

COUNTIES OF WARREN AND WASHINGTON INDUSTRIAL DEVELOPMENT AGENCY

5 Warren Street, Suite 210
Glens Falls, New York 12801

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Effective as of June 26, 2017

TO WHOM IT MAY CONCERN:

Re: Counties of Warren and Washington
Industrial Development Agency
Ray Terminals LLC as duly appointed Agent
(Ray Terminals LLC Project)
(5202-17-02)

Ladies and Gentlemen:

The Counties of Warren and Washington Industrial Development Agency (the "Agency"), by this notice, hereby advises you as follows:

1. The Agency constitutes a corporate governmental agency and a public benefit corporation under the laws of the State of New York, and, therefore, in the exercise of its governmental functions, including the issuance of its bonds or notes, is exempt from the imposition of any New York State sales and use tax. As an exempt governmental entity, no exempt organization identification number has been issued to the Agency nor is one required.

2. Pursuant to a resolution adopted by the Agency on June 19, 2017 and an Agent Agreement effective as of June 26, 2017 (the "Agreement") between the Agency and Ray Terminals LLC, a New York limited liability company, (the "Company"), the Agency has authorized the Company to act as its agent to acquire, lease, construct, install and equip a wholesale propane gas storage and distribution facility in the Town of Hampton, Washington County consisting of:

- (i) the acquisition by the Agency of a leasehold interest in certain real property located at 39 Golf Course Road in the Town of Hampton, New York (the "Land", being more particularly described as tax parcel number 45.00-1-33); (ii) the planning, design, construction, operation and maintenance by the Company of a wholesale propane gas storage and distribution facility, including an approximately 2,400 square foot office and storage building, 4 60,000 gallon liquid propane storage tanks (with room for 2 additional 60,000 gallon tanks) and related piping, pumps, compressors and coupling improvements, along with related site, roadway, parking, access, curbage, rail siding and onsite and offsite utility improvements that will include approximately 7,500 feet of above and below-ground 3 phase electric service line and poles, along with related electrical transformer (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the

“Straight Lease Transaction”), all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the “Act”), as amended.

3. In connection with the resolution and the Agreement and pursuant to the authority therein granted, the Agency has authorized the Company to act as its agent in connection with the acquisition, construction, installation and equipping of the Project Facility and authorized the Company to use this letter as its agent only for the payment of the costs of such acquisition, construction, installation and equipping of the Project Facility, all to the extent set forth in, and limited by, Exhibit A attached hereto.

4. The Agency has authorized the Company to act as its agent and to appoint third-party agents as may be appropriate in connection with the acquisition, construction, and installation and equipping of the Facility.

5. As agent, Ray Terminals LLC has agreed that each contract, agreement, invoice, bill or purchase order entered into by Ray Terminals LLC, as agent of the Agent, for the acquisition, construction, installation and equipping of the Facility shall include language in substantially the following form:

“IN THE EVENT OF A DEFAULT BY RAY TERMINALS LLC IN THE PAYMENT OF ANY MONIES DUE FOR WORK, LABOR, GOODS, SERVICES, MATERIALS OR EQUIPMENT FURNISHED IN ACCORDANCE WITH THIS AGREEMENT, SHOULD THE CONTRACTOR (OR VENDOR) SEEK PAYMENT FROM THE COUNTIES OF WARREN AND WASHINGTON INDUSTRIAL DEVELOPMENT AGENCY (THE “AGENCY”), IT SHALL BE LIMITED TO A CLAIM AGAINST THOSE FUNDS REMAINING IN PROJECT ACCOUNTS THAT HAVE BEEN ESTABLISHED BY OR ON BEHALF OF THE AGENCY TO FINANCE THE PROJECT FACILITY. THE CONTRACTOR (OR VENDOR) AGREES THAT IT SHALL HAVE NO RIGHTS IN OR CLAIM TO ANY PROPERTY OR ANY FUNDS IN ANY ACCOUNT OF THE AGENCY OTHER THAN THOSE FUNDS OR ACCOUNTS SPECIFICALLY ESTABLISHED BY OR ON BEHALF OF THE AGENCY FOR THE PROJECT FACILITY. THE CONTRACTOR (OR VENDOR) FURTHER AGREES THAT IT MAY NOT MAKE A CLAIM OR OBTAIN A JUDGMENT AGAINST THE AGENCY, ITS MEMBERS, OFFICERS OR EMPLOYEES FOR ANY MONIES OTHER THAN THOSE MONIES REMAINING IN ACCOUNTS ESTABLISHED BY OR ON BEHALF OF THE AGENCY FOR THE PROJECT FACILITY.”

6. As described in the attached Exhibit A, the acquisition and construction of structures, facilities and improvements constituting a part of the Facility by Ray Terminals LLC, as agent, shall be exempt from the sales and use tax levied by the State of New York and any political subdivision thereof.

7. The Agency shall have no liability or performance obligations under any contract, agreement, invoice, bill or purchase order entered into by Ray Terminals LLC, as agent for the Agency hereunder. The Agency shall not be liable, either directly or indirectly or contingently, upon any such contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever, and the Company shall be the sole party liable thereunder.

8. This agency appointment includes the power to delegate such agency, in whole or in part to agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents upon submission of proper documents to the Agency. In exercising this agency appointment, the Company, its agents, subagents, contractors and subcontractors shall give the supplier or vendor a completed "Exempt Purchase Certificate" (Form ST-123) to show that the Company, its agents, subagents, contractors and subcontractors are each acting as agent for the Agency. The supplier or vendor should identify the Project Facility on each bill or invoice and indicate thereon which of the Company, its agents, subagents, contractors and subcontractors acted as agent for the Agency in making the purchase.

In order to be entitled to use this exemption, the Company shall present to the supplier or other vendor of materials for the Project Facility, a completed "Contractor Exempt Purchase Certificate" (Form ST-120.1), checking box "(a)". The Company shall give the supplier or vendor a copy of this letter to show that you (or the contractor) are acting as agent for the Agency in making the purchase. A copy of this letter retained by any vendor or seller may be accepted by such vendor or seller as a "statement and additional documentary evidence or such exemption" as provided by New York Tax Law §1132(c)(2), thereby relieving such vendor or seller from the obligation to collect sales and use tax with respect to the construction and installation and equipping the Project Facility.

In addition, General Municipal Law §874(8) requires the Company and any other agents to file an Annual Statement with the New York State Department of Taxation and Finance on "Annual Report of Sales and Use Tax Exemptions" (Form ST-340) regarding the value of sales and use tax exemptions the Company, its agents, consultants or subcontractors have claimed. The penalty for failure to file such statement is the removal of the authority to act as agent of the Agency. Upon each such annual filing, the Company shall, within thirty (30) days of each filing, provide a copy of the same to the Agency; provided, however, in no event later than February 15th of each year.

9. Accordingly, until the earlier of (i) December 31, 2018; (ii) the completion of the Project Facility, or (iii) the termination or suspension of this Letter of Authorization for Sales Tax Exemption pursuant to and as provided in the Agent Agreement, all vendors, contractors and subcontractors are hereby authorized to rely on this letter (or on a photocopy or fax of this letter) as evidence that purchases of, and improvement and installation contracts relating to, the Project Facility property, to the extent effected by the Company, as agent for the Agency, are exempt from all New York State sales and use taxes.

COUNTIES OF WARREN AND WASHINGTON
INDUSTRIAL DEVELOPMENT AGENCY

By: 
Name: Harold G. Taylor
Title: Chairman

Exhibit A

Exemptions from sales or use tax relating to (a) the acquisition and installation of Equipment, trade fixtures and other tangible personal property for use at the Project Facility, (b) the acquisition of building materials for construction of the buildings and related structures on the Project Facility, and (c) materials and equipment to be incorporated into the Project Facility, as well as purchases and rentals of supplies, tools, equipment, or services necessary to undertake and/or complete the Project Facility.