

ERIE COUNTY WATER AUTHORITY
 AUTHORIZATION FORM
 For Approval/Execution of Documents
 (check which apply)

Contract: _____ **Project No.:** 202100104
Project Description: Furnishing and Delivering of Caustic Soda (50% Solution of Sodium Hydroxyde) Membrane Grade to the ECWA for Use in the Treatment of Water for Two Years from 11/01/2021 through 10/31/2023

Item Description:

Agreement Professional Service Contract Amendment Change Order
 BCD NYSDOT Agreement Contract Documents Addendum
 Recommendation for Award of Contract Recommendation to Reject Bids
 Request for Proposals
 Other _____

Action Requested:

Board Authorization to Execute Legal Approval
 Board Authorization to Award Execution by the Chairman
 Board Authorization to Advertise for Bids Execution by the Secretary to the Authority
 Board Authorization to Solicit Request for Proposals
 Other _____

Approvals Needed:

APPROVED AS TO CONTENT:

<input checked="" type="checkbox"/> Sr. Production Engineer	<u>Leonard F. Koralik</u> For Mike Wymer	Date: <u>05/05/2021</u>
<input checked="" type="checkbox"/> Chief Operating Officer	<u>Russell J. Stoll</u>	Date: <u>5/5/2021</u>
<input checked="" type="checkbox"/> Executive Engineer	<u>Leonard F. Koralik</u>	Date: <u>05/05/2021</u>
<input checked="" type="checkbox"/> Director of Administration	<u>Tawnyia Lester</u>	Date: <u>05/05/2021</u>
<input checked="" type="checkbox"/> Risk Manager	<u>Molly Jo Musarra</u>	Date: <u>05/05/2021</u>
<input checked="" type="checkbox"/> Chief Financial Officer	<u>Karen A. Brundage</u>	Date: <u>05/05/2021</u>
<input checked="" type="checkbox"/> Legal	<u>Margaret A. Murphy</u>	Date: <u>05/05/2021</u>

APPROVED FOR BOARD RESOLUTION:

<input checked="" type="checkbox"/> Secretary to the Authority	<u>TAM</u>	Date: <u>05/05/21</u>
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Remarks: Unit price contract

Resolution Date: _____ **Item No:** _____



ERIE COUNTY WATER AUTHORITY

INTEROFFICE MEMORANDUM

May 05, 2021

To: Terrence D. McCracken, Secretary to the Authority

From: Brenden Stoll, Engineering Draftswriter *BPS*

Subject: Furnishing and Delivering of Caustic Soda (50% Solution of Sodium Hydroxide) Membrane Grade to the Erie County Water Authority for use in the Treatment of Water for Two Years from November 1, 2021 through October 31, 2023
ECWA Project No. 202100104

Erie County Water Authority uses various water treatment chemicals to provide safe, clean and dependable drinking water to the residents of Erie County. One of the necessary treatment chemicals used at both of our water treatment plants is 50% Sodium Hydroxide (a.k.a. caustic soda, NaOH). This chemical application provides pH control of our finish water, which is a major component of ECWA's overall corrosion control program and maintaining compliance with DOH lead and copper regulations.

The following documents are attached:

- Blue Authorization Form - this form provides the project name and project number, the action that is being requested of the Board, and it provides a list of approvals that are required prior to being acted on by the Board.
- One (1) set of Contract Documents.

The Project Manual needs to be reviewed by the Risk Manager and the Legal Department before the Board can provide the Authorization to Advertise.

The budget for the caustic supply is as follows:

- Sturgeon: 1010-401000-6400113
- Van de Water: 1015-401000-640213

JRS:jmf

Attachment

cc: R.Stoll

D.Patton

M.Wymer

B.Stoll

L.Kowalski

ECWA-736-2101-X-12



Erie County Water Authority

3030 Union Road • Cheektowaga, New York 14227-1097
716-684-1510 • FAX 716-684-3937

INVITATION TO BID

BID DESCRIPTION: FURNISH AND DELIVER CAUSTIC SODA (50% SOLUTION OF SODIUM HYDROXIDE) MEMBRANE GRADE

PROJECT No.: 202100104

OPENING DATE: **[INSERT]**

TIME: **[INSERT]**

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If an APPENDIX document does not have an X on the line preceding it, then the APPENDIX document will not be a contract requirement.

ERIE COUNTY WATER AUTHORITY
3030 UNION ROAD
CHEEKTOWAGA, NEW YORK 14227

NOTICE TO BIDDERS

The Erie County Water Authority will receive separate, sealed bids to **FURNISH AND DELIVER CAUSTIC SODA (50% SOLUTION OF SODIUM HYDROXIDE) MEMBRANE GRADE (Project No. 202100104)**

Bids must be received by the Erie County Water Authority no later than (Time) a.m. EST, on (Day of week, Date) at the Service Center Front Desk, Erie County Water Authority, 3030 Union Road, Cheektowaga, New York 14227.

[All bid openings are recorded and posted on the ECWA website, along with the bids results.](#)

When permitted, members of the public may be present to observe the bid opening. All attendees must bring a government-issued photo identification (driver's license preferred) and check-in with the ECWA receptionist before being allowed entry to the bid opening.

Whenever the Erie County Water Authority is operating under a Declaration of Emergency due to a pandemic or other general state of emergencies, members of the public may be precluded from being present at such bid opening.

ANYONE ENTERING THE SERVICE CENTER OR OTHER AUTHORITY FACILITIES IS SUBJECT TO SUCH RESTRICTIONS OR LIMITATIONS IN PLACE AT THE TIME OF ENTRY.

All bids being mailed (including FedEx, UPS, Priority Mail, etc.) or delivered shall be directed to the "SERVICE CENTER FRONT DESK" at the address listed above in a sealed envelope and be clearly marked on the outside of the mailing or hand-delivered envelope "**BID ENCLOSED-FURNISH AND DELIVER CAUSTIC SODA (50% SOLUTION OF SODIUM HYDROXIDE) MEMBRANE GRADE (Project No. 202100104)**"

Beginning at 9:00 a.m., on (Day of week, Date), Project Manuals and accompanying drawings, if applicable, may be obtained by writing the Service Center Front Desk at the above address or calling 716-684-1510, between the hours of 9:00 a.m. and 4:00 p.m. Contract Documents will be mailed to prospective bidders wishing to obtain a set upon receipt of prospective bidder's charge number for UPS or FedEx. The mailing date will be considered the bidder's date of receipt. Partial sets of documents will not be available.

Each bid shall be accompanied by a certified check or bid bond in the amount of five percent (5%) of the amount of the bid.

In accordance with State Finance Law §§139-j and 139-k, all questions about meaning or intent of the bidding documents shall be submitted to the designated contact person in writing. The designated contact is Brenden P. Stoll, Engineering Draftsworker, Erie County Water Authority, 3030 Union Road, Cheektowaga, New York 14227, telephone 716-685-8523, email bstoll@ecwa.org.

The Erie County Water Authority reserves the right to reject any and all bids or to accept any bid deemed to be for the best interest of the Water Authority even though the proposal chosen may result in the award of the contract to a bidder whose bid is not mathematically lowest.

ERIE COUNTY WATER AUTHORITY

TERRENCE D. McCracken
Secretary to the Authority

INSTRUCTIONS TO BIDDERS

1. **BID SHALL BE SUBMITTED ON THESE ERIE COUNTY WATER AUTHORITY (the “Authority”) BID FORMS** or bid will not be considered. Bid must be typed or printed in ink. Original autograph signatures in ink are required. Facsimile or rubber stamp signatures will not be accepted. **ALL PAGES OF THIS BID DOCUMENT MUST BE RETURNED INTACT.**
2. **LATE PROPOSALS.** Any bids received at the Authority after the date and time prescribed in the Notice to Bidders will not be considered for contract award.
3. **ADDENDA.** All questions about the meaning or intent of the Bidding Documents shall be submitted to the Authority in writing and received by the Authority at least ten (10) days prior to the date for the opening of Bids. Interpretations, clarifications, and/or supplemental instructions considered necessary by the Authority in response to such questions will be issued by Addenda. Addenda may also be issued to clarify, correct or change the Bidding Documents as deemed advisable by the Authority. All Addenda will be mailed by either Registered or Certified mail, with return receipt requested to all parties recorded by the Authority as having received the Bidding Documents, for receipt not later than three (3) days prior to the date for the opening of Bids. Failure of any Bidder to receive any such Addendum shall not relieve any bidder from any obligation of the bid submitted. All Addenda so issued shall become part of the Contract Documents. All Addenda must be submitted with the bid proposal and be properly signed by the Bidder. Only questions answered by Addenda will be binding. The Authority will not be responsible for any other explanations or interpretation of such documents which anyone presumes to make on behalf of the Authority before expiration of the time set for the receipt of Bids. No interpretation of the meaning of the plans, specifications or other Contract Documents will be made to any bidder orally. Oral and other interpretations or clarifications will be without legal effect.
4. **BID DOCUMENTS.** The blank spaces in the proposal must be filled in correctly where indicated for each and every item, and the Bidder must state, both in words and in numerals, written or printed in ink, the prices for which he proposes to do each item of the work contemplated. In case of discrepancy between the words and the numerals, the words shall govern. The Bidder shall sign the proposal and all required forms correctly and with original signatures.
5. **BID GUARANTEE.** Each bid must be accompanied by a certified check made payable to the Erie County Water Authority or a bid bond in the sum of five percent (5%) of the amount of the bid. Bid bonds must be in satisfactory form and payable to the order of the OWNER. The bid bond must contain original signatures in ink. The bid bond shall be approved by the Authority’s Attorney as to form, and by the Comptroller as to sufficiency of the bond. The amount of the certified check or bid bond shall be retained by the Authority as liquidated damages if the bidder whose bid is accepted shall fail to enter into a contract with the Authority.

6. EQUIPMENT AND MATERIALS BROCHURES. The Technical Specifications may require that each bid be accompanied by certain brochures that describe the various types of equipment or material listed in the bid, then the bid must be accompanied by such brochures. Bids not accompanied by the required equipment and material brochures may be rejected. If brochures are not available, the bidder is required to submit with his bid a letter stating that he has requested four (4) copies of the brochures described in the Technical Specifications and that his bid price is for the equipment or materials as described in these brochures.
7. EMERGENCY CLOSINGS. In the event of an emergency closing of certain Authority facilities and/or operations and/or services due to any flood, fire, fire drill, power failure, uncontrolled weather conditions or other cause beyond the Secretary to the Authority's control, only bids received prior to the date and time or postmarked as of the date prescribed will be considered for contract award.
8. ANY CHANGE IN WORDING OR INTERLINEATION OF THE ADVERTISEMENT AS PUBLISHED BY THE AUTHORITY shall be reason to reject the proposals in the event that such change in the Advertisement to Bid is not discovered prior to entering into a contract, to void any contract entered into pursuant to such bid. Proposals may be rejected if they show any omissions, alterations of form, additions not called for, conditional or alternate bids other than are provided for in the proposal form, escalation clauses or irregularities of any kind.
9. THE AUTHORITY, IN THE BEST INTERESTS OF THE PUBLIC, RESERVES THE RIGHT TO REJECT any and all bids, to accept either in whole or in part any one bid or combination of bids as may be provided in the bid specifications, and to waive any informalities in bids. The Authority does not obligate itself to accept the lowest, or any other proposal, and reserves the right to re-bid.
10. CONTRACT(S) OR PURCHASE ORDER(S) WILL BE AWARDED after due consideration of the suitability of goods and/or services bid to satisfy these specifications, the total cost of such goods and/or services including all cost elements, and the timeliness of the agreed upon delivery date.
11. FAILURE TO MEET DELIVERY SCHEDULE as per accepted bid may result in legal action by the Authority to recover damages.
12. PRICES SHALL BE QUOTED F.O.B. DESTINATION.
13. COLLECT TRANSPORTATION CHARGES WILL NOT BE PAID BY THE AUTHORITY. All freight, cartage, rigging, postage or other transportation charges shall be prepaid and included in the bid. There will be no additional charges for delivery.
14. NO TAXES ARE TO BE BILLED TO THE AUTHORITY. Bids shall not include any State or local excise, sales, transportation or other tax, unless State law specifically levies such tax on purchases made by a public benefit corporation created by the State of New York. The Authority Purchase Order is an exemption certificate. Any applicable taxes from which the Authority is not exempt shall be listed separately as cost elements and added into the total net bid.

15. THE SUCCESSFUL BIDDER shall comply with all laws, rules, regulations and ordinances of the Federal Government, the State of New York and any other political subdivision or regulatory body which may apply to Bidder's performance under this contract.
16. GRATUITIES, ILLEGAL OR IMPROPER SCHEMES. The Authority may terminate contracts or purchase orders, if it is determined that gratuities in the form of entertainment, gifts or otherwise were offered or given by a vendor, his agent or representative to any Authority official or employee with a view towards securing favorable treatment with respect to the awarding of this bid or the performance of the contract or purchase order. The Authority may also terminate a contract or purchase order if it is determined that the successful bidder engaged in any other illegal or improper scheme promotive of favoritism or unfairness incidental to the bidding process or the performance of the contract or purchase order. In the event that it is determined that said improper or illegal acts occurred, the Authority shall be entitled to terminate the contract or purchase order and/or exercise any other remedy available to it under existing law.
17. ANY CASH DISCOUNT which is part of a bid will be considered as a reduction in the bid prices in determining the award of the bid. Date of invoice must not precede date of delivery. The Authority policy is to pay all claims in a timely manner within the specified time. However, if for some reason payment is delayed, the Authority will take the discount when payment is made. The Authority will not pay any interest charges nor refund discount amounts taken after the discount period. If this procedure is unsatisfactory, please quote net.
18. ANY ADDITIONAL INFORMATION which bidder desires to add to the bid shall be written on a separate sheet of paper attached to and submitted with the formal sealed bid to be read at the formal opening.
19. WARRANTY. Notwithstanding anything to the contrary herein contained, BIDDER agrees that the warranties as prescribed by the Laws of the State of New York are and will remain in effect; that this warranty and the time to exercise said warranty in effect at the time of the breach, if any, caused by any breach or by any hidden or latent defect will be as prescribed by the Laws of the State of New York. The obligations of BIDDER herein are independent of any other obligations.
20. THIS BID IS FIRM AND IRREVOCABLE for a period of 45 days from the date and time of the bid opening. If a contract is not awarded within the 45 day period, a bidder to whom the bid has not been awarded may withdraw his bid by serving written notice upon the Secretary to the Authority of his intention to do so.
21. PRICES CHARGED TO THE ERIE COUNTY WATER AUTHORITY are to be no higher than those offered to any other governmental or commercial consumer. If a bidder has a New York State or a Federal GSA contract for any of the items covered in this bid or any similar items, he shall so indicate that he has said contract on these bid papers and automatically supply a copy of this contract within five days after notification of award.

22. **PRICE IS FIRM.** The unit prices bid shall remain firm and any other charges bid shall also remain firm for delivery of the equipment, material, work, or services described in this bid. No cost increase shall be charged for any reason whatsoever.
23. **EXTENSION OF PRICE PROTECTION.** Any contract entered into pursuant to this bid to supply the Authority requirements of goods and/or services for a definite period of time as stated in the attached specifications may be extended for not more than two successive periods of equal length at the same bid price upon the mutual agreement of the successful bidder and the Authority. All extensions shall be submitted in writing and shall have prior approval by the Secretary to the Authority.
24. **IN EXECUTING THIS BID, THE BIDDER AFFIRMS** that all of the requirements of the specifications are understood and accepted by the bidder, and that the prices quoted include all required materials and services. The undersigned has checked all of the bid figures, and understands that the Authority will not be responsible for any errors or omissions on the part of the undersigned in preparing this bid. Mistakes or errors in the estimates, calculations or preparation of the bid shall not be grounds for the withdrawal or correction of the bid or bid security. In case of error in extension of prices in the bid, the unit price will govern.
25. **ACCOUNTABILITY.** The undersigned shall be fully accountable for his or its performance under this bid or any contract or purchase order entered into pursuant to this bid, and agrees that he or its officers will answer under oath all questions relevant to the performance thereof and to any transaction, act or omission done or omitted in connection therewith if called before any Judicial, County or State officer or agency empowered to investigate the contract or his performance.

TECHNICAL SPECIFICATIONS**FURNISH AND DELIVER CAUSTIC SODA
(50% SOLUTION OF SODIUM HYDROXIDE) MEMBRANE GRADE
PROJECT No. 202100104****1. WORK INCLUDED:**

The SUPPLIER shall furnish, deliver and unload FOB destination to the locations specified herein, caustic soda having a sodium hydroxide content of 50 percent.

2. CHARACTER OF CAUSTIC SODA:

The SUPPLIER shall furnish Caustic Soda membrane grade which contains no soluble materials or organic substances in quantities capable of producing deleterious or injurious effect on the health of those consuming water that has been treated properly with the sodium hydroxide. The Caustic Soda furnished shall be processed by the mercury-free membrane method. The Caustic Soda shall conform to the requirements of AWWA Standard B501-13 or the latest version. This material should be certified as suitable for contact with or treatment of drinking water by an accredited certification organization in accordance with NSF/ANSI 60 (Drinking Water Treatment Chemicals - Health Effects).

An affidavit of compliance with the above specifications is required and shall be submitted with the bid. Liquid sodium hydroxide supplied according to the provision of this standard shall contain approximately 50 percent sodium hydroxide (NaOH)

3. WATER TREATMENT PLANT LOCATIONS:

- A. STURGEON POINT WATER TREATMENT PLANT
722 Sturgeon Point Road, Derby, New York 14047 (Town of Evans).
TELEPHONE: (716) 685-8340
FAX: (716) 685-8359

- B. JEROME D. VAN DE WATER -WATER TREATMENT PLANT
3750 River Road (Route 266), Town of Tonawanda, New York 14150.
TELEPHONE: (716) 685-8320
FAX: (716) 685-8339

4. SITE INSPECTION:

Bidders shall be familiar with sites to determine the utilities available, the pumping requirements, the site conditions, the connecting facilities necessary and all other items pertinent to their bid and performance of contract. If requested, the Authority will enable Bidder to visit the site above prior to placing a Bid. Bidders shall contact:

Brenden Stoll, Engineering Draftsworker
ERIE COUNTY WATER AUTHORITY
Service Center
3030 Union Road
Buffalo, New York 1227
(716) 685-8523-Office
(716) 818- 8472-Mobile

5. DELIVERY AND UNLOADING:

Bulk quantities of product are sealed with a unique number, tamper-evident seal. The seal number shall be recorded and disclosed on the shipping document such as the Bill of Lading. Seals shall be inspected upon receipt of the product by the purchaser, and evidence of tampering or removal should be reported to the carrier and supplier. These seals shall be demonstrated intact to plant personnel prior to unloading product. Tankers without adequate seals shall be rejected and any associated shipping and handling or removal costs shall become the responsibility of the SUPPLIER.

The SUPPLIER shall by e-mail, fax, or telephone provide at least 24 hours of notification confirming a shipment to the Authority's treatment plants. The name of the delivery operator and truck plate information shall be supplied to plant personnel prior to delivery. The delivery operator shall be required to present valid photo identification upon request.

Deliveries are to be made in truckload quantities on Monday through Friday between the hours of 8:00 a.m. and 3:00 p.m. on dates as scheduled by the Authority. If requested, shipments must be received within seven (7) days after the SUPPLIER is notified that a shipment is required. The Authority will accept changes in delivery schedules requested by the SUPPLIER provided that they do not interfere with the normal operation of the plant. The Authority also reserves the right to make reasonable changes in delivery schedules when necessary. It shall be the responsibility of the SUPPLIER and/or his shipping agent to prevent any contamination of the caustic soda during the loading, delivery and unloading of the tank truck.

General assistance to the SUPPLIER will be provided. However, it shall be the responsibility of the SUPPLIER and/or his shipping agent to provide all the necessary hose and adaptor fittings so that he can properly connect to the Authority's unloading stations. The driver delivering the product will notify the operator in responsible charge of the Treatment Plant before the shipment unloading begins. It shall be the responsibility of the trucker to make the necessary connections for unloading and to properly disconnect when the unloading is completed. He is also required to clean up any spills which he may cause during the unloading operation.

Equipment required to unload the caustic soda from the delivery truck into the storage tanks must be self-contained in the delivery truck and capable of unloading the tank truck in the allotted time. The OWNER shall not be responsible for delays in unloading caused by either inadequate or faulty equipment supplied by the trucker.

6. SAFETY DATA SHEET:

The SUPPLIER is to furnish one (1) copy of the Safety Data Sheet (SDS) with each shipment delivered.

7. SAMPLING AND TESTING:

Each shipment shall be sampled and tested by the SUPPLIER in accordance with AWWA Standard B501-08 or latest version, ASTM E291-09 - Standard Test Methods for Chemical Analysis of Caustic Soda (Sodium Hydroxide). The SUPPLIER shall furnish the Authority a Certificate of Analysis for each shipment. The certificate of Analysis should accompany each shipment if feasible or should be e-mailed to the address as shown below so as to arrive not later than five (5) days after the shipment is made:

David M. Patton, PE, Senior Production Engineer
ERIE COUNTY WATER AUTHORITY
Sturgeon Point Water Treatment Plant
722 Sturgeon Point Rd
Derby, New York 14047
(716) 685-8229
dpatton@ecwa.org

8. NOTICE OF NONCONFORMANCE

If the sodium hydroxide delivered to the Authority does not meet the chemical, physical, safety or security requirements of standard AWWA 501-13 Sec. 5.6 or latest revision, the Authority shall provide a notice of nonconformance to the supplier within 10 days after receipt of the shipment at the point of destination. The Authority will sample and test a shipment prior to unloading the shipment for its specific gravity (Sp. G.). The shipment specific gravity must be within 1.178 – 1.538 – (45% - 51% Caustic Soda) of the Sp. G. The concentration under this method shall be determined from the Table of Aqueous Properties of Sodium Hydroxide as published in the Handbook of Chemistry and Physics, 91st Edition, The Chemical Rubber Publishing Company, Cleveland, Ohio. In the event the specific gravity exceeds the limits, the Authority will reject the shipment. The Authority will be exempt from any cost incurred for the rejection of a shipment that exceeds the limits or hatch seal that has been broken prior to unloading.

The SUPPLIER shall retain a sample from each shipment sufficient in size to permit triplicate retests for each property in case of a discrepancy between the SUPPLIER's analysis and the analysis made by the Authority.

9. METHOD OF PAYMENT:

The caustic soda will be purchased by the liquid ton (2,000 pounds) based on the weights shown on the SUPPLIER'S scales and by the determination of the sodium oxide of each shipment. The

SUPPLIER'S scales shall be tested and sealed periodically by an official sealer of weights and measures, and copies of certificates attesting thereto shall be submitted to the Authority.

Each shipment shall be accompanied by a weight ticket which shall show the weight of the shipment, the serial number of the scale, the identification number of the truck and the date and hour of loading. The Authority reserves the right to reweigh any shipment on a tested and sealed scale of its own choosing.

10. PAYMENT:

Payment for each shipment will be made on the basis of the following formula:

$$\text{Amt of Payment} = (\text{Net Weight received in tons}) \times (A/B) \times (\text{Unit Price})$$

Where:

1. A is the concentration of sodium oxide (Na₂O) in the shipment as determined by the sampling and test methods as specified herein. AWWA Standard B501-08, latest revision Section 5.3 Testing Procedures for Alkali (Na₂O).
2. B is the concentration of sodium oxide (Na₂O) as specified in the Bidder's Proposal: and
3. The Unit Price is the dollar per ton as specified in the Bidder's Proposal (Page PS 2-1).

The concentration of sodium oxide as determined by the SUPPLIER will be accepted for use in calculating the amount of payment provided that the SUPPLIER is not notified within four (4) days after receipt of the SUPPLIER's Certificate of Analysis that a significant discrepancy exists between the analysis made by the SUPPLIER and the analysis made by the Authority. In the event of a discrepancy a retest will be made by both parties. If a discrepancy exists after retesting and a mutual agreement cannot be reached, then litigation will be employed to resolve the discrepancy. However, pending the outcome of such a litigation, the Authority will pay for the shipment an amount based upon the concentration as determined by the analysis made by the Authority.

END OF BID SPECIFICATIONS

BID DOCUMENTS AND PROPOSAL

BID DESCRIPTION: FURNISH AND DELIVER CAUSTIC SODA (50% SOLUTION OF SODIUM HYDROXIDE) MEMBRANE GRADE

PROJECT No.: 202100104

OPENING DATE: **[INSERT]**

TIME: **[INSERT]**

NAME OF BIDDER: _____

PERSON AUTHORIZED TO ENTER INTO CONTRACT FOR BIDDER:

NAME: _____

TITLE _____

SUBMISSION DATE: _____

ADDRESS: _____

PHONE: _____

PERSON EMPLOYED BY THE BIDDER, WHO WILL BE RESPONSIBLE FOR OBTAINING BONDS AND/OR INSURANCE COVERAGE

NAME: _____

TITLE _____

ADDRESS: _____

PHONE: _____

EMAIL: _____

BID ITEMS & BID SHEET

BID DESCRIPTION: FURNISH AND DELIVER CAUSTIC SODA (50% SOLUTION OF SODIUM HYDROXIDE) MEMBRANE GRADE

PROJECT No.: 202100104

The Bidder agrees to perform all the following work described in the Documents for the following unit prices or lump sum prices. The Bidder also agrees that the unit price or lump sum price bid shall be full compensation for furnishing all labor, materials, tools, profit, and equipment necessary to perform the work as shown and specified.

NOTE: The quantities for the unit price items are unpredictable and the Authority has inserted certain quantities in the proposal to be used solely for purpose of comparison of bids. The Bidder will not be entitled to any adjustment in the unit price bid as a result of changes in any of these items ranging from zero to any quantity. The Bidder shall make no claims for anticipated profits, for loss of profits, or for other damages as the result of changes in the quantities purchased.

In case of discrepancy, written unit figures shall govern.

<u>DESCRIPTION</u>	<u>ESTIMATED QUANTITY</u>	<u>COMPUTED TOTALS</u>
ITEM 1 For furnishing, delivering and unloading Freight prepaid, approximately 2000 liquid tons of caustic soda containing 50% sodium hydroxide to the STURGEON POINT WATER TREATMENT PLANT, all in accordance with the specifications, for the unit price of: _____ Dollars and _____ Cents (\$ _____ /Ton) per liquid ton (2,000 pounds) of fifty (50) percent sodium Hydroxide (NaOH)	2000 Liquid Tons	\$ _____

ITEM 2 For furnishing, delivering and unloading Freight prepaid, approximately 500 liquid tons of caustic soda containing 50% sodium hydroxide to the JEROME D. VAN DE WATER TREATMENT PLANT, all in accordance with the specifications, for the unit price of:

_____ Dollars
and _____ Cents
(\$ _____ /Ton) per liquid ton (2,000 pounds)
of fifty (50) percent sodium oxide (NaOH) 500 Liquid Tons \$ _____

COMPUTED TOTAL FOR ITEM 1 AND ITEM 2:

_____ Dollars
and _____ Cents \$ _____

NOTE: Bid results are available on the Erie County Water Authority website, www.ecwa.org (under Doing Business tab, select option Business Opportunities). No bid results will be given over the telephone.

ATTENTION OF THE BIDDERS IS CALLED TO THE FOLLOWING:

SECTIONS 2875 & 2878 OF THE PUBLIC AUTHORITIES LAW REQUIRE A BIDDER'S CERTIFICATE OF NON-COLLUSION. SUCH CERTIFICATE IS PART OF THE BID OR PROPOSAL FORM, AND UNLESS COMPLIED WITH SUCH BID WILL NOT BE ACCEPTED.

Bidder certifies that he is not in arrears to the Erie County Water Authority or the County of Erie upon any debt or contract, nor is he a defaulter as surety or otherwise upon any obligation of the Erie County Water Authority or the County of Erie.

The Bidder agrees to supply all material/equipment/labor above-described at the above-quoted price and in accordance with all applicable Specifications.

NAME OF BIDDER: _____

AUTHORIZED SIGNATURE: _____ DATE: _____

INFORMATION REQUIRED FROM BIDDERS
AT TIME OF CANVASS OF BIDS

To facilitate correct drawing and execution of contract, Bidder shall supply full information concerning legal status:

FIRM NAME _____

ADDRESS OF PRINCIPAL OFFICE: STREET _____

CITY _____

AREA CODE _____ PHONE _____ STATE _____ ZIP _____

Check one: CORPORATION _____ PARTNERSHIP _____ INDIVIDUAL _____

INCORPORATED UNDER THE LAWS OF THE STATE OF _____

If foreign corporation, state if authorized to do business in the State of New York:

YES _____ NO _____

TRADE NAMES: _____

ADDRESS OF LOCAL OFFICE: STREET _____

CITY _____

AREA CODE _____ PHONE _____ STATE _____ ZIP _____

NAMES AND ADDRESSES OF PARTNERS:

IDENTIFICATION #: (COMPLETE ONE):

Federal Employer Identification Number: _____

Social Security Number: _____

**INFORMATION REQUIRED FROM BIDDERS
AT TIME OF CANVASS OF BIDS**

List Financial References including at least one Bank and one Supplier

Have you ever failed to complete any project or been terminated from a contract? _____

Were you ever denied a contract after being the low bidder? _____

List any lawsuits involving breach of contract in which you are a party _____

List on separate sheet and attach any additional information that may be of benefit to Water Authority. Successful Bidder will be required to file with Erie County Water Authority a certified copy of latest Assumed Name Certificate.

INFORMATION REQUIRED FROM BIDDERS

EXPERIENCE

1. How many years has your organization been in business under your present name? _____

2. What projects similar to this one has your organization completed? Include all projects done in the last three years and all projects done for the ECWA in the last five years. (A)
3. What projects has your organization completed under a different name? (B)
4. List the name of the organization referred to in Question 3 and the names of the officers of that organization

CLASS OF WORK	CONTRACT AMOUNT	WHEN COMPLETED	NAME & ADDRESS OF ENGINEER OR OWNER
A.			

INFORMATION REQUIRED FROM BIDDERS

OSHA INFORMATION

List all Occupational Safety and Health Administration Citations for the last three years, including date, subject matter, and penalty.

Attach copies of all determined Citations and Notification of Penalty, Form OSHA 2.

Describe all pending cases, giving pertinent information such as apparent violations, location of project, type of project, and present status.

List any additional information on a separate sheet and attach.

INFORMATION REQUIRED FROM BIDDERS
REGARDING PROPOSED CONTRACT DOCUMENTS

Question 1:

The BIDDER represents that it has reviewed the Proposed Contract Documents beginning at page 35.

CHECK ONE:

- YES, BIDDER has reviewed the Proposed Contract Documents.
- NO, BIDDER has not reviewed the Proposed Contract Documents.

Failure to review the Proposed Contract Documents will result in the BIDDER being deemed NONRESPONSIVE by the Authority and therefore, ineligible to be awarded the Contract.

Question 2:

The BIDDER accepts the terms of the Proposed Contract Documents as drafted and agrees to execute the Contract as drafted if awarded the Bid.

CHECK ONE:

- YES, BIDDER accepts the Proposed Contract Documents.
- NO, BIDDER proposes the following amendment(s) to the Proposed Contract Documents:

*Insert Additional Page(s) if necessary.

Question 3 (Only provide an answer if answer to Question 2 is NO):

Is the proposed Amendment a Condition of the Bid Proposal? If the Authority rejects the proposed Amendment would the Bidder withdraw its Bid?

CHECK ONE:

YES, the Amendment is a Condition of the Bid Proposal.

IF the Amendment is a Condition of the Bid Proposal and the Authority rejects the Amendment, the Authority will deem the Bid withdrawn and will proceed to award the Bid to the next lowest, responsible bidder.

NO, the BIDDER would like to negotiate the terms of the Amendment prior to the execution of the Contract.

Please answer Question 3 for each proposed Amendment to the Proposed Contract Documents and insert additional pages if necessary to provide such answers.

NAME OF BIDDER: _____

AUTHORIZED SIGNATURE: _____ DATE: _____

BID SECURITY FORM

BIDDER (Name and Address):

SURETY (Name and Address of Principal Place of Business):

OWNER:

Erie County Water Authority
295 Main Street, Room 350
Buffalo, New York 14203

BID

BID DUE DATE: _____

PROJECT: FURNISH AND DELIVER CAUSTIC SODA (50% SOLUTION OF SODIUM HYDROXIDE) MEMBRANE GRADE

Project No: 202000104

BOND

BOND NUMBER: _____

DATE: (Not later than Bid due date): _____

PENAL SUM: _____ (Words) _____ (Figures)

IN WITNESS WHEREOF, Surety and Bidder, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

BIDDER

SURETY

(Seal)
Bidder's Name and Corporate Seal

(Seal)
Surety's Name and Corporate Seal

By: _____
Signature and Title

By: _____
Signature and Title
(Attach Power of Attorney)

Attest: _____
Signature and Title

Attest: _____

APPENDIX B

1.01 Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to OWNER upon default of Bidder the penal sum set forth on the face of this Bond.

2.01 Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by OWNER) the executed Agreement required by the Bidding Documents and any performance and payment Bonds required by the Bidding Documents.

3.01 This obligation shall be null and void if:

- A. OWNER accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by OWNER) the executed Agreement required by the Bidding Documents and any performance and payment Bonds required by the Bidding Documents, or
- B. All Bids are rejected by OWNER, or
- C. OWNER fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by paragraph 5.01 hereof).

4.01 Payment under this Bond will be due and payable upon default by Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from OWNER, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.

5.01 Surety waives notice of and any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by OWNER and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from Bid due date without Surety's written consent.

6.01 No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in paragraph 4.01 above is received by Bidder and Surety and in no case later than one year after Bid due date.

7.01 Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.

8.01 Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.

9.01 Surety shall cause to be attached to this Bond a current and effective Power or Attorney evidencing the authority of the officer, agent or representative who executed this Bond on behalf of Surety to execute, seal and deliver such Bond and bind the Surety thereby.

10.01 This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

11.01 The term "Bid" as used herein includes a Bid, offer or proposal as applicable.

END OF BID BOND

NON-COLLUSIVE BIDDING CERTIFICATION

as mandated by Public Authority Law § 2878

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

(1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and

(3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

NOTICE

(Penal Law § 210.45)

IT IS A CRIME, PUNISHABLE AS A CLASS A MISDEMEANOR UNDER THE LAWS OF THE STATE OF NEW YORK, FOR A PERSON, IN AND BY A WRITTEN INSTRUMENT, TO KNOWINGLY MAKE A FALSE STATEMENT, OR TO MAKE A FALSE STATEMENT, OR TO MAKE A STATEMENT WHICH SUCH PERSON DOES NOT BELIEVE TO BE TRUE.

BID NOT ACCEPTABLE WITHOUT FOLLOWING CERTIFICATION:

Affirmed under penalty of perjury this _____ day _____, 20____

TERMS _____ DELIVERY DATE AT DESTINATION _____

FIRM NAME _____

ADDRESS _____

_____ ZIP _____

AUTHORIZED SIGNATURE _____

TYPED NAME OF AUTHORIZED SIGNATURE _____

TITLE _____ TELEPHONE No. _____

SECTION 2875 OF THE PUBLIC AUTHORITIES LAW

§2875. GROUND FOR CANCELLATION OF CONTRACT BY PUBLIC AUTHORITY.

A clause shall be inserted in all specifications or contracts hereafter made or awarded by any public authority or by any official of any public authority created by the state or any political subdivision, for work or services performed or to be performed or goods sold or to be sold, to provide that upon the refusal of a person, when called before a grand jury, head of a state department, temporary state commission, or other state agency, the organized crime task force in the department of law, head of a city department, or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation concerning any transaction or contract had with the state, any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract.

- (a) Such person, and any firm, partnership, or corporation of which he is a member, partner, director, or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with any public authority or official thereof, for goods, work or services, for a period of five years after such refusal, and to provide also that
- (b) any and all contracts made with any public authority or official thereof, since the effective date of this law, by such person and by any firm, partnership, or corporation of which he is a member, partner, director or officer may be canceled or terminated by the public authority without incurring any penalty or damages on account of such cancellation or termination, but any monies owing by the public authority for goods delivered or work done prior to the cancellation termination shall be paid.

This is to CERTIFY that neither the undersigned nor any member, partner, director, or officer of the firm has refused to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning a transaction or contract with the state, any political subdivision thereof, a public authority or with a public department, agency or official of the state or of any political subdivision thereof or of a public authority, when called before a grand jury, head of a state department, temporary state commission, or other state agency, the organized crime task force in the department of law, head of a city department, or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath.

(Name of Individual, Partnership or Corporation)

By _____
(Person authorized to sign)

(SEAL)

SECTION 2876 OF THE PUBLIC AUTHORITIES LAW

§2876. DISQUALIFICATION TO CONTRACT WITH PUBLIC AUTHORITY

Any person who, when called before a grand jury, head of a state department, temporary state commission or other state agency, the organized crime task force in the department of law, head of a city department or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath to testify in an investigation concerning any transaction or contract had with the state, any political subdivision thereof, a public authority or with a public department, agency or official of the state or of any political subdivision thereof or of a public authority, refuses to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant questions concerning such transaction or contract, and any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with any public authority or any official of any public authority created by the state or any political subdivision, for goods, work or services, for a period of five years after such refusal or until a disqualification shall be removed pursuant to the provisions of section twenty-six hundred three of this article.

It shall be the duty of the officer conducting the investigation before the grand jury, the head of a state department, the chairman of the temporary state commission or other state agency, the organized crime task force in the department of law, the head of a city department or other city agency before which the refusal occurs to send notice of such refusal, together with the names of any firm, partnership or corporation of which the person so refusing is known to be a member, partner, officer or director, to the commissioner of transportation of the state of New York, or the commissioner of general services as the case may be, and the appropriate departments, agencies and officials of the state, political subdivisions thereof or public authorities with whom the persons so refusing and any firm, partnership or corporation of which he is a member, partner, director or officer, is known to have a contract. However, when such refusal occurs before a body other than a grand jury, notice of refusal shall not be sent for a period of ten days after such refusal occurs. Prior to the expiration of this ten day period, any person, firm, partnership or corporation which has become liable to the cancellation or termination of a contract or disqualification to contract on account of such refusal may commence a special proceeding at a special term of the supreme court, held within the judicial district in which the refusal occurred, for an order determining whether the questions in response to which the refusal occurred were relevant and material to the inquiry. Upon the commencement of such proceeding, the sending of such notice of refusal to answer shall be subject to order of the court in which the proceeding was brought in a manner and on such terms as the court may deem just. If a proceeding is not brought within ten days, notice of refusal shall thereupon be sent as provided herein.

This is to CERTIFY that neither the undersigned nor any member, partner, director, or officer of the firm has refused to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning a transaction or contract with the state, any political subdivision thereof, a public authority or with a public department, agency or official of the state or of any political subdivision thereof or of a public authority, when called before a grand jury,

head of a state department, temporary state commission, or other state agency, the organized crime task force in the department of law, head of a city department, or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath.

(Name of Individual, Partnership or Corporation)

By _____
(Person authorized to sign)

(SEAL)

FORMS A, B, and C

STATE FINANCE LAW REQUIREMENTS

The Erie County Water Authority (the “Authority”) is a government entity, as that term is defined in State Finance Law §§ 139-j(1)(a) and 139-k(1)(a). When the Authority seeks to procure goods or services by means of an Invitation or Notice to Bid, or a Request for Proposals, the State Finance Law imposes certain restrictions on anyone who may wish to offer goods or services to the Authority as an Offerer, as that term is defined in §§ 139-j(1)(h) and 139-k(1)(h).

During the Restricted Period, as defined in §§ 139-j(1)(f) and 139-k(1)(f), when bids or proposals are being solicited, the Authority will designate a contact person with whom the Offerer may contact for information and other authorized purposes as set forth in §139-j of the State Finance Law. The designated contact is identified in the Notice to Bidders, or in the Request for Proposal. An Offerer is authorized to contact the Authority’s designated contact for such purposes set forth in § 139-j(3).

Pursuant to the State Finance Law, the Authority is also required to make certain findings before making any determinations as to the qualifications and eligibility of those seeking a procurement contract, as that term is defined in State Finance Law §§ 139-j(1)(g) and 139-k(1)(g). Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings of non-responsibility occurring within a 4-year period, the Offerer will be debarred from obtaining procurement contracts with the Authority. Further information about these requirements can be found in §§139–j and 139–k of the New York State Finance Law and the Erie County Water Authority’s Procurement Disclosure Policy.

The following forms will be used by the Authority to make such findings:

Form A - Offerer’s Affirmation of Understanding of, and Agreement to Comply with, the Authority’s Permissible Contact Requirement During the Restricted Period.

Form B - Offerer’s Certification of Compliance with State Finance Law.

Form C - Offerer’s Disclosure of Prior Non-Responsibility Determinations.

FORM A

Offerer's Affirmation of Understanding of, and Agreement to Comply with, the Permissible Contact Requirements During the Restricted Period

Instructions:

The Erie County Water Authority (the "Authority") is a government entity, as that term is defined in State Finance Law §§ 139-j(1)(a) and 139-k(1)(a). The Authority must obtain a written affirmation of understanding and agreement to comply with procedures regarding permissible contacts with the Authority in the restricted period for a procurement contract in accordance with State Finance Law §139-j and §139-k. It is required that this affirmation be obtained as early as possible in the procurement process, but no later than when the Offerer submits its proposal.

Offerer affirms that it understands and agrees to comply with the procedures of the Authority relative to permissible contacts as required by State Finance Law §139-j(3) and §139-j(6)(b).

By: _____ Date: _____

Name: _____

Title: _____

Supplier Name: _____

Supplier Address: _____

FORM B

**Offerer's Certification of Compliance
With State Finance Law §139-k(5)**

Instructions:

The Erie County Water Authority (the "Authority") is a government entity, as that term is defined in State Finance Law §§ 139-j(1)(a) and 139-k(1)(a). The Authority must obtain a Certification that the information submitted for a procurement contract is complete, true, and accurate regarding any prior findings of non-responsibility, such as non-responsibility pursuant to State Finance Law §139-j. The Offerer must agree to sign the Certification, under penalty of perjury, and to provide the Certification to the Authority. The Certification should be obtained as early as possible in the process, but no later than when an Offerer submits its proposal.

Offerer Certification:

I certify that all information provided to the Authority relating to the awarding of a procurement contract is complete, true, and accurate.

By: _____ Date: _____

Name: _____

Title: _____

Supplier Name: _____

Supplier Address: _____

FORM C**Offerer's Disclosure of Prior
Non-Responsibility Determinations****Background:**

The Erie County Water Authority (the "Authority") is a government entity, as that term is defined in State Finance Law §§ 139-j(1)(a) and 139-k(1)(a). New York State Finance Law §139-k(2) obligates the Authority to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. In accordance with State Finance Law §139-k, an Offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j; or (b) the intentional provision of false or incomplete information to a Government Entity.

The terms "Offerer" and "Governmental Entity" are defined in State Finance Law §§139-j(1) and §139-k(1). These sections also set forth detailed requirements about the restrictions on contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Offerer that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offerer is necessary to protect public property or public health safety, and the Offerer is the only source capable of supplying the required Article of Procurement, as that term is defined in State Finance Law §§ 139-j(1)(b) and 139-k(1)(b), within the necessary timeframe. See State Finance Law §139-j(10)(b) and §139-k(3).

Instructions:

The Authority must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for procurement contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to the Authority no later than when the Offerer submits its proposal.

FORM C (Continued)

Offerer's Disclosure of Prior Non-Responsibility Determinations

Name of Individual or Entity Seeking to Enter into the Procurement Contract:

Address: _____

Name and Title of Person Submitting this Form: _____

Contract Procurement Number: _____

Date: _____

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):
No Yes

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle):
No Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle) No Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: _____

Date of Finding of Non-Responsibility: _____

Basis of Finding of Non-Responsibility: _____

(Add additional pages as necessary)

FORM C (Continued)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle): No Yes

6. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding:

(Add additional pages as necessary)

Offerer certifies that all information provided to the Erie County Water Authority with respect to State Finance Law §139-k is complete, true, and accurate.

By: _____ Date: _____

Signature

Name: _____

Title: _____

Contract Termination Provision

Instructions:

A Contract Termination Provision will be included in each procurement contract governed by State Finance Law §139-k. New York State Finance Law §139-k(5) provides that every procurement contract award subject to the provisions of State Finance Law §§139-k and 139-j shall contain a provision authorizing the governmental entity to terminate the contract in the event that the certification is found to be intentionally false or intentionally incomplete. This statutory contract language authorizes, but does not mandate, termination. “Government Entity” and “procurement contract” are defined in State Finance Law §§ 139 j(1) and 139-k(1).

This required clause will be included in a covered procurement contract.

A sample of the Termination Provision is included below. If a contract is terminated in accordance with State Finance Law §139-k(5), the Erie County Water Authority (the “Authority”), as a governmental entity, is required to include a statement in the procurement record describing the basis for any action taken under the termination provision.

Sample Contract Termination Provision

<p>The Erie County Water Authority (the “Authority”), as a governmental entity, reserves the right to terminate this contract in the event it is found that the certification filed by the Offerer in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Authority may exercise its termination right by providing written notification to the Offerer in accordance with the written notification terms of this contract.</p>

**OFFERER’S STATEMENT REGARDING PREVENTION OF
UNLAWFUL DISCRIMINATORY PRACTICES**

The Erie County Water Authority (the “Authority”), as an employer in New York State, is subject to the Human Rights Law, codified as Executive Law §290, *et. seq.*, and Labor Law §201-g. The Authority seeks to provide a work environment that is free from unlawful discriminatory practices as they are defined in Executive Law §296, as well as from inappropriate harassing conduct even if not deemed unlawful, to its employees, contractors, subcontractors, vendors, consultants, and any other person providing services on Authority premises. Pursuant to the Human Rights Law, it shall be unlawful to discriminate against an individual, or to subject an individual to harassment, due to age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or status as a victim of domestic violence. Accordingly, the Authority requires that any Offeror of a proposal or bid, agree to sign the following statement regarding unlawful discriminatory practices, including, but not limited to sexual harassment, under penalty of perjury. This statement should be provided to the Authority as early as possible in the procurement process, but not later than at the time of execution of a contract with the Authority. Failure to agree to sign the statement may result in the Authority deeming the bid or proposal withdrawn by the Offerer.

Offerer Statement:

I certify, under penalty of perjury, that the following statements are accurate:

- *Offerer is aware of its obligations under the Human Rights Law (Executive Law §290, et. seq.*
- *Offerer complies with the provisions of Executive Law §290, et. seq., including Executive Law §296, and does not permit unlawful discriminatory practices or harassment based on an individual’s age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or status as a victim of domestic violence in its workplace.*
- *Offerer complies with the provisions of Labor Law §201-g, has implemented a written policy addressing sexual harassment in the workplace which meets the minimum standards of Labor Law §201-g, and provides annual sexual harassment prevention training to all of its employees.*

By: _____ Date: _____

Name: _____

Title: _____

Offerer Name: _____

Offerer Address: _____

**CONTRACT FOR FURNISHING AND DELIVERING CAUSTIC SODA
(50% SOLUTION OF SODIUM HYDROXIDE) MEMBRANE GRADE**

This Agreement, effective [REDACTED], 2021 (“Effective Date”), is by and between

ERIE COUNTY WATER AUTHORITY
295 Main Street, Room 350
Buffalo, New York 14203

hereinafter referred to as the “Authority,” and

SUPPLIER NAME
Street Address
City, State Zip

hereinafter referred to as the “Supplier.”

The Authority seeks to enter into an agreement with the Supplier to furnish and deliver Caustic Soda upon the terms and conditions stated in this Agreement.

In consideration of the mutual promises set forth in this Agreement, the Authority and the Supplier agrees as follows:

ARTICLE 1 – THE PROCUREMENT

1.01 The Supplier shall furnish and deliver Caustic Soda (50% Solution of Sodium Hydroxide) Membrane Grade (“Caustic Soda”) at the pricing set forth in Article 4 of this Agreement. The Authority will notify the Supplier periodically throughout the duration of this Agreement when Caustic Soda is to be delivered and in what quantities.

1.02 The Supplier shall furnish and deliver the Caustic Soda upon the following terms and conditions:

- A. The Caustic Soda shall meet the specifications which are attached to, and incorporated in this Agreement as Appendix A.
- B. The Caustic Soda must conform to the requirements of AWWA Standard B501-13, or latest version. The Caustic Soda should be certified as suitable for contract with or treatment of drinking water by an accredited certification organization in accordance with NSF/ANSI 60 (Drinking Water Treatment Chemicals – Health Effects).
- C. The Supplier agrees to abide by all environmental laws and regulations relating to the sale and transport of Caustic Soda. The Supplier agrees to hold the Authority

harmless for any liabilities arising from any breach by the Supplier of any applicable environmental law or regulation.

1.03 Technical Specifications set forth in the Invitation to Bid are incorporated in this Agreement as Appendix A.

1.04 In response to the Authority's Invitation to Bid, the Supplier submitted and signed Bid Documents and Proposal, a copy of which is attached to, and incorporated in, this Agreement as Appendix B.

1.05 This Agreement shall remain in effect from November 1, 2021 through October 31, 2023. The parties may agree in writing to extend this Agreement under the same terms and conditions or upon such terms and conditions acceptable to the Authority for an additional one-year term.

ARTICLE 2 – COMPLIANCE

2.01 The Authority and the Supplier shall comply with all applicable federal, state or local laws and regulations and all applicable Authority policies and procedures.

2.02 The Supplier shall comply with the provisions set forth in Public Authorities Law §§ 2875, 2876, and 2878 of the laws of the State of New York.

2.03 In response to the Authority's Invitation to Bid, the Supplier signed and submitted, in accordance with the provisions set forth in the State Finance Law, Forms A, B, and C, a copy of which is attached to, and incorporated in, this Agreement as Appendix B.

2.04 By executing this Agreement, the Supplier affirms under the penalties of perjury that there was no collusion in the bid submitted to the Authority, upon which forms the basis of this Agreement.

2.05 The Supplier shall comply with the provisions of the Human Rights Law, codified as Executive Law §290, *et. seq.*, and Labor Law §201-g of the laws of the State of New York. In response to the Authority's Invitation for Bids, the Supplier submitted and signed the Offerer's Statement Regarding Prevention of Unlawful Discriminatory Practices, a copy of which is attached to, and incorporated in, this Agreement, as Appendix B.

2.06 The Supplier shall comply with the provisions of the Shield Act, codified at General Business Law § 899-aa of the laws of the State of New York.

2.07 If the Supplier, its employees, agents and subcontractors wish to access any Authority property, they must notify the Authority's Security Officer and provide the following information: (a) government-issued photo identification for all site visitors; (b) a detailed statement indicating the purpose for the site visit; (c) the proposed date and time for the site visit; (d) the estimated start and finish time for the site visit; and (e) any additional information reasonably requested by the Authority's Security Officer. No person may visit any Authority property without the authorization of the Authority and/or its Security Officer. While on Authority property, the

Supplier's employees and representatives shall comply with the specific applicable security and access rules established by the Authority's Security Officer.

2.08 Health Screening Questionnaire: Whenever the Authority is operating under a Declaration of Emergency due to a pandemic, the Supplier, its employees and agents shall comply with all health and safety rules and regulations adopted by the State of New York or the Authority, including, but not limited to, completing an online health screening questionnaire before entering any Authority worksite.

ARTICLE 3 – PRICING AND DELIVERY SCHEDULE

3.01 The Supplier shall deliver Caustic Soda within seven (7) days of receipt of an Authority Purchase Order. No Caustic Soda shall be delivered unless ordered by the Authority. No extensions of time will be granted except in writing by the Authority's Executive Engineer, in the Authority's sole discretion. The parties agree that time is of the essence for this Agreement.

3.02 The parties agree the prices on which this Agreement is based shall be F.O.B. to the point of delivery.

A. The Caustic Soda is to be delivered to the Authority's Water Treatment Plants:

1. Sturgeon Point Water Treatment Plant, 722 Sturgeon Point Road, Derby, New York 14047.
2. Jerome D. Van de Water – Water Treatment Plant, 3750 River Road (Route 266) Tonawanda, New York 14150.

B. All deliveries will be made on weekdays between 8:00 a.m. and 3:00 p.m.

3.03 The Supplier agrees the unit price for materials and supplies under this Agreement shall remain firm until all materials and goods are delivered. The Supplier understands no cost increase shall be charged for any reason whatsoever.

3.04 The Supplier guarantees to the Authority the price offered for materials and supplies will be no higher than those offered to any other governmental or commercial consumer.

A. If the Supplier has a New York State or a Federal GSA contract for any of the items covered under this Agreement or any similar items, the Supplier shall supply such items, if acceptable to the Authority, when the price for such item is no higher than the quoted price in this Agreement.

B. If the Supplier offers any CASH discount, the Suppliers agree to invoice the Authority for a price not higher than offered under the CASH discount.

3.05 The Supplier shall be responsible for the payment of all freight, cartage, rigging, postage or other transportation charges relating to furnishing all necessary materials. In its Bid Proposal, the Supplier submitted a proposed unit price payment for the items outlined in § 3.01 of this Article

and included all freight, cartage, rigging, posting and other transportation charges in such proposed lump sum payment pursuant to the Bid Instructions. Under no circumstances will the Authority be responsible for any freight, cartage, rigging, postage or other transportation charges relating to furnishing all necessary materials to the worksite.

3.06 The Authority is exempt from taxation. The Supplier shall not invoice the Authority for any state or local excise, sales, use, freight or transport or any other form of tax unless the laws of the State of New York specifically levies such tax on a public benefit corporation.

ARTICLE 4 – PAYMENT FOR MATERIALS AND SUPPLIES

4.01 The Supplier agrees to accept the unit price of \$_____ for furnishing, delivering and unloading each liquid ton (2,000 pounds) of Caustic Soda to the Sturgeon Point Water Treatment Plant.

4.02 The Supplier agrees to accept the unit price of \$_____ for furnishing, delivering and unloading each liquid ton (2,000 pounds) of Caustic Soda to the Jerome D. Van de Water - Water Treatment Plant.

4.03 The Supplier agrees and understands the Authority will not pay interest or late charges or refund discount amounts taken after the discount period. All materials and supplies shall be priced as of the date of invoice or delivery, whichever is lower.

4.04 The Authority reserves the right to audit the Supplier's records to verify bills submitted and representations made. For this purpose, the Supplier agrees to make company records available for inspection upon written notice by the Authority. The Authority shall have two years from the date of Supplier's final bill to complete its audit. If the audit establishes an overcharge, the Supplier agrees to refund the excess.

ARTICLE 5 – GENERAL PROVISIONS

5.01 **Subcontract and Assignments:** The Supplier may not subcontract or delegate any of the obligations of the Supplier without the express written consent of the Authority's Executive Staff. The Authority and the Supplier bind themselves and their successors, administrators and assigns to the terms of this Agreement. The Supplier shall not assign, sublet or transfer its interest in the Agreement without the written consent of the Authority.

5.02 **Amendments:** Any modification or variation from the terms of this Agreement must be in writing, authorized by a resolution of the Board of Commissioners of the Authority, and signed by all parties to be effective.

5.03 **Right to Terminate:** The Authority reserves the right to terminate the Supplier's procurement at any time, without cause, based on seven (7) days' written notice. The Supplier shall not be entitled to lost profit and shall furnish and deliver only such materials and supplies, after notification of termination, as the Authority directs.

5.04 Indemnification:

- A. To the fullest extent permitted by law, the Supplier agrees to indemnify and hold the Authority harmless from all third party claims, liabilities, damages and costs (including all reasonable attorney's fees, and cost of defense) to which the Authority, its officers, directors and employees may be subject to, arising out of the death or bodily injury to any person or the destruction or damage to any property to the extent caused by the negligent acts, errors or omissions, or willful misconduct of the Supplier's performance under this Agreement and those of its subcontractors or anyone for whom the Supplier is legally liable.
- B. To the fullest extent permitted by law, the Authority agrees to indemnify and hold the Supplier harmless from all third party claims, liabilities, damages and costs (including all reasonable attorney's fees and cost of defense) to the extent caused by the negligent acts, errors or omissions of the Authority, its contractors, engineers, or anyone for whom the Authority is legally liable.

5.05 Insurance:

- A. The Supplier shall secure and maintain such insurance as will protect itself from claims under the Workers' Compensation Act; claims for damages because of bodily injury, including personal injury, sickness or disease, or death of any of its employees or of any person other than its employees; and from claims for damages because of injury to or destruction of property including loss of use resulting therefrom in the amounts indicated on Appendix C.
- B. The Supplier shall provide and maintain insurance that will provide coverage for claims arising out of the negligent performance of this Agreement.
- C. The Supplier shall provide Certificates of Insurance certifying the coverage required by this provision.
- D. The Supplier shall provide the name of an employee who will be responsible for providing the Authority with current and updated Certificates of Insurance. The Authority will require the name of the employee, the employee's phone number and email address.

5.06 Warranty: When applicable, the Supplier will endeavor to acquire materials with third party warranties that are assignable to the Authority. Unless otherwise stated in this Agreement, the Supplier agrees that the warranties as prescribed by the laws of the State of New York are and will remain in effect; that this warranty and the time to exercise said warranty in effect at the time of the breach, if any, caused by any breach or by any hidden or latent defect will be as prescribed by the laws of the State of New York. The Supplier's obligation under this section is independent of any other obligations stated in this Agreement.

5.07 New York Law and Jurisdiction: Notwithstanding any other provision of this Agreement, any dispute concerning any question of fact or law arising under this Agreement which is not disposed of by agreement between the Supplier and the Authority shall be governed, interpreted

and decided by a court of competent jurisdiction of the State of New York in accordance with the laws of the State of New York.

5.08 Conflicts of Interest: The Supplier represents that it has advised the Authority in writing prior to the date of signing this Agreement of any relationships with third parties, including competitors of the Authority, which would present a conflict of interest with the rendering of the services, or which would prevent the Supplier from carrying out the terms of this Agreement or which would present a significant opportunity for the disclosure of confidential information. The Supplier will advise the Authority of any such relationships that arise during the term of this Agreement. The Authority shall then have the option to terminate the Agreement without being subject to further obligations under its terms, except for the payment for material and supplies already furnished by the Supplier. So long as the Supplier reports such a conflict as required by this section, the Supplier will have no further obligations under the terms of this Agreement.

5.09 Additional Conditions: The Supplier and the Authority acknowledge that there may be additional conditions, terms and provisions which shall apply specifically to the delivery of materials and supplies to be furnished. The parties agree to negotiate in good faith to agree upon such additional terms.

5.10 Entire Agreement: This Agreement constitutes the entire understanding of the parties and no representations or agreements, oral or written, made prior to its execution shall vary or modify the terms herein. This Agreement supersedes all prior contemporaneous communications, representations, or agreements, whether oral or written with respect to the subject matter hereof and has been induced by no representations, statements or agreements other than those herein expressed. No subsequent agreement made between the parties shall be binding on either party unless reduced to writing and signed by an authorized officer of the party sought to be bound by such agreement.

5.11 Independent Status: Nothing contained in the Agreement shall be construed to render either the Authority or the Supplier, an owner, member, officer, partner, employee or agent of the other, nor shall either party have authority to bind the other in any manner, other than as set forth in this Agreement, it being intended that the Supplier shall remain an independent Supplier responsible for its own actions. The Supplier is retained by the Authority only for the purpose and to the extent set forth in this Agreement.

5.12 Doing Business Status: The Supplier represents it is qualified to do business in the State of New York and has registered with the New York Secretary of State.

5.13 Force Majeure: The Supplier shall not be liable to the Authority for any failure to perform the Services if any such failure is caused by forces beyond the Supplier's reasonable control, including without limitation, actions or inactions of any governmental agencies, changes in law, strikes, lockouts, or other industrial disturbances, actors or omissions of third-parties, civil disturbances, fires, floods, earthquakes, acts of God acts of a public enemy or terrorism, epidemics or pandemics, including, issues arising out of the COVID-19 pandemic, which may include without limitation, workforce shortages, lack of necessary supplies or Personal Protective Equipment, travel restrictions, and other restrictions resulting from public guidance and emergency orders.

5.14 Gratuities, Illegal or Improper Schemes:

- A. The Supplier shall prohibit its agents, employees and consultants from using their positions for personal financial gain, or from accepting any personal advantage from anyone under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their official duties.
- B. The Supplier or its employees shall not, under circumstances which might be reasonably interpreted as an attempt to influence the recipients in the conduct of their duties, extend any gratuity or special favor to employees of the Authority.
- C. The Authority may terminate this Agreement or any purchase order, if it is determined that gratuities in the form of entertainment, gifts or otherwise were offered or given by a Supplier, the Supplier's agent or representative to any Authority official or employee with a view towards securing favorable treatment with respect to the awarding of this Agreement or the performance of the Agreement or purchase order.
- D. The Authority may also terminate this Agreement or purchase order if it is determined that the Supplier engaged in any other illegal or improper scheme promotive of favoritism or unfairness incidental to the bidding process or the performance of the Agreement or purchase order. If it is determined that said improper or illegal acts occurred, the Authority shall be entitled to terminate the Agreement or purchase order and/or exercise any other remedy available to it under existing law.

5.15 Notice: Any notices required by this Agreement or otherwise shall be delivered by United States Postal mail or personal delivery upon the addresses hereinbefore stated. Any change in such addresses shall be required to be in writing to the other party and acknowledged as such.

ARTICLE 6 – SEVERABILITY

6.01 Any provision or part of the Agreement held to be void or unenforceable by a court of competent jurisdiction shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the parties, which agrees that the Agreement shall be reformed to replace such stricken provisions or part thereof with a valid enforceable provision that comes as close as possible to expressing the intent of the stricken provision. The validity and enforceability of all other provisions of this Agreement shall not otherwise be affected.

ARTICLE 7 – TERMINATION

7.01 The Authority reserves the right to terminate this Agreement in the event it is found that the Certification filed by the Supplier in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Authority may exercise its termination right by providing written notification to the Supplier in accordance with the written notification terms of this Agreement.

ERIE COUNTY WATER AUTHORITY

By _____
Jerome D. Schad, Chair

INSERT SUPPLIER

By _____
[INSERT NAME, TITLE]

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

On the _____ day of _____, in the year 2021, before me personally came Jerome D. Schad, to me known, who, being by me duly sworn, did depose and say that he resides in Amherst, New York, that he is the Chair of the Board of Commissioners for the Erie County Water Authority described in the above instrument; and that he signed his name thereto by order of the Board of Commissioners.

Notary Public

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

On the _____ day of _____, in the year 2021, before me personally came [Insert Name], to me known, who, being by me duly sworn, did depose and say that he resides in _____, New York, that he is the [Insert Title] of the Corporation described in the above instrument; and that he signed his name thereto by order of the Board of Directors of said Corporation.

Notary Public

APPENDIX A
Technical Specifications

APPENDIX B

Bid Documents & Proposal

APPENDIX C

FURNISH AND DELIVER CAUSTIC SODA (50% SOLUTION OF SODIUM HYDROXIDE) MEMBRANE GRADE

ECWA PROJECT No. 202100104

Insurance specs:

The following minimum insurance requirements shall apply to vendors providing services to the Erie County Water Authority (the Authority). If a service or project, in the opinion of the Authority, represents an unusual or exceptional risk, the Authority may establish additional insurance requirements for that service or project. All insurance required herein shall be obtained at the sole cost and expense of the contractor, including deductibles and self-insured retentions, and shall be in full force and effect on the contract commencement date and for the duration of the contract. These requirements include but are not limited to the minimum insurance requirements.

Insurance Requirements:

a. Workers Compensation:

Part 1: Workers Compensation: Statutory

Part 2: Employers Liability: \$1,000,000.

Note: If New York State domiciled employees are used, coverage to be New York Statutory for both Parts 1 and 2

b. New York Disability Benefits Liability: Statutory coverage if New York State domiciled employees are used.

c. Commercial General Liability:

- \$2,000,000. General Aggregate
- \$2,000,000. Products/Completed Operations Aggregate
- \$1,000,000. Each Occurrence
- \$1,000,000. Personal Injury/Advertising Liability
- Erie County Water Authority to be scheduled as an Additional Insured for both on-going and completed operations (attach Additional Insured endorsement to Certificate of Insurance)
- Insurance to be primary and non-contributory

d. Automobile Liability:

- \$1,000,000. Each Accident
- Erie County Water Authority to be scheduled as an Additional Insured.

e. Umbrella Liability:

- \$5,000,000. Each Occurrence
- \$5,000,000. Aggregate
- Erie County Water Authority to be scheduled as an Additional Insured

f. Pollution Liability

- \$5,000,000. Per Claim
- \$5,000,000. Aggregate

Note: Site Pollution Liability Coverage shall be included for offsite disposal if applicable

Certificates of Insurance to be provided to the Authority prior to start of work as follows:

ACORD 25 including copy of Additional Insured Endorsement

Note: If coverage provided for NYS domiciled employees require Forms C 105.2 and DB 120.1 for Workers Compensation and NYS DBL.

Certificates of Insurance, on forms approved by the New York State Department of Insurance, must be submitted to the Authority prior to the award of contract. Renewals of Certificates of Insurance, on forms approved by the New York State Department of Insurance, must be received by the Authority 30 days prior to the expiration of the insurance policy period.

Certificates of Insurance and renewals, on forms approved by the New York State Department of Insurance, must be submitted to the Authority prior to the award of contract. Each insurance carrier issuing a Certificate of Insurance shall be rated by A. M. Best no lower than “A-” with a Financial Strength Code (FSC) of at least VII. The professional service provider shall name the Authority, its officers, agents and employees as additional insured on a Primary and Non-Contributory Basis, including a Waiver of Subrogation endorsement (form CG 20 26 11 85 or equivalent), on all applicable liability policies. Any liability coverage on a “claims made” basis should be designated as such on the Certificate of Insurance. Such insurance shall continue through the term of this Agreement and vendor shall purchase at his sole expense either 1) an Extended Reporting Endorsement (also, known as Tail Coverage); or 2) Prior Acts Coverage from new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through Certificates of Insurance that vendor has Maintained continuous coverage with the same or original insurer. Coverage provided under items; 1), 2), or 3) will continue as long as the law allows.

To avoid confusion with similar insurance company names and to properly identify the insurance company, please make sure that the insurer’s National Association of Insurance Commissioners (N.A.I.C.) identifying number or A. M. Best identifying number appears on the Certificate of Insurance. Also, at the top of the Certificate of Insurance, please list the project number.

Acceptance of a Certificate of Insurance and/or approval by the Authority shall not be construed to relieve the outside vendor of any obligations, responsibilities or liabilities.

Certificates of Insurance should be e-mailed to mmusarra@ecwa.org or mailed to Ms. Molly Jo Musarra, Claim Representative/Risk Manager Erie County Water Authority, 295 Main Street – Room 350, Buffalo, New York 14203-2494, or If you have any questions you can contact Ms. Musarra by e-mail or phone (716) 849-8465.