



Schenectady County Legislature

Committee on Rules

Hon. Philip Fields, Chair

6th Floor County Office Building 620 State Street, Schenectady, New York 12305

Phone: (518) 388-4280 Fax: (518) 388-4591

DATE: March 8, 2024
TO: Honorable Schenectady County Legislators
FROM: Geoffrey T. Hall, Clerk of the Legislature
SUBJECT: COMMITTEE AGENDA
Committee on Rules
Honorable Philip Fields, Chair
Tuesday, March 12, 2024 at 7:00p.m.
Schenectady County Office Building,
Legislative Chambers, Sixth Floor

Item	Title	Sponsor	Co-Sponsor
R	14 A RESOLUTION HONORING THE JOHN F. KENNEDY DIVISION 1 OF THE ANCIENT ORDER OF HIBERNIANS TOGETHER WITH THE JOHN F. KENNEDY DIVISION 1 OF THE LADIES ANCIENT ORDER OF HIBERNIANS AND ALL IMMIGRANTS FROM IRELAND AND THEIR DESCENDENTS THROUGHOUT THE COUNTY OF SCHENECTADY ON THE OCCASION OF THE FEAST OF SAINT PATRICK, MARCH 17	The Committee on Rules	Legislator Hughes
R	15 A RESOLUTION HONORING WOMEN’S HISTORY MONTH 2024 IN SCHENECTADY COUNTY	The Committee on Rules	Legislator Gatta
R	16 A RESOLUTION CELEBRATING MARCH AS SOCIAL WORK MONTH 2024	The Committee on Rules	Legislator Ostrelich

Item	Title	Sponsor	Co-Sponsor
R	17 A RESOLUTION CONFIRMING THE APPOINTMENTS OF PERSONS TO VARIOUS BOARDS, COUNCILS OR COMMISSIONS	The Committee on Rules	
R	18 A RESOLUTION AUTHORIZING THE COUNTY MANAGER TO ENTER INTO AGREEMENTS WITH UNION COLLEGE REGARDING EXPENSES INCURRED FOR NON-CONGREGATE SHELTERING COSTS	The Committee on Rules	
R	19 A RESOLUTION TO CREATE AND ELIMINATE CERTAIN POSITIONS IN THE DEPARTMENT OF ENGINEERING AND PUBLIC WORKS	The Committee on Rules	
R	20 A RESOLUTION AUTHORIZING THE COUNTY OF SCHENECTADY TO ENTER INTO A RIGHT-OF-WAY USE AGREEMENT WITH LANDWEHR CONSTRUCTION, INC.	The Committee on Rules	

LEGISLATIVE INITIATIVE FORM

Date: 3/8/2024

Reference: Rules

Dual Reference:

Initiative: R 14

Title of Proposed Resolution:

A RESOLUTION HONORING THE JOHN F. KENNEDY DIVISION 1 OF THE ANCIENT ORDER OF HIBERNIANS TOGETHER WITH THE JOHN F. KENNEDY DIVISION 1 OF THE LADIES ANCIENT ORDER OF HIBERNIANS AND ALL IMMIGRANTS FROM IRELAND AND THEIR DESCENDENTS THROUGHOUT THE COUNTY OF SCHENECTADY ON THE OCCASION OF THE FEAST OF SAINT PATRICK, MARCH 17

Purpose and General Idea:

A RESOLUTION HONORING THE JOHN F. KENNEDY DIVISION 1 OF THE ANCIENT ORDER OF HIBERNIANS TOGETHER WITH THE JOHN F. KENNEDY DIVISION 1 OF THE LADIES ANCIENT ORDER OF HIBERNIANS AND ALL IMMIGRANTS FROM IRELAND AND THEIR DESCENDENTS THROUGHOUT THE COUNTY OF SCHENECTADY ON THE OCCASION OF THE FEAST OF SAINT PATRICK, MARCH 17

Summary of Specific Provisions:

A RESOLUTION HONORING THE JOHN F. KENNEDY DIVISION 1 OF THE ANCIENT ORDER OF HIBERNIANS TOGETHER WITH THE JOHN F. KENNEDY DIVISION 1 OF THE LADIES ANCIENT ORDER OF HIBERNIANS AND ALL IMMIGRANTS FROM IRELAND AND THEIR DESCENDENTS THROUGHOUT THE COUNTY OF SCHENECTADY ON THE OCCASION OF THE FEAST OF SAINT PATRICK, MARCH 17

Effects Upon Present Law:

None.

Justification:

A RESOLUTION HONORING THE JOHN F. KENNEDY DIVISION 1 OF THE ANCIENT ORDER OF HIBERNIANS TOGETHER WITH THE JOHN F. KENNEDY DIVISION 1 OF THE LADIES ANCIENT ORDER OF HIBERNIANS AND ALL IMMIGRANTS FROM IRELAND AND THEIR DESCENDENTS THROUGHOUT THE COUNTY OF SCHENECTADY ON THE OCCASION OF THE FEAST OF SAINT PATRICK, MARCH 17

Sponsor: The Committee on Rules

Co-Sponsor: Legislator Hughes

LEGISLATIVE INITIATIVE FORM

Date: 3/8/2024
Reference: Rules
Dual Reference:
Initiative: R 15

Title of Proposed Resolution:

A RESOLUTION HONORING WOMEN’S HISTORY MONTH 2024 IN SCHENECTADY COUNTY

Purpose and General Idea:

A RESOLUTION HONORING WOMEN’S HISTORY MONTH 2024 IN SCHENECTADY COUNTY

Summary of Specific Provisions:

A RESOLUTION HONORING WOMEN’S HISTORY MONTH 2024 IN SCHENECTADY COUNTY

Effects Upon Present Law:

None.

Justification:

A RESOLUTION HONORING WOMEN’S HISTORY MONTH 2024 IN SCHENECTADY COUNTY

Sponsor: The Committee on Rules

Co-Sponsor: Legislator Gatta

LEGISLATIVE INITIATIVE FORM

Date: 3/8/2024
Reference: Rules
Dual Reference:
Initiative: R 16

Title of Proposed Resolution:

A RESOLUTION CELEBRATING MARCH AS SOCIAL WORK MONTH 2024

Purpose and General Idea:

A RESOLUTION CELEBRATING MARCH AS SOCIAL WORK MONTH 2024

Summary of Specific Provisions:

A RESOLUTION CELEBRATING MARCH AS SOCIAL WORK MONTH 2024

Effects Upon Present Law:

None.

Justification:

A RESOLUTION CELEBRATING MARCH AS SOCIAL WORK MONTH 2024

Sponsor: The Committee on Rules

Co-Sponsor: Legislator Ostrelich

LEGISLATIVE INITIATIVE FORM

Date: 3/8/2024
Reference: Rules
Dual Reference:
Initiative: R 17

Title of Proposed Resolution:

A RESOLUTION CONFIRMING THE APPOINTMENTS OF PERSONS TO VARIOUS
BOARDS, COUNCILS OR COMMISSIONS

Purpose and General Idea:

Provides Authorization for the confirmation of Appointments of Persons to Various Boards,
Councils, and Commissions.

Summary of Specific Provisions:

Authorizes the confirmation of appointments of Daniel Carrigan and Sharon Carter to the
Schenectady County Environmental Advisory Council, the appointment of Justin Chaires to the
Schenectady County Public Library System Board of Trustees, and the appointment of Kathleen
Rooney to the Land Reutilization Corporation of the Capital Region.

Effects Upon Present Law:

None.

Justification:

Necessary to effectuate appointments.

Sponsor: The Committee on Rules

Co-Sponsor:

COUNTY OF SCHENECTADY



RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature
From: Rory Fluman, County Manager *R.F.*
CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Date: March 8, 2024
Re: Confirmation of Various Appointments

**The Land Reutilization Corporation
of the Capital Region**

		<u>Term Expires</u>
Kathleen Rooney	(Re-Appointment)	3/29/2025

**Schenectady County Public Library
System Board of Trustees**

		<u>Term Expires</u>
Justin Chaires	(Replacing Haileab Samuel)	12/31/2026

**Schenectady County Environmental Advisory
Council**

		<u>Term Expires</u>
Daniel Carrigan	(Replacing Noah Rhode)	6/30/2025
Sharon Carter	(Reappointment)	6/30/2025

LEGISLATIVE INITIATIVE FORM

Date: 3/8/2024
Reference: Rules
Dual Reference:
Initiative: R 18

Title of Proposed Resolution:

A RESOLUTION AUTHORIZING THE COUNTY MANAGER TO ENTER INTO AGREEMENTS WITH UNION COLLEGE REGARDING EXPENSES INCURRED FOR NON-CONGREGATE SHELTERING COSTS

Purpose and General Idea:

Provides Authorization to Enter into Two Funding Agreements with Union College for Non-Congregate Sheltering During the COVID-19 Pandemic

Summary of Specific Provisions:

Authorizes the County to enter into two (2) Funding Agreements with Union College for Non-Congregate Sheltering during the COVID-19 Pandemic. Christopher Gardner, Schenectady County Attorney, indicates, that the college originally applied to FEMA for reimbursement, but as a college, they are not eligible for reimbursements related to non-congregate sheltering programs. Per FEMA's guidelines, only local and county governments can seek reimbursement.

Effects Upon Present Law:

The Department of Finance provides the following amendment to the 2024 Operating Budget to accommodate funding to Union College for COVID-19 pandemic relief.

Increase Appropriation Code By:

A544189.400412 Union College Pandemic Relief Aid	\$2,625,267
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Increase Revenue Code By:

A44189.496001 Union College Pandemic Relief Aid	\$2,625,267
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I recommend that this budget amendment be presented to the Schenectady County Legislature for consideration.

Justification:

As Schenectady County is an eligible entity, it will seek reimbursement through FEMA for the funding provided to Union College for its non-congregated sheltering work. If FEMA does not award Schenectady County funding for this reimbursement, Union College will return the funding back to the County with 3% interest under this agreement.

Sponsor: The Committee on Rules

Co-Sponsor:

COUNTY OF SCHENECTADY

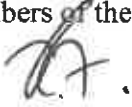


RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager 

CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Christopher Gardner, County Attorney
Jaclyn Falotico, Commissioner of Finance

Date: March 8, 2024

Re: Authorization to Enter into Two Funding Agreements with Union College for Non-Congregate Sheltering During the COVID-19 Pandemic

Attached is a memorandum from Christopher Gardner, County Attorney, requesting authorization to enter into two funding agreements with Union College.

With the first agreement, the County would reimburse the college \$2.6 million, which Union College will hold in escrow, for expenses related to non-congregate sheltering work it performed during the COVID-19 Pandemic. The College originally applied to FEMA for reimbursement, but as a college, they were not eligible for reimbursements related to non-congregate sheltering projects. Per FEMA's guidelines, only local and county governments can seek these types of reimbursements. As Schenectady County is an eligible entity, it will seek reimbursement through FEMA for the funding provided to Union College for their non-congregate sheltering work.

In the event that FEMA does not award Schenectady County the full funding for this reimbursement, Union College would return the funding back to the County with 3% interest under this agreement.

Also attached, is a memorandum from Jaclyn Falotico, Commissioner of Finance, detailing the corresponding budget amendment.

I recommend your approval.

**COUNTY OF SCHENECTADY
OFFICE OF THE COUNTY ATTORNEY
Inter-Department Correspondence Sheet**

To: Rory Fluman, County Manager

From: Christopher H. Gardner, County Attorney *CHG*

Dated: March 6, 2024

Copies to: Geoffrey T. Hall, Clerk of the Legislature
M. Joe Landry, Counsel to the Legislature
Scott Jones, Vice President for Administration and Finance @ Union College
Jaclyn Falotico, Commissioner of Finance
Charles Davidson, Sustainability Coordinator
Marylou Riddle, Executive Secretary to County Manager

Re: **Authorization for County Manager to Enter into Two Agreements with Union College:
“COVID-19 Relief Efforts Reimbursement Contract” and related Side-Letter to Maximize
FEMA Reimbursements for Union College**

I have attached copies of two proposed Agreements between the County of Schenectady and Union College which will help Union College maximize its reimbursements for its COVID Relief Efforts.

BACKGROUND

This is the fourth anniversary of the COVID-19 pandemic shutdown in March, 2020.

The two proposed Agreements will help assist Union College in its efforts to recoup \$2,625,267.13 from the federal government for costs incurred in relocating Union College students during the pandemic at local hotels in order to reduce the density of students who would normally be housed two or three to a room in Union College’s dormitories and housing.

By taking these steps, Union College played an important role in controlling the spread of COVID through the County.

Union College is an important asset in our community founded in 1795. Union College has 860 employees with an annual payroll of about \$58 million. It was the first institution of higher learning in New York State to be chartered by the New York State Board of Regents. Union College continued health and well-being are a critical cornerstone of our local economy, with an annual economic impact of over \$400 million.

ELIGIBILITY FOR FEMA RELIEF

Union College does not have direct standing to receive reimbursement for its \$2,625,267.13 expenditure to reduce the density of students by housing them in local hotels. It requires a partnership with Schenectady County. This partnership is modeled on a similar effort undertaken by Onondaga County and LeMoyne College which was successful.

The terms of these two Agreements are relatively simple. The County will pay Union College \$2,625,267.13 which will be held in an escrow account during the application process. The County will make direct application for reimbursement.

The County will earn 3% interest during the pendency of the application process.

Regardless of whether the application is successful, the County will receive back all money held in the escrow account plus 3% interest.

The parties have agreed that this process will extend until December 31, 2025. At that point, the County will be made whole—either by FEMA or Union College.

I recommend that these two Agreements be forwarded to the County Legislature for its consideration at its March 12, 2024 meeting.

CHG/kah
Attachments

County of Schenectady
620 State Street, 3rd Floor,
Schenectady, N. Y. 12305
(518) 388-4260
(518) 388-4248 Fax

County Finance

Memo

TO: Rory Fluman, County Manager
FROM: Jaclyn Falotico, Commissioner of Finance *JF*
DATE: March 5, 2024
SUBJECT: Budget Amendment – Union College Pandemic Relief

The Department of Finance provides the following amendment to the 2024 Operating Budget to accommodate funding to Union College for COVID-19 pandemic relief.

Increase Appropriation Code By:

A544189.400412	Union College Pandemic Relief Aid	\$2,625,267
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Increase Revenue Code By:

A44189.496001	Union College Pandemic Relief Aid	\$2,625,267
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I recommend that this budget amendment be presented to the Schenectady County Legislature for consideration.

[UNION COLLEGE LETTERHEAD]

March __, 2024

Rory Fluman
County Manager
Schenectady County
620 State Street
Schenectady, New York 12305

Dear Mr. Fluman:

As requested, this will confirm the understanding and agreement of The Trustees of Union College in the Town of Schenectady in the State of New York, a/k/a Union College (the "College") and Schenectady County (the "County") with respect to the County's request for funding from the Federal Emergency Management Agency of the United States Department of Homeland Security ("FEMA") to reimburse the College for mandated non-congregate sheltering costs incurred by the College in connection with the COVID-19 pandemic.

During the COVID-19 pandemic, the College developed and implemented plans designed to promote the safety of its campus community by, among other things, providing temporary off campus housing in hotels and similar establishments for students who were required to isolate following a positive COVID-19 test. By agreement dated, March 13, 2024, the County has agreed to reimburse the College for expenses incurred by the College to provide such housing, it being contemplated that such reimbursement will be funded entirely from funding from FEMA to do so. For the avoidance of doubt, it is understood and agreed that:

- (a) the County shall have no obligation to reimburse any of the aforementioned costs to the College unless and until the County receives funding from FEMA to do so;
- (b) under no circumstance shall the County be obligated to provide funding to the College in an amount in excess of reimbursement actually obtained from FEMA for such purpose; and
- (c) the College certifies that all information provided to the County by or on behalf of the College for submission to FEMA is accurate and complete in all material respects.
- (d) Union College shall keep all funds provided to it by the County of Schenectady under the COVID-19 Relief Efforts Reimbursement Contract in a separate escrow account, until such time that the County is reimbursed by FEMA.
- (e) During the pendency of the FEMA application process all funds provided to Union College shall earn a 3% annual interest rate.
- (f) In the event that the County does receive full reimbursement from FEMA, Union College shall make an interest payment to the County at the 3% annual interest rate for the period March 13, 2024 to the date that the County received the FEMA funds.

- (g) In the event that the County receives partial reimbursement for the money provided to Union College, the College shall refund to the County the amount not provided to the County by FEMA with interest on both the portion refunded and the portion not refunded.
- (h) In the event that the County does not receive any reimbursement from FEMA, the College shall reimburse the County all money provided to it by the County plus 3% annual interest on the total amount.
- (i) The parties agree that the total amount of Aid sought by the County from FEMA on behalf of Union College is \$2,625,267.13.
- (j) The parties agree that the end date for the determination by FEMA is December 31, 2025, and that if no determination has been made by FEMA by that date, Union College shall return all monies provided to it with 3% interest within thirty (30) days of the end date or thirty (30) days after notification by the County of a reimbursement determination by FEMA.

The parties further agree that the foregoing understandings are an integral part of their agreement with respect to potential FEMA funding and, as such, that such understandings shall be fully disclosed by the County to FEMA in the course of its application for such funding.

If the foregoing is consistent with the County's understanding and agreement, I would ask that you countersign and return this letter to my attention at your earliest convenience. On behalf of Union College, I thank you for the County's willingness to assist the College under these circumstances.

Very truly yours,

Scott Jones
Vice President for Administration and Finance

Acknowledged and agreed as of March __, 2024:

Approved as to Form and Content
this __ day of March, 2024.

SCHENECTADY COUNTY

By: _____
Name: Christopher H. Gardner
Title: County Attorney

By: _____
Name: Rory Fluman
Title: County Manager

COVID-19 RELIEF EFFORTS REIMBURSEMENT CONTRACT

THIS CONTRACT, by and between the COUNTY OF SCHENECTADY ("The County"), with principal offices at 620 State Street, Schenectady, New York 12305, by Rory Fluman, its County Manager, (hereinafter referred to as the "County"), and THE TRUSTEES OF UNION COLLEGE IN THE TOWN OF SCHENECTADY IN THE STATE OF NEW YORK ("Union College" or "the College"), with principal offices at 807 Union Street, Schenectady, NY 12308;

WITNESSETH:

WHEREAS, the President's March 13, 2020 unprecedented Nationwide Emergency Declaration for Coronavirus Disease 2019 (COVID-19), and the Secretary of Health and Human Services' declaration of a Public Health Emergency for COVID-19, on January 27, 2020, established that exigent and emergency circumstances exist and will continue to exist for the duration of the COVID-19 Public Health Emergency; and

WHEREAS, in August 2020, the New York State Governor announced that New York Schools could bring students into classrooms for the start of the school year with protocols for testing, contact tracing and non-congregate sheltering (for schools with residential facilities); and

WHEREAS, Schenectady County, through its Health Department, is the appropriate entity to ensure that the local colleges and universities in the County comply with the COVID-19 testing protocols and non-congregate sheltering applications, in order to reduce the spread of the virus and protect public health and safety; and

WHEREAS, the County and Union College determined that entering into a contract for the reimbursement of COVID-19 mandated relief efforts, which included non-congregate sheltering, was and is an efficient method for meeting the above-described Schenectady County Department of Health mandates; and

WHEREAS, the County will reimburse Union College for the costs and expenses incurred in complying with the mandated COVID-19 relief efforts and thereafter, the County will seek reimbursement for these costs from the Federal Emergency Management Agency (FEMA) for the expenses totaling \$2,625,267.13;

NOW, THEREFORE, the parties hereto do agree as follows:

A. TERM

By agreement of the parties, performance under this Contract commenced in August, 2020. This Contract shall continue until the parties terminate the contract, as to reimbursement of costs associated with the mandated COVID-19 relief efforts for schools, colleges and universities which included, primarily, all costs associated with COVID-19 testing and non-congregate sheltering applications, pursuant to this Contract.

Notwithstanding such term, either Union College and/or the County may terminate this Contract at any time upon thirty (30) days written notice to the other party (which notice, if given by the College, shall be provided to the County Attorney), provided that

all costs and expenses due or accruing under this Contract shall be promptly paid on or prior to the date of termination.

B. SCOPE

The County and Union College have determined that entering into a contract for the reimbursement of COVID-19 mandated relief efforts, which included testing and non-congregate sheltering, was and is an efficient method for meeting the needs of the above-described Schenectady County Department of Health mandates. Union College shall abide by the terms and conditions of the Addendum to the Schenectady County Contractor Post Federal Award Requirements for Procurement Contracts which is attached hereto and incorporated herein and made a part of this Agreement as Exhibit "A" and the Contractor must complete the Certification Regarding Lobbying which is attached hereto and incorporated herein and made a part of this Agreement as Exhibit "B".

C. PAYMENT

The County will reimburse Union College for the costs and expenses incurred in complying with the mandated COVID-19 relief efforts and thereafter, the County will seek reimbursement for these costs from the Federal Emergency Management Agency (FEMA) for the expenses totaling \$2,625,267.13.

D. HOLD HARMLESS

Union College covenants and agrees to indemnify, defend and hold harmless the County of Schenectady, its officers, agents and employees from: and against any and all loss or expense that may arise by reason of liability for damage, injury or death, or for invasion of personal or property rights, of every name and nature, and whether casual or continuing trespass or nuisance and any other claim for damages arising _at law and equity alleged to have been caused or sustained in whole or in part by or because of any misfeasance, omission of duty, negligence or wrongful act on the part of Schenectady County, its employees or agents in connection with the COVID-19 mandated relief efforts funded by this Contract.

E. APPROPRIATIONS

It is understood by and between the parties hereto that this Contract shall be deemed executory only to the extent of the monies appropriated and available for the purpose of this Contract and no liability on account thereof shall be incurred by the County beyond monies appropriated and available for the purpose thereof.

F. AMENDMENTS

This Contract represents the entire and integrated understanding between the County and Union College with respect to the mandated COVID-19 relief efforts for local schools and colleges/universities in Schenectady County and supersedes all prior negotiations, representations,

or understandings either written or oral. This Contract may be amended only by written instruments signed by the County and Union College.

G SEVERABILITY

If any term or provision of this Contract shall be held invalid or unenforceable, the remainder of this Contract shall not be affected thereby and every other term and provision of this Contract shall be valid and enforced to the fullest extent permitted by law.

H. CLAUSES REQUIRED BYLAW

The parties hereto understand and agree that each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to have been inserted herein, and if through mistake or inadvertence such provision is not inserted, said clause shall be deemed to have been inserted and shall have the full force and effect of law.

IN WITNESS WHEREOF, the parties hereto have executed this Contract the date and year hereinafter written.

COUNTY OF SCHENECTADY

Dated:

By:

Rory Fluman
County

Manager
State of New York)
County of Schenectady) ss

On the ____ day of _____ in the year 2024 before me personally came Rory Fluman, who, being by me duly sworn, did depose and say that he works at 620 State Street, Schenectady, New York 12305, that he is the Schenectady County Manager, the Municipality described in and which executed the above instrument.



Notary Public

UNION COLLEGE

Dated: _____

By:

Scott Jones
VP Administration & Finance, Union College

State of New York)
County of Schenectady) ss

On the ____ day of _____ in the year 2024 before me personally came Scott Jones who, being by me duly sworn, did depose and say that he works at 807 Union Street, Schenectady, New York 12308, that he is the Vice President of Administration and Finance of Union College the College described in and which executed the above instrument.



Notary Public

EXHIBIT A
ADDENDUM TO SCHENECTADY COUNTY CONTRACT
POST FEDERAL AWARD REQUIREMENTS FOR PROCUREMENT CONTRACTS

This is an addendum to the Contract, Intermunicipal Agreement or Agreement (collectively, the "Contract") between [Contractor] ("Contractor") and Schenectady County (the "County"), and is incorporated into the terms of that Contract. County and Contractor agree as follows:

A Federal award, as defined in 2 C.F.R. § 200.1, is being used to fund the Contract. Accordingly, the parties acknowledge that the Contract referenced above is subject to applicable provisions of 2 C.F.R. § 200 et seq., Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, as may be amended.

This Addendum is hereby expressly incorporated into the contract between Schenectady County and the Contractor. Regardless of any conflict of provisions language contained in the Contract, to the extent that the terms of the Contract and this Addendum conflict, the terms of this Addendum shall control.

The applicability of the following contract provisions are described in brackets, below. As applicable, the following provisions are hereby added and incorporated into the Contract referenced above.

2 C.F.R. § 200.113 Mandatory disclosures.

[All contracts]

Contractor will disclose, in a timely manner, in writing to the County all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

2 C.F.R. § 200.209 Certifications and representations.

[All contracts]

Unless prohibited by the U.S. Constitution, Federal statutes or regulations, County is authorized to require Contractor to submit certifications and representations required by federal statutes or regulations on an annual basis. Submission may be required more frequently if Contractor fails to meet a requirement of a Federal award.

2 C.F.R. § 200.303 Internal controls.

[All contracts]

(a) Contractor agrees to utilize the funds received under the Contract in compliance with the U.S. Constitution, Federal statutes, regulations, and the terms and conditions of the Federal award.

(b) Contractor shall comply with the U.S. Constitution, Federal statutes, regulations, and terms and conditions of the Federal award.

(c) Contractor shall evaluate and monitor, on an ongoing basis, its compliance with statutes, regulations, and the terms and conditions of Federal awards.

(d) Contractor shall take prompt action when instances of noncompliance are identified, including noncompliance identified in audit findings.

(e) Contractor shall take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or County designates as sensitive or the County considers sensitive consistent with applicable Federal, state, local and tribal laws regarding privacy and obligations of confidentiality.

2 C.F.R. § 200.331 Contractor determination.

[All contracts]

The Contract is for the purpose of obtaining goods and services for the County's own use, as it demonstrates that Contractor:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Normally operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
- (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

C.F.R. Part 200 Appendix II: Contract Provisions for non-Federal Entity Contracts Under Federal Awards

[For contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908]

Breach. Breach of the Contract by Contractor shall be governed by the termination and remedies provisions of the Contract. Additionally, in the event that the County incurs damages as a result of Contractor's breach, the County may pursue recovery of such damages from Contractor. The County further retains the right to seek specific performance of the Contract at any time as authorized by law. The County further retains the right to otherwise pursue any remedies available to the County as a result of the Contractor's breach, including but not limited to administrative, contractual, or legal remedies, as well as any applicable sanctions and penalties.

[All contracts in excess of \$10,000]

Termination. Termination for cause and convenience are governed by the termination and remedies provisions of the Contract.

[Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3]

Equal Employment Opportunity. Contractor agrees to comply with the Equal Opportunity Clause provided under 41 CFR 60-1.4(a) (Government Contracts) and 41 CFR 60-1.4(b) (Federal Assisted Construction Contracts), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." Contractor further agrees to include this provision, including the Equal Opportunity Clause or a reference thereto, in any subcontracts it enters into pursuant to the Contract.

[When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities]

Copeland "Anti-Kickback" Act (40 U.S.C. 3145). Contractor will fully comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). Pursuant to the Act, Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The County shall report all suspected or reported violations of the Copeland "Anti-Kickback" Act to the Federal awarding agency. Prime Contractors is responsible for compliance by any subcontractor.

[Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers]

Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Contractor will fully comply with the Contract Work Hours and Safety Standard Act (40 U.S.C. 3701-3708), including 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

[Where the Federal award meets the definition of "funding agreement" under 37 CFR §401.2]

(a) Rights to Inventions Made Under a Contract or Contract. For contracts entered into by the Contractor or the County with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the parties must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Contracts," and any implementing regulations issued by the awarding agency.

[Contracts and subgrants of amounts in excess of \$150,000]

Clean Air Act (42 U.S.C. 7401-7671g.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. All parties agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671g) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). All parties shall report violations to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

[For contract awards (see 2 CFR 180.220)]

Debarment and Suspension. Contractor attests that it is not listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension

[For contracts exceeding \$100,000]

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractor attests that it has filed the required certification under the Byrd Anti-Lobbying Amendment. Contractor attests that it has certified that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Contractor further attests that it has disclosed, and will continue to disclose, any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

[All contracts]

Procurement of recovered materials (2 CFR §200.323). All parties agree to comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

2 C.F.R. § 200.322 Domestic preferences for procurements. As appropriate and to the extent consistent with law, Contractor should, to the greatest extent practicable, prefer the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), County encourages Contractor to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), County encourages Contractor to adopt and enforce policies that ban text messaging while driving.

Information and Reports: Contractor will provide to authorized County, State, and Federal government representatives all records, accounts, information and reports that may be required for any purpose pertinent to the Contract as authorized by law. Where information required by a representative is in the exclusive possession of a person or entity other than Contractor, Contractor must so certify to the County and explain what efforts it has made to obtain the information.

Contractor understands that the County is required to file various reports with the federal agencies regarding funded projects, where such reports include the Interim Report, the Project and Expenditure Report, and the Recovery Plan Performance Report. Contractor will provide to the County responses needed to comply with such reporting requirements, as well as make available to the County any documentation and information needed for the County to comply with reporting requirements.

Information and responses that Contractor must provide include, without limitation, Project Status
Project Demographic Distribution
Programmatic Data, including narratives and certifications Uses of Funds, Outcomes, Labor Practices
Project Inventory, including main activities, timeline, delivery mechanisms, intended outcomes, and detailed project reporting
Performance Reporting, including performance indicators, output and outcome measures, and evidence based interventions
Performance Indicators and Programmatic Data

Maintenance of and Access to Records. Contractor shall maintain records and financial documents sufficient to evidence compliance with this Agreement. The County and its authorized representatives, including federal offices, shall have the right of access to books, documents, papers and records (electronic and otherwise) of Contractor pertinent to the Project in order to conduct audits or other examinations and investigations. Records shall be maintained by Contractor for a period of five (5) years after all funds have been expended or returned to the County, whichever is later.

Required Reporting. Contractor understands that the County is required to file various reports with the federal agencies regarding funded projects, where such reports include the Interim Report, the Project and Expenditure Report, and the Recovery Plan Performance Report. Contractor will provide to the County responses needed to comply with such reporting requirements, as well as make available to the County any documentation and information needed for the County to comply with reporting requirements.

Information and responses that Contractor must provide include, without limitation: Project Status; Project Demographic Distribution; Programmatic Data, including narratives and certifications; Uses of Funds, Outcomes, Labor Practices; Project Inventory, including main activities, timeline, delivery mechanisms, intended outcomes, and detailed project reporting; Performance Reporting, including performance indicators, output and outcome measures, and evidence based interventions; and Performance Indicators and Programmatic Data.

Compliance with Applicable Law and Regulations. Contractor will comply all applicable laws and regulations, including without limitation all applicable federal statutes, regulations, and executive orders, as well as local ordinances. Contractor acknowledges that federal financial assistance will be used to fund the Contract, and Contractor will comply with all applicable federal regulations, executive orders, procedures and directives.

Representations and Warranties: Contractor represents and warrants the following:

- a. Execution of this Agreement and performance thereof is within Contractor's duly authorized powers;
- b. The individual executing this Agreement is authorized to do so by Contractor;
- c. Contractor is authorized to do business in the State of New York and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over the Work and the Contractor; and
- d. Contractor and its subcontractors, if any, are financially solvent, able to pay all debts as they mature, and have sufficient working capital to complete the Work and perform all obligations under the Agreement.

False Claims Act. Contractor acknowledges that 31 USC 38 (Administrative Remedies for False Claims and Statements) applies to Contractor's actions regarding the Contract.

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its Instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its Instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Applicants Organization:

PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

Prefix: _____ First Name: _____ Middle Name: _____

Last Name: _____ Suffix: _____

Title: _____

Signature: _____ Date: _____

LEGISLATIVE INITIATIVE FORM

Date: 3/8/2024
Reference: Rules
Dual Reference:
Initiative: R 19

Title of Proposed Resolution:

A RESOLUTION TO CREATE AND ELIMINATE CERTAIN POSITIONS IN THE DEPARTMENT OF ENGINEERING AND PUBLIC WORKS

Purpose and General Idea:

Provides Authorization to Eliminate and Create Positions at the Department of Engineering and Public Works.

Summary of Specific Provisions:

Authorizes the elimination of the position of Motor Equipment Operator and the creation of the position of Automotive Mechanic (CSEA Highway Grade).

Effects Upon Present Law:

The Department of Finance provides the following amendment to the 2024 Operating Budget to eliminate and create positions at the Department of Engineering and Public Works.

Increase Expense Code By:

E515130._11133	Automotive Mechanic	\$65,063
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Increase Revenue Code By:

E99901.503101	Interfund Transfer-General	\$65,063
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Increase Expense Code By:

A599901.904	Transfer to Road Machinery	\$65,063
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Increased Use of Fund Balance:

A.599	Surplus Appropriation	\$65,063
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Decrease Expense Code By:

D515110._11141	Motor Equipment Operator	\$60,560
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Decrease Use of Fund Balance:

D.599	Surplus Appropriation	\$60,560
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I recommend that this budget amendment be presented to the Schenectady County Legislature for consideration.

Justification:

Paul Sheldon, Director of Engineering and Public Works indicates, that while the road machinery department is currently fully staffed, the department foresees retirements in the upcoming year. Rather than have staffing fall below acceptable levels as the department navigates the lengthy recruitment process when those retirements occur, creating a position now will proactively maintain full staffing levels.

Sponsor: The Committee on Rules

Co-Sponsor:

COUNTY OF SCHENECTADY



RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager *R.F.*

CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Paul Sheldon, Director of Engineering and Public Works
Jaclyn Falotico, Commissioner of Finance
Joe McQueen, Director of Human Resources

Date: March 8, 2024

RE: Authorization to Eliminate and Create Positions at the Department of Engineering and Public Works

Attached is a memorandum from Paul Sheldon, Director of Engineering and Public Works, requesting authorization to eliminate the position of Motor Equipment Operator and create the position of Automotive Mechanic (CSEA Highway Grade). As Mr. Sheldon indicates, while the road machinery department is currently fully staffed, the department foresees retirements in the upcoming year. Rather than have staffing fall below acceptable levels as the department navigates the lengthy recruitment process when those retirements occur, creating a position now will proactively maintain full staffing levels.

The attached memoranda from Jaclyn Falotico, Commissioner of Finance, and Joe McQueen, Director of Human Resources, detail the actions necessary to create the position.

I recommend your approval.

**Schenectady County
Inter-Department Memorandum**

DATE: March 5, 2024
TO: Rory Fluman, County Manager
FROM: Paul Sheldon, Director of Public Works PJS
COPIES: File
SUBJECT: Authorization to Eliminate and Create a Position within the Public Works Department

We are requesting the elimination of a recently vacated Motor Equipment Operator position in the Public Works Department and creating an additional Automotive Mechanic position in its place. Due to retirements and a shortage of qualified mechanics, our road machinery department has struggled to maintain a full staff over the past two years. Although we are currently fully staffed, we foresee additional retirements in the upcoming year. This, combined with the lengthy recruitment process for mechanics, raises concerns about our ability to maintain optimal workforce capacity. Introducing this additional position would enable us to proactively maintain full staffing levels.

The Motor Equipment Operator position was temporarily occupied when an employee was called to active duty. The position is not essential for winter operations and is seldom required for overtime due to low job seniority. It is currently vacant following a recent retirement.

We currently face fewer challenges in filling driver positions compared to mechanic roles, making this adjustment better suited to our future job needs.

Please advise if you need additional information

County of Schenectady
620 State Street, 3rd Floor,
Schenectady, N. Y. 12305
(518) 388-4260
(518) 388-4248 Fax



Memo

TO: Rory Fluman, County Manager
FROM: Jaclyn Falotico, Commissioner of Finance *JF*
DATE: March 7, 2024
SUBJECT: Budget Amendment – DEPW Personnel Change

The Department of Finance provides the following amendment to the 2024 Operating Budget to eliminate and create positions at the Department of Engineering and Public Works.

<u>Increase Expense Code By:</u>		
E515130._11133	Automotive Mechanic	\$65,063
<u>Increase Revenue Code By:</u>		
E99901.503101	Interfund Transfer-General	\$65,063
<u>Increase Expense Code By:</u>		
A59901.904	Transfer to Road Machinery	\$65,063
<u>Increased Use of Fund Balance:</u>		
A.599	Surplus Appropriation	\$65,063
<u>Decrease Expense Code By:</u>		
D515110._11141	Motor Equipment Operator	\$60,560
<u>Decrease Use of Fund Balance:</u>		
D.599	Surplus Appropriation	\$60,560

I recommend that this budget amendment be presented to the Schenectady County Legislature for consideration.

Memo

To: Rory Fluman, County Manager

From: Joe McQueen, Director of Human Resources

Date: March 7, 2024

Re: Elimination and Creation of Positions in the Department of Public Works

The Director of Public Works has requested the elimination of the position Motor Equipment Operator and the creation of the position Automotive Mechanic.

I recommend the creation of the position Automotive Mechanic at the appropriate CSEA Highway Grade.

No additional action is necessary by the Civil Service Commission.

Thank you.

LEGISLATIVE INITIATIVE FORM

Date: 3/8/2024
Reference: Rules
Dual Reference:
Initiative: R 20

Title of Proposed Resolution:

A RESOLUTION AUTHORIZING THE COUNTY OF SCHENECTADY TO ENTER INTO A RIGHT-OF-WAY USE AGREEMENT WITH LANDWEHR CONSTRUCTION, INC.

Purpose and General Idea:

Provides Authorization for Right-of-Way Use Agreement with Landwehr Construction, Inc.

Summary of Specific Provisions:

Authorizes the County to enter into a proposed right-of-way use agreement with Landwehr Construction, Inc. which would allow the contractor to make improvements along the right-of-way adjacent to the intersection of Dunnsville Road and NY 406.

Effects Upon Present Law:

None.

Justification:

Christopher Gardner, County Attorney, indicated that this proposed agreement would facilitate GE Vernova's \$50 million investment into Schenectady County as part of their Wind Turbine Program. There is no County share involved for these roadway improvements and this would allow Landwehr Construction to more easily and safely transport components for wind turbines for GE Verona, which are being constructed in Schenectady County.

Sponsor: The Committee on Rules

Co-Sponsor:

COUNTY OF SCHENECTADY

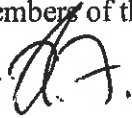


RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager 

CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Christopher Gardner, County Attorney
Jaclyn Falotico, Commissioner of Finance

Date: March 8, 2024


Re: Authorization to Enter into a Right-of-Way Use Agreement with Landwehr Construction, Inc.

Attached is a memorandum from Christopher Gardner, County Attorney, requesting authorization to enter into a Right-of-Way Use Agreement with Landwehr Construction, Inc. which would allow the contractor to make improvements along the right-of-way adjacent to the intersection of Dunnsville Road and NY 406. There is no County share involved for these roadway improvements. This would allow Landwehr Construction to more easily and safely transport components for wind turbines for GE Verona, which are being constructed in Schenectady County.

I recommend your approval.

**COUNTY OF SCHENECTADY
OFFICE OF THE COUNTY ATTORNEY
Inter-Department Correspondence Sheet**

To: Rory Fluman, County Manager

From: Christopher H. Gardner, County Attorney 

Dated: March 7, 2024

Copies to: Paul J. Sheldon, P.E., Director of DEPW
Peter Knutson, Director of Engineering
Ray Gillen, Commissioner of Economic Development and Planning
Charles Davidson, Sustainability Coordinator
Marylou Riddle, Executive Secretary to County Manager
Geoffrey T. Hall, Clerk of the Legislature
M. Joe Landry, Counsel to the Legislature
Frank S. Salamone, Executive First Deputy County Attorney

Re: **Right-of-Way Use Agreement to Facilitate \$50 million Investment by GE Vernova**

Please find attached a proposed Right-of-Way Use Agreement between the County of Schenectady and Landwehr Construction, Inc.

This Agreement will help facilitate GE Vernova's \$50 million investment in Schenectady County as part of their wind turbine program.

I recommend that this Agreement be forwarded to the County Legislature for its consideration at its meeting on March 12, 2024.

CHG/kah
Attachments

RIGHT-OF-WAY USE AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____ 2024, by and between the **COUNTY OF SCHENECTADY, NEW YORK**, a municipal corporation of the State of New York having its principal offices located at 620 State Street, Schenectady, New York 12305, hereinafter called the "County", and **LANDWEHR CONSTRUCTION, INC.**, a corporation organized and existing under the laws of the State of Minnesota, with offices at 851 60th Street S, St. Cloud, Minnesota 56303, hereinafter called the "Contractor"

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual agreements hereinafter contained and subject to the terms and conditions hereinafter stated, it is hereby understood and agreed by the parties hereto as follows:

WHEREAS, in May of 2023, Governor Kathy Hochul, announced that GE Vernova would be investing \$50 Million to locate its onshore wind nacelle manufacturing in Schenectady; and,

WHEREAS, GE Vernova has contracted with Contractor to transport the nacelles from the manufacturing facility; and,

WHEREAS, certain improvements must be made along the transportation path in order for the safe transportation of the nacelles; and,

WHEREAS, the County is the owner of the public right-of-way adjacent to the intersection of Dumnsville Road and NY 406 (hereinafter the "County Right-of-Way"); and,

WHEREAS, certain improvements must be made to the County Right-of-Way as part of Contractor's overall transportation improvement plan, specifically, radius improvements must be made to the corners opposite one another at the intersection; guardrails must be relocated/replaced; and adequate water drainage must be maintained as per the plans of attached hereto and made a part hereof as Schedule A; and,

WHEREAS, the County has agreed to grant to the Contractor a temporary and non-exclusive personal privilege to use the County Right-of Way described above, all in accordance with and subject to the terms, conditions and limitation of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants, and obligations contained herein and other good and valuable consideration received by each party, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The County hereby grants to the Contractor a temporary and non-exclusive personal privilege and permission to enter upon and use the County's Right-of-Way described above subject, however, to the terms, conditions and limitations of this Agreement. The approval herein granted shall be subject to all existing utility easements, if any, located

within the County's Right-of-Way, or any other easement, conditions, covenants or restrictions of record.

2. This Agreement granted to the Contractor hereunder shall commence as of the date of this Agreement and shall continue until terminated in accordance with the terms of this Agreement.
3. The Contractor understands, acknowledges and agrees that this Agreement does not create an interest or estate in the Contractor's favor in the County's Right-of-Way. The County retains legal possession of the full boundaries of its right-of-way and this Agreement merely grants to the Contractor the personal privilege to use the Right-of-Way described above throughout the term of this Agreement.
4. Notwithstanding any expenditure of money, time and/or labor by the Contractor on or within the Right-of-Way, this Agreement shall in no event be construed to create an assignment coupled with an interest or any vested rights in favor of the Contractor. The Contractor shall expend any time, money or labor on or in the Right-of-Way at the Contractor's own risk and peril.
5. The Agreement granted to the Contractor is limited in scope to the following use or uses:
 - Realignment of the paved Right-of-Way; relocation and installation of the guardrail; installation of road signage; and work required to ensure proper water drainage. The installation and maintenance, including all costs therefore, of all items installed by the Contractor shall be the sole responsibility of the Contractor. The Contractor will perform any repairs requested by the County that are deemed a safety to the public. The County shall be notified of any maintenance work performed within the County Right-of-Way a minimum of one week prior to the work being completed unless the work is deemed an emergency and must be repaired immediately.
 - The Contractor shall not have the right to expand the Right-of-Way or alter or change The Contractor's use of the Right-of-Way without the County's prior written consent.
 - Should the Contractor require land beyond the Right-of-Way, the Contractor shall have the sole responsibility of securing such additional lands, and the County shall not have any responsibility therefore.
6. The Agreement granted to the Contractor is a mere personal privilege granted by the County to the Contractor, and is neither transferable nor assignable by the Contractor without the County's prior written consent.
7. This Agreement granted to the Contractor may be terminated by either party for any reason or no reason upon giving thirty (30) days written notice. In addition, this Agreement may be terminated by the County upon five (5) days written notice to the Contractor of a breach of any term or condition of this Agreement.
 - a. In the event of termination of this Agreement, the Contractor shall not be entitled to receive a refund or any portion of the consideration paid for this Agreement, nor shall the Contractor be entitled to any compensation or reimbursement for any

costs or expenses incurred in any way arising from this Agreement or relating to the construction, installation, maintenance and/or removal of improvements in the Encroachment area, nor any monetary damages of any kind whatsoever.

8. At such time as this Agreement herein granted to the Contractor is terminated, the Contractor shall, at the option of the County, remove, at the Contractor's sole cost and expense, any and all encroachments or improvements owned or maintained by the Contractor in the County's Right-of-Way, returning the same to the same condition as existed upon execution of this Agreement, or turn over such improvements to the County. Any other provision of this Agreement to the contrary notwithstanding, the Contractor shall immediately remove, at its sole cost and expense, any such encroachments in the event that the County determines that such removal is necessary or convenient for the installation, repair or replacement of any utilities or other public improvements in the County's Right-of-Way, or in the event that the County determines that any such encroachments interfere with pedestrian or vehicular traffic, public utilities, or constitute a safety hazard. Any replacement or repair of such encroachments shall be at the sole cost and expense of the Contractor. If the Contractor fails to exercise its duties under this paragraph, the County shall have the right to remove the encroachments or improvements and restore the County's Right-of-Way, the full and complete cost of which shall be borne by the Contractor. The Contractor covenants and agrees to reimburse the County its full cost and expense for any such removal and/or restoration.
9. The Contractor shall maintain at all times during the term of this Agreement, at The Contractor's sole cost, a policy or policies of comprehensive general liability coverage on an occurrence basis from an insurance company licensed with the State of New York or other insurer approved by The Contractor with at least \$1,000,000.00 single limit coverage on all risks. Such policy or policies shall provide that the coverage afforded thereunder shall not be canceled, terminated or materially changed until at least thirty (30) days written notice has been given to the County. The Contractor shall name the County as co-insured and shall furnish the County with duplicate policies or certificates evidencing insurance in force as required herein prior to utilizing the Right-of-Way. Evidence of payment of premiums shall be delivered to the County at least thirty (30) days prior to the expiration dates of each existing insurance policy. This insurance shall apply as primary insurance with respect to any other insurance of self-insurance programs. There shall be no endorsement or modification of this insurance to make it excess over other available insurance, alternatively, if the insurance states that it is excess or prorated, it shall be endorsed to be primary with respect to the County.
10. The Contractor agrees that the improvements described herein shall be erected and maintained at all times in a safe condition and in accordance with all requirements of the County. During the term of this Agreement, at the Contractor's sole cost and expense, maintain the Right-of-Way and any improvements thereon in good condition and in compliance with any applicable requirements of law. The County shall be the sole judge of the quality of the construction and maintenance and, upon written notice of the County stating in general terms how and in what manner maintenance is required, the Contractor shall be required to perform such maintenance. If the Contractor fails to do so, then the County shall have the right of perform such maintenance, the full and complete cost of which shall be borne by the Contractor. The Contractor covenants and agrees to reimburse the County its full cost and expense for any such maintenance.

11. Contractor shall adhere to and comply with all ordinances, laws, rules and regulations that may pertain to or apply to the Right-of-Way and the Contractor's use thereof. The Contractor agrees and warrants that it has procured or shall procure any licenses, permits or like permission required by law, if any, to conduct or engage in the use of the Right-of-Way described herein, that the Contractor will procure all additional licenses, permits or like permission hereinafter required by law during the term of this Agreement, and the Contractor will keep the same in full force and effect during the term of this Agreement. The Contractor shall perform under this Agreement in accordance with all applicable legal requirements.
12. To the fullest extent permitted by law, The Contractor agrees to indemnify, defend and save the County, its officers, agents, servants, employees, boards and commissions harmless from and against:
 - a. Any and all claims, loss or damage (including reasonable attorney's fees) to the Contractor's encroaching improvements or any property belonging to or rented by The Contractor, its officers, servants, agents or employees, which maybe stolen, destroyed, or in any way damaged by any cause whatsoever.
 - b. Any claims, suits, judgments, costs, attorney's fees, loss, liability, damage or other relief, including but not limited to Workers' Compensation claims, to any person or property in any way resulting from or arising out of the existence of this Agreement and/or the existence, maintenance, use or location of the Contractor's encroaching improvements within the County's Right-of-Way. In the event of any action against the County, its officers, agents, servants, employees, boards or commissions covered by the foregoing duty to indemnify, defend and hold harmless, such action shall be defended by legal counsel of the County's choosing.
 - c. Any loss, liability, claim or suit arising from the foreclosure, or attempted foreclosure, of a mechanic's or material men's lien for goods delivered to the Contractor or work performed by or for the Contractor upon or at the Right-of-Way. Such indemnification shall include the County's reasonable attorney's fees incurred in connection with any such loss, claim or suit.
13. If either party violates or breaches any term of this Agreement, such violation or breach shall be deemed to constitute a default, and the other party shall have the right to seek such administrative, contractual or legal remedies as may be suitable for such violation or breach; provided, however, that in no event shall the County be liable to the County for monetary damages of any kind relating to or arising from any breach of this Agreement, and that no action of any kind shall be commenced by the Contractor against the County for monetary damages. In the event any legal action is brought by the County for the enforcement of any of the obligations of the Contractor related to or arising from this Agreement and the County is the prevailing party in such action, the County shall be entitled to recover from the Contractor reasonable interest and attorney's fees.

14. Any notice required or permitted under this Agreement shall be in writing and shall be sufficient if personally delivered or mailed by certified mail, return receipt requested, addressed as follows:

To the County:
County of Schenectady
Engineering & Public Works
100 Kellar Avenue
Schenectady, NY 12306

To the Contractor:
Landwehr Construction, Inc.
Attn: Matthew Fourre
851 60th St S
St Cloud, MN 56303

With copy to:
County of Schenectady
Department of Law
620 State Street
Schenectady, NY 12305

Notices mailed in accordance with the provisions of this paragraph shall be deemed to have been given on the third business day following mailing. Notices personally delivered shall be deemed to have been given upon delivery.

15. No official, director, officer, agent or employee of the County shall be charged personally or held contractually liable under any term or provision of this Agreement, or because of their execution, approval or attempted execution of this Agreement.
16. This Agreement shall be binding on the parties hereto and their respective successors and permitted assigns.
17. This Agreement and the obligations herein may not be assigned without the express written consent of each of the parties hereto. The Agreement is personal to the Contractor. Any attempt to assign this Agreement will automatically terminate the license privileges granted to The Contractor hereunder.
18. This Agreement may be changed, modified or amended only by a duly authorized written instrument executed by the parties hereto. Each party agrees that no representations or warranties shall be binding upon the other party unless expressed in or writing herein or in a duly authorized and executed amendment hereof.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this agreement has been approved and duly executed by the parties on the aforesaid day.

COUNTY OF SCHENECTADY, NEW YORK

By: _____
Rory Fluman
County Manager

LANDWEHR CONSTRUCTION, INC.

By: _____
Matthew Fourre
Vice President, Cranes

APPROVED as to form and content
This _____ day of _____, 2024

County Attorney

STATE OF NEW YORK

COUNTY OF SCHENECTADY

ss.:

On the _____ day of _____, 2024, before me, the undersigned, personally appeared **RORY FLUMAN**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public-State of New York

STATE OF MINNESOTA

COUNTY OF

ss.:

On the _____ day of _____, 2024, before me, the undersigned, personally appeared **MATTHEW FOURRE** personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public-State of New York

SCHEDULE A



Construction Firm
 425 North Liberty Road
 Dumontville Rd and NY 406

ATS Projects
 725 Corporate Dr.
 Suite 100
 Dumontville, NY 10820

LD8
 2023-09-20

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Construction Notes

1. All materials will be measured and approved by the contractor.
2. All depths will be based on existing in 2023 specifications.
3. All materials will be based on existing in 2023 specifications.
4. All materials will be based on existing in 2023 specifications.
5. All materials will be based on existing in 2023 specifications.
6. All materials will be based on existing in 2023 specifications.
7. All materials will be based on existing in 2023 specifications.
8. All materials will be based on existing in 2023 specifications.

