Wayne County Self-Insurance Plan.

2. The plan of self-insurance heretofore adopted pursuant to Article 5 of the Worker’s Compensation Law and known as the Wayne County Self-Insurance Plan as set forth in Local Law No. 1 of 1956, is hereby amended as set forth herein, and Local Law No. 1 of 1964, Local Law No. 2 of 1970, Local Law No. 2 of 1979, Local Law No. 5 of 1991, Local Law No. 5 of 1992, Local Law No. 3 of 1995, Local Law No. 5 of 2001, Local Law No. 5 of 2002, and Local Law No. 5 of 2007 are hereby repealed.

3. The plan of self-insurance hereby established shall be administered by Standing Committee No. 5 Government Operations Committee of the Wayne County Board of Supervisors.

4. The Committee is herewith granted the powers set forth in Section 64, Subdivision 1, of the Worker’s Compensation Law with particular reference to the appointment or employment of such persons as may be deemed necessary for the operation of the plan and is herewith empowered to contract for the necessary actuarial or other professional services required in the administration of this plan. The Committee is also herewith empowered to appoint a Director of such plan and the Director shall perform such duties as may be necessary to operate the plan in accordance with the Worker’s Compensation Law; utilizing the services of a Third Party Administrator, the Director shall have the power to authorize payment of Worker’s Compensation benefits to claimants as provided by Section 25 of the Worker’s Compensation Law; utilizing the services of a Third Party Administrator, the Director shall have the power to authorize necessary medical care which appears from medical reports and/or information to be justifiable; the Director shall have authority to purchase supplies, stationery, forms books, equipment, etc., as may be necessary for the operation of said plan within the limits of the appropriation and subject to the approval of the Committee; and the Director shall have the responsibility to ensure that a report of the plan be prepared annually not later than 60 days following the close of the calendar year, such report to be filed with the Clerk of the Board of Supervisors and provided to each participant of the plan. The Director shall file with the Clerk of the Board on or before August 15 an estimate of need for the Plan for the ensuing year; each participant in the plan shall be notified in writing not later than September 1 of their assessment for the ensuing year.

5. The County of Wayne shall be a participant in the Plan.

6. Any of the Towns, Villages, or Union Free and Central School Districts may elect to become a participant in the plan hereby established by filing with the Committee on or before the first day of July of any year a certified copy of the resolution of its governing body electing to become a participant in the plan, with membership to become effective on the first day of January following such filing.

7. There shall be no entrance fee required for entry into this plan for new members. Previous members who have withdrawn from the plan and wish to reenter the plan shall pay an amount equal to twenty-five percent of the most recent plan assessment for that jurisdiction prior to withdrawing from the plan plus an assessment based upon the formulae contained herein for participating members for the year of re-entry.

8. Any participant shall be entitled to withdraw from participation in the plan by filing with the Committee on or before the fifteenth day of October of any year a certified copy of the resolution of its governing body electing to withdraw from the plan effective at the end of such year. The withdrawing participant shall be assessed an amount of money equivalent to its proportionate share of the value of all outstanding and unreserved liabilities of the plan as of the date of withdrawal. Outstanding and unreserved liabilities of the plan shall be calculated utilizing the actuarily determined “expected” midpoint of the discounted “Estimated
Loss and ALAE Reserves including IBNR” at the year end for the current year. The date of withdrawing from the plan shall be the last day of the calendar year in which the notice to withdraw is received.

On or before September 1, an estimate of said amount may be requested by the withdrawing entity based upon the most recent completed year but is not a binding amount on the plan. The percent of equitable share shall be calculated by dividing the plan assessment for the jurisdiction for the current year by the assessment of all the participants in the plan for the current year, then multiplying that percentage times the difference between outstanding actuarially determined liabilities of the plan as of the date of withdrawing from the plan less the amount of the plan reserve as of that date. The actual amount shall be determined not later than June 1 of the ensuing year and the withdrawing jurisdiction shall remit the amount to the County not later than July 31. Failure to remit the full amount owed by July 31 shall cause the county to levy the unpaid amount in the next scheduled tax levy against property taxable by the participant responsible for the assessment.

9. The Committee is herewith empowered to require medical physical examinations of any or all employees of any participant as it shall deem necessary. This power shall include the right of examination of all active members of volunteer fire companies participating in the plan. The costs of such examinations shall be paid from the funds of the plan.

10. The Committee is herewith empowered to require the institution of safety programs with respect to any of the participants in this plan as it shall deem necessary.

11. The managing Committee is herewith empowered to require the participating members to promptly file reports of all accidents; to notify the Committee of the work status of any injured employee; to promptly file payroll information upon request, and to co-operate in every manner with the Committee and Director of the Plan.

12. For each infraction of Sections 10, 11 and 12 hereof, the offending participant may be assessed a fine in a sum to be determined by the Committee but which shall not in any event exceed $25.00 for each infraction. The Committee is herewith empowered to suspend or excuse the assessment and/or the collection of such fines upon the proper showing by the offending participant. Any such penalty so assessed shall be collected at the same time and in the same manner as other charges against such participant as set forth in Section 15 of this law.

13. (a) Definitions

(i) "Annual Estimate" is the annual estimate prepared pursuant to Section 67 of the Workers' Compensation Law.

(ii) "Incurred loss experience" includes paid losses plus reserves.

(iii) "Plan Group A" includes all school districts in the Wayne County Self-Insurance Plan.

(iv) "Plan Group B" includes the County of Wayne and all Towns and Village participants in the Wayne County Self-Insurance Plan.

(v) "Plan Group A and B loss distribution factor" shall be 100% of the total Plan assessment.

(vi) "Plan Group A, and B three-year experience assessment" is the amount determined by multiplying fifty percent of the total annual estimate by the Plan Group A, and B three-year loss distribution factor.

(vii) "Participant's experience rating factor" for each Plan

(viii) Group A, and B participant is the participant's pro rata share, expressed as a percentage, of the incurred loss experience for all Plan Group A, and B participants in the three consecutive calendar years immediately preceding the year in which the annual estimate is prepared. The amount in excess of $20,000 incurred for an individual claim in any calendar year shall not be used in determining a participant's loss experience for such calendar year.

(ix) "Participant's payroll rating factor" for each Plan Group A, and B participant is the participant's pro rata share, expressed as a percentage, of the total payroll for Plan Group A, and B participants for the year immediately preceding the year in which the annual estimate is prepared.

(x) "Plan Group A, and B payroll assessment" is the amount determined by multiplying twenty-five percent of the total assessment by the Plan Group A and, B loss distribution factor.

(xi) "Participant's taxable property value rating factor" for each Plan Group A and B participant is the participant's pro rata share, expressed as a percentage, of the total taxable property value for Plan Group A and B participants for the year immediately preceding the year in which the annual estimate is prepared. For those Plan Group B town participants that have one or more village governments within their jurisdictions the equalized assessments of the participants shall not include the village equalized assessments in the town government assessments for the purpose of calculating equalized assessed value for the plan.

(xii) "Plan Group A and B property value assessment" is the amount determined by multiplying twenty-five percent of the total assessment by the Plan Group A, and B loss distribution factor.

(xiii) "Plan Group A property value assessment" is the amount determined by multiplying twenty-five percent of the total assessment by the Plan Group A loss distribution factor.

(xiv) "Plan Group B property value assessment" is the amount determined by multiplying twenty-five percent of the total assessment by the Plan Group B loss distribution factor

(b) Apportionment of Costs

(i) Twenty-five percent of the annual estimate of costs shall be apportioned to each Plan participant on a payroll rating basis. The share for each participant shall be determined by multiplying the participant's payroll rating factor by the participant's Plan Group payroll assessment.

(ii) Fifty percent of the annual estimate of costs shall be apportioned to Plan participants on an experience rating basis. The share of each participant shall be determined by multiplying the participant's experience rating factor by the participant's Plan Group experience rating factor.

(iii) The amount in excess of $20,000 incurred for an individual claim in any calendar year shall not be used in determining a participant's loss experience for such calendar year.
Mr. Colacino moved the adoption of the resolution. Seconded by Mr. Miller. Upon roll call, adopted.

**WAYNE COUNTY**

**Board of Supervisors**

LYONS, NEW YORK

**This is to Certify** that I, the undersigned, Clerk of the Board of Supervisors of the County of Wayne, have compared the foregoing copy of resolution with the original resolution now on file in this office and which was duly adopted by the Board of Supervisors of said County at a session held on the 16th day of April 2013 and that the same is a true copy of said original and of the whole thereof.

**In Witness Whereof,** I have hereunto subscribed my name and affixed the official seal of the Board of Supervisors of the County of Wayne, this 16th day of April 2013.

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Clerk of the Board