

STATE OF VERMONT  
CONTRACT AMENDMENT

It is hereby agreed by and between the State of Vermont, Department of Buildings and General Services, Office of Purchasing and Contracting (the "State") and Irving Oil Terminals Inc. dba Irving Energy, with a principal place of business in Portsmouth, NH (the "Contractor") that the contract between them originally dated as of July 1, 2023, Contract #45876, as amended to date, (the "Contract") is hereby amended as follows:

- I. **Exhibit A-1 – Fuel Markup Pricing.** Exhibit A-1 is hereby amended with the addition of the following:

Location	Fuel Type	Vendor Markup
Newark	LP Gas	\$0.2848

- II. **Attachment C, Standard State Provisions for Contracts and Grants.** Attachment C is hereby deleted in its entirety and replaced by the Attachment C dated 12/7/2023 attached to this Amendment.

**Taxes Due to the State.** Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, the Contractor is in good standing with respect to, or in full compliance with a plan to pay, any and all taxes due the State of Vermont.

**Child Support (Applicable to natural persons only; not applicable to corporations, partnerships or LLCs).** Contractor is under no obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date of this amendment.

**Certification Regarding Suspension or Debarment.** Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, neither Contractor nor Contractor's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

Contractor further certifies under pains and penalties of perjury that, as of the date this contract amendment is signed, Contractor is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing-contracting/debarment>

**State and Federal Terms for Products and Services.** Contractor agrees that "STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction) (Revision date: July 19, 2023)" which is attached to this amendment, applies to any products or services provided to the State, at any time, when using federal funds.

This document consists of 10 pages. Except as modified by this Amendment No. 2, all provisions of the Contract remain in full force and effect.

*[Remainder of Page Intentionally Left Blank]*

The signatures of the undersigned indicate that each has read and agrees to be bound by this Amendment to the Contract.

**STATE OF VERMONT**

**By:** \_\_\_\_\_

**Name:** Jennifer M.V. Fitch

**Title:** Commissioner - Buildings and  
General Services

**Date:** \_\_\_\_\_

**IRVING OIL TERMINALS INC. DBA IRVING  
ENERGY**

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**ATTACHMENT C: STANDARD STATE PROVISIONS FOR CONTRACTS AND GRANTS****REVISED DECEMBER 7, 2023**

**1. Definitions:** For purposes of this Attachment, “Party” shall mean the Contractor, Grantee, or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. “Agreement” shall mean the specific contract or grant to which this form is attached.

**2. Entire Agreement:** This Agreement, whether in the form of a contract, State-funded grant, or Federally-funded grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect. Where an authorized individual is either required to click-through or otherwise accept, or made subject to, any electronic terms and conditions to use or access any product or service provided hereunder, such terms and conditions are not binding and shall have no force or effect. Further, any terms and conditions of Party’s invoice, acknowledgment, confirmation, or similar document, shall not apply, and any such terms and conditions on any such document are objected to without need of further notice or objection.

**3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial:** This Agreement will be governed by the laws of the State of Vermont without resort to conflict of laws principles. Any action or proceeding brought by either the State or the Party in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Party irrevocably submits to the jurisdiction of this court for any action or proceeding regarding this Agreement. The Party agrees that it must first exhaust any applicable administrative remedies with respect to any cause of action that it may have against the State regarding its performance under this Agreement. Party agrees that the State shall not be required to submit to binding arbitration or waive its right to a jury trial.

**4. Sovereign Immunity:** The State reserves all immunities, defenses, rights, or actions arising out of the State’s sovereign status or under the Eleventh Amendment to the United States Constitution. No waiver of the State’s immunities, defenses, rights, or actions shall be implied or otherwise deemed to exist by reason of the State’s entry into this Agreement.

**5. No Employee Benefits For Party:** The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the State withhold any state or Federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.

**6. Independence:** The Party will act in an independent capacity and not as officers or employees of the State.

**7. Defense and Indemnity:**

- A.** The Party shall defend the State and its officers and employees against all third-party claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party in connection with the performance of this Agreement. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The State retains the right to participate at its own expense in the defense of any claim. The State shall have the right to approve all proposed settlements of such claims or suits.
- B.** After a final judgment or settlement, the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party in connection with the performance of this Agreement.
- C.** The Party shall indemnify the State and its officers and employees if the State, its officers, or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party or an agent of the Party in connection with the performance of this Agreement.
- D.** Notwithstanding any contrary language anywhere, in no event shall the terms of this Agreement or any document furnished by the Party in connection with its performance under this Agreement obligate the State to (1) defend or indemnify the Party or any third party, or (2) otherwise be liable for the expenses or reimbursement, including attorneys’ fees, collection

costs or other costs of the Party or any third party.

**8. Insurance:** During the term of this Agreement, Party, at its expense, shall maintain in full force and effect the insurance coverages set forth in the Vermont State Insurance Specification in effect at the time of incorporation of this Attachment C into this Agreement. The terms of the Vermont State Insurance Specification are hereby incorporated by reference into this Attachment C as if fully set forth herein. A copy of the Vermont State Insurance Specification is available at: <https://aoa.vermont.gov/Risk-Claims-COI>.

**9. Reliance by the State on Representations:** All payments by the State under this Agreement will be made in reliance upon the accuracy of all representations made by the Party in accordance with this Agreement, including but not limited to bills, invoices, progress reports, and other proofs of work.

**10. False Claims Act:** Any liability to the State under the Vermont False Claims Act (32 V.S.A. § 630 et seq.) shall not be limited notwithstanding any agreement of the State to otherwise limit Party's liability.

**11. Whistleblower Protections:** The Party shall not discriminate or retaliate against one of its employees or agents for disclosing information concerning a violation of law, fraud, waste, abuse of authority, or acts threatening health or safety, including but not limited to allegations concerning the False Claims Act. Further, the Party shall not require such employees or agents to forego monetary awards as a result of such disclosures, nor should they be required to report misconduct to the Party or its agents prior to reporting to any governmental entity and/or the public.

**12. Use and Protection of State Information:**

- A. As between the State and Party, "State Data" includes all data received, obtained, or generated by the Party in connection with performance under this Agreement. Party acknowledges that certain State Data to which the Party may have access may contain information that is deemed confidential by the State, or which is otherwise confidential by law, rule, or practice, or otherwise exempt from disclosure under the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. ("Confidential State Data").
- B. With respect to State Data, Party shall:
  - i. take reasonable precautions for its protection;
  - ii. not rent, sell, publish, share, or otherwise appropriate it; and
  - iii. upon termination of this Agreement for any reason, Party shall dispose of or retain State Data if and to the extent required by this Agreement, law, or regulation, or otherwise requested in writing by the State.
- C. With respect to Confidential State Data, Party shall:
  - i. strictly maintain its confidentiality;
  - ii. not collect, access, use, or disclose it except as necessary to provide services to the State under this Agreement;
  - iii. provide at a minimum the same care to avoid disclosure or unauthorized use as it provides to protect its own similar confidential and proprietary information;
  - iv. implement and maintain administrative, technical, and physical safeguards and controls to protect against any anticipated threats or hazards or unauthorized access or use;
  - v. promptly notify the State of any request or demand by any court, governmental agency or other person asserting a demand or request for Confidential State Data so that the State may seek an appropriate protective order; and
  - vi. upon termination of this Agreement for any reason, and except as necessary to comply with subsection B.iii above in this section, return or destroy all Confidential State Data remaining in its possession or control.
- D. If Party is provided or accesses, creates, collects, processes, receives, stores, or transmits Confidential State Data in any electronic form or media, Party shall utilize:
  - i. industry-standard firewall protection;
  - ii. multi-factor authentication controls;
  - iii. encryption of electronic Confidential State Data while in transit and at rest;
  - iv. measures to ensure that the State Data shall not be altered without the prior written consent of the State;
  - v. measures to protect against destruction, loss, or damage of State Data due to potential environmental hazards, such as fire and water damage;

- vi. training to implement the information security measures; and
  - vii. monitoring of the security of any portions of the Party's systems that are used in the provision of the services against intrusion.
- E. No Confidential State Data received, obtained, or generated by the Party in connection with performance under this Agreement shall be processed, transmitted, stored, or transferred by any means outside the United States, except with the express written permission of the State.
- F. Party shall notify the State within twenty-four hours after becoming aware of any unauthorized destruction, loss, alteration, disclosure of, or access to, any State Data.
- G. State of Vermont Cybersecurity Standard Update: Party confirms that all products and services provided to or for the use of the State under this Agreement shall be in compliance with State of Vermont Cybersecurity Standard Update in effect at the time of incorporation of this Attachment C into this Agreement. The State of Vermont Cybersecurity Standard Update prohibits the use of certain branded products in State information systems or any vendor system, and a copy is available at: <https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives>
- H. In addition to the requirements of this Section 12, Party shall comply with any additional requirements regarding the protection of data that may be included in this Agreement or required by law or regulation.

**13. Records Available for Audit:** The Party shall maintain all records pertaining to performance under this Agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this Agreement. Records produced or acquired in a machine-readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of this Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

**14. Fair Employment Practices and Americans with Disabilities Act:** Party agrees to comply with the requirement of 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable, and shall include this provision in all subcontracts for work performed in Vermont. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement.

**15. Offset:** The State may offset any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any offset of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided in 32 V.S.A. § 3113.

**16. Taxes Due to the State:** Party certifies under the pains and penalties of perjury that, as of the date this Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.

**17. Taxation of Purchases:** All State purchases must be invoiced tax free. An exemption certificate will be furnished upon request with respect to otherwise taxable items.

**18. Child Support:** (Only applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date this Agreement is signed, Party is not under an obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order. Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

**19. Sub-Agreements:** Party shall not assign, subcontract, or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party shall be responsible and liable to the State for all acts or omissions of subcontractors and any other person performing work under this Agreement pursuant to an agreement with Party or any subcontractor.

In the case this Agreement is a contract with a total cost in excess of \$250,000, the Party shall provide to the State a list of all proposed subcontractors and subcontractors' subcontractors, together with the identity of those subcontractors' workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), as amended by Section 17 of Act No. 142 (2010) and by

Section 6 of Act No. 50 (2011).

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 (“False Claims Act”); Section 11 (“Whistleblower Protections”); Section 12 (“Confidentiality and Protection of State Information”); Section 14 (“Fair Employment Practices and Americans with Disabilities Act”); Section 16 (“Taxes Due the State”); Section 18 (“Child Support”); Section 20 (“No Gifts or Gratuities”); Section 22 (“Certification Regarding Debarment”); Section 30 (“State Facilities”); and Section 32.A (“Certification Regarding Use of State Funds”).

**20. No Gifts or Gratuities:** Party shall not give title or possession of anything of substantial value (including property, currency, travel, and/or education programs) to any officer or employee of the State during the term of this Agreement.

**21. Regulation of Hydrofluorocarbons:** Party confirms that all products provided to or for the use of the State under this Agreement shall not contain hydrofluorocarbons, as prohibited under 10 V.S.A. § 586.

**22. Certification Regarding Debarment:** Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party’s principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible, or excluded from participation in Federal programs, or programs supported in whole or in part by Federal funds. Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State’s debarment list at: <https://bgs.vermont.gov/purchasing-contracting/debarment>.

**23. Conflict of Interest:** Party shall fully disclose, in writing, any conflicts of interest or potential conflicts of interest.

**24. Vermont Public Records Act:** Party acknowledges and agrees that this Agreement, any and all information obtained by the State from the Party in connection with this Agreement, and any obligations of the State to maintain the confidentiality of information are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 *et seq.*

**25. Force Majeure:** Neither the State nor the Party shall be liable to the other for any failure or delay of performance of any obligations under this Agreement to the extent such failure or delay shall have been wholly or principally caused by acts or events beyond its reasonable control rendering performance illegal or impossible (excluding strikes or lockouts) (“Force Majeure”). Where Force Majeure is asserted, the nonperforming party must prove that it made all reasonable efforts to remove, eliminate or minimize such cause of delay or damages, diligently pursued performance of its obligations under this Agreement, substantially fulfilled all non-excused obligations, and timely notified the other party of the likelihood or actual occurrence of an event described in this paragraph.

**26. Marketing:** Party shall not use the State’s logo or otherwise refer to the State in any publicity materials, information pamphlets, press releases, research reports, advertising, sales promotions, trade shows, or marketing materials or similar communications to third parties except with the prior written consent of the State.

**27. Termination:**

- A. Non-Appropriation:** If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel this Agreement at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is funded in whole or in part by Federal funds, and in the event Federal funds become unavailable or reduced, the State may suspend or cancel this Agreement immediately, and the State shall have no obligation to pay Party from State revenues.
- B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party’s notice or such longer time as the non-breaching party may specify in the notice.
- C. Termination Assistance:** Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

**28. Continuity of Performance:** In the event of a dispute between the Party and the State, each party will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.



**29. No Implied Waiver of Remedies:** Either party's delay or failure to exercise any right, power, or remedy under this Agreement shall not impair any such right, power, or remedy, or be construed as a waiver of any such right, power, or remedy. All waivers must be in writing.

**30. State Facilities:** If the State makes space available to the Party in any State facility during the term of this Agreement for purposes of the Party's performance under this Agreement, the Party shall only use the space in accordance with all policies and procedures governing access to, and use of, State facilities, which shall be made available upon request. State facilities will be made available to Party on an "AS IS, WHERE IS" basis, with no warranties whatsoever.

**31. Requirements Pertaining Only to Federal Grants and Subrecipient Agreements:** If this Agreement is a grant that is funded in whole or in part by Federal funds:

- A. Requirement to Have a Single Audit:** The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the Federal Audit Clearinghouse within nine months. If a single audit is not required, only the Subrecipient Annual Report is required. A Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.
- B. Internal Controls:** In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission.
- C. Mandatory Disclosures:** In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

**32. Requirements Pertaining Only to State-Funded Grants:**

- A. Certification Regarding Use of State Funds:** If Party is an employer and this Agreement is a State-funded grant in excess of \$1,000, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.
- B. Good Standing Certification (Act 154 of 2016):** If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify; and (ii) that it will comply with the requirements stated therein.

(End of Standard Provisions)



## **ATTACHMENT D**

### **STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction)**

(Revision date: *July 19, 2023*)

#### **PROCUREMENT OF RECOVERED MATERIALS**

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated Items unless the products cannot be acquired-

1. Competitively within a time frame providing for compliance with the contract performance schedule;
2. Meeting contract performance requirements; or
3. At a reasonable price

Information about this requirement, along with the list of EPA-designated items, is available at the EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

The Contractor also agrees to comply with all other applicable requirements of section 6002 of the Solid Waste Disposal Act.

#### **CLEAN AIR ACT**

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

#### **FEDERAL WATER POLLUTION CONTROL ACT**

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA. **a.** Standard. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).

#### **CONTRACTOR BREACH, ERRORS AND OMISSIONS**

1. Any breach of the terms of this contract, or material errors and omissions in the work product of the contractor must be corrected by the contractor at no cost to the State, and a contractor may be liable for the State's costs and other damages resulting from errors or deficiencies in its performance.
2. Neither the States' review, approval or acceptance of nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract.
3. The rights and remedies of the State provided for under this contract are in addition to any other rights and remedies provided by law or elsewhere in the contract.

#### **TERMINATION FOR CONVENIENCE**

1. General

- a. Any termination for convenience shall be effected by delivery to the Contractor an Order of Termination specifying the termination is for the convenience of the Agency, the extent to which performance of work under the Contract is terminated, and the effective date of the termination.
- b. In the event such termination occurs, without fault and for reasons beyond the control of the Contractor, all completed or partially completed items of work as of the date of termination will be paid for in accordance with the contract payment terms.
- c. No compensation will be allowed for items eliminated from the Contract.
- d. Termination of the Contract, or portion thereof, shall not relieve the Contractor of its contractual responsibilities for work completed and shall not relieve the Contractor's Surety of its obligation for and concerning any just claim arising out of the work performed.

## 2. Contractor Obligations

After receipt of the Notice of Termination and except as otherwise directed by the State, the Contractor shall immediately proceed to:

- a. To the extent specified in the Notice of Termination, stop work under the Contract on the date specified.
- b. Place no further orders or subcontracts for materials, services, and/or facilities except as may be necessary for completion of such portion(s) of the work under the Contract as is (are) not terminated.
- c. Terminate and cancel any orders or subcontracts for related to the services, except as may be necessary for completion of such portion(s) of the work under the Contract as is (are) not terminated.
- d. Transfer to the State all completed or partially completed plans, drawings, information, and other property which, if the Contract had been completed, would be required to be furnished to the State.
- e. Take other action as may be necessary or as directed by the State for the protection and preservation of the property related to the contract which is in the possession of the contractor and in which the State has or may acquire any interest.
- f. Make available to the State all cost and other records relevant to a determination of an equitable settlement.

## 3. Claim by Contractor

After receipt of the Notice of Termination from the state, the Contractor shall submit any claim for additional costs not covered herein or elsewhere in the Contract within 60 days of the effective termination date, and not thereafter. Should the Contractor fail to submit a claim within the 60-day period, the State may, at its sole discretion, based on information available to it, determine what, if any, compensation is due the Contractor and pay the Contractor the determined amount.

## 4. Negotiation

Negotiation to settle a timely claim shall be for the sole purpose of reaching a settlement equitable to both the Contractor and the State. To the extent settlement is properly based on Contractor costs, settlement shall be based on actual costs incurred by the Contractor, as reflected by the contract rates. Consequential damages, loss of overhead, loss of overhead contribution of any kind, and/or loss of anticipated profits on work not performed shall not be included in the Contractor's claim and will not be considered, allowed, or included as part of any settlement.

STATE OF VERMONT  
CONTRACT AMENDMENT

It is hereby agreed by and between the State of Vermont, Department of Buildings and General Services, Office of Purchasing and Contracting (the "State") and Irving Oil Terminals Inc. dba Irving Energy, with a principal place of business in Portsmouth, NH (the "Contractor") that the contract between them originally dated as of July 1, 2023, Contract #45876, as amended to date, (the "Contract") is hereby amended as follows:

- I. **Exhibit A-1 – Fuel Markup Pricing.** Exhibit A-1 is hereby amended with the addition of the following:

Location	Address	Fuel Type	Vendor Markup
Agency of Transportation Garage	232 Vermont Route 30, East Jamaica	LP Gas	\$0.3648

Taxes Due to the State. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, the Contractor is in good standing with respect to, or in full compliance with a plan to pay, any and all taxes due the State of Vermont.

Child Support (Applicable to natural persons only; not applicable to corporations, partnerships or LLCs). Contractor is under no obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date of this amendment.

Certification Regarding Suspension or Debarment. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, neither Contractor nor Contractor's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

Contractor further certifies under pains and penalties of perjury that, as of the date this contract amendment is signed, Contractor is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing-contracting/debarment>

State and Federal Terms for Products and Services. Contractor agrees that "STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction) (Revision date: July 19, 2023)" which is attached to this amendment, applies to any products or services provided to the State, at any time, when using federal funds.

This document consists of 4 pages. Except as modified by this Amendment No. 1, all provisions of the Contract remain in full force and effect.

The signatures of the undersigned indicate that each has read and agrees to be bound by this Amendment to the Contract.

**STATE OF VERMONT  
ENERGY**

**By:** \_\_\_\_\_

**Name:** Jennifer M.V. Fitch

**Title:** Commissioner - Buildings and  
General Services

**Date:** \_\_\_\_\_

**IRVING OIL TERMINALS INC. DBA IRVING**

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## **STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction)**

(Revision date: *July 19, 2023*)

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3. At a reasonable price

Information about this requirement, along with the list of EPA-designated items, is available at the EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

The Contractor also agrees to comply with all other applicable requirements of section 6002 of the Solid Waste Disposal Act.

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1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

### **FEDERAL WATER POLLUTION CONTROL ACT**

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
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3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA. **a.** Standard. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).

### **CONTRACTOR BREACH, ERRORS AND OMISSIONS**

1. Any breach of the terms of this contract, or material errors and omissions in the work product of the contractor must be corrected by the contractor at no cost to the State, and a contractor may be liable for the State's costs and other damages resulting from errors or deficiencies in its performance.
2. Neither the States' review, approval or acceptance of nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract.
3. The rights and remedies of the State provided for under this contract are in addition to any other rights and remedies provided by law or elsewhere in the contract.

### **TERMINATION FOR CONVENIENCE**

1. General
  - a. Any termination for convenience shall be effected by delivery to the Contractor an Order of Termination specifying the termination is for the convenience of the Agency, the extent to which performance of work under the Contract is terminated, and the effective date of the termination.

- b. In the event such termination occurs, without fault and for reasons beyond the control of the Contractor, all completed or partially completed items of work as of the date of termination will be paid for in accordance with the contract payment terms.
- c. No compensation will be allowed for items eliminated from the Contract.
- d. Termination of the Contract, or portion thereof, shall not relieve the Contractor of its contractual responsibilities for work completed and shall not relieve the Contractor's Surety of its obligation for and concerning any just claim arising out of the work performed.

## 2. Contractor Obligations

After receipt of the Notice of Termination and except as otherwise directed by the State, the Contractor shall immediately proceed to:

- a. To the extent specified in the Notice of Termination, stop work under the Contract on the date specified.
- b. Place no further orders or subcontracts for materials, services, and/or facilities except as may be necessary for completion of such portion(s) of the work under the Contract as is (are) not terminated.
- c. Terminate and cancel any orders or subcontracts for related to the services, except as may be necessary for completion of such portion(s) of the work under the Contract as is (are) not terminated.
- d. Transfer to the State all completed or partially completed plans, drawings, information, and other property which, if the Contract had been completed, would be required to be furnished to the State.
- e. Take other action as may be necessary or as directed by the State for the protection and preservation of the property related to the contract which is in the possession of the contractor and in which the State has or may acquire any interest.
- f. Make available to the State all cost and other records relevant to a determination of an equitable settlement.

## 3. Claim by Contractor

After receipt of the Notice of Termination from the state, the Contractor shall submit any claim for additional costs not covered herein or elsewhere in the Contract within 60 days of the effective termination date, and not thereafter. Should the Contractor fail to submit a claim within the 60-day period, the State may, at its sole discretion, based on information available to it, determine what, if any, compensation is due the Contractor and pay the Contractor the determined amount.

## 4. Negotiation

Negotiation to settle a timely claim shall be for the sole purpose of reaching a settlement equitable to both the Contractor and the State. To the extent settlement is properly based on Contractor costs, settlement shall be based on actual costs incurred by the Contractor, as reflected by the contract rates. Consequential damages, loss of overhead, loss of overhead contribution of any kind, and/or loss of anticipated profits on work not performed shall not be included in the Contractor's claim and will not be considered, allowed, or included as part of any settlement.

## STANDARD CONTRACT

1. **Parties.** This is a contract between the State of Vermont, Department of Buildings and General Services (hereinafter called “State”), and Irving Oil Terminals Inc. dba Irving Energy, with a principal place of business in Portsmouth, NH, (hereinafter called “Contractor”). Contractor’s form of business organization is a corporation. It is Contractor’s responsibility to contact the Vermont Department of Taxes to determine if, by law, Contractor is required to have a Vermont Department of Taxes Business Account Number.

2. **Subject Matter.** The subject matter of this contract is commodities generally on the subject of liquid fuels. Detailed requirements to be provided by Contractor are described in Attachment A.

3. **Maximum Amount.** In consideration of the commodities to be provided by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$4,000,000.00.

4. **Contract Term.** The period of contractor’s performance shall begin on July 1, 2023 and end on June 30, 2025 with an option to renew for eight twelve-month terms upon mutual agreement of both parties.

5. **Prior Approvals.** This Contract shall not be binding unless and until all requisite prior approvals have been obtained in accordance with current State law, bulletins, and interpretations.

6. **Amendment.** No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.

7. **Termination/Cancellation/Rejection.** The State specifically reserves the right upon written notice to immediately terminate the contract or any portion thereof at no additional cost to the State, providing, in the opinion of its Commissioner of Buildings and General Services, the products supplied by Contractor are not satisfactory or are not consistent with the terms of this Contract. The State also specifically reserves the right upon written notice, and at no additional cost to the State, to immediately terminate the contract for convenience and/or to immediately reject or cancel any order for convenience at any time prior to shipping notification.

8. **Attachments.** This contract consists of 16 pages including the following attachments which are incorporated herein:

Attachment A - Statement of Work

Attachment B - Payment Provisions

Attachment C – “Standard State Provisions for Contracts and Grants” a preprinted form (revision date 12/15/2017)

Attachment D - State of Vermont – Federal Terms Supplement (non-construction)

Exhibit A1 – Fuel Markup Pricing



9. ***Order of Precedence.*** Any ambiguity, conflict or inconsistency between the documents comprising this contract shall be resolved according to the following order of precedence:

- (1) Standard Contract
- (2) Attachment C (Standard Contract Provisions for Contracts and Grants)
- (3) Attachment D - State of Vermont – Federal Terms Supplement (non-construction)
- (4) Attachment A
- (5) Attachment B
- (6) Exhibit A1 – Fuel Markup Pricing

**WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT**

By the State of Vermont:

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By the Contractor:

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## ATTACHMENT A – STATEMENT OF WORK

The Contractor shall provide:

1. Liquid fuel products as described below using the markup rate as shown in the table of Exhibit A1 – Fuel Markup Pricing
2. No. 2 Oil – Fuel Oil
  - a. Fuel Oil Sulfur Content
    - i. In compliance with State and Federal Air Pollution requirements commencing on July 1, 2014, the sulfur content of No. 2 and lighter distillate oils purchased shall not exceed 0.05 percent by weight, and commencing on July 1, 2018, the sulfur content of No. 2 and lighter distillate oils purchased shall not exceed 0.0015 percent by weight (15 ppm).
  - b. All fuel shall conform to ASTM D396-06 or latest revision with the following requirements being met:
    - i. Ash Content, Maximum – 0.02% by weight
    - ii. Copper Strip Corrosion – No. 3
    - iii. Cetane No. (minimum) – 40
  - c. Pricing
    - i. The rack used for pricing the float/indexed base pricing structure for No. 2 Fuel Oil is Albany, New York. When a high and low price is given the average price shall be used. All pricing will be based on Thursday's edition of the Oil Price Information Service (OPIS) each week, which reflects pricing for the following week. OPIS does not produce reports on holidays and in these cases the Wednesday OPIS report shall be used for the index.
  - d. Invoices
    - i. All invoices are to clearly state the product type being purchased.
  - e. Taxes
    - i. The State of Vermont is exempt from payment of State or Federal Tax on this product.
3. Diesel Fuel Oils
  - a. All fuel shall conform to ASTM D-975-21 or latest revision with the following requirements:
    - i. Cetane Rating – 45 minimum
    - ii. Sulfur Content – 15 parts per millions (Ultra Low Sulfur Diesel, ULSD)
    - iii. Filterability - 0.05% water and sediment maximum
    - iv. Dye – red for tax exempt per IRS rules
  - b. Diesel Blends
    - i. Any location may request a specific blend at any time. All blends must be with No.1 Ultra Low Sulfur Kerosene. There is no deviation from the specified blends. If the blend is not specified, the following apply:

October 1 – December 15 – 70% Diesel/30% Kerosene

December 16 – March 1 – 50% Diesel / 50% Kerosene

March 2 – March 31 - 70% Diesel/30% Kerosene

April 1 – September 30 – 100% Diesel

c. Pricing

The rack used for pricing the float/indexed base pricing structure is the Albany, New York index. When a high and low price is given the average price shall be used. All pricing will be based on Thursday's edition of the Oil Price Information Service (OPIS) each week, which reflects pricing for the following week. OPIS does not produce reports on holidays and in these cases, the Wednesday OPIS report shall be used for the index.

d. Invoices

- i. All invoices must identify the blend delivered and when feasible state "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE".

e. Taxes

- i. The State of Vermont is exempt from payment of State or Federal Tax on this product.

4. Liquid Propane

- a. All fuel shall conform to ASTM D1835-05 or latest revision with the following requirements:

- i. The gas furnished shall be of such a consistency as to be competitive in the trade. It shall have a vapor pressure that will ensure its uninterrupted consumption during all temperature conditions that may be expected at the using agencies or institutions. It shall contain an odorizing agent of such concentration as to ensure its positive identification.

- b. Equipment Installation

- i. All installation (if required) must conform to the Vermont State Fire Marshall regulations. No additional charge for delivery, installation or testing these tanks will be permitted. It is the fuel provider's responsibility to ensure all the tanks are in excellent condition and contains no rust.

c. Pricing

- i. The rack used for pricing the float/indexed base pricing structure for LP Gas is the Selkirk, NY. When a high and low price is given the average price shall be used. All pricing will be based on Thursday's edition of the New York Journal of Commerce each week, which reflects pricing for the following week. Note. OPIS does not produce reports on holidays. In these cases the Wednesday OPIS report will be used for the index.

d. Invoices

- i. All invoices are to clearly state the product type being purchased.

e. Taxes

- i. The State of Vermont is exempt from payment of State or Federal Tax on this product.

5. Expedited Service Pricing

Delivery fee for emergency / same-day service	If on auto delivery and tank is empty – <b>\$0.00</b>
	If not on auto-delivery - <b>\$129.00</b>
Delivery fee for next-day service	Within 24 hours - <b>\$129.00</b>
	Within 48 hours - <b>\$95.00</b>

6. Contact Information

Contacts for expediting State of Vermont contract orders

Contact 1	Sandra Gray (Tank Wagon)	(888) 620-1234	<a href="mailto:sandra.gray@irvingoil.com">sandra.gray@irvingoil.com</a>
Contact 2	Tara Frost	(603) 559-8834	<a href="mailto:tara.frost@irvingoil.com">tara.frost@irvingoil.com</a>

Emergency contacts – In the event of an emergency occurring after business hours

Contact 1	Customer Contact Center (Tank Wagon)	(888) 310-1924	
Contact 2	Direct Delivery (Motor Transport)	(800) 567-5030	<a href="mailto:directdeliverydispatch@irvingoil.com">directdeliverydispatch@irvingoil.com</a>

7. **SERVICE REQUIREMENTS:**

- a. Fuel locations for State entities, cities, towns, and municipalities as supported through this agreement are provided in Exhibit A1 – Fuel Markup Pricing. A listing of fuel mark-ups for each city and town, within the various fuel types and delivery methods is available on the BGS website at: <https://bgs.vermont.gov/purchasing-contracting/fuel-information>
- b. The Contractor is responsible for the proper transfer of regulated substances and shall employ practices for preventing releases caused by transfer spills and overfills. Prior to transfer, the contractor shall determine by gauging that the tank has available capacity to receive the volume of product to be transferred. The carrier shall remain within 25 feet of the cargo tank to monitor every aspect of the delivery and shall take immediate action to

stop the flow of regulated substance when the capacity of the tank has been reached or should an equipment failure or emergency occur.

- c. Delivery slips, meter printed delivery receipt or a copy of the Contractor's supplier's statement of delivery shall be signed by an employee at the time of the delivery. A copy will be left at the delivery location and a copy is to be forwarded by the Contractor with the invoice to the appropriate payable office for payment on a monthly basis.
- d. The Contractor shall make all necessary arrangements directly with using agencies to ensure that a sufficient supply of fuel remains in each such agency's tanks to meet such agency's operational needs throughout the period of the contract.
- e. The Contractor shall manage the fuel levels in each automatic delivery required location. The tank(s) shall be managed in such a manner that the individual tank will not run out of fuel. If for any reason a tank runs dry, Contractor shall be responsible to:
  - i. Immediately refuel tank.
  - ii. Restart any or all boilers/furnaces and or water heaters affected and perform any boiler/furnace maintenance required due to the fuel outage.
  - iii. Accept and process claims for damage caused to the building because of loss of heat such as broken pipes, frozen coils, water damage, etc.
- f. The state expects the Contractor to work cooperatively with the previous vendor for transfer of accounts. This will include but not limited to requests for previous delivery information including the amount/location has used in the recent past.
- g. Delivery - emergency: emergency deliveries are defined as deliveries outside the normal delivery schedule as deemed necessary by any authorized state official. Emergency may be the result of a state or national disaster, security incident, hazardous weather, civil preparedness, or any non-routine event. Under these circumstances Contractors under this award are required to make every possible effort to deliver as expeditiously as possible. Awarded contractor is required to identify an individual who will serve as the state's single point of contact for coordination of emergency responses.
- h. Account numbers: within 30 days of contract award Contractor is required to submit to Kyle Emerson, purchasing agent, 133 State St., Montpelier, VT 05633-8000 a list of all account numbers for each of the various fuel sites. The account numbers shall be submitted electronically to [kyle.emerson@vermont.gov](mailto:kyle.emerson@vermont.gov) in an excel format listing each account number, site name, complete site address, fuel type and delivery schedule (i.e. Every 30 days, 60 days etc).
- i. Tanks: all tanks are considered to be the property of the State of Vermont unless otherwise specified.

- j. Availability: the state reserves the privilege of obtaining fuel from the open market during the period of this contract, provided the Contractor is unable to make deliveries in time to meet the requirements of the state agencies or political subdivisions included in this contract.
- k. Contractor's markup includes transportation charges as well as any and all relevant fees and taxes fully prepaid to destination.
1. Quality: all products provided under these agreements will meet the specifications as detailed by fuel type. All products provided by the contractor shall meet all federal, state and local standards for quality and safety requirements. Products not meeting these standards will be deemed unacceptable and returned to the contract for credit at no charge to the state.
8. **WARRANTY:** Each product purchased hereunder shall include a manufacturer's written warranty, which must be based on commercial use, and extend for a minimum term of one (1) year from the date a Product is available for use by the purchaser, or such longer period as set forth in the written warranty.
9. **REPORTING REQUIREMENTS:** Contractor will be required to submit quarterly product sales report to the Purchasing Agent pursuant to the schedule below detailing the purchasing of all items under this Contractor. Contractor's reporting shall state "no activity" for any month in which there is no activity during a quarterly reporting period.
- a. The reports shall be an excel spreadsheet transmitted electronically to the Purchasing Agent.
- b. Reports are due for each quarter as follows:
- | Reporting Period         | Report Due |
|--------------------------|------------|
| January 1 to March 31    | April 30   |
| April 1 to June 30       | July 31    |
| July 1 to September 30   | October 31 |
| October 1 to December 31 | January 31 |
- c. Failure to meet these reporting requirements may result in suspension or termination of this Participating Addendum.
- d. Notwithstanding the fact that any payment obligation for sales by contractor to any political subdivision or college, pursuant to "Purchasing Entities," below, shall be solely between the political subdivision or college and the contractor, the contractor must include, in reporting to State, the figures on quantities sold by contractor to, and amounts paid to contractor by, any such political subdivisions or independent colleges.
10. **DELIVERY:** Responsibility for product delivery remains with Contractor until the product is properly delivered and signed for. Contractor shall securely and properly pack all shipments in

accordance with accepted commercial practices. Upon delivery, all packaging and containers shall become the property of the State, unless otherwise stated. Delivered goods that do not conform to the specifications or are not in good condition upon receipt shall be replaced promptly by the Contractor.

11. **QUALITY:** All products will be new and unused. All products provided by the Contractor must meet all federal, state, and local standards for quality and safety requirements. Products not meeting the requirements of this section will be deemed unacceptable and returned to the Contractor for credit at no charge to the State.

12. **DEFAULT:** In case of default of the Contractor, the State may procure the materials or supplies from other sources and hold the Contractor responsible for any excess cost occasioned thereby, provided, that if public necessity requires the use of materials or supplies not conforming to the specifications they may be accepted and payment therefore shall be made at a proper reduction in price.

13. **Primary Contacts.** The Parties will keep and maintain current at all times a primary point of contact for this contract. The primary contacts for this this Contract are as follows:

e. **For the Contractor:**

Name: Tara Frost  
Phone: (603) 559-8834  
Email: [tara.frost@irvingoil.com](mailto:tara.frost@irvingoil.com)

f. **For the State:**

Name: Kyle Emerson, State Purchasing Agent  
Address: 133 State Street, 5<sup>th</sup> Floor, Montpelier, VT 05633-8000  
Phone: (802) 249-7394  
Fax: (802) 828-2222  
Email: [kyle.emerson@vermont.gov](mailto:kyle.emerson@vermont.gov)

14. **Purchasing Entities:** This Participating Addendum may be used by (a) all departments, offices, institutions, and other agencies of the State of Vermont and counties (each a “State Purchaser”) according to the process for ordering and other restrictions applicable to State Purchasers set forth herein; and (b) political subdivisions of the state (including, but not limited to, cities, towns, and school districts) and any institution of higher education chartered in Vermont and accredited or holding a certificate of approval from the State Board of Education as authorized under 29 V.S.A. § 902 (each an “Additional Purchaser”). Issues concerning interpretation and eligibility for participation are solely within the authority of the State of Vermont Chief Procurement Officer. The State of Vermont and its officers and employees shall have no responsibility or liability for Additional Purchasers. Each Additional Purchaser is to make its own determination whether this Participating Addendum and the Master Agreement are consistent with its procurement policies and regulations.



## ATTACHMENT B – PAYMENT PROVISIONS

The maximum dollar amount payable under this contract is not intended as any form of a guaranteed amount. The Contractor will be paid for products actually delivered or performed, as specified in Attachment A, up to the maximum allowable amount specified on page 1 of this contract.

1. Prior to commencement of work and release of any payments, Contractor shall submit to the State:
  - a. a certificate of insurance consistent with the requirements set forth in Attachment C, Section 8 (Insurance), and with any additional requirements for insurance as may be set forth elsewhere in this contract; and
2. Payment terms are **Net 30** days from the date the State receives an error-free invoice with all necessary and complete supporting documentation.
3. All invoices are to be rendered by the Contractor on the vendor's standard billhead and forwarded directly to the institution or agency ordering materials and shall specify the address to which payments will be sent. Percentage discounts may be offered for prompt payments of invoices; however, such discounts must be in effect for a period of 30 days or more in order to be considered in making awards.
4. **PRICING:** Contractor shall provide all products F.O.B. delivery to the ordering facility at no additional cost to the State. No request for extra delivery cost will be honored. All equipment shall be delivered assembled, serviced, and ready for immediate use, unless otherwise requested by the State. No charge for packing, shipping, or for any other purpose will be allowed over and above the price quoted.
5. Contractor shall submit invoice(s) to the requesting agency.
6. Following delivery of the items each as specified in Attachment A, and the State's written confirmation to the Contractor of the State's acceptance of those items and that training, Contractor will, within 30 business days, invoice the State in accordance with the rates specified in Attachment A.

**ATTACHMENT C: STANDARD STATE PROVISIONS  
FOR CONTRACTS AND GRANTS  
REVISED DECEMBER 15, 2017**

**“Attachment C: Standard State Provisions for Contracts and Grants” (revision version dated December 15, 2017) constitutes part of this Agreement and is hereby incorporated by reference as if fully set forth herein and shall apply to the purchase of all goods and/or services by the State under this Agreement. A copy of this document is available online at: <https://bgs.vermont.gov/purchasing-contracting/forms>.**

## **ATTACHMENT D**

### **STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction)**

#### **for all Contracts and Purchases of Products and Services Using Federal Funds**

(Revision date: *July 28, 2022*)

### **PROCUREMENT OF RECOVERED MATERIALS**

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated Items unless the products cannot be acquired-

1. Competitively within a time frame providing for compliance with the contract performance schedule;
2. Meeting contract performance requirements; or
3. At a reasonable price

Information about this requirement, along with the list of EPA-designated items, is available at the EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

The Contractor also agrees to comply with all other applicable requirements of section 6002 of the Solid Waste Disposal Act.

### **CLEAN AIR ACT**

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

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1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA. **a.** Standard. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).

### **CONTRACTOR BREACH, ERRORS AND OMISSIONS**

1. Any breach of the terms of this contract, or material errors and omissions in the work product of the contractor must be corrected by the contractor at no cost to the State, and a contractor may be liable for the State's costs and other damages resulting from errors or deficiencies in its performance.

2. Neither the States' review, approval or acceptance or nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract.
3. The rights and remedies of the State provided for under this contract are in addition to any other rights and remedies provided by law or elsewhere in the contract.

## **TERMINATION FOR CONVENIENCE**

### **1. General**

- a. Any termination for convenience shall be effected by delivery to the Contractor an Order of Termination specifying the termination is for the convenience of the Agency, the extent to which performance of work under the Contract is terminated, and the effective date of the termination.
- b. In the event such termination occurs, without fault and for reasons beyond the control of the Contractor, all completed or partially completed items of work as of the date of termination will be paid for in accordance with the contract payment terms.
- c. No compensation will be allowed for items eliminated from the Contract.
- d. Termination of the Contract, or portion thereof, shall not relieve the Contractor of its contractual responsibilities for work completed and shall not relieve the Contractor's Surety of its obligation for and concerning any just claim arising out of the work performed.

### **2. Contractor Obligations**

After receipt of the Notice of Termination and except as otherwise directed by the State, the Contractor shall immediately proceed to:

- a. To the extent specified in the Notice of Termination, stop work under the Contract on the date specified.
- b. Place no further orders or subcontracts for materials, services, and/or facilities except as may be necessary for completion of such portion(s) of the work under the Contract as is (are) not terminated.
- c. Terminate and cancel any orders or subcontracts for related to the services, except as may be necessary for completion of such portion(s) of the work under the Contract as is (are) not terminated.
- d. Transfer to the State all completed or partially completed plans, drawings, information, and other property which, if the Contract had been completed, would be required to be furnished to the State.
- e. Take other action as may be necessary or as directed by the State for the protection and preservation of the property related to the contract which is in the possession of the contractor and in which the State has or may acquire any interest.
- f. Make available to the State all cost and other records relevant to a determination of an equitable settlement.

### **3. Claim by Contractor**

After receipt of the Notice of Termination from the state, the Contractor shall submit any claim for additional costs not covered herein or elsewhere in the Contract within 60 days of the effective termination date, and not thereafter. Should the Contractor fail to submit a claim within the 60-day period, the State may, at its sole discretion, based on information available to it, determine what, if any, compensation is due the Contractor and pay the Contractor the determined amount.

4. Negotiation

Negotiation to settle a timely claim shall be for the sole purpose of reaching a settlement equitable to both the Contractor and the State. To the extent settlement is properly based on Contractor costs, settlement shall be based on actual costs incurred by the Contractor, as reflected by the contract rates. Consequential damages, loss of overhead, loss of overhead contribution of any kind, and/or loss of anticipated profits on work not performed shall not be included in the Contractor's claim and will not be considered, allowed, or included as part of any settlement.

## EXHIBIT A1 - FUEL MARKUP PRICING

### 45876 Irving Oil Terminals Inc. dba Irving Energy

Town Name	County	Fuel Type	Delivery Method	Vendor Markup
Ascutney	Windsor	#2 Fuel Oil	Tank Wagon	\$0.2287
Barnard	Windsor	#2 Fuel Oil	Tank Wagon	\$0.1984
Barre	Washington	#2 Fuel Oil	Tank Wagon	\$0.1844
Barre	Washington	#2 Fuel Oil	Motor Transport	\$0.1689
Barton	Orleans	#2 Fuel Oil	Tank Wagon	\$0.3082
Bennington	Bennington	#2 Fuel Oil	Tank Wagon	\$0.3009
Berlin	Washington	#2 Fuel Oil	Tank Wagon	\$0.2030
Berlin	Washington	#2 Fuel Oil	Motor Transport	\$0.1990
Bethel	Windsor	#2 Fuel Oil	Tank Wagon	\$0.1753
Bradford	Orange	#2 Fuel Oil	Tank Wagon	\$0.2584
Bradford	Orange	#2 Fuel Oil	Motor Transport	\$0.1784
Castleton	Rutland	#2 Fuel Oil	Tank Wagon	\$0.2132
Chelsea	Orange	#2 Fuel Oil	Tank Wagon	\$0.2124
Clarendon	Rutland	#2 Fuel Oil	Tank Wagon	\$0.2102
Corinth	Orange	#2 Fuel Oil	Tank Wagon	\$0.2354
Derby	Orleans	#2 Fuel Oil	Tank Wagon	\$0.2791
Duxbury	Washington	#2 Fuel Oil	Tank Wagon	\$0.2254
East Dorset	Bennington	#2 Fuel Oil	Tank Wagon	\$0.2079
East Montpelier	Washington	#2 Fuel Oil	Tank Wagon	\$0.2267
Groton	Caledonia	#2 Fuel Oil	Tank Wagon	\$0.1992
Hardwick	Caledonia	#2 Fuel Oil	Tank Wagon	\$0.1934
Hartford	Windsor	#2 Fuel Oil	Tank Wagon	\$0.1753
Hartland	Windsor	#2 Fuel Oil	Tank Wagon	\$0.1711
Hubbardton	Rutland	#2 Fuel Oil	Tank Wagon	\$0.1731
Ludlow	Windsor	#2 Fuel Oil	Tank Wagon	\$0.2001
Lyndon	Caledonia	#2 Fuel Oil	Tank Wagon	\$0.2257
Lyndonville	Caledonia	#2 Fuel Oil	Tank Wagon	\$0.2220
Montpelier	Washington	#2 Fuel Oil	Tank Wagon	\$0.2028
Mount Holly	Rutland	#2 Fuel Oil	Tank Wagon	\$0.1741
Newport	Orleans	#2 Fuel Oil	Tank Wagon	\$0.2169
Newport	Orleans	#2 Fuel Oil	Motor Transport	\$0.2629
Northfield	Washington	#2 Fuel Oil	Tank Wagon	\$0.2242
Northfield	Washington	#2 Fuel Oil	Motor Transport	\$0.1829
Orange	Orange	#2 Fuel Oil	Tank Wagon	\$0.3184
Peacham	Caledonia	#2 Fuel Oil	Tank Wagon	\$0.3782
Pittsford	Rutland	#2 Fuel Oil	Tank Wagon	\$0.2689
Pittsford	Rutland	#2 Fuel Oil	Motor Transport	\$0.1767
Plymouth	Windsor	#2 Fuel Oil	Tank Wagon	\$0.3729
Poultney	Rutland	#2 Fuel Oil	Tank Wagon	\$0.2729
Quechee	Windsor	#2 Fuel Oil	Tank Wagon	\$0.4896
Reading	Windsor	#2 Fuel Oil	Tank Wagon	\$0.4475
Rockingham	Windham	#2 Fuel Oil	Tank Wagon	\$0.2095
Roxbury	Washington	#2 Fuel Oil	Tank Wagon	\$0.1951
Royalton	Windsor	#2 Fuel Oil	Tank Wagon	\$0.1784

**45876 Irving Oil Terminals Inc. dba Irving Energy**

<b>Town Name</b>	<b>County</b>	<b>Fuel Type</b>	<b>Delivery Method</b>	<b>Vendor Markup</b>
Rutland	Rutland	#2 Fuel Oil	Tank Wagon	\$0.1639
Rutland	Rutland	#2 Fuel Oil	Motor Transport	\$0.1567
Saint Johnsbury	Caledonia	#2 Fuel Oil	Tank Wagon	\$0.2157
Saint Johnsbury	Caledonia	#2 Fuel Oil	Motor Transport	\$0.1629
Shaftsbury	Bennington	#2 Fuel Oil	Tank Wagon	\$0.3729
Sharon	Windsor	#2 Fuel Oil	Tank Wagon	\$0.1746
Springfield	Windsor	#2 Fuel Oil	Tank Wagon	\$0.2025
Stowe	Lamoille	#2 Fuel Oil	Tank Wagon	\$0.2289
Strafford	Orange	#2 Fuel Oil	Tank Wagon	\$0.1753
Thetford	Orange	#2 Fuel Oil	Tank Wagon	\$0.1753
Warren	Washington	#2 Fuel Oil	Tank Wagon	\$0.1934
Waterbury	Washington	#2 Fuel Oil	Tank Wagon	\$0.2354
Waterbury	Washington	#2 Fuel Oil	Motor Transport	\$0.1682
Weathersfield	Windsor	#2 Fuel Oil	Tank Wagon	\$0.1975
Westminster	Windham	#2 Fuel Oil	Tank Wagon	\$0.2475
Westminster	Windham	#2 Fuel Oil	Motor Transport	\$0.2475
Westmore	Orleans	#2 Fuel Oil	Tank Wagon	\$0.2382
White River Junction	Windsor	#2 Fuel Oil	Motor Transport	\$0.2784
Williamstown	Orange	#2 Fuel Oil	Tank Wagon	\$0.2501
Windsor	Windsor	#2 Fuel Oil	Tank Wagon	\$0.1831
Windsor	Windsor	#2 Fuel Oil	Motor Transport	\$0.2084
Derby	Orleans	Diesel	Motor Transport	\$0.5079
Middlesex	Washington	Diesel	Tank Wagon	\$0.3780
Newport	Orleans	Diesel	Tank Wagon	\$0.4692
Peacham	Caledonia	Diesel	Tank Wagon	\$0.4989
Royalton	Windsor	Diesel	Tank Wagon	\$0.4444
Saint Johnsbury	Caledonia	Diesel	Tank Wagon	\$0.3385
Springfield	Windsor	Diesel	Tank Wagon	\$0.3758
Thetford	Orange	Diesel	Tank Wagon	\$0.3219
Tunbridge	Orange	Diesel	Tank Wagon	\$0.3340
Windsor	Windsor	Diesel	Tank Wagon	\$0.3219
Barnard	Windsor	LP Gas	Tank Wagon	\$0.2448
Barre	Washington	LP Gas	Tank Wagon	\$0.2448
Bennington	Bennington	LP Gas	Tank Wagon	\$0.3448
Berlin	Washington	LP Gas	Tank Wagon	\$0.2448
Bethel	Windsor	LP Gas	Tank Wagon	\$0.2448
Bradford	Orange	LP Gas	Tank Wagon	\$0.2448
Brandon	Rutland	LP Gas	Tank Wagon	\$0.2668
Brattleboro	Windham	LP Gas	Tank Wagon	\$0.2648
Brookfield	Orange	LP Gas	Tank Wagon	\$0.3934
Calais	Washington	LP Gas	Tank Wagon	\$0.2648
Castleton	Rutland	LP Gas	Tank Wagon	\$0.2448
Chester	Windsor	LP Gas	Tank Wagon	\$0.2648
Clarendon	Rutland	LP Gas	Tank Wagon	\$0.2448
Corinth	Orange	LP Gas	Tank Wagon	\$0.2448
Derby	Orleans	LP Gas	Tank Wagon	\$0.4137
Duxbury	Washington	LP Gas	Tank Wagon	\$0.2873



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<b>Town Name</b>	<b>County</b>	<b>Fuel Type</b>	<b>Delivery Method</b>	<b>Vendor Markup</b>
East Dorset	Bennington	LP Gas	Tank Wagon	\$0.2667
Fair Haven	Rutland	LP Gas	Tank Wagon	\$0.3932
Groton	Caledonia	LP Gas	Tank Wagon	\$0.2448
Hartford	Windsor	LP Gas	Tank Wagon	\$0.2648
Hartland	Windsor	LP Gas	Tank Wagon	\$0.2648
Hubbardton	Rutland	LP Gas	Tank Wagon	\$0.4268
Killington	Rutland	LP Gas	Tank Wagon	\$0.3745
Ludlow	Windsor	LP Gas	Tank Wagon	\$0.2862
Lyndon	Caledonia	LP Gas	Tank Wagon	\$0.2448
Lyndonville	Caledonia	LP Gas	Tank Wagon	\$0.2448
Manchester	Bennington	LP Gas	Tank Wagon	\$0.3198
Middlesex	Washington	LP Gas	Tank Wagon	\$0.2448
Montpelier	Washington	LP Gas	Tank Wagon	\$0.2422
Morristown	Lamoille	LP Gas	Tank Wagon	\$0.3905
Morrisville	Lamoille	LP Gas	Tank Wagon	\$0.3405
Newport	Orleans	LP Gas	Tank Wagon	\$0.2448
Peacham	Caledonia	LP Gas	Tank Wagon	\$0.4536
Pittsford	Rutland	LP Gas	Tank Wagon	\$0.3180
Plymouth	Windsor	LP Gas	Tank Wagon	\$0.3167
Poultney	Rutland	LP Gas	Tank Wagon	\$0.3802
Quechee	Windsor	LP Gas	Tank Wagon	\$0.2959
Rockingham	Windham	LP Gas	Tank Wagon	\$0.2448
Roxbury	Washington	LP Gas	Tank Wagon	\$0.2448
Rutland	Rutland	LP Gas	Tank Wagon	\$0.2248
Saint Johnsbury	Caledonia	LP Gas	Tank Wagon	\$0.3431
Salisbury	Addison	LP Gas	Tank Wagon	\$0.2648
Shaftsbury	Bennington	LP Gas	Tank Wagon	\$0.3148
Sharon	Windsor	LP Gas	Tank Wagon	\$0.3911
Springfield	Windsor	LP Gas	Tank Wagon	\$0.2648
Springfield	Windsor	LP Gas	Motor Transport	\$0.1148
Stowe	Lamoille	LP Gas	Tank Wagon	\$0.3496
Strafford	Orange	LP Gas	Tank Wagon	\$0.1948
Thetford	Orange	LP Gas	Tank Wagon	\$0.2448
Waterbury	Washington	LP Gas	Tank Wagon	\$0.2837
Waterford	Caledonia	LP Gas	Tank Wagon	\$0.3371
Weathersfield	Windsor	LP Gas	Tank Wagon	\$0.2448
Westminster	Windham	LP Gas	Tank Wagon	\$0.3348
Westmore	Orleans	LP Gas	Tank Wagon	\$0.2648
White River Junction	Windsor	LP Gas	Tank Wagon	\$0.1948
Williamstown	Orange	LP Gas	Tank Wagon	\$0.3904
Windsor	Windsor	LP Gas	Tank Wagon	\$0.2448