

LAW & FINANCE

AGENDA

February 10, 2021

4:00pm

Chair: Jonathan Schopf

Members:

Phil Barrett

Tara Gaston

Kevin Tollisen

Matthew Veitch

Sandra Winney

Tom Wood

Welcome and Attendance

Approval of the minutes from January 13, 2021

HUMAN RESOURCES & INSURANCE

- Authorizing an amendment to the 2021 Compensation Schedule to create (2) Public Health Epidemiologist, Grade 15, Step 1A (Base) \$73,127, (1) Supervising Public Health Epidemiologist, Grade 17, Step 1A (Base) \$83,444, and (1) Senior Public Health Educator, Base \$59,522 under the Public Health Department and amending the 2021 budget.
(Marcy McNamara, Director of Human Resources)
BUDGET IMPACT: This will reduce the Fund balance by \$462,751.

HEALTH & HUMAN SERVICES

- Authorizing the acceptance of \$34,000 from NYS Office of Children and Family Services to continue participation in the Safe Harbour NY program during the 2021 calendar year, Authorizing an renewal agreement with Saratoga Center for the Family (CFF) in the amount of \$29,000 effective February 1, 2021 and will expire on December 31, 2021 for the development and implementation of the NY Safe Harbour program, and amending the budget in relation thereto.
(Tina Potter, Commissioner of Social Services)
BUDGET IMPACT: None. 100% State Aid.
- Authorizing the acceptance of additional grant funding from the NYS Office of Children and Family Services (OCFS) for the 2020 calendar year and amending the corresponding Youth Program Contracts.
(J. Wes Carr, Youth Bureau Director)
BUDGET IMPACT: None. 100% State Aid.

TECHNOLOGY & RESILIENCY

- Authorizing a refresh of the county's IT Data Center and/or an additional remote work solution that was implemented in 2015 and amend the 2021 budget accordingly.
(Eileen Bennett, Director of Information Technology)
BUDGET IMPACT: This will reduce the Fund balance by \$607,538.

BUILDINGS & GROUNDS

- Introducing a proposed Local Law authorizing the leasing of real property of the County of Saratoga to Gateway House of Peace, Inc. and setting a date for a public hearing on March 10, 2021 at 3:30pm.
(Chad Cooke, Public Works Commissioner)
BUDGET IMPACT: None.
- Authorizing an agreement with Auctions International, Inc. for online auction services associated with the sale of County owned property at 31 Woodlawn Avenue in the City of Saratoga Springs.
(Chad Cooke, Public Works Commissioner)
BUDGET IMPACT: None.

PUBLIC SAFETY

- Authorizing an agreement with the Prevention Council of Saratoga County for a Certified Peer Recovery Advocate to be assigned to the Saratoga County Correctional Facility at a cost not to exceed \$35,000 for the 2021 calendar year.
(Michael Zurlo, County Sheriff)
BUDGET IMPACT: None. Funds for this agreement were included in the 2021 budget.
- Authorizing an Agreement with the Town of Wilton for specialized Law Enforcement.
(Michael Zurlo, County Sheriff)
BUDGET IMPACT: None.
- Introducing the Executive Order 203 Compliance Group Report and scheduling a public comment period for community feedback on the report/plan prior to adoption or ratification of the plan by Resolution of the Board of Supervisors.
(Michael Prezioso, Commissioner of Mental Health & Addiction Services)
BUDGET IMPACT: None.

ECONOMIC DEVELOPMENT

- Amending the boundaries of Consolidated Agriculture District #2.
(Jason Kemper, Director of Planning)
BUDGET IMPACT: None.

- Authorizing a major contract extension with Cornell Cooperative Extension for the management of the Saratoga County MS4 Stormwater Program for \$188,737 during the 2021 calendar year. (Jason Kemper, Director of Planning)
BUDGET IMPACT: None. Funds are included in the 2021 Budget.
- Authorizing first quarter 2021 payment to the Saratoga County Prosperity Partnership.
BUDGET IMPACT: None.
- Authorizing first quarter 2021 payment to the Saratoga Economic Development Corporation.
BUDGET IMPACT: None.

RACING & GAMING

- Supporting Saratoga Casino Hotel request to return to their original hours of operation.
BUDGET IMPACT: None.
- Urging Governor Cuomo and the State Legislature to restore VLT Impact Aid to the County of Saratoga and the City of Saratoga Springs.
BUDGET IMPACT: None.

GOVERNMENT REVIEW & EFFICIENCY

- Amending Resolution 1 of 2021 – Rules of the Saratoga County Board of Supervisors. (Supervisor Veitch)
BUDGET IMPACT: None.

LAW & FINANCE

- Authorizing an agreement with Franklin County (NY) for the sale of the Saratoga County Sewer District's Vac/Jet truck for \$180,000. (Dan Rourke, Executive Director of Sewer District)
BUDGET IMPACT: None.
- Authorizing the Chairman of the Board to sign an implementation task order with Niagara Mohawk Power Corporation d/b/a National Grid for implementation/installation of Saratoga County Sewer District no. 1's LED Lighting replacement at the Waste Water Treatment Plant and Milton Pump Station. (Dan Rourke, Executive Director of Sewer District)
BUDGET IMPACT: None.

- Authorizing the Chairman of the Board to execute an agreement with Wright-Pierce Engineering Consultants PC. for work related to evaluation and design of upgrades to the Sewer District's secondary clarifiers, gates, motor control centers and 4160V transformers at the Waste Water Treatment Plant.
(Dan Rourke, Executive Director of Sewer District)
BUDGET IMPACT: None.
- Authorize the transfer and reappropriation of funds from the 2020 budget to the 2021 budget in the amount of \$8,163,891.80 for ongoing capital projects.
(Dan Rourke, Executive Director of Sewer District)
BUDGET IMPACT: None.
- Introducing a proposed Local Law limiting third-party food delivery service fees during a declared emergency and setting a date for a public hearing on March 10, 2021 at 3:35pm.
BUDGET IMPACT: None.
- Amending Resolution 31 of 2021 – Agreement with Saratoga Springs City Center Authority for lease of the Saratoga Springs City Center for COVID-19 Vaccine.
BUDGET IMPACT: None.

CHAIRMAN'S ITEM

- Appointing Jonathan Schopf to the Board of Ethics.
BUDGET IMPACT: None.
- Appointing Nicole Tremblay, M.D. to the Community Services Board
BUDGET IMPACT: None.
- Appointing Darren O'Connor to the Ethics Advisory Council
BUDGET IMPACT: None.
- Re-appointing Ronald Rybicki, and appointing David Friedman and Garth Ellms to the Fish and Wildlife Management Board - Region 5.
BUDGET IMPACT: None.
- Re-appointing Daniel Keegan and Richard Loewenstein as Commissioners of Saratoga County Sewer District No. 1.
BUDGET IMPACT: None.
- Appointing members of the Tourism Advisory Board.
BUDGET IMPACT: None.
- Appointing Margaret McNamara as the Workers' Compensation Administrator
BUDGET IMPACT: None.

Other Business

- **Setting agenda for Board Meeting Scheduled For February 23, 2021**

Adjourn

Due to public health and safety concerns related to COVID-19, there is limited capacity in the Boardrooms. The public will have an opportunity to hear the meeting live via an audio signal using this call-in number and access code:

Dial: 1-978-990-5145

Access Code: 1840389



SARATOGA COUNTY

PRE-RESOLUTION MEMORANDUM

TO: Steve Bulger, County Administrator
Matt Rose, Management Analyst
Hugh Burke, Esq., County Attorney

FROM: Dan Rourke

DATE: 1/8/2020

Committee: Law and Finance

1. Budget Amendments: None – Funds are included in 2021 budgeted revenue
2. Amendments to the Compensation Schedule: None
3. Details on what the resolution will authorize:

The resolution will authorize the Chairmen to enter into a Memorandum of Agreement with the County of Franklin New York for the sale of the Saratoga County Sewer districts Vac/Jet Truck. The vehicle is a 2011 Western Star and Camel Combination Sewer Cleaner and we are selling the vehicle for \$180,000 which is 96% of the assessed value. The assessment of value was done by Cyncon Equipment Inc of Rush NY. This MOA meets all NYS purchasing requirements.

4. Vendors/contractors
 - a. Less desirable alternatives:
 - b. Were bid/proposals solicited: N/A
 - c. Was the contractor selected the lowest bid or proposal: MOA
 - d. Was the contract awarded on the best value methodology: NO
 - e. Is the vendor/contractor a sole source: NO
 - g. Commencement date of contract term: TBD
 - i. Contract renewal and term:
 - j. Contact information (names, addresses):
 - k. Is the vendor/contractor an LLS, PLLC or partnership (P.C.)
 - l. State of vendor/contractor organization: Jonathan J Miller Franklin County Attorney 355 West Main Street Malone NY 12953
 - m. Time element and why:
 - n. Other remarks: Sewer District Commission approved the action
5. Is this an annual housekeeping resolution: No
 - a. What were the terms of the prior resolution:
 - b. Are the terms changing:
 - c. What is the reason for the change in terms:
6. Is a new position being created: NO



SARATOGA COUNTY

- a. Effective date:
- b. Salary and grade:

7. Is a new employee being hired: NO

- a. Full name of the new employee including suffixes:
- d. City/Town of residence:
- e. Effective date of employment:
- f. Salary and grade
- g. Appointed position:
- h. Term:

8. Is a grant being accepted: NO

- a. Source of grant funding:
- b. Amount of grant:
- c. Purpose grant will be used for:
- d. Equipment and/or services being purchased with the grant:
- e. Time period grant covers:

9. Remarks : This sale mechanism was vetted with the purchasing director. The sewer commission approved this action

Back-Up: Letter from Cyncon Equipment with the assessed value.

CYNCON

Premier Municipal and Truck Equipment Since 1978

Saratoga County Sewer District
P.O. Box 550
Mechanicville N.Y
July 30, 2020

Mr. William Bills

Re: 2011 Western Star and Camel Combination Sewer Cleaner.
10yd. Dumping Debris Body
Roots PD Vacuum Blower and 80 GPM @ 2000 PSI Water Pump.
Current Miles 26,152
Current Water Pump Hours 234
Current Vacuum Hours 590

With respect to age, miles, hours and overall condition, I would estimate a resale value at \$ 188,000.

I have found a few comparative units of the same age selling in this range. That said, age will mostly dictate the sell price. Your machine however, has considerably less hours and miles. Knowing the maintenance history and it was always garaged should only enhance its marketability.

Kindest regards,

Mike Kane

Mike Kane, Sales Representative
(518) 526-1112





SARATOGA COUNTY

PRE-RESOLUTION MEMORANDUM

TO: Steve Bulger, County Administrator
Jason Kemper
Hugh Burke, Esq., County Attorney

FROM: Dan Rourke

DATE: 2/4/2020

Committee: Law and Finance

1. Budget Amendments: None
2. Amendments to the Compensation Schedule: None
3. Details on what the resolution will authorize:

The resolution will authorize the chairman of the board to sign an implementation task order with Niagara Mohawk Power Corporation d/b/a National Grid for implementation/installation of Saratoga County Sewer District no. 1's LED Lighting replacement. This project will replace all existing lights within the WWTP and Milton Pump station with energy efficient LED lighting. The total cost of the work is \$326,845.94. This fee does not include potential incentives by the electric utility NYSEG. The expected savings are approximately \$37,000 and results in an approximate 8 year simple pay back on energy savings, and 6 year simple payback when reduced O&M is included.

4. Vendors/contractors
 - a. Less desirable alternatives:
 - b. Were bid/proposals solicited: NO
 - c. Was the contractor selected the lowest bid or proposal: No, Utility ESCO contract
 - d. Was the contract awarded on the best value methodology: NO
 - e. Is the vendor/contractor a sole source: NO
 - g. Commencement date of contract term: TBD
 - i. Contract renewal and term:
 - j. Contact information (names, addresses):
 - k. Is the vendor/contractor an LLS, PLLC or partnership: Corporation
 - l. State of vendor/contractor organization: New York
 - m. Time element and why:
 - n. Other remarks: Sewer District Commission approved the action
5. Is this an annual housekeeping resolution: No
 - a. What were the terms of the prior resolution:
 - b. Are the terms changing:
 - c. What is the reason for the change in terms:



SARATOGA COUNTY

. Is a new position being created: NO

- a. Effective date:
- b. Salary and grade:

7. Is a new employee being hired: NO

- a. Full name of the new employee including suffixes:
- d. City/Town of residence:
- e. Effective date of employment:
- f. Salary and grade
- g. Appointed position:
- h. Term:

8. Is a grant being accepted: NO

- a. Source of grant funding:
- b. Amount of grant:
- c. Purpose grant will be used for:
- d. Equipment and/or services being purchased with the grant:
- e. Time period grant covers:

9. Remarks: This work can be completed under the existing master agreement we have with National Grid. The draft Task order is attached.



SARATOGA COUNTY

PRE-RESOLUTION MEMORANDUM

TO: Steve Bulger, County Administrator
Jason Kemper
Hugh Burke, Esq., County Attorney

FROM: Dan Rourke

DATE: 2/4/2020

Committee: Law and Finance

1. Budget Amendments: None – Funds are included in 2021 budget
2. Amendments to the Compensation Schedule: None
3. Details on what the resolution will authorize:

The resolution will authorize the Chairmen of the board to execute an agreement with Wright-Pierce Engineering Consultants PC. The agreement is for work related to evaluation and design of upgrades to our secondary clarifiers, gates, motor control centers (MCC's) and 4160V transformers at the WWTP. The proposal broke out costs for value added work. I am recommending award of the contract for an amount not to exceed \$454,180.00. The work will consist of CFD modeling and dye testing 3 secondary clarifiers, designing necessary upgrades and replacement to 3 existing secondary clarifiers, evaluating and designing upgrades to electrical systems at the WWTP including MCC's and transformers and evaluating and designing replacements to existing process gates in the facility.

4. Vendors/contractors

- a. Less desirable alternatives:
- b. Were bid/proposals solicited: YES
- c. Was the contractor selected the lowest bid or proposal: No, professional services
- d. Was the contract awarded on the best value methodology: NO
- e. Is the vendor/contractor a sole source: NO
- g. Commencement date of contract term: TBD
- i. Contract renewal and term:
- j. Contact information (names, addresses): 480 Broadway, Suite 250 Saratoga Springs NY 12866 Kevin Hickey
Project Manager
- k. Is the vendor/contractor an LLS, PLLC or partnership (P.C.)
- l. State of vendor/contractor organization: New York
- m. Time element and why:
- n. Other remarks:

5. Is this an annual housekeeping resolution: No

- a. What were the terms of the prior resolution:
- b. Are the terms changing:
- c. What is the reason for the change in terms:



SARATOGA COUNTY

6. Is a new position being created: NO

- a. Effective date:
- b. Salary and grade:

7. Is a new employee being hired: NO

- a. Full name of the new employee including suffixes:
- d. City/Town of residence:
- e. Effective date of employment:
- f. Salary and grade
- g. Appointed position:
- h. Term:

8. Is a grant being accepted: NO

- a. Source of grant funding:
- b. Amount of grant:
- c. Purpose grant will be used for:
- d. Equipment and/or services being purchased with the grant:
- e. Time period grant covers:

9. Remarks : Please see the attached spreadsheet for cost breakdowns of each proposal. This proposal was selected because it offered the best value for the work to be performed, had the best ideas for the evaluation of the clarifiers and will allow us to define the proper path forward for our upgrade.

Firm	Total Cost	Insp. Rate	Insp. Hours	Total Inspection Cost	Design Hours	
Delaware Eng	\$254,925.00	\$100.00	550	\$55,000.00	797	
Wright Pierce	\$454,180.00	\$101.80	550	\$56,000.00	1500.00	DSS/FSS testing/Dye Testing/CFD for 3 instead of 2
CHA	\$318,300.00	\$87.00	550	\$48,400.00	1550.00	Liked industrial experience
C&S	\$431,700.00	\$104.00	550	\$57,400.00	800.00	
GHD	\$487,300.00	\$85.00	550	\$43,500.00	1800.00	No Eschler
MRB	\$375,000.00	\$90.00	550	\$49,675.00	2125.00	No Eschler but still stress testing
Wendell	\$331,000.00	\$89.00	550	\$48,950.00	1600.00	
H2M	\$738,191.00	\$102.00	550	\$59,008.00	3000.00	
B&L	\$431,000.00	\$100.00	550	\$55,000.00	1400	



SARATOGA COUNTY

PRE-RESOLUTION MEMORANDUM

TO: Steve Bulger, County Administrator
Jason Kemper
Hugh Burke, Esq., County Attorney

FROM: Dan Rourke

DATE: 2/4/2021

Committee: Law and Finance

1. Budget Amendments: The 2021 budget will be amended to reflect the reappropriation of capital funds to the specified G/L accounts.
2. Amendments to the Compensation Schedule: None
3. Details on what the resolution will authorize:

The resolution will authorize the transfer and reappropriation of funds from the 2020 budget to the 2021 budget in the amount of \$8,163,891.80 for ongoing capital projects. The most notable contracts include a portion of Pump station rehabs (\$500kM), engineering fee's for the Joint Feasibility Study (\$1.86M) Engineering for the Saratoga Springs Pump Station Upgrade (300k), HVAC and new storage building construction (\$2.4M), Secondary Clarifier Upgrades (\$1.45M) . There are other contracts being carried over that can be found in the attached spread sheet. G/L Accounts Below

ES.81.812.7092 – \$555,537.80

ES.81.812.7098 – \$636,660.00

ES.81.813.7095 – 4,573,870.00

ES.81.813.7098 – 2,397,824.00

There is a total of \$8,217,809 available for reappropriation of ongoing capital projects in the 2020 budget.

4. Vendors/contractors Selected: None
 - a. Less desirable alternatives:
 - b. Were bids/proposals solicited:
 - c. Was the contractor selected the lowest bid or proposal:
 - d. Was the contract awarded on the best value methodology:
 - e. Is the vendor/contractor a sole source: NO
 - g. Commencement date of contract term: TBD
 - h. Termination of contract date:
 - i. Contract renewal and term:
 - j. Contact information (names, addresses):
 - k. Is the vendor/contractor an LLS, PLLC or partnership:
 - l. State of vendor/contractor organization:



SARATOGA COUNTY

- m. Time element and why: No time element.
- n. Other remarks:

5. Is this an annual housekeeping resolution: **NO**

- a. What were the terms of the prior resolution:
- b. Are the terms changing:
- c. What is the reason for the change in terms:

6. Is a new position being created: **NO**

- a. Effective date:
- b. Salary and grade:

7. Is a new employee being hired: **NO**

- a. Full name of the new employee including suffixes:
- d. City/Town of residence:
- e. Effective date of employment:
- f. Salary and grade
- g. Appointed position:
- h. Term:

8. Is a grant being accepted: **NO**

- a. Source of grant funding:
- b. Amount of grant:
- c. Purpose grant will be used for:
- d. Equipment and/or services being purchased with the grant:
- e. Time period grant covers:

9. Remarks

SCSD No. 1 - 2020 to 2021 Capital Budget Reappropriations

812.7092

Quadrant Biosciences WW Analysis	\$	37,000.00
Knox Woods/Riverside Trinity	\$	395,541.30
Knox Woods/Riverside 1 CKM Electrical	\$	122,996.50

Total **\$ 555,537.80 812.7092**

812.7098

Chazen Companies Knox Woods/Riverside & land I	\$	138,591.00
Arcadis of NY Sampling Program	\$	34,595.00
MJ Interceptor Rehab Design	\$	158,174.00
Weston and Sampson SS Pump Station	\$	305,300.00

Total **\$ 636,660.00 812.7098**

\$ 1,192,197.80 812 Totals

813.7095

Storage Building Roof Repair	\$	2,400,000.00
Administration Building Roof Repair	\$	13,950.00
Centrica Solar Array	\$	459,920.00
Secondary Clarifier, MCC, Gate Upgrade	\$	1,450,000.00
LED Lighting Project	\$	250,000.00

Total **\$ 4,573,870.00 813.7095**

813.7098

GPI storage Building Roof and HVAC Repair	\$	228,627.00
B&L Ammonia Upgrade	\$	308,145.00
Arcadis Joint Digester Facility Engineering	\$	1,861,052.00

Total	\$	2,397,824.00	813.7098
	\$	6,971,694.00	813 Totals
	\$	555,537.80	812.7092
	\$	636,660.00	812.7098
	\$	4,573,870.00	813.7095
	\$	2,397,824.00	813.7098

\$ 8,163,892 Tot. Reappropriation

\$ Difference for each account

AVAILABLE 2020 CAPITAL \$

\$	221,573.20	\$	777,111.00	Avail Cap 812.7092
\$	(330,004.00)	\$	306,656.00	Avail Cap 812.7098
		\$	1,083,767.00	TOTAL 812
\$	(456,850.00)	\$	4,117,020.00	Avail Cap 813.7095
\$	619,198.00	\$	3,017,022.00	Avail Cap 813.7098
		\$	7,134,042.00	TOTAL 813
Total	\$ 53,917.20	\$	8,217,809.00	Total in all Capital Accounts



SARATOGA COUNTY

PRE-RESOLUTION MEMORANDUM

TO: Steve Bulger, County Administrator
Hugh Burke, Esq., Acting County Attorney
Pamela Wright – Clerk of the Board

FROM: Michael Hartnett
Assistant County Attorney

CC: Therese Connelly – Deputy Clerk of the Board
Clare Giamusso – County Attorney’s Office

DATE: 2/5/2021

Committee: Law & Finance

1. Budget Amendments: N/A
2. Amendments to the Compensation Schedule: NA
3. Details on what the resolution will authorize:

The resolution will set a public hearing for the proposal of a local law limiting third-party food delivery service fees during a declared emergency and direct the Clerk of the Board to publish notice of the proposed local law and public hearing.

4. Vendors/contractors Selected: N/A
 - a. Less desirable alternatives: [Click here to enter text.](#)
 - b. Were bids/proposals solicited: [Click here to enter text.](#)
 - c. Was the contractor selected the lowest bid or proposal: [Click here to enter text.](#)
 - d. Was the contract awarded on the best value methodology: [Click here to enter text.](#)
 - e. Is the vendor/contractor a sole source: [Click here to enter text.](#)
 - g. Commencement date of contract term: [Click here to enter text.](#)
 - h. Termination of contract date: [Click here to enter text.](#)
 - i. Contract renewal and term: [Click here to enter text.](#)
 - j. Contact information (names, addresses): [Click here to enter text.](#)
 - k. Is the vendor/contractor an LLS, PLLC or partnership: [Click here to enter text.](#)
 - l. State of vendor/contractor organization: [Click here to enter text.](#)
 - m. Time element and why: [Click here to enter text.](#)
 - n. Other remarks: [Click here to enter text.](#)



SARATOGA COUNTY

5. Is this an annual housekeeping resolution: No
 - a. What were the terms of the prior resolution: [Click here to enter text.](#)
 - b. Are the terms changing: [Click here to enter text.](#)
 - c. What is the reason for the change in terms: [Click here to enter text.](#)

6. Is a new position being created: **No**
 - a. Effective date: [Click here to enter a date.](#)
 - b. Salary and grade: [Click here to enter text.](#)

7. Is a new employee being hired: No
 - a. Full name of the new employee including suffixes: [Click here to enter text.](#)
 - d. City/Town of residence: [Click here to enter text.](#)
 - e. Effective date of employment: [Click here to enter text.](#)
 - f. Salary and grade [Click here to enter text.](#)
 - g. Appointed position: [Click here to enter text.](#)
 - h. Term: [Click here to enter text.](#)

8. Is a grant being accepted: No
 - a. Source of grant funding:
 - b. Amount of grant: [Click here to enter text.](#)
 - c. Purpose grant will be used for: [Click here to enter text.](#)
 - d. Equipment and/or services being purchased with the grant: [Click here to enter text.](#)
 - e. Time period grant covers: [Click here to enter text.](#)

9. Remarks:

This resolution is to propose a local law limiting third-party food delivery service fees and setting a public hearing prior to adoption by the Board of Supervisors.

The proposed local law sets a cap for food delivery charges that may be charged by third-party delivery services (e.g., door dash, grub hub, uber-eats, etc.) during a declared emergency. The proposed local law will make it unlawful for a third-party food delivery service to charge a food service establishment more than 15% of the purchase price of any online order. The proposed local law will also make it unlawful for a third-party food delivery service to charge a food service establishment more than 5% for any other fees (e.g., listing fees, marketing fees, etc.) for the use of the service. The requirements of the proposed local law capping the fees will only be effective during a declared emergency and for a period of 90 days thereafter.

Attachments: Proposed Resolution and Draft Local-Law

RESOLUTION _____

Introduced by Supervisors _____

**INTRODUCING A PROPOSED LOCAL LAW IDENTIFIED AS
INTRODUCTORY NO. 1 OF 2021, PRINT NO. 1, ENTITLED
“A LOCAL LAW LIMITING THIRD-PARTY FOOD DELIVERY SERVICE FEES
DURING A DECLARED EMERGENCY”, AND SETTING A DATE FOR A PUBLIC
HEARING THEREON**

WHEREAS, a proposed Local Law, identified as Introductory No. 1 of 2021, Print No. 1, entitled “A Local Law Limiting Third-Party Food Delivery Service Fees During a Declared Emergency” is being introduced before this Board and is attached hereto as SCHEDULE A, which if adopted will, among other things, enact rules and regulations limiting third-party food delivery services during a declared emergency; and

WHEREAS, Municipal Home Rule Law §20(5) requires this Board of Supervisors to hold a public hearing on said proposed Local Law; now, therefore, be it

RESOLVED, that a proposed Local Law, identified as Introductory No. 1 of 2021, Print No. 1, entitled “A Local Law Limiting Third-Party Food Delivery Service Fees During a Declared Emergency”, which is attached hereto as SCHEDULE A, is hereby introduced before the Saratoga County Board of Supervisors, and the Board of Supervisors shall hold a Public Hearing on March 5, 2021 at 3:35 p.m., or as soon thereafter as the Board can convene, in the Meeting Room of the Saratoga County Board of Supervisors at 40 McMaster Street, Ballston Spa, New York 12020, on the matter of the adoption of such proposed Local Law; and be it further

RESOLVED, due to public health and safety concerns related to COVID-19, and in accordance with Governor Cuomo’s Executive Order 202.1, as last extended by Executive Order 202.72, public comment will be received via email to: publiccomment@saratogacountyny.gov, or by written correspondence addressed to: Clerk of the Board, Saratoga County Board of Supervisors, 40 McMaster Street, Ballston Spa, NY, 12020, which public comment must be received by March 5, 2021 at 3:35pm; and, be it further

RESOLVED, that the Clerk of this Board of Supervisors be and she hereby is directed to give notice of such Public Hearing in the manner prescribed by law.

BUDGET IMPACT STATEMENT: No budget impact.

SCHEDULE A

INTRODUCTORY NO. 1 OF 2021

PRINT NO. 1

INTRODUCED BY: Supervisors _____

**COUNTY OF SARATOGA
LOCAL LAW NO. 1 OF 2020**

**A LOCAL LAW A LOCAL LAW LIMITING THIRD-PARTY FOOD DELIVERY
SERVICE FEES DURING A DECLARED EMERGENCY**

BE IT ENACTED by the Board of Supervisors of the County of Saratoga as follows:

SECTION 1. Title. This Local Law shall be known as “A Local Law Limiting Third-Party Food Delivery Service Fees During a Declared Emergency”.

SECTION 2. Definitions.

A. The following words when used in this local law, shall have the meanings ascribed to them except in those instances where the context clearly indicated otherwise:

- a. The term “declared emergency” shall mean the period of time during which a State disaster emergency has been declared by the Governor of the State of New York or a state of emergency has been declared by the Chairman of the Board of Supervisors of Saratoga County, and such declaration is in effect in the County, and there are restrictions imposed on on-site dining at food service establishments in the County.
- b. The term “delivery fee” shall mean a fee charged by a third-party food delivery service for providing a food service establishment with a service that delivers food from such food service establishment to customers. The term does not include any other fee that may be charged by a third-party food delivery service to a food service establishment, such as fees for listing or advertising the food service establishment on the third-party food delivery service platform or fees related to processing an online order.
- c. The term “food service establishment” shall mean any fixed or mobile restaurant; drive-in; coffee shop; cafeteria; short-order café; delicatessen; luncheonette; grill; tea room; sandwich shop; soda fountain; bar; tavern; cocktail lounge; night club; roadside stand; take-out prepared food place; retail bakery; industrial feeding establishment; private, public, or nonprofit organization, including: schools; nursing homes; day care centers and hospitals; religious and fraternal

organizations routinely serving food; catering kitchens; commissary or similar places in which food is prepared for sale on the premises or elsewhere; and any other establishment or operation where food is served or provided to the public, with or without charge.

- d. The term “online order” shall mean any order placed by a customer through or with the assistance of a platform provided by a third-party food deliver service, including a telephone order.
- e. The term “purchase price” shall mean the total price of the items contained in the online order that are listed on the menu of the food service establishment where such order is placed. Such term does not include taxes, gratuities, and any other fee that make up the total cost to the customer of an online order.
- f. The term “third-party food delivery service” shall mean any website, mobile application, or other internet service that offers or arranges for the sale of food and beverages offered by food service establishments, and the same-day delivery or same-day pickup of food and beverages from food service establishments located in the County that are owned and operated by different persons.

B. Unless otherwise indicated above or by the context in which they might be used, all words used herein shall have the meanings ascribed to them by the General Construction Law of the State of New York.

SECTION 3. Fee Limits During Declared Emergencies.

- A. It shall be unlawful for a third-party food delivery service to charge a food service establishment a delivery fee that totals more than fifteen percent (15%) of the purchase price of each online order.
- B. It shall be unlawful for a third-party food delivery service to charge a food service establishment any fee or fees other than a delivery fee for the use of their service greater than five percent (5%) of the purchase price of each online order. Any fees or other charges from a third-party food delivery service to a food service establishment beyond such maximum five percent (5%) per online order, and a delivery fee collected pursuant to subdivision (A) of this section, are unlawful, provided that such cap shall not apply to a credit card fee that is charged to the third-party food delivery service and is charged in the same amount to by the third-party food delivery service to such food service establishment.
- C. It shall be unlawful for a person to cause a third-party food delivery service platform to reduce the compensation rate paid to a delivery service driver or garnish gratuities in order to comply with this section.
- D. The requirements of this section shall only apply during a declared emergency and for a period of ninety (90) days after the end of the declared emergency.

SECTION 4. Enforcement. If a third-party food delivery service charges a food service establishment fees in violation of this law, the food service establishment shall provide written notice to the third-party food delivery service requesting a refund within seven (7) days. If the third-party food delivery service does not provide the refund requested within seven (7) days of receipt of the written notice or the third-party food delivery service continues to charge fees in violation of this law after the initial written notice and seven-day cure period, a food service establishment may enforce this law by means of a civil action seeking damages and injunctive relief. The prevailing party in any such action shall be entitled to an award of reasonable attorney fees.

SECTION 5. Severability. In the event any section, part of section, sentence, clause or phrase of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment will not affect the validity of any other provision of this local law.

SECTION 14. Effective Date. This local law shall take effect upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.

INDENTURE OF LEASE
BETWEEN
COUNTY OF SARATOGA
AND
CITY OF SARATOGA SPRINGS
DATED FEBRUARY _____, 2021

DRAFT

LEASE

Table of Contents

<u>Article</u>		<u>Page</u>
1.	Premises: Term	1
2.	Rent	1
3.	Use	2
4.	Alterations, Fixtures	2
5.	Repairs	3
6.	Floor Load: Noise	4
7.	Laws, Ordinances, Requirements	4
8.	Insurance	4
9.	Damage By Fire or Other Causes	6
10.	Assignment, Subletting, Mortgaging	7
11.	No Liability of Landlord and Indemnity By Tenant	9
12.	Condemnation	9
13.	Entry, Right to Change Public Portions of the Building	10
14.	Default, Etc.	10
15.	Mechanic's Liens	13
16.	Landlord's Right to Perform Tenant's Obligations	13
17.	Covenant of Quiet Enjoyment	13
18.	Services and Equipment	13
19.	Operating Expense and Tax Increases	14
20.	Electric Inclusion	16
21.	Broker	17
22.	Subordination	17
23.	Estoppel Certificates	18
24.	Waiver of Jury Trial	18
25.	Surrender of Premises	18

26.	Rules and Regulations	18
27.	Successors and Assigns and Definitions	18
28.	Notices	19
29.	No Waiver; Entire Agreement	19
30.	Captions	20
31.	Inability to Perform	20
32.	Security Deposit	20
33.	Work	20
34.	Parking	21
35.	No Representations by Landlord	21
36.	Holding Over	21
37.	Relocation of Tenant	22
38.	Submission of Lease	22
39.	Remedies Shall be Cumulative	22
40.	Laws Governing	22
41.	Severability	22

DRAFT

LEASE

INDENTURE OF LEASE made this day of February, 2021, between SARATOGA SPRINGS CITY CENTER AUTHORITY, having an address of 522 Broadway, Saratoga Springs, New York 12866, a New York State Authority (hereinafter referred to as "Landlord"), and COUNTY OF SARATOGA, a New York municipal corporation having an address of 40 McMaster Street, Ballston Spa, New York 12020 (hereinafter referred to as "Tenant"). Landlord and Tenant are parties to that certain Minor Contract Less Than \$15,000 dated as of January 13, 2021 (the "Minor Contract").

W I T N E S S E T H

PREMISES: TERM

1.01. Landlord hereby leases to Tenant and Tenant hereby hires from Landlord the space known and identified as the Main Hall, Lobby, Board Room 101, Wedge Room, Kitchen and Loading Dock, (the "Demised Premises"), in the building (the "Building") commonly known as the SARATOGA CITY CENTER located on the land (the "Land") more particularly described as 522 Broadway in the City of Saratoga Springs, County of Saratoga, and State of New York, upon and subject to the terms and conditions and limitations hereafter set forth. The parties agree that in addition to Tenant's right to use and occupy the Demised Premises, it shall also be entitled to vehicle access to the Building and the exclusive use of the walk in cooler and walk in freezer in the Wedge Room.

MASS VACCINE NOTIFICATION

TO HAVE AND TO HOLD the Demised Premises unto Tenant, its permitted successors and assigns, for a term commencing on the date which is contained in a written notice from Tenant to Landlord, to be given promptly upon Tenant's notification by the State of New York that sufficient doses of a vaccine for COVID-19 will be delivered to Tenant (the "Commencement Date") and ending on April 30, 2021 unless sooner terminated, as hereinafter provided. It is agreed that after 4/30/21 the lease continues month to month as contemplated by the parties acting in good faith. The term "sufficient doses" is solely determined by the Commissioner of Saratoga County Public Health. The expiration date of the minor contract having been established as 2/22/21, it is agreed under this major contract that the Tenant will have to pay Landlord \$2,000 per week as a reservation fee until such time as the Mass Vaccine Notification referred to above is made, at which time the reservation fee is suspended and monthly rent of \$49,328.00 shall apply. Should a monthly rental period terminate due to lack of vaccine, the parties agree that if one week or more remains in the period before termination 4/30/21, that the Tenant may reserve the hall at a rate of \$2,000 per week until 4/30/21, with pro rata until that date. Any activation of Mass Vaccine Notification after 3/30/21 will be on a pro-rata basis of the \$49,328.00 per month figure until termination on 4/30/21.

IT IS MUTUALLY COVENANTED AND AGREED between Landlord and Tenant as follows:

RENT

2.01. Throughout the term of this Lease, Tenant shall pay at the office of Landlord at the address first above written or as may be otherwise directed by Landlord in writing as rent for the Demised Premises Minimum Rent in the amount of Forty-Nine Thousand Three Hundred Twenty-eight and 00/100 Dollars (\$49,328.00) per month, inclusive of all applicable taxes, Building insurance, and utilities.

2.02. The Minimum Rent shall be payable in 30 days after submission of a properly documented voucher by Landlord.

2.03. Intentionally deleted.

2.04. The Minimum Rent shall be payable by Tenant without any set-off or deduction whatsoever and without notice or demand.

USE

3.01. Tenant shall use and occupy the Demised Premises for the conduct of a vaccination clinic and related ancillary uses and for no other purpose.

ALTERATIONS, FIXTURES

4.01. Tenant shall make no alterations, decorations, installations, additions, or improvements in or to the Demised Premises without Landlord's prior written consent. Landlord's written consent shall not be unreasonably withheld, conditioned or delayed. All work shall be done in full compliance with all applicable laws, codes and ordinances and all governmental authorities having jurisdiction thereover. All alterations upon the Demised Premises, made by either party, affixed to the realty or so affixed that they cannot be removed without material damage to the Demised Premises, shall, unless Landlord elects otherwise (which election shall be made by notice to Tenant to such effect given prior to the expiration or after any sooner termination of the term of this Lease or any renewal or extension thereof), become the property of Landlord and shall remain upon, and be surrendered with, the Demised Premises as a part thereof at the end of the term or renewal term, as the case may be, without allowance to Tenant or charge to Landlord. In the event Landlord shall elect otherwise, then such alteration shall, at Landlord's option, either be removed by Tenant and Tenant shall restore the Demised Premises to its original condition, at Tenant's expense, at or prior to the expiration of the term, or Tenant shall pay to Landlord an amount equal to the cost for such removal and restoration.

4.02. Where furnished by Tenant, all movable property, furniture, furnishings and trade fixtures, other than those affixed to the realty so that they cannot be removed without material damage, shall remain the property of and shall be removed by Tenant, and in case of damage by reason of such removal, Tenant shall restore the Demised Premises to good order and condition.

REPAIRS

5.01. Tenant shall take good care of the Demised Premises and the fixtures, systems and appurtenances therein.

5.02. Landlord at its expense shall make all repairs and replacements, structural and otherwise, necessary in order to keep in good order and repair the Premises, exterior of the Building and the public portions of the Building and of the need for which Landlord may have knowledge. Tenant shall notify Landlord of the necessity for any repairs of which Tenant may have knowledge.

6.01 Intentionally deleted.

LAWS, ORDINANCES, REQUIREMENTS OF PUBLIC AUTHORITIES

7.01. Tenant, at its expense, shall promptly comply with all laws, orders, ordinances, rules and regulations of Federal, State, County and Municipal authorities and departments thereof having or asserting jurisdiction over the Demised Premises, relating to the Demised Premises or Tenant's use and occupancy of the Demised Premises. Landlord represents that the Certificate of Occupancy for the Building permits use of the Demised Premises for the purposes specified in Article 3 hereof.

7.02. If Tenant receives written notice of any violation of any law, ordinance, rule, order or regulation applicable to the Demised Premises, it shall give prompt notice thereof to Landlord.

INSURANCE

8.01. Tenant shall not do or permit to be done any act or thing in or upon the Demised Premises which will invalidate or be in conflict with the Certificate of Occupancy for the Building or the terms of the insurance policies covering the Building and the fixtures and property therein; and Tenant, at its expense, shall comply with all rules, orders, regulations or requirements of the Board of Fire Underwriters or any other similar body having jurisdiction, and shall not do or permit anything to be done in or upon the Demised Premises in a manner which increases the rate of insurance for the Building or any property or equipment located therein over the rate in effect on the Commencement Date.

8.02. If Tenant fails to comply with the provisions of Section 8.01. or any of the other provisions of this Lease, Tenant shall pay to Landlord, as additional rent, any additional or increased insurance premiums resulting therefrom and Tenant shall make such payment forthwith on demand of Landlord.

8.03 Tenant shall obtain insurance policies, from insurance carriers licensed and authorized to do business in the State of New York and with a rating of not less than an A (by A.M. Best), for the following coverage:

1. Commercial General Liability (CGL) with limits of insurance of not less than \$1,000,000 each Occurrence and \$2,000,000 Aggregate.
 - a. The Saratoga Springs City Center Authority and the City of Saratoga Springs shall be included as Additional Insured on the Lessee's CGL, using ISO Additional Insured Endorsement CG 20 38 (04/13) AND CG 20 37 (10/01); or an endorsement providing equivalent coverage to the Additional Insureds. It shall apply as primary and non-contributing insurance before any insurance maintained by the Additional Insureds.
2. Business Automobile Liability (AL) with limits of insurance of not less than \$1,000,000 each accident. The AL coverage shall include as the Saratoga Springs City Center Authority and the City of Saratoga Springs as Additional Insureds. Additional Insureds shall be included as Additional Insureds on a primary and non-contributory basis. AL must include coverage for liability arising out of all owned, leased, hired, and non-owned automobiles.

8.04. (a) All policies of insurance procured by Tenant: (i) shall be issued in form reasonably acceptable to Landlord by insurance companies with a general policy holder's rating of not less than A and a financial rating of XII as rated in the most current available "Best's" insurance reports, and licensed to do business in New York and authorized to issue such policy or policies, and (ii) shall be written as primary policies not contributing with, nor in excess of, coverage that Landlord may carry, and (iii) shall be issued in the name of Tenant and shall contain an endorsement naming Landlord and, at Landlord's request, its mortgagees or ground lessors, if any, as additional insureds. (b) Duly executed certificates of insurance or, if required by Landlord or any mortgagee, original policies, together with reasonably satisfactory evidence of payment of the premiums therefor, shall be delivered to Landlord on or before the earlier of the day Tenant begins any fit-up work in the Demised Premises or the day Tenant takes possession of the Demised Premises and, upon renewals of such policy or policies, not less than 20 days prior to the expiration of the term of any coverage thereunder. The minimum limits of any insurance coverage required herein to be carried by Tenant shall not limit Tenant's liability under Section 11.01 hereof. All such certificates or policies shall provide for 30 days' notice to Landlord or any mortgagee or ground lessor of the cancellation of such policy. (c) Tenant releases Landlord and Landlord's agents, employees, mortgagees and ground lessors, if any, from liability for loss or damage to any of Tenant's property situated in the Building that is covered by the insurance required to be maintained by Tenant under Section 8.03 hereof, or, if Tenant fails to maintain such insurance, would have been covered by such insurance. All policies procured by Tenant under subsection 8.03(b) hereof shall provide that such insurance shall not be invalidated should the insured waive in writing prior to a loss any or all rights of recovery against any party for loss occurring to the property described therein. (d) Landlord releases Tenant and Tenant's agents and employees from liability for loss or damage to all or any portion of the Building to the extent the same is covered by the fire and extended coverage insurance

maintained by Landlord with respect to the Building. This release shall not be limited to the liability of Tenant or Tenant's agents or employees to Landlord; it shall also apply to Tenant's or Tenant's agents or employees liability to any person claiming through or under Landlord pursuant to a right of subrogation or otherwise. This release shall apply even if the loss or damage shall have been caused by the fault or negligence of Tenant or Tenant's agents or employees.

DAMAGE BY FIRE OR OTHER CAUSES

9.01. If the Demised Premises or any part thereof shall be partially damaged by fire or other casualty and Tenant gives prompt notice thereof to Landlord, Tenant shall be entitled to terminate this Lease upon such notice.

ASSIGNMENT, SUBLETTING, MORTGAGING

10.01. Neither Tenant, nor Tenant's legal representatives or successors in interest by operation of law or otherwise, shall assign, mortgage or encumber or otherwise transfer this Lease or any interest under it, nor sublet or permit the Demised Premises or any part thereof to be used by others.

NO LIABILITY OF LANDLORD, INDEMNITY

11.01. The parties shall indemnify and defend each other against and save each other harmless from any liability (including counsel fees and expenses including, without limitation, pretrial, trial and appellate counsel fees, costs and expenses) to and claim by or on behalf of any person, firm, governmental authority or corporation for personal injury, death or property damage (including, without limitation, those which may be based upon the negligence, active, passive or statutory, of such party) arising (a) from the use by such party of the Demised Premises or the Building or Land or from any work or thing whatsoever done or omitted to be done by such party, its agents, contractors, employees, licensees or invitees, and (b) from any breach or default by such of and under any of the terms, covenants and conditions of this Lease.

11.02 Landlord and its agents or employees shall not be liable for any damage to property of Tenant or of others entrusted to employees of the Building, nor for the loss of or damage to any property of Tenant by theft or otherwise. Landlord and its agents or employees shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or snow or leaks from any part of the Building or from the pipes, appliances or plumbing works or from the roof, street or sub-surface or from any other place or by dampness or by any other cause of whatsoever nature, unless caused by or due to the negligence of Landlord, its agents or employees.

CONDEMNATION

12.01. In the event that the whole of or substantially all of the Demised Premises shall be condemned or taken in any manner for any public or quasi-public use or acquired by purchase in lieu of condemnation, this Lease and the term and estate hereby granted shall forthwith cease and terminate as of the date the condemnor takes possession. In the event only a part of the Demised Premises shall be so condemned or taken, then, effective as of the date of vesting of title, Tenant shall have the right to terminate the Lease upon such notice, but if the Tenant does not make that election, then the rent hereunder for such part shall be equitably abated and this Lease shall continue as to such part not so taken. In the event that only a part of the Demised Premises shall be so condemned or taken and this Lease and the term and estate hereby granted are not terminated as hereinbefore provided, Landlord, out of the award allocated for such purpose, will restore with reasonable diligence the remaining structural portions of the Demised Premises as nearly as practicable to the same condition as it was in prior to such condemnation or taking.

In the event of termination in any of the cases hereinabove provided, this Lease and the term and estate hereby granted shall expire as of the date of such termination with the

same effect as if that were the date hereinbefore set for the expiration of the term of this Lease, and the rent hereunder shall be apportioned as of such date.

In the event of any condemnation or taking hereinabove mentioned of all or a part of the Building, Landlord shall be entitled to receive the entire award in the condemnation proceeding, including any award made for the value of the estate vested by this Lease in Tenant, and Tenant hereby expressly assigns to Landlord any and all right, title and interest of Tenant now or hereafter arising in or to any such award or any part thereof, and Tenant shall be entitled to receive no part of such award.

13.01 Intentionally deleted.

DEFAULT, ETC.

14.01. Landlord, at its option, may terminate this Lease on three (3) days notice: (a) if any Minimum Rent or additional rent due hereunder is not paid within ten (10) days after written notice that the same is due; or (b) if a petition in bankruptcy shall be filed by or against Tenant or if Tenant shall make a general assignment for the benefit of creditors, or receive the benefit of any insolvency or reorganization act; or (c) if a receiver or trustee is appointed for any portion of Tenant's property and such appointment is not vacated within twenty (20) days; or (d) if an execution or attachment shall be issued under which any portion of the Demised Premises shall be taken or occupied or attempted to be taken or occupied by anyone other than Tenant; or (e) if the Demised Premises are abandoned by Tenant or otherwise become and remain vacant or deserted for a period of ten (10) days or more; or (f) if the Demised Premises are used for some purpose other than the use authorized herein; or (g) if this Lease is mortgaged or assigned without the prior written consent of Landlord; or (h) if all or any portion of the Demised Premises is sublet without the prior written consent of Landlord; or (i) if Tenant shall default beyond any grace period under any other lease between Tenant and Landlord; or (j) if Tenant shall have failed to cure a default in the performance of any provision of this Lease on its part to be performed or observed (other than a default set forth in (a)-(i) above) or any rule or regulation hereinafter set forth within ten (10) days after written notice thereof from Landlord, or if such default cannot be completely cured in such time, if Tenant shall not promptly proceed to cure such default within said ten (10) days, or shall not complete the curing of such default with due diligence, then, and in any one or more of such events (herein referred to as an "Event of Default"), Landlord shall have the immediate right to re-enter the Demised Premises and to dispossess Tenant and all other occupants therefrom and remove and dispose of all property therein or, at Landlord's election, to store such property in a public warehouse or elsewhere at the cost and for the account of Tenant, and without Landlord being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby. Upon the occurrence of any Event of Default, Landlord shall also have the right, at its option, in addition to and not in limitation of any other right or remedy, to terminate this Lease by giving Tenant three days' notice of cancellation and upon the expiration of such three days, this Lease and the term hereof shall cease and terminate as fully and completely as if the date of expiration of such three day period were the expiration date of the term of this Lease, and thereupon, unless Landlord shall have theretofore elected to re-enter the Demised Premises, Landlord shall have the immediate right to re-entry, in the manner aforesaid, and Tenant and all other occupants shall quit and surrender the Demised Premises to Landlord, but Tenant shall remain liable as hereinafter provided. If Tenant shall default (x) in the payment when due of any rents, charges or other sums reserved hereunder, and any such default shall continue or be repeated for two consecutive months, or for a total of two months in any period of 12 months, or (y) in the performance of any other covenant of this Lease more than six times, in the aggregate, in any period of 12 months then, notwithstanding that such defaults shall have been cured within the period after notice as above provided, any further similar default shall be deemed to be deliberate and Landlord thereafter may serve such three days' notice of termination without affording Tenant an opportunity to cure such default.

14.02. If by reason of the occurrence of any Event of Default, the term hereof shall end before the date originally fixed herein for the expiration thereof, or Landlord shall re-enter the Demised Premises, or Tenant shall be ejected, dispossessed, or removed therefrom by summary proceedings or in any other manner, whether or not specifically enumerated in this Lease, or if the Demised Premises become vacant, deserted or abandoned, Landlord, at any time thereafter,

may relet the Demised Premises, or any part or parts thereof, either in the name of Landlord or as agent for Tenant, for a term or terms which may, at Landlord's option, be less than or exceed the period of the remainder of the term hereof, and at such rental or rentals and upon such other conditions, which may include concessions and free rent periods, as Landlord, in its sole discretion, shall determine. Landlord shall receive the rents from such reletting and shall apply the same first, to the payment of such expenses as Landlord may have incurred in connection with re-entering, ejecting, removing, dispossessing, reletting, altering, repairing, redecorating, subdividing, or otherwise preparing the Demised Premises for reletting, including brokerage and reasonable attorneys' fees and expenses; second, to the payment of any indebtedness or the rents, charges and other sums due hereunder from Tenant to Landlord; and the residue, if any, Landlord shall apply to the fulfillment of the terms, covenants and conditions of Tenant hereunder, and Tenant shall receive the surplus, if any. Tenant shall be liable for and pay Landlord any deficiency between the rents, charges and other sums reserved hereunder and the net rentals, as aforesaid, of reletting, if any, for each month of the period which otherwise would have constituted the balance of the term hereof. Tenant shall pay such deficiency in monthly installments on the rent days specified in this Lease, and any suit or proceeding brought to collect the deficiency for any month, either during the term or after any termination thereof, shall not prejudice or preclude in any way the rights of Landlord to collect the deficiency for any subsequent month by a similar suit or proceeding. Landlord shall in no event be liable in any way whatsoever for the failure to relet the Demised Premises or, in the event of such reletting, for failure to collect the rents reserved hereunder. Landlord is hereby authorized and empowered to make such repairs, alterations, decorations, subdivisions or other preparations for the reletting of the Demised Premises as Landlord shall deem advisable, without in any way releasing Tenant from any liability hereunder, as aforesaid. No such re-entry or taking possession of the Demised Premises by Landlord shall be construed as an election on its part to terminate this Lease unless the termination thereof shall result as matter of law or be decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous default.

14.03. In the event this Lease is terminated pursuant to the foregoing provisions of this Article, Landlord may recover from Tenant all damages it may sustain by reason of Tenant's default, including the cost of recovering the Demised Premises and reasonable attorneys' fees and expenses and, upon so electing and in lieu of the damages that may be recoverable under Section 14.02 above (measured by the monthly deficiency, if any), shall be entitled to recover from Tenant, as and for liquidated damages, and not as a penalty, an amount equal to the difference between the rents, charges and other sums reserved hereunder for the period which otherwise would have constituted the balance of the term hereof and the rental value of the Demised Premises at the time of such election, for such period, both discounted at the rate of four percent (4%) per annum to present worth, all of which shall immediately be due and payable by Tenant to Landlord. In determining the rental value of the Demised Premises the rental realized by any reletting, if such reletting be accomplished by Landlord within a reasonable time after the termination of this Lease, shall be deemed prima facie to be the rental value. Nothing herein contained, however, shall limit or prejudice the right of Landlord to prove and obtain as liquidated damages by reason of such termination an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, such damages are to be proved, whether or not such amount be greater, equal to, or less than the amounts referred to in this Section 14.03.

14.04. (a) Tenant waives any and all rights of redemption granted by or under any present or future laws in the event Tenant shall be evicted or dispossessed from the Demised Premises for any cause, or Landlord re-enters the Demised Premises following the occurrence of any Event of Default hereunder, or this Lease is terminated before the expiration date of the term hereof.

(b) In the event of any breach or threatened breach by Tenant of any of the terms and provisions of this Lease, Landlord shall have the right to injunctive relief and declaratory relief as if no other remedies were provided herein for such breach.

(c) The rights and remedies herein reserved by or granted to Landlord and Tenant are distinct, separate and cumulative, and the exercise of any one of them shall not be deemed to preclude, waive or prejudice Landlord's or Tenant's right to exercise any or all others.

(d) Landlord and Tenant hereby expressly waive any right to assert a defense based on merger and agree that neither the commencement of any action or proceeding, nor the settlement thereof nor the entry of judgment therein shall bar Landlord or Tenant from bringing any subsequent actions or proceedings from time to time.

(e) Any provision of this Lease which requires Landlord not to unreasonably withhold its consent shall never be the basis for an award of damages or give rise to a right of setoff on Tenant's behalf, but may be the basis for a declaratory judgment or specific injunction with respect to the matter in question.

(f) If Tenant and Landlord shall default in the performance of any provision of this Lease on its part to be performed or observed or if Landlord takes any action or institutes any legal proceeding to enforce the terms of this Lease, then Landlord shall be entitled to recover all forms of damages, fees, costs and expenses incurred thereby, including without limitation, attorneys' fees and expenses incurred in pretrial, trial and appellate proceedings. Such damages, fees, costs and expenses shall be deemed to be additional rent hereunder and shall be paid by Tenant to Landlord upon demand. To the extent permitted by law, Tenant waives a jury trial in connection with any such action.

MECHANIC'S LIENS

15.01. Unless Landlord expressly agrees in writing in advance, Tenant shall not have the power or authority to subject Landlord's interest in the Land or Building to any liens, including mechanic's liens, and nothing contained in this Lease shall be deemed or construed in any way as constituting the consent or request of Landlord, express or implied, to any contractor, laborer or materialman to furnish or perform any such labor.

15.02. If, because of any act or omission (or alleged act or omission) of Tenant, any mechanic's or other lien, charge or order for the payment of money shall be filed against the Demised Premises, the Land or the Building or Landlord's estate as tenant under any ground or underlying lease (whether or not such lien, charge or order is valid or enforceable as such), Tenant, at Tenant's expense, shall cause it to be cancelled or discharged of record by bonding or otherwise within ten (10) days after such filing, and Tenant shall indemnify Landlord thereagainst and save Landlord harmless therefrom, and shall pay all costs, expenses, losses, fines and penalties, including, without limitation attorneys' fees, resulting therefrom.

LANDLORD'S RIGHT TO PERFORM TENANT'S OBLIGATIONS

16.01. If Tenant shall default in the performance of any of the terms of this Lease, Landlord may remedy such default for the account and at the expense of Tenant. Any payment made or expense incurred by Landlord for such purpose (including but not limited to attorneys' fees) with interest at the maximum legal rate, shall be deemed to be additional rent hereunder and shall be paid by Tenant to Landlord on demand.

COVENANT OF QUIET ENJOYMENT

17.01. Landlord covenants that upon Tenant paying the rent and additional rent and observing and performing all the terms, covenants and conditions of this Lease on Tenant's part to be observed and performed, Tenant may peaceably and quietly enjoy the Demised Premises, subject nevertheless to the terms and conditions of this Lease and to any ground leases, underlying leases or mortgages affecting the Land or the Building of which the Demised Premises form a part.

SERVICES AND EQUIPMENT

18.01. So long as Tenant is not in default under any of the terms, covenants and conditions of this Lease, Landlord shall: (a) provide passenger elevator service 24 hours per day, Monday through Sunday, (b) maintain and keep in good order and repair the central

air-conditioning, heating, and ventilating system installed by Landlord, (c) provide Building standard cleaning services in the public portions of the Building, except Saturdays, Sundays and holidays, and (d) furnish hot and cold water for lavatory and drinking and office cleaning purposes. The cost for the foregoing (a) through (d) shall be included in, but shall not be in limitation of, Minimum Rent.

18.02. Holidays shall be deemed to mean all federal holidays and state holidays observed in the State of New York, City of Saratoga Springs.

18.03. Landlord reserves the right to interrupt, curtail or suspend the services required to be furnished by Landlord under this Article 18 when the necessity therefor arises by reason of accident, emergency, mechanical breakdown, or when required by any law, order or regulation of any Federal, State, County or municipal authority, or for any other cause beyond the reasonable control of Landlord. Tenant shall not be entitled to, nor shall Tenant make claim for, any diminution or abatement of Minimum Rent or additional rent or other compensation, nor shall this Lease or any of the obligations of Tenant be affected or reduced by reason of such interruption, curtailment, suspension, work or inconvenience.

18.04. Landlord shall provide rubbish removal services for the Demised Premises and the cost therefor shall be included in Minimum Rent. The parties agree, however, that Tenant shall be responsible at its own cost and expense for disposal of medical waste.

The Saratoga Springs City Center Authority will provide tables, chairs and other equipment owned by the City Center free of charge.

The Saratoga Springs City Center offers free public grade wireless internet service throughout the facility. The Wi-Fi is designed specifically for your event attendees. Premium/dedicated services with greater band with for people who want to upgrade their service to exhibitor grade Wi-Fi or wired access is available for order in advance exclusively from Spa.Net. All additional charges for internet service in sessions/presentation areas are the responsibility of the Tenant.

OPERATING EXPENSE AND TAXES

19.01. Operating Expenses and Real Property Taxes are included in Minimum Rent.

ELECTRIC INCLUSION

20.01. Landlord will furnish electric energy to the Demised Premises and the parties agree that the expense therefor is included in Minimum Rent. Landlord shall not be liable in any way to Tenant for any failure or defect in the supply or character of electric energy furnished to the Demised Premises by reason of any law or any requirement, act or omission of the public utility serving the Building with electricity or for any other reason beyond the reasonable control of Landlord. Landlord shall furnish and install all lighting tubes, lamps, bulbs and ballasts required in the Demised Premises, at Landlord's expense, if Tenant requests Landlord to furnish and install same.

BROKER

21.01. The parties hereto agree that no broker negotiated and brought about this transaction.

SUBORDINATION

22.01. This Lease is and shall be subject and subordinate at all times and to all ground or underlying leases and to all mortgages which may now or hereafter affect any such lease or the Land or the Building and to all renewals, modifications, amendments, consolidations, replacements or extensions of any of the foregoing. This clause shall be self-operative and no further instrument of subordination shall be required. However, in confirmation of such subordination, Tenant, at any time and from time to time, shall execute promptly any certificate

that Landlord may request. Tenant hereby constitutes and appoints Landlord the Tenant's attorney-in-fact, as coupled with an interest, to execute any such certificate or certificates for and on behalf of Tenant.

22.02. Upon the request of Landlord, or the holder of any mortgage, or the Landlord under any ground lease affecting the Demised Premises, or their designee, Tenant shall execute an instrument in writing satisfactory to such party, or to the purchaser of the mortgaged premises in foreclosure whereby Tenant attorns to such landlord, holder or purchaser, as the case may be, and will perform for such party's benefit all the terms, covenants and conditions of this Lease on the Tenant's part to be performed.

ESTOPPEL CERTIFICATES

23.01. Tenant, at any time, and from time to time, upon not less than ten days' prior notice by Landlord, shall execute, acknowledge and deliver to Landlord a statement in writing addressed to Landlord, or such party as is designated by Landlord, certifying that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified and stating the modifications), stating the dates to which the Minimum Rent and additional rent have been paid, and stating whether or not to the best knowledge of the signer of such certificate, there exists any default in the performance of any covenant, agreement, term, provision or condition contained in this Lease, and, if so, specifying each such default of which the signer may have knowledge, it being intended that any such statement, delivered pursuant hereto may be relied upon by Landlord and by any mortgagee or prospective mortgagee of any mortgage affecting the Land, the Building or any party under any ground or underlying lease.

WAIVER OF JURY TRIAL

24.01. Tenant waives the right to trial by jury in any action or proceeding or counterclaim involving any matter whatsoever arising out of or in any way connected with this Lease, the relationship of landlord and tenant, Tenant's use or occupancy of the Demised Premises or involving the right to any statutory relief or remedy.

24.02. Tenant hereby waives the right to interpose any counterclaim of any nature in any summary proceeding or other action or proceeding instituted by Landlord against Tenant, or in any action instituted by Landlord for unpaid rent or additional rent under this Lease.

SURRENDER OF PREMISES

25.01. Upon the expiration or other termination of the term of this Lease, Tenant shall quit and surrender the Demised Premises in good order and condition, ordinary wear and tear and damage by fire or other casualty, excepted, and shall remove all its property therefrom, except as otherwise provided in this Lease. Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of the term of this Lease.

RULES AND REGULATIONS

26.01. Tenant, its servants, employees, agents, visitors and licensees shall observe faithfully and comply strictly with the rules and regulations promulgated by Landlord.

Any wall hangings or materials affixed to wall are to be made in consultation with executive director of the Saratoga Springs City Center.

26.02. Any failure by Landlord to enforce any rules and regulations now or hereafter in effect, whether against Tenant or any other tenant in the Building, shall not constitute a breach hereunder or waiver of any such rules and regulations.

SUCCESSORS AND ASSIGNS AND DEFINITIONS

27.01. The covenants, conditions and agreements contained in this Lease shall bind and enure to the benefit of the parties hereto and their respective permitted heirs, legal representatives, successors and assigns.

27.02. The term "Landlord" as used in this Lease, so far as the covenants and agreements on the part of Landlord are concerned, shall be limited to mean and include only the owner or owners at the time in question of the fee interest in the Land and/or the Building or of the tenant's estate under any ground or underlying lease. In the event of any conveyance or assignment, or conveyances or assignments, of such fee interest or such tenant's estate, Landlord herein named (and in case of any subsequent assignment, the then assignor) shall be automatically freed and relieved from and after the date of such assignment of all personal liability as respects to performance of any of Landlord's covenants and agreements thereafter to be performed, and such assignee shall be bound by all of such covenants and agreements; it being intended that Landlord's covenants and agreements shall be binding on Landlord, its successors and assigns only during and in respect of their successive periods of such ownership.

Tenant agrees to look solely to Landlord's estate and interest in the Land and Building, or the lease of the Building, or of the Land and Building, and the Demised Premises, for the satisfaction of any right or remedy of Tenant for the collection of a judgment (or other judicial process) requiring the payment of money by Landlord, in the event of any liability by Landlord, and no other property or assets of Landlord or of any partner of Landlord shall be subject to levy, execution, attachment, or other enforcement procedure for the satisfaction of Tenant's remedies under or with respect to this Lease, the relationship of landlord and tenant hereunder, or Tenant's use and occupancy of the Demised Premises, or any other liability of Landlord to Tenant.

27.03. Landlord shall have the right to transfer, convey or sell the real property upon which the Building is situated and the Building including the Demised Premises, and upon such transfer, conveyance or sale, the purchaser thereof shall become the "Landlord" for all purposes under this Lease, and the provisions of Section 27.02 shall apply. By its execution of this Lease, Tenant hereby agrees to attorn to said purchaser as the Landlord hereunder and this provision shall be self-operative in the event of such transfer, conveyance, or sale. However, in confirmation of such attornment Tenant shall execute any other or further documents or certificates that Landlord may request. Tenant hereby irrevocably constitutes and appoints Landlord the Tenant's attorney-in-fact for such purpose, as coupled with an interest to execute any such document or certificate for and on behalf of Tenant.

NOTICES

28.01. Except for rent bills (which may, at Landlord's option, be hand delivered, sent by ordinary mail or sent in accordance with this Section 28.01) any notice, statement, certificate, request, approval, consent or demand required or permitted to be given under this Lease shall be in writing sent by email, or by reputable express courier addressed, as the case may be, to Landlord or to Tenant at the address stated in the preamble hereof, or to such other addresses as Landlord or Tenant, respectively, shall designate in the manner herein provided. Such notice, statement, certificate, request, approval, consent or demand shall be deemed to have been given on the date when mailed or delivered, as aforesaid.

NO WAIVER; ENTIRE AGREEMENT

29.01. No provision of this Lease shall be deemed to have been waived by Landlord, unless such waiver be in writing signed by Landlord. No payment by Tenant or receipt by Landlord of a lesser amount than the rent herein stipulated shall be deemed to be other than on account of the earliest stipulated rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction.

CAPTIONS

30.01. The captions of Articles in this Lease are inserted only as a matter of convenience and for reference and they in no way define, limit or describe the scope of this Lease or the intent, effect or construction of any provision thereof.

INABILITY TO PERFORM

31.01. Intentionally deleted.

SECURITY DEPOSIT

32.01. Intentionally deleted.

WORK

33.01. Intentionally deleted.

PARKING

34.01. City Center secure parking structure, with its wheelchair accessibility, multiple points of exit and entrance, will be made available at all times during the leasehold.

NO REPRESENTATIONS BY LANDLORD

35.01. Landlord or Landlord's agents have made no representations or promises with respect to the Building, the Land and/or the improvements thereon or the Demised Premises except as herein expressly set forth, and no rights, easements or licenses are acquired by Tenant by implication or otherwise except as expressly set forth in the provisions of this Lease. The taking possession of the Demised Premises by Tenant shall be conclusive evidence, as against Tenant, that Tenant accepts the Demised Premises and the Building and that same were in good and satisfactory condition at the time such possession was so taken.

HOLDING OVER

36.01. If Tenant shall remain in possession of all or any part of the Demised Premises after the expiration of the term of this Lease, then Tenant shall be deemed a tenant of the Demised Premises from month-to-month, cancelable upon thirty (30) days written notice, subject to all of the terms and provisions hereof.

RELOCATION OF TENANT

37.01. Intentionally deleted.

SUBMISSION OF LEASE

38.01. Intentionally deleted.

REMEDIES SHALL BE CUMULATIVE

39.01. All rights and remedies of Landlord herein enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law or in equity. Likewise, the exercise by Landlord of any remedy provided for herein or allowed by law or in equity shall not be to the exclusion of any other remedy.

LAWS GOVERNING

40.01. The laws of the State of New York shall govern the validity, performance and enforcement of this Lease.

SEVERABILITY

41.01. If any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws, then in that event, it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby.

IN WITNESS WHEREOF, Landlord and Tenant have respectively signed this Lease as of the day and year first above written.

WITNESS:

LANDLORD:
CITY OF SARATOGA SPRINGS

By: _____

WITNESS:

TENANT:
COUNTY OF SARATOGA

By: _____

Title: _____