

# DIVISION OF CEMETERIES

STATE OF NEW YORK  
DEPARTMENT OF STATE  
ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001  
TELEPHONE: (518) 474-6226  
FAX: (518) 473-0876  
WWW.DOS.NY.GOV

ANDREW M. CUOMO  
GOVERNOR

CEMETERY BOARD

ROSSANA ROSADO  
SECRETARY OF STATE  
CHAIR

LETITIA JAMES  
ATTORNEY GENERAL

DR. HOWARD A. ZUCKER  
COMMISSIONER OF HEALTH

**TO:** NEW YORK STATE CEMETERY BOARD

**FROM:** MICHAEL D. SEELMAN, INVESTIGATOR II

**SUBJECT:** UNION CEMETERY ASSOCIATION, #45-066

**RE:** HAZARDOUS MONUMENT REPAIR CHECKLIST

**DATE:** MAY 20, 2020

Application Completed and notarized

28 Monuments Requested

**Legal Notice complete and run 3 times in The Watertown Daily Times**

**\$112.40**

22 Monuments Appear Hazardous

Estimates: **Witherbee & Whalen repair estimate \$7,329 (average \$333/ monument)**

Frary Memorials repair estimate \$14,172.85 (average \$644.22/ monument)

Repairs Appear Appropriate

Witherbee & Whalen proposes 41-inch precast foundations and does not have a specific warranty.

Frary proposes 48- inch poured foundations and offers a ten-year warranty.

Cemetery Up to Date on Annual Reports and Vandalism Payments

It should be noted that the cost of precast foundations is dramatically less than pouring on site. I discussed the estimate with Witherbee & Whalen and was provided a reasonable explanation of their warranty.

**Recommend Approval in the amount of \$7,441.40**



**Department  
of State**

## **DIVISION OF CEMETERIES**

STATE OF NEW YORK

### **DEPARTMENT OF STATE**

STATE OFFICE BUILDING

44 HAWLEY STREET

BINGHAMTON, NY 13901

TELEPHONE: (607) 721-8756

FAX: (607) 721-8753 WWW.DOS.NY.GOV

ANDREW M. CUOMO  
GOVERNOR

### **CEMETERY BOARD**

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## **DEPARTMENT OF STATE - DIVISION OF CEMETERIES**

### **MEMORANDUM**

**TO:** New York State Cemetery Board

**FROM:** Michael D. Seelman, Investigator II

**SUBJECT:** Union Cemetery Association, #45-066

**RE:** Application for Repair of Hazardous Monuments

**DATE:** April 30, 2020

#### **Exhibits**

- A) Application for Repair or Removal of Dilapidated or Disrepaired Monuments that Create a Hazardous Condition
- B) Frary Monument Co. repair estimate for \$16,735 (adjusted to \$14,172.85)
- C) Witherbee & Whalen repair estimate for \$8,733 (adjusted to \$7,329)
- D) Legal notice for ad in The Watertown Daily Times \$112.40

#### **Introduction and Recommendation**

I received an application (Exhibit A) for the repair of 28 hazardous monuments located in the Union Cemetery of the town of Stockholm, St. Lawrence County. The application was submitted by Bruce Winters, president of the Union Cemetery Association. Included with this application were two estimates: one from Witherbee & Whalen (Exhibit B) totaling \$8,733, and one from Frary Monument Co. (Exhibit C) for \$16,735. Also included was a legal notice (Exhibit D) that was run for three consecutive weeks in The Watertown Daily Times and photos.

I recommend approval of this application.

## The Monuments

I visited the cemetery on April 28, 2019 and found that 22 of the of the monuments were either loose on their foundations or tipping and appeared to pose a hazard to cemetery visitors and employees. The Ashly Riggs, Joseph Turner, Lucrecia Nichols, Henry Hardy, Martha Sheldon and Augustus Reynolds monuments were either too small or already down and did not appear to pose a hazard, the estimates have been adjusted accordingly. The cemetery has had no response to the legal advertisement which it placed, and has no funds dedicated to the restoration of monuments. Based on the advanced age of the monuments in question, it is assumed the foundations were laid privately by either the families or by monument contractors.

The Witherbee and Whalen estimates proposes to; remove 16 existing foundations and replace them with precast concrete pyramids set at a depth of 41"; reset the monument on the new foundation and seal all joints. The remaining monuments will be reset on existing foundations. They do not offer a written warranty, but state that, "*we do have an unwritten guarantee that if we feel a complaint is our fault, we will fix it.*"

The Frary Memorials estimate proposes to; remove 19 existing foundations and replace them with concrete foundations poured to a depth of 48"; reset the monuments on the new foundation and seal all joints. The remaining monuments will be reset on existing foundations. They offer a ten-year warranty.

## Recommendation

The cemetery is current with its payments to the vandalism fund and with the filing of its annual reports. **All documents appear to be in order, and this appears to be a legitimate claim for \$7,441.40.** I recommend that this application be approved.

# EXHIBIT A



# Division of Cemeteries

New York State  
Department of State  
**DIVISION OF CEMETERIES**  
One Commerce Plaza  
99 Washington Avenue  
Albany, NY 12231-0001  
Telephone: (518) 474-6226  
www.dos.ny.gov

## Application for Repair or Removal of Dilapidated or Disrepaired Monuments that Create a Dangerous Condition

This application applies only to Not-for-Profit Cemetery Corporations and must be completed in full and signed before a notary public. Funds may be allocated for the above-captioned purposes in accordance with 19 NYCRR §200.11 (statutory authority: Not-for-Profit Corporation Law, §1510-a). The full text of this Cemetery Board Directive appears on the reverse.

AMOUNT REQUESTED <del>\$46,735</del> <b>\$7,441.10</b>	COUNTY IN WHICH CEMETERY IS LOCATED Saint Lawrence
CEMETERY NAME Union Cemetery Association Incorporated	CEMETERY ID NUMBER 45066
NAME OF CEMETERY OFFICIAL Bruce Winters	TITLE Union Cemetery Association Secretary
STREET ADDRESS 142	Coldbrook Drive
CITY/TOWN/VILLAGE South Colton	ZIP CODE 13687
TELEPHONE NUMBERS: Home (315) 261-4357	Work ( ) N/A
E-MAIL ADDRESS WINTERS4@ATT.NET	FAX N/A

Has this cemetery previously applied for and received a grant from the Vandalism, Abandonment & Monument Repair Fund?  YES\*  NO

\*If YES, when? \_\_\_\_\_ Amount Received: \$ \_\_\_\_\_

Was proof of completed work forwarded to the Division of Cemeteries?  YES  NO

1. Provide a description of each damaged monument and/or marker and enclose referenced photos:

2. Attach copies of bids submitted by at least two contractors for the cost of repairs or removal and replacement.

3. Attach proof that the cemetery corporation has given not less than 60-day notice to the last known owner to repair or remove the monument or marker and that said owner has failed to do so within the time prescribed in that notice.

I, the undersigned, duly authorized, swear or affirm under the penalties of perjury that the above-named cemetery has not been able to obtain sufficient funds from the family of the deceased, that the proposed costs of the repairs or removals and replacements are fair and reasonable and that the above-described monuments and/or markers are so badly out of repair or dilapidated as to create a dangerous condition. I further swear or affirm that the information contained in this application is true and correct. I agree that, upon receipt of monies for the repair or removal of dilapidated or disrepaired monuments that create a dangerous condition, such repairs will be made as quickly as possible and documentation (receipts and statements) of the repairs and removals will be submitted to the Division of Cemeteries within 90 days following completion of work.

Signature of Cemetery Official: Bruce A. Winters Date: 3/11/2020

On this 11<sup>th</sup> day of March, 2020  
appeared Bruce A. Winters  
known to me to be said person.

Donna Arquiatt  
Notary Public

DONNA ARQUIETT  
Notary Public, State Of New York Page 1 of 2  
No. 01AR6075153  
Qualified In St. Lawrence County  
Commission Expires June 3, 2022

March 14, 2020

Department of State  
Division Of Cemeteries  
One Commerce Plaza  
99 Washington Avenue  
Albany, NY 12231-0001

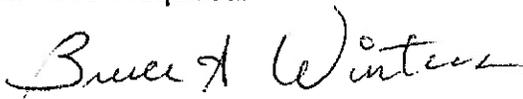
To Whom It May Concern:

Please find attached the *Application for the Repair or Removal of Dilapidated or Dis-repaired Monuments that Create a Dangerous Condition* for Union Cemetery Association (cemetery # 45066). We have utilized the August 8, 2018 Memorandum regarding Potentially Hazardous Monuments to develop this information and believe you will find all the supporting documentation requested.

Included in this packet of information are the following:

- Pictures of the damaged stones and brief descriptions of work needed
- Bids from two contractors covering the cost of repairs
- Proof Union Cemetery Association is providing 60 day notice to the last known owner to repair or remove the monument

Please feel free to contact me if there are any questions, need for clarification or more information required.



Bruce A. Winters  
Secretary Union Cemetery Association Inc.  
315-261-4357  
winters4@att.net

RECEIVED  
DIV. OF CEMETERIES  
MAR 19 2020  
ALBANY OFFICE  
DEPARTMENT OF STATE

# EXHIBIT B



**PO Box 1036  
Ogdensburg, NY 13669  
1-877-4-FRARYS**

Michael Seelman  
Senior Investigator  
Division of Cemeteries  
NYS Department of State  
99 Washington Ave.  
Albany, NY 12210

To Whom It May Concern;

Frary Monument Company hereby issues a 10-year warranty of work for the following estimate to repair stones in Union Cemetery. Our warranty includes that our repair work will guarantee memorials be straight, level, foundations will be 48" in depth, and sealed with no lateral movement. If there are any questions regarding this statement of warranty, please contact our office by calling 315-393-1414 or by mail at PO Box 1036, Ogdensburg, NY 13669.

Thank you for your time,

Ryan P. Frary,  
President  
Frary Monument Company

**Hazardous Monument Application Spreadsheet**

Date: 02/04/2020

**Cemetery Name & Address**

**Contractor or Monument Company Name & Address**

Name: Union Cemetery  
Address:

Name: Fray Monument Company  
Address: 515 Caroline St.

Phone: 315-  
Contact Person: Bruce Winters

Phone: 315-393-1414  
Contact Person: Nathan Molinari

Total Number of Stones:   
of Stones:

1	2	3	4	5	6	7	8	9	10	11	12	
Name on Monument	Location/ Section	Cost to Remove, Repair & Reset Monument	Cost of Foundation with 3 Dimensions	Cost of Foundation to be Capped	Total Cost of Repair & Foundation	Estimate to Remove & Dispose	Cost to Lay Smaller Monuments Flat	Cost of BRONZE Replacement Marker	Cost of GRANITE Replacement Marker	Cost of Foundation Including Dimensions for Flat Marker	Total to Remove, Destroy Monument & Replace with BRONZE Marker & Foundation	Total to Remove, Destroy Monument & Replace with GRANITE Marker & Foundation
Blodgett, Elijah			484.44	484.44	90.70							
Blodgett, Fred			484.44	484.44	90.70							
Kelsey, James		595.00		595.00								
Larrabee, Martin			427.08	427.08	79.96							
Lashomb, UNKOWN			545.67	545.67	102.16							
McIntyre, Edgar			716.19	716.19	134.09							
Merrill, John			341.82	341.82	64.00							
Munson, Henry			368.95	368.95	69.07							
Newton, Almira			523.97	523.97	98.10							
Nichol, Isabella		285		285.00								
Ober, Benjamin			269.73	269.73	50.50							
Osgood, Sullivan			432.51	432.51	80.97							
Phippa, Ambrose			1061.11	1061.11	198.66							
Phippin, Addie			392.20	392.20	73.43							
Reynolds, Augustine			381.80	381.80	71.38							
Riggs, Aaron			484.44	484.44	90.70							
Riggs, Ashley			990.12	990.12	174.15							
Riggs, Eli			874.31	874.31	163.69							
Riggs, John			341.82	341.82	64.00							
Sackett, Martha			119.37	119.37	22.55							
Simonds, Leve			761.85	761.85	74.30							
Taggart, James		365.00		365.00	60.95							
Taggart, Rebecca			325.54	325.54	60.95							
Turner, B. W.			204.63	204.63	38.31							

Turner, Jemma	540.00			540.00															
Turner, Joseph		<del>212.09</del>		<del>212.09</del>	40-65														
Wilson, John		589.08		589.08	110.29														
Woodworth, Joseph		1046.38		1046.38	195.90														
Sub-Total																			
Total Cost of Repair & Roundation			\$	14,435.00															
Estimate to Remove & Dispose			\$	2,300.00															
Cost of Replacement Marker																			
Final Total:			\$	16,735.00															

- 2562.15  
 \$14,172.85

# EXHIBIT C



**WITHERBEE & WHALEN, INC.**  
*SERVING THE NORTH COUNTRY WITH PRIDE SINCE 1885*

February 12, 2020

Buckton Cemetery Association

Estimate for work to be done in the Buckton / Union Cemetery:

29 memorials at ~~\$8,733.00~~ <sup>(12)</sup>

\$7,329

Cost includes:

monument taken apart, removed from existing foundation, removal of old foundation  
new foundation installed using a precast concrete pyramid with a precast cap  
(foundation depth is 41")

monument will be reset, rejointed (sealed), and leveled with no lateral movement

debris and dirt will be removed

lots will be graded and reseeded

Warranty of work is against defects in material or workmanship, we have an unwritten guarantee that if we feel a complaint is our fault, we will fix it. The concrete is not guaranteed from aging. We use the best concrete we can. It will weather and change color where it is exposed. It may also become chipped and damaged by lawn care vehicles. This is out of our control

We would like to take this opportunity to thank you for the trust and confidence that you have placed in our company. Please do not hesitate to call our office should you have any questions or concerns at any time.

Sincerely,

Roberta W Yaeger

Witherbee & Whalen, Inc.

Witherbee & Whalen, Inc.  
3 Hodskin Street  
Canton, New York 13617  
Phone: 315-386-8566  
Toll Free: 800-951-8897

Fax: 315-386-1868  
Website: [www.witherbeeandwhalen.com](http://www.witherbeeandwhalen.com)  
E-mail: [witherbeeandwhalen@gmail.com](mailto:witherbeeandwhalen@gmail.com)





# EXHIBIT D

AFFIDAVIT OF PUBLICATION

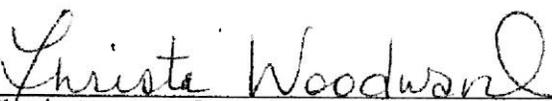
STATE OF NEW YORK  
COUNTY OF JEFFERSON

WATERTOWN DAILY TIMES

BUCKTON UNION CEMETERY ASSOCIATION  
PO BOX 328  
SOUTH COLTON NY 13687

REFERENCE: 5071085  
20437609 LEGAL NOTICE - MONUM

Christa Woodward, of Evans Mills, NY County of Jefferson, being duly sworn, says that she is a Legal Representative of the Johnson Newspaper Corp., a corporation duly organized and existing under the laws of the State of New York, and having its principal place of business in the City of Watertown, New York, and that said corporation is the publisher of the WATERTOWN DAILY TIMES, a Newspaper published in the City of Watertown, Jefferson County, and State of New York, and that a Notice, of which the annexed is a printed copy, has been published regularly in said newspaper.

  
Christa Woodward, Legal Representative

PUBLISHED ON: 02/22 03/01 03/08

AD SPACE: 70 LINE  
FILED ON: 03/08/20

Sworn to before me this

11<sup>th</sup> day of March, 2020

  
Notary Public

JAMI L EDWARDS  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01ED6283808  
Qualified in Jefferson County  
My Commission Expires 06-17-2021

NORTHERN NY NEWSPAPERS CORP.  
260 WASHINGTON ST  
WATERTOWN, NY 13601-3301  
(315) 782-1000

03/08/20 - 03/08/20 BUCKTON UNION CEMETERY ASSOCIA

0.00 843033 DUE UPON RECEIPT

1 03/08/20 5071085

BUCKTON UNION CEMETERY ASSOCIATIO  
PO BOX 328  
SOUTH COLTON NY 13687

JOHNSON NEWSPAPER CORPORATION  
260 WASHINGTON ST  
WATERTOWN, NY 13601

	PUBLICATION:	WATERTOWN DAILY TIMES - FULL RUN			
	AD CLASS:	LEGAL			
02/22	20437609	LEGAL NOTICE - MONUM	2x0L	1	45.00
	02/22	ENT REPAIR / REMOVAL	70L		
		BRUCE			
		Affidavit Fee			10.00
03/01	20437609	LEGAL NOTICE - MONUM	2x0L	1	28.70
	03/01	ENT REPAIR / REMOVAL	70L		
		BRUCE			
03/08	20437609	LEGAL NOTICE - MONUM	2x0L	1	28.70
	03/08	ENT REPAIR / REMOVAL	70L		
		BRUCE			
		Ad Class Totals:	\$112.40	210.000 line	
		Publication Totals:	\$112.40		
03/08	20437609	Applied Deposit 20437609			-112.40

TO ENSURE PROPER CREDIT PLEASE INCLUDE THE PAYMENT STUB  
OR CALL CHRISTA @ 315-661-2314 TO PAY BY CREDIT CARD.

NORTHERN NY NEWSPAPERS CORP. (315) 782-1000

843033 03/08/20 - 03/08/20 5071085

BUCKTON UNION CEMETE

# Johnson Newspaper Corporation

Client: 5071085 BUCKTON UNION CEMETERY ASSO- Phone: (315) 261-4357  
Class.: PO BOX 328 SOUTH COLTON, NY 13687  
Ad # 20437609 Requested By: BRUCE Fax:  
Sales Rep.: W312 Scott Parks Phone: (315) 782-1000  
sparks@wdt.net Fax: (315) 661-2521  
Class.: 0110 Public Notices  
Start Date: 02/22/2020 End Date: 03/08/2020 Nb. of Inserts: 3  
PO #: Entered By: SPARKS  
Publications: Watertown Daily Times  
Paid Amount: \$112.40 Credit Card Balance: \$0.00  
Total Price: \$112.40 Page 1 of 1

**LEGAL NOTICE - MONUMENT REPAIR / REMOVAL  
UNION CEMETERY ASSOCIATION**

To the last known owner or owners of the following burial lots in the Union Cemetery located on 70 East Part Road in the Town of Stockholm, New York and all persons having or claiming to have interest in said lots: Lot 101 - Elijah Blodgett, Lot 167 - Fred Blodgett, Lot 41 - Henry Hardy, Lot 78 - James Kelsey, Lot 151 - Martin Larrabee, Lot 184 - Frank LaShomb, Lot 150 - Edgar McIntyre, Lot 120 - John Merrill, Lot 59 - Henry Munson, Lot 24 - Almira Newton, Lot 185 - Lucretia Nichols, Lot 57 - Benjamin Ober, Lot 118 - Sullivan Osgood, Lot 122 - Aaron Parks, Lot 136 - Ambrose Phippen, Lot 136 - Addie Phippin, Lot 169 - Augustus Reynolds, Lot 8 - Aaron Riggs, Lot 6 - Ashley Riggs, Lot 105 - Eli Riggs, Lot 6 - John Riggs, Lot 46 - Martha Sheldon, Lot 117 - Irene Simonds, Lot 107 - James Taggart, Lot 107 - Rebecca Taggart, Lot 103 - B.W. Turner, Lot 137 - Jemma Turner, Lot 153 - Joseph Turner, Lot 198 - John Wilson, Lot 22 - Joseph Woodworth

PLEASE TAKE NOTICE that (1) the monuments located at the said burial lot(s) are so badly out of repair or dilapidated as to create a dangerous condition, (2) the person(s) to whom this notice is addressed must repair or remove said monument within 60 days of the third publication of this notice and (3) if the person(s) to whom this notice is addressed fail to repair or remove said monuments within a 60 day time period, the Union Cemetery Association may remove or repair said monuments or markers without further notice to the person(s) this notice is addressed.

Contact Union Cemetery Association Secretary Bruce Winters, P.O. Box 328, South Colton, N.Y. 13687, (315-261-4357, email winters4@att.net..