



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: August 9, 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, August 13, 2024 at 7:00p.m.
Schenectady County Office Building,
Legislative Chambers, Sixth Floor

Item	Title	Sponsor	Co-Sponsor
R	41 A RESOLUTION ESTABLISHING A STANDARD WORKDAY AND REPORTING	The Committee on Rules	
R	42 A RESOLUTION REGARDING THE ACCEPTANCE OF MONIES FROM THE NYS DEPARTMENT OF AGRICULTURE AND MARKETS FOR CERTAIN TESTS AND INSPECTIONS OF PETROLEUM PRODUCTS	The Committee on Rules	
R	43 A RESOLUTION WAIVING INTEREST AND PENALTIES ON CERTAIN TAX PARCELS	The Committee on Rules	

LEGISLATIVE INITIATIVE FORM

Date: 8/9/2024
Reference: Rules
Dual Reference:
Initiative: R 41

Title of Proposed Resolution:

A RESOLUTION ESTABLISHING A STANDARD WORKDAY AND REPORTING

Purpose and General Idea:

A RESOLUTION ESTABLISHING A STANDARD WORK DAY AND REPORTING

Summary of Specific Provisions:

Establishes the standard work days for elected and appointed officials and reports such days worked to the New York State and Local Employees' Retirement System based on the time keeping system records or the record of activities maintained and submitted by the members of the Schenectady County Legislature.

Effects Upon Present Law:

None.

Justification:

Schenectady County is a participating employer in the Retirement System.

Sponsor: The Committee on Rules

Co-Sponsor:



RESOLUTION -24

Sponsored by the Committee on Rules:

A RESOLUTION ESTABLISHING A STANDARD WORKDAY AND REPORTING

WHEREAS, the New York State Comptroller is authorized by sections 34 and 334 of the NYS Retirement and Social Security Law to adopt rules and regulations for reporting the service and salary information for all employees of participating employers in the New York State and Local Employees' Retirement System, hereinafter referred to as "the Retirement System"; and

WHEREAS, Schenectady County is a participating employer in the Retirement System; and

WHEREAS, the Comptroller has promulgated a regulation published at 2 NYCRR §315.4 which imposes certain reporting requirements on elected and appointed officials of participating employers who are members of the Retirement System and requires the governing body of each participating employer to adopt a resolution establishing a standard work day for each such elective or appointive office or position; now therefore be it

RESOLVED, that the County of Schenectady hereby establishes, on the sheet attached hereto, the standard work days for elected and appointed officials and will report such days worked to the New York State and Local Employees' Retirement System based on the time keeping system records or the record of activities maintained and submitted by these members to the clerk of this body.

Name		NYSLRS ID	Title	Current Term Begin and End Dates	Standard Work Day	Record of Activity Result	Not Submitted	Pay Frequency	Tier 1
Elected Officials:									
Richard Patierne			County Legislator	1-1-2024 through 12-31-2027	6	8.03	NA	Weekly	No
Richard Ruzzo			County Legislator	1-1-2024 through 12-31-2027	6	9.73	NA	Weekly	No
Michelle Ostrelich			County Legislator	1-1-2024 through 12-31-2027	6	5.73	NA	Weekly	No
Appointed Officials:									
Stephen Yusko			Chaplain	1-1-2024 through 12-31-2025	6	3.13	NA	Weekly	No

LEGISLATIVE INITIATIVE FORM

Date: 8/9/2024
Reference: Rules
Dual Reference:
Initiative: R 42

Title of Proposed Resolution:

A RESOLUTION REGARDING THE ACCEPTANCE OF MONIES FROM THE NYS DEPARTMENT OF AGRICULTURE AND MARKETS FOR CERTAIN TESTS AND INSPECTIONS OF PETROLEUM PRODUCTS

Purpose and General Idea:

Provides Authorization to Enter into a Multi-Year Agreement with the NYS Department of Agriculture & Markets

Summary of Specific Provisions:

Authorizes the County to enter into a multi-year agreement with the NYS Department of Agriculture & Markets. As part of this agreement, Schenectady County will receive \$45,240 and the agreement has a term beginning April 1, 2024 and ending March 31, 2029.

Effects Upon Present Law:

None.

Justification:

This will help to support the Schenectady County Department of Consumer Affairs/Weights and Measures in conducting inspections, screening tests, and sample fuel stored at retail fuel outlets.

Sponsor: The Committee on Rules

Co-Sponsor:

COUNTY OF SCHENECTADY

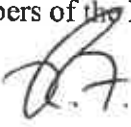


RORY FLUMAN
COUNTY MANAGER

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 County Clerk
James Caputo, Director of Consumer Affairs/Weights and Measures

Date: August 9, 2024

RE: Authorization to Enter into a Multi-Year Agreement with the NYS Department of Agriculture & Markets

Attached is a memorandum from James Caputo, Director of Consumer Affairs/Weights and Measures, requesting authorization to enter into a multi-year agreement with the NYS Department of Agriculture & Markets. As part of this agreement, Schenectady County will receive \$45,240 which will support the department in conducting inspections, screening tests, and sample fuel stored at retail fuel outlets. This funding has already been budgeted so no budget amendment is needed for this action.

This agreement has a term beginning April 1, 2024 and ending March 31, 2029.

I recommend your approval.

County of Schenectady
130 Princetown Plaza
Schenectady, N. Y. 12306
(518) 356-6795
(518) 357-0319 Fax

Weights & Measures

Memo

To: Rory Fluman, County Manager
From: James Caputo, Director of Weights & Measures
Date: August 13, 2024
Re: 2024 Budget Amendment NYS Retail Gas Sampling Contract April 1, 2024 – March 31, 2029

The Department of Weights & Measures proposes the following budget amendment to the 2024 Consumer Affairs & Weights and Measures Adopted Operating Budget to accommodate increased contract funding from the New York State department of Agriculture and Markets. The \$45,240.00 is for the time period of 04/01/24-03/31/29. The budget amendment below adjusts the time period of 04/01/24-12/31/24.

Increase Revenue Code By:

A36610-3789 State Aid Revenue	\$1,768.00
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The department of Weights and Measures and Consumer Affairs recommends that this budget amendment be presented to the Schenectady County Legislature for review and consideration.

AGREEMENT

<p style="text-align: center;">New York State Department of Agriculture and Markets 10B Airline Drive Albany, NY 12235-0001 Agency Business Unit ID: AGM01 Agency Department ID: 3000000</p>	<p>Contract Number: T012653</p> <p>Amount of Agreement: \$45,240.00</p> <p>Contract Period: 04/01/2024 to 03/31/2029</p> <p>NYS Vendor I.D. 1000002365</p> <p>Charities Reg. No.: N/A Contractor has timely filed all required reports with the AG's Charities Bureau.</p>
<p>Contract Authority: Agriculture and Markets Law §179 (19)</p>	

Contractor Name/Project Sponsor: **Schenectady County**

Street: **130 Princetown Plz**

City: **Schenectady**

State: **NY** Zip: **12306**

Billing Address (if different from above):

Street: **620 State Street**

City: **Schenectady**

State: **NY** Zip: **12305**

Title/Description of Project: **Conduct Inspections, Screening Tests and Sample Fuel Stored at Retail Fuel Outlets**

THIS AGREEMENT INCLUDES THE FOLLOWING:	FOR AMENDMENTS CHECK THOSE THAT APPLY:
<input checked="" type="checkbox"/> This Coversheet <input checked="" type="checkbox"/> Appendix A (Standard Clauses for all New York State Contracts- (June 2023) <input checked="" type="checkbox"/> Appendix B (Project Budget) <input checked="" type="checkbox"/> Appendix C (Scope of Work or IFB and Proposal) <input type="checkbox"/> Appendix D (The Department's General Conditions) <input checked="" type="checkbox"/> Appendix E (The Department's Special Conditions) <input checked="" type="checkbox"/> Appendix F (Reimbursement Agreement)	<input type="checkbox"/> Extension of Time From to <input type="checkbox"/> Increase Amount <input type="checkbox"/> Decrease Amount <input type="checkbox"/> Revised Budget <input type="checkbox"/> Revised Scope of Work <input type="checkbox"/> Other <input type="checkbox"/> Appendix A (Standard Clauses for New York State Contracts- _____)
	<p>If Increase/Decrease in Amount:</p> <p>Previous Amount: \$ _____</p> <p>Increase/decrease \$ _____</p> <p>New Total: \$ _____</p>
<p>ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.</p>	

The Contractor and the Department agree to be bound by the terms and conditions contained in this Agreement.

CONTRACTOR	NYS DEPARTMENT OF AGRICULTURE & MARKETS
Signature of Contractor's Authorized Representative: _____	Signature of Authorized Official: _____
Date: _____	Date: _____
Typed or Printed Name of Above Representative: _____	Typed or Printed Name of Above Official: _____
Title of Authorized Representative: _____	Title of Authorized Official: _____
STATE OF NEW YORK ss: County of _____ Notary Public: On this ____ day of _____, 20__ before me personally appeared _____ to me known, and known to me be the same person who executed the above instrument and duly acknowledged the execution of the same.	State Agency Certification: In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract.
Attorney General: _____	Approved: Thomas P. DiNapoli, State Comptroller By: _____ Date: _____

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

June 2023

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. **EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. **NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. **COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law, if this contract exceeds \$50,000 (or \$75,000 for State University of New York or City University of New York contracts for goods, services, construction and printing, and \$150,000 for State University Health Care Facilities) or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services, either for itself or its customer agencies by the Office of General Services Business Services Center, is required when such contracts exceed \$85,000. Comptroller's approval of contracts established as centralized contracts through the Office of General Services is required when such contracts exceed \$125,000, and when a purchase order or other procurement transaction issued under such centralized contract exceeds \$200,000.

4. **WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. **NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. **WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in

accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records

must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "(a), (b) and (c)" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not

apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this

law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business and Technology Development
625 Broadway
Albany, New York 12245
Telephone: 518-292-5100

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue 33rd Floor
New York, NY 10017
646-846-7364
email: mwbebusinessdev@esd.ny.gov
<https://ny.newyorkcontracts.com/Content/Find/Search/certifieddir.aspx>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 2023, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law §§ 899-aa and 899-bb and State Technology Law § 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <https://ogs.ny.gov/iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

APPENDIX B

BUDGET

Reimbursement pursuant to 1 § 224.16 shall be made for:

- 1) Employee wages, based on the employer's hourly rate including fringe benefits, for the time required to perform the following services:
 - a) Collection and transport of petroleum product samples
 - b) Screening petroleum products
 - c) Preparation and submission of reports
 - d) Investigations necessary to affirm that a violation has occurred

- 2) Administrative costs, not to exceed 15 percent of program costs

- 3) Transportation costs including tolls and mileage

- 4) Purchase price of petroleum samples collected and submitted for test

- 5) Other costs, * as justified. Prior written approval is required for equipment purchases.

Year 1	\$9,048.00
Year 2	\$9,048.00
Year 3	\$9,048.00
Year 4	\$9,048.00
Year 5	<u>\$9,048.00</u>
Total	\$45,240.00

*Other costs include sampling equipment (e.g., safety), sample storage, data storage (e.g., computer), and training, not to exceed \$1,156 of the total above.

APPENDIX C
SCOPE OF WORK
PETROLEUM PRODUCT QUALITY PROGRAM

BACKGROUND AND PURPOSE

New York's Petroleum Product Quality Program is administered and enforced concurrently by the New York State Department of Agriculture and Markets and municipal (county and city) weights and measures officials. The program ensures that petroleum products in New York meet specified quality standards and guards against the sale of inferior petroleum products.

STATEMENT OF WORK

Pursuant to Agriculture and Markets Law Section 179, and as directed by the New York State Department of Agriculture and Markets, the **Contractor** shall conduct inspections, perform screening tests, and sample petroleum products in transport or held, kept, or stored in a storage tank located at a retail fuel outlet as directed by the Commissioner.

APPENDIX E

SPECIAL CONDITIONS FOR AGREEMENTS NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS

DIESEL EMISSION REDUCTION ACT

Pursuant to §19-0323 of the N.Y. Environmental Conservation Law ("the Law") it is a requirement that heavy-duty diesel vehicles in excess of 8,500 pounds use the best available retrofit technology ("BART") and ultra-low sulfur diesel fuel ("ULSD"). The requirement of the Law applies to all vehicles owned, operated by or on behalf of, or leased by State agencies and State or regional public authorities. It also requires that such vehicles owned, operated by or on behalf of, or leased by State agencies and State or regional public authorities with more than half of its governing body appointed by the Governor utilize BART.

The Law may be applicable to vehicles used by contract vendors "on behalf of" State agencies and public authorities and require certain reports from contract vendors. All heavy-duty diesel vehicles must have BART by December 31, 2019. The Law also provides a list of exempted vehicles. Regulations set forth in 6 NYCRR Parts 248 and 249 provide further guidance. The Bidder hereby certifies and warrants that all heavy-duty vehicles, as defined in NYECL §19-0323, to be used under this contract, will comply with the specifications and provisions of NYECL §19-0323, and 6 NYCRR Parts 248 and 249.

PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES: REQUIREMENTS AND PROCEDURES

I. General Provisions

- A. The **Department of Agriculture and Markets** ("Department") is required to implement the provisions of New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations ("NYCRR") for all State contracts, as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The **Contractor** to the subject Agreement (the "**Contractor**" and the "Agreement", respectively) agrees, in addition to any other nondiscrimination provision of the Agreement and at no additional cost to the **Department**, to fully comply and cooperate with the **Department** in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for New York State-certified

minority and women-owned business enterprises ("MWBEs"). The **Contractor's** demonstration of "good faith efforts" pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") and other applicable federal, state, and local laws.

- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Agreement, leading to the assessment of liquidated damages pursuant to Section VII of this Appendix and such other remedies available to the **Department** pursuant to the Agreement and applicable law.

II. Contract Goals

- A. For purposes of this Agreement, the **Department** hereby establishes an overall goal of 30% for MWBE participation, 15% for New York State-certified minority-owned business enterprise ("MBE") participation and 15% for New York State-certified women-owned business enterprise ("WBE") participation (collectively, "MWBE Contract Goals") based on the current availability of MBEs and WBEs.
- B. For purposes of providing meaningful participation by MWBEs on the Agreement and achieving the MWBE Contract Goals established in Section II-A hereof, the **Contractor** should reference the directory of MWBEs at the following internet address: <https://ny.newnycontracts.com>.
Additionally, the **Contractor** is encouraged to contact the Division of Minority and Women's Business Development at (212) 803-2414 to discuss additional methods of maximizing participation by MWBEs on the Agreement.
- C. The **Contractor** understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of an Agreement with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the Agreement.
- D. The **Contractor** must document "good faith efforts," pursuant to 5 NYCRR § 142.8, to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Agreement. Such documentation shall include, but not necessarily be limited to:
 - 1. Evidence of outreach to MWBEs;
 - 2. Any responses by MWBEs to the **Contractor's** outreach;
 - 3. Copies of advertisements for participation by MWBEs in appropriate general circulation, trade, and minority or women-oriented publications;
 - 4. The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the **Department** with MWBEs; and

5. Information describing specific steps undertaken by the **Contractor** to reasonably structure the Agreement's scope of work to maximize opportunities for MWBE participation.

III. Equal Employment Opportunity ("EEO")

- A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Agreement.
- B. In performing the Agreement, the **Contractor** shall:
 1. Ensure that each **Contractor** and subcontractor performing work on the Agreement shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
 2. The **Contractor** shall submit an EEO policy statement to the **Department** within seventy-two (72) hours after the date of the notice by the **Department** to award the Agreement to the **Contractor**.
 3. If the **Contractor**, or any of its subcontractors, does not have an existing EEO policy statement, the **Department** may require the **Contractor** or subcontractor to adopt a model statement (see Form MWBE EE01 – MWBE and Equal Employment Opportunity Policy Statement).
 4. The **Contractor's** EEO policy statement shall include the following language:
 - a. The **Contractor** will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The **Contractor** shall state in all solicitations or advertisements for employees that, in the performance of the Agreement, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
 - c. The **Contractor** shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will

affirmatively cooperate in the implementation of the **Contractor's** obligations herein.

- d. The **Contractor** will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "D" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Agreement.
- C. Form MWBE/EEO3 - Workforce Employment Utilization Report
1. The **Contractor** shall submit a Workforce Employment Utilization Report, and shall require each of its subcontractors to submit a Workforce Employment Utilization Report, in such form as shall be required by the **Department** on a **quarterly** basis during the term of the Agreement.
 2. Separate forms shall be completed by the **Contractor** and any subcontractors.
 3. Pursuant to Executive Order #162, contractors and subcontractors are also required to report the gross wages paid to each of their employees for the work performed by such employees on the contract on a quarterly basis.
- D. The **Contractor** shall comply with the provisions of the Human Rights Law, and all other State and Federal statutory and constitutional non-discrimination provisions. The **Contractor** and its subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

IV. MWBE Utilization Plan

- A. The **Contractor** represents and warrants that the **Contractor** has submitted an MWBE Employment Utilization Plan, or shall submit an MWBE Employment Utilization Plan at such time as shall be required by the **Department**, through the New York State Contract System ("NYSCS"), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that the **Contractor** may arrange to provide such evidence via a non-electronic method to the **Department**, either prior to, or at the time of, the execution of the Agreement.
- B. The **Contractor** agrees to adhere to such MWBE Employment Utilization Plan in the performance of the Agreement.
- C. The **Contractor** further agrees that failure to submit and/or adhere to such MWBE Employment Utilization Plan shall constitute a material breach of the terms of the Agreement. Upon the occurrence of such a material breach, the **Department** shall be entitled to any remedy provided herein, including but not limited to, a finding that the **Contractor** is non-responsive.

V. Waivers

- A. If the **Contractor**, after making good faith efforts, is unable to achieve the MWBE Contract Goals stated herein, the **Contractor** may submit a request for a waiver through the NYSCS, or a non-electronic method provided by the **Department**. Such waiver request must be supported by evidence of the **Contractor's** good faith efforts to achieve the maximum feasible MWBE participation towards the applicable MWBE Contract Goals. If the documentation included with the waiver request is complete, the **Department** shall evaluate the request and issue a written notice of approval or denial within twenty (20) business days of receipt.
- B. If the **Department**, upon review of the MWBE Employment Utilization Plan, quarterly MWBE Contractor Compliance Reports described in Section VI, or any other relevant information, determines that the **Contractor** is failing or refusing to comply with the MWBE Contract Goals, and no waiver has been issued in regards to such non-compliance, the **Department** may issue a notice of deficiency to the **Contractor**. The **Contractor** must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VI. Quarterly MWBE Contractor Compliance Report

The **Contractor** is required to submit a quarterly MWBE Contractor Compliance Report through the NYSCS, provided, however, that the **Contractor** may arrange to provide such report via a non-electronic method to the **Department** by the 10th day following the end of each quarter during the term of the Agreement.

VII. Liquidated Damages - MWBE Participation

- A. Where the **Department** determines that the **Contractor** is not in compliance with the requirements of this Appendix and the **Contractor** refuses to comply with such requirements, or if the **Contractor** is found to have willfully and intentionally failed to comply with the MWBE participation goals, the **Contractor** shall be obligated to pay to the **Department** liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
 1. All sums identified for payment to MWBEs had the **Contractor** achieved the contractual MWBE goals; and
 2. All sums actually paid to MWBEs for work performed or materials supplied under the Agreement.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the **Department**, the **Contractor** shall pay such liquidated damages to the **Department** within sixty (60) days after they are assessed. Provided, however, that if the **Contractor** has filed a complaint with the Director of the Division of Minority and Women's Business Development pursuant to 5 NYCRR § 142.12,

liquidated damages shall be payable only in the event of a determination adverse to the **Contractor** following the complaint process.

APPENDIX F
REIMBURSEMENT AGREEMENT
PETROLEUM PRODUCT QUALITY PROGRAM

TERM OF AGREEMENT

This Agreement shall begin on April 1, 2024 and end on March 31, 2029.

PAYMENT

The **Department** shall reimburse the **Contractor** quarterly for actual costs and expenses incurred in performing the work under this Agreement. Reimbursement shall be provided and payment made in accordance with section 224.16 of Title One of the Official Compilation of Codes, Rules and Regulations of the State of New York.

TERMINATION

The **Department** may terminate this Agreement for cause upon giving one (1) days written notice. Upon termination, the **Contractor** shall immediately cease work and prepare a statement of costs, expenses and non-cancelable commitments incurred as of the date of such termination.

The **Contractor's** failure to perform in accordance with the terms of this Agreement due to circumstances reasonably beyond the **Contractor's** control should not constitute cause for termination pursuant to this provision. In the event of such failure to perform, the **Department** may, at its option, either grant the **Contractor** a specified period in which to correct its performance, or terminate this Agreement in accordance with this paragraph.

EXECUTIVE ORDER No. 177 CERTIFICATION

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identify, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to:

- all employers of four or more people, employment agencies, labor organizations and apprenticeship training practices in all instances of discrimination or harassment;
- employers with fewer than four employees in all cases involving sexual harassment; and
- any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

Contractor: Schenectady County
Name: _____
Title: _____
Signature: _____
Date: _____, 20_____

Vendor Assurance of No Conflict of Interest or Detrimental Effect

The Firm offering to provide services pursuant to this [RFP/Contract], as a contractor, joint venture contractor, subcontractor, or consultant, attests that its performance of the services outlined in this [RFP/Contract] does not and will not create a conflict of interest with nor position the Firm to breach any other contract currently in force with the State of New York.

Furthermore, the Firm attests that it will not act in any manner that is detrimental to any State project on which the Firm is rendering services. Specifically, the Firm attests that:

1. The fulfillment of obligations by the Firm, as proposed in the response, does not violate any existing contracts or agreements between the Firm and the State;
2. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the Firm has with regard to any existing contracts or agreements between the Firm and the State;
3. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not compromise the Firm's ability to carry out its obligations under any existing contracts between the Firm and the State;
4. The fulfillment of any other contractual obligations that the Firm has with the State will not affect or influence its ability to perform under any contract with the State resulting from this RFP;
5. During the negotiation and execution of any contract resulting from this RFP, the Firm will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
6. In fulfilling obligations under each of its State contracts, including any contract which results from this RFP, the Firm will act in accordance with the terms of each of its State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
7. No former officer or employee of the State who is now employed by the Firm, nor any former officer or employee of the Firm who is now employed by the State, has played a role with regard to the administration of this contract procurement in a manner that may violate section 73(8)(a) of the State Ethics Law; and
8. The Firm has not and shall not offer to any employee, member or director of the State any gift, whether in the form of money, service, loan, travel, entertainment,

hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

Firms responding to this [RFP/Contract] should note that the State recognizes that conflicts may occur in the future because a Firm may have existing or new relationships. The State will review the nature of any such new relationship and reserves the right to terminate the contract for cause if, in its judgment, a real or potential conflict of interest cannot be cured.

Name, Title:

Signature:

Date:

This form must be signed by an authorized executive or legal representative.

WORKERS' COMPENSATION REQUIREMENTS UNDER WORKERS' COMPENSATION LAW §57

New York State Workers' Compensation law (WCL) requires that all vendors applying for permits, licenses, or contracts with the State of New York have appropriate workers' compensation and disability benefits insurance coverage. This requirement applies to both original issuances and renewals.

ACORD insurance forms are **NOT** acceptable proof of New York State workers' compensation or disability benefits insurance coverage. To comply with the coverage provisions of the WCL, vendors must provide the Department with one of the following forms:

WORKERS' COMPENSATION COVERAGE

- A) CE-200, Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage; **OR**
- B) C-105.2 -- Certificate of Workers' Compensation Insurance dated 9/07 (vendors' insurance carrier will send this form to the Department upon vendor request, and the State Insurance Fund provides its own version of this form, the U-26.3) **OR**
- C) SI-12 -- Certificate of Workers' Compensation Self-Insurance (vendor can call the Board's Self-Insurance Office at 518-402-0247), **OR** GSI-105.2 -- Certificate of Participation in Worker's Compensation Group Self-Insurance (vendors' Group Self-Insurance Administrator should send this form to the Department upon vendors' request).

DISABILITY BENEFITS REQUIREMENTS UNDER WORKERS' COMPENSATION LAW

- A) CE-200 - Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage; **OR**
- B) DB-120.1 - Certificate of Disability Benefits Insurance (vendors' insurance carrier will send this form to the Department upon vendors' request); **OR**
- C) DB-120.2 -- Certificate of Participation in Disability Benefits Group Self Insurance; **OR**
- D) DB-155 -- Certificate of Disability Benefits Self-Insurance (vendor can call the Board's Self-Insurance Office at 518-402-0247).

Please make sure that the following address appears in Box 2 on forms C-105.2, DB-120.1, DB-120.2 and GSI-105.2:

NYS Dept. of Agriculture and Markets
10B Airline Drive
Albany, NY 12235

**Please direct questions to the New York State Workers' Compensation Board at (518)486-6307 or use their toll-free number (877)-632-4996.
Website: www.wcb.ny.gov**

LEGISLATIVE INITIATIVE FORM

Date: 8/9/2024
Reference: Rules
Dual Reference:
Initiative: R 43

Title of Proposed Resolution:

A RESOLUTION WAIVING INTEREST AND PENALTIES ON CERTAIN TAX PARCELS

Purpose and General Idea:

Provides Authorization to Forgive Certain Interest and Penalties Associated with Lecce Senior Living

Summary of Specific Provisions:

Authorizes the forgiveness of \$111,096.21 in certain interest and penalties associated with Lecce Senior Living. Lecce Senior Living owns certain parcels of land in the Town of Rotterdam, and these properties are currently subject to a County property tax foreclosure proceeding. This is due to delays in payment caused by a dispute between the developer and the Town of Rotterdam related to sewer fees. Prior to construction, the developer had to perform a significant amount of site work to make the site suitable for construction. The Town of Rotterdam was required to make sewer improvements that would allow the developer to connect to the sewer system. Delays in construction of the Town sewer line made it impossible for the developer to connect to the sewer lines. However, the developer was billed a cumulative amount of \$395,618.04 between 2022 and 2024 that included sewer services that were not rendered. This disagreement has since been resolved, and the developer has acknowledged that it is responsible for the taxes owed on the properties unrelated to the sewer charges. However, the developer has asked that the County forgive the interest and penalties that have accrued during ongoing negotiations with the Town.

Effects Upon Present Law:

None.

Justification:

Pursuant to Real Property Tax Law, Section 1182, the County is permitted to waive interest and penalties if it determines that it is in the County's best interest to do so. It would be unfair for the County to receive over \$100,000 of interest and penalties that accrued solely because another municipality issued tax bills that were successfully disputed by a taxpayer.

Sponsor: The Committee on Rules

Co-Sponsor:

COUNTY OF SCHENECTADY

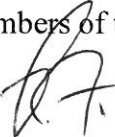


RORY FLUMAN
COUNTY MANAGER

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 County Clerk
Frank S. Salamone, Executive First Deputy County Attorney
Christopher Gardner, County Attorney

Date: August 13, 2024

RE: Authorization to Forgive Certain Interest and Penalties Associated with Lecce Senior Living

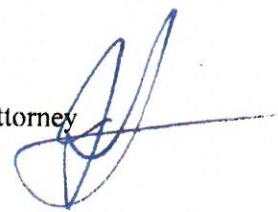
Attached is a memorandum from Frank S. Salamone, Executive First Deputy County Attorney, requesting authorization to forgive \$111,096.21 in certain interest and penalties associated with Lecce Senior Living.

The attached County Attorney's Office memorandum provides further details as to the forgiveness of these fees.

I recommend your approval.

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

To: Rory Fluman, County Manager

From: Frank S. Salamone, Executive First Deputy County Attorney 

Date: August 9, 2024

Copies to: Christopher H. Gardner, County Attorney
Jaelyn, Falotico, Deputy County Manager
Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature

Re: Foregiveness of Certain Interest and Penalties Lecce Senior Living

I respectfully request that this be Memorandum presented to the Schenectady County Legislature at the Rules agenda on August 13, 2024. Lecce Senior Living owns certain parcels of land in the Town of Rotterdam identified by Section, Block and Lots of 71.5-1-5.111, 71.5-1-8.111, 71.5-1-8.112, 71.5-1-9, 71.9-2-21.11, 71.5-1-5.3, 71.5-1-5.13, 71.5-1-36, 71.9-2-22, 71.5-1-11.12, respectively. These properties are currently subject to a County property tax foreclosure proceeding caused by a dispute between the Town of Rotterdam and the Developer related to sewer fees. The Town and the Developer have resolved their disagreement and as more fully explained below, I recommend the County forgive interest and penalties on property taxes held by the County.

BACKGROUND

The Developer is approaching the completion of Phase I of a multi-use development being constructed with various levels of senior housing ranging from single family cottages through apartments and a future memory care/assisted living facility. This project will benefit the residents of Schenectady County, ensuring future opportunities for an aging population to remain in the area that they call home as they age.

Prior to that construction, the Developer had to perform a significant amount of site work to make the site suitable for construction. In addition, the Town of Rotterdam was required to make certain sewer improvements to extend sewer lines under the NYS Thruway in order to allow the Developer to connect to the sewer system. Delays in the construction of that Town sewer line rendered it factually impossible for the Developer to connect to the sewer system. Notwithstanding the fact that it was factually impossible for the Developer to connect to the sewer system, the Town billed the Developer for sewer services. As a result, the Developer was billed the cumulative amount of Three Hundred Ninety-Five Thousand Six Hundred seventeen and 76/100 (\$395,618.04) Dollars between 2022 and 2024, notwithstanding the fact that the site could not be connected to the sewer system.

The Developer protested the sewer charges because there was no ability to connect to the sewer system and these charges were unfairly issued. As a result of this disagreement, the Developer did not pay property tax bills between 2020 and 2024 to the Town of Rotterdam. Ultimately, the taxes were turned over to the County and the County commenced a tax foreclosure proceeding. The Developer and Town have continued to negotiate a resolution to the tax billing dispute and the County granted adjournments of the foreclosure proceeding to permit the Town and Developer a reasonable opportunity to resolve their dispute.

The Resolution

The Town and Developer have reached an Agreement in principle and the Town has indicated that it will present an Agreement to the Rotterdam Town Board for approval on August 14, 2024. Pursuant to that Agreement, the Town has agreed that it will pay the County of Schenectady the amount of Three Hundred Ninety-Five Thousand Six Hundred eighteen and 4/100 (\$395,618.04) Dollars, constituting the entire amount billed for the sewer fees between 2022 and 2024. The Developer acknowledges that it is responsible for the taxes owed on the properties unrelated to the sewer charges and has requested the County to forgive the interest and penalties that have accrued. Currently, the principal amount owed is One Hundred Four Thousand Eight Hundred Thirty-Seven and 24/100 (\$104,837.24) Dollars for 2020-2024. The amount of interest and penalties sought to be forgiven is One Hundred Eleven Thousand Ninety-Six and 21/100 (\$111,096.21) Dollars.

Recommendation

Pursuant to Real Property Tax Law Section 1182, the County is permitted to waive interest and penalties if it determines it is in the County's best interest to do so. Under the facts of this case, I recommend the County to waive interest and penalties. It would be unfair for the County to receive over One Hundred Thousand Dollars (\$100,000.00) of interest and penalties that accrued solely because another municipality improvidently issued tax bills that the taxpayer successfully disputed. This is especially true where, as is the case here, the municipality agreed to pay the entirety of the bill attributable to the taxpayer's protest. If one were to analyze the issue under its logical conclusion, if the County could retain interest and penalties in such a circumstance, the government could be empowered to issue fraudulent bills that would ultimately be erased while still causing a taxpayer to pay large amounts of interest. That would not be just. While that is not the case here, that lens provides insight in evaluating this case. Furthermore, as discussed above, the underlying project will ensure that Schenectadians have access to a development providing graduated levels of assistance as they age right here at home.

For these reasons, I respectfully recommend the County waive interest and penalties contingent upon the Town and Developer entering into an Agreement in substantial conformance to the one attached hereto. Further, it is my understanding that the Developer has entered into an escrow agreement with his attorney and that his attorney is currently holding the principal taxes owed in escrow.

**SECOND AMENDMENT TO DEVELOPER'S
AGREEMENT DATED NOVEMBER 14, 2020**

This SECOND AMENDMENT TO DEVELOPER'S AGREEMENT dated August __, 2024 (hereinafter the "Second Amendment") is made by and between Lecce Senior Living, LLC, a New York Limited liability company having a mailing address of 1209 Troy Schenectady Road Latham New York 12110, (hereinafter the "Developer") and the Town Board of the Town of Rotterdam, having offices at 1100 Sunrise Boulevard, Rotterdam, New York 12306 (hereinafter the "Town") for itself and on behalf of Sewer District No. 7 (hereinafter the "District").

WHEREAS, the Developer and the Town are parties to that certain Developer's Agreement dated November 14, 2020, as amended by that certain First Amendment to Developer's Agreement dated March 3, 2022 (hereinafter, collectively, the "Developer's Agreement"); and

WHEREAS, the Developer and the Town have a dispute concerning the sewer fees charged to the tax map parcels comprising the Village at Whispering Pines consisting of +/- 96.6 acres all owned by the Developer; and

WHEREAS, based upon the Certificate of Substantial Completion executed on June 28, 2023, by the Town Supervisor, the Town completed the work necessary for the Hamburg Sewer District no. 7, extension no. 2 (hereinafter "Extension no. 2"); and

WHEREAS, the Developer has worked diligently to construct the sewer improvements necessary for the Hamburg Sewer District no. 7, extension no. 1 (hereinafter "Extension no. 1"), a Developer-funded sewer district extension, for the benefit of the eventual occupants of the Village(s) at Whispering Pines and the above parcels. Construction of the sewer improvements was reviewed in the Town approved EIS and SEQRA Findings Statement and is a condition of approval of the Site Plan Review for Phase 1b of the Villages at Whispering Pines imposed by the Town Planning Board. These improvements included an equalization tank which was required to be installed at Developer's expense and dedicated to the Town to ensure that sufficient capacity existed in the proposed improvements being undertaken by the Town in Extension no. 2, a Town-funded extension of the Hamburg Sewer District no. 7.; and

WHEREAS, the Developer received site plan approval and obtained a building permit for phase 1a, which involved the reconstruction of the existing golf course with a new club house that has a temporary septic system and such septic system will be abandoned when phase 1b is completed and the club house can connect to the Town sewer system;

WHEREAS, the Developer was granted waivers of some of the conditions to site plan review of phase 1b of the Village(s) at Whispering Pines and obtained Building Permits commencing in 2023 for 15 cottages and subsequently in 2024 for an additional 5 cottages for a total of 20 building permits. No certificates of occupancy can be granted until all of the conditions to the approval of site plan review of phase 1a and 1b have been met; and

WHEREAS, the Developer has an application pending for site plan review of phase 2 of the Villages at Whispering Pines but site plan approval has not been granted to date; and

WHEREAS, to date the Developer (has not connected) to the Town sewer system and has not discharged any sewage to the Town sewer;

WHEREAS, the Town has been incorrectly charging the Developer for sewer fees as if the Developer had constructed 566 units in 2020, 2021 and 2022 and 564 units in 2023 on the Property, or indeed had the right to construct such units. As stated above the Developer has only been able to obtain a total of 20 Building Permits for cottages and a building permit for the clubhouse from the Town and the connections to the sewer system are as yet incomplete but are anticipated to be complete before the end of this calendar year, depending upon the performance of the Developer and Developer's contractor and the associated inspection and acceptance of the constructed facilities by the Town Designated Engineer LaBella Associates LP (hereinafter, the "TDE");

WHEREAS, the Town, on behalf of Sewer District no. 7, including Extension no. 1 and Extension no. 2, represents that it has and will preserve the necessary capacity in the Town's sewer pump station located at the traffic circle in Carman Road and in the force main pipe installed at the Developer's expense leading from Sewer District no. 1 to Sewer District no. 2; into the City of Schenectady's Sewage Treatment System, all as described in the NYSDEC and NYEFC approved design plans certified by the Town's TDE, for the 566 EDUs that may eventually be approved by the Planning Board in the case of phase 2 and in the case of phase 1b after the satisfaction of the conditions to site plan approval and issuance of building permits for the units in phase 1b, and in the case of phase 1a as approved and as defined by the issuance of the permit;

WHEREAS, the Developer has paid \$446,000 to the Town for the construction of the sewer collection pipe within Extension no. 2 and is responsible for funding an escrow for the TDE to review design work and inspect the work undertaken by the Developer for Extension no. 1, all provided pursuant to the terms of the Developer Agreement as well as the conditions of approval;

WHEREAS, the Town has also charged the Developer and Developer has paid \$154,405.44 in sewer fees for the year 2020 and \$119,383.84 in sewer fees for the year 2021 (hereinafter referenced as "Paid Sewer Fees");

WHEREAS, for the years 2022, 2023 and 2024, the Town has charged the Developer for sewer fees in the total amount of \$279,789.91 (\$119,358.89 for 2022; \$173,458.87 for 2023; and \$106,331.04 for 2024) and in the case of year 2022, the Developer has paid 2022 sewer charge in the amount of \$27,231.34 on June 16, 2022 for SBL 71.5-1-5.111;

WHEREAS, as a result of non-payment of the sewer fees which were disputed to the Town informally and then formally in a letter dated October 30, 2023, the County of Schenectady has commenced a foreclosure action against the Developer;

WHEREAS, it is our understanding that the County has paid the Town for the unpaid sewer fee charges for 2022 and 2023, however, for 2024 the sewer fee charges were grieved by the Developer, the warrant for which remains with the Town;

WHEREAS, the Developer has challenged the foreclosure action and has proactively engaged in settlement discussions with the Town and the County in an attempt to fairly resolve this dispute as to the appropriate amount of the sewer fees that should have been charged;

NOW, THEREFORE, in consideration of the mutual covenants expressed herein, and to set in writing the terms of their agreement, the parties do mutually covenant and agree as follows:

1. The Developer will not seek to recover the Paid Sewer Fees in the total amount of Two Hundred Seventy Four Thousand and 56/100 (\$274,000.56) Dollars and will be recognized as sufficient to secure the wastewater collection and treatment capacity for the Whispering Pines Project in the Town Sewer System;
2. However, such reserved capacity shall only be reserved for a period of five (5) years from the date of this Agreement. If after five (5) years phase 2 of the project has not received a building permit, such capacity may only be continually reserved upon further amendment to this agreement;
3. The Town agrees to pay to Schenectady County the sum of the unpaid sewer fees for which the County has reimbursed the Town. It is our understanding that for 2022 and 2023 the Town would be paying the County One Hundred Nineteen Thousand Three Hundred Fifty eight and 89/100 (\$119,358.89) Dollars for 2022, One Hundred Seventy Three Thousand Four Hundred Fifty eight and 87/100 (\$173,458.87) Dollars for 2023 and One Hundred Two Thousand Eight Hundred and 28/100 (\$102,800.28) for 2024. The Town will also reimburse Developer for the sewer fee paid by the Developer for 2022 in the amount of Twenty Seventy Thousand Two Hundred Thirty One and 34/100 (\$27,231.34) Dollars. For the sewer fees charged for the year 2024, the Town will agree not to collect the fees in settlement of the Grievance brought by the Developer, except for those fees that are related to EDUs based upon issued building permits as herein agreed;
4. The Developer will not be charged any sewer fees for the years 2022 and 2023 and the Town agrees to waive the O&M fees totaling One Hundred Six Thousand (\$106,000) Dollars charged in 2024. Except that the Town shall still charge EDUs for the parcels that have obtained building permits for units prior to and following this agreement; and
5. For purposes of this Agreement and calculating EDU's on a yearly basis, the date when building permits for residential units shall be totaled for purposes of assessing EDU's will be on or before October 15 of the prior year.
6. Except as may be otherwise expressly provided for in this Second Amendment, the terms, provisions, covenants, stipulations, conditions, rights, obligations and remedies set forth in the Developers Agreement are hereby ratified, accepted, agreed to, assumed by and imposed upon the parties hereto. In the event there is a conflict between the terms of this Amendment and the terms of the Developers Agreement and the First Amendment, the terms of this Second Amendment shall control.

7. This Second Amendment may be executed in separate counterparts by each of the parties and the total of the executed counterparts shall be deemed one agreement.
8. Per the original developer's agreement and Town Board Resolution 162-2020, sewer connection fees were waived for a period of five years including sewer district seven and its extensions. Such a waiver sunsets on June 1, 2025. The Town Board has no intention of extending that waiver. The Developer is hereby advised that on June 1, 2025 sewer connection fees will be reestablished for the district. The Town does not have the authority to waive any fees to be collected by the City of Schenectady. Please be advised that the Town's waiver does not include a waiver of the City of Schenectady's fees for sewer connections. Sewer connection fees are charged at the same time as building permit fees.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Town Board has duly approved this Second Amendment on behalf of the Town of Rotterdam and Hamburg Sewer District no. 7, including Extension no. 1 & 2 and the parties have hereto executed this Second Amendment this [_____] day of August 2024.

Town of ROTTERDAM

By : Mollie A. Collins, Town Supervisor

LECCE SENIOR LIVING, LLC

By: Lou Lecce, Member