

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

Contract: _____ **Project No.:** 201300196
Project Memorandum of Understanding for the Town of Eden to Modify the
Description: Lease Management Agreement

Item Description:


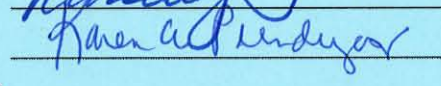
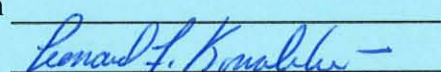
- | | | | |
|---|--|---|---------------------------------------|
| <input checked="" type="checkbox"/> Agreement | <input type="checkbox"/> Professional Service Contract | <input type="checkbox"/> Amendment | <input type="checkbox"/> Change Order |
| <input type="checkbox"/> BCD | <input type="checkbox"/> NYSDOT Agreement | <input type="checkbox"/> Contract Documents | <input type="checkbox"/> Addendum |
| <input type="checkbox"/> Recommendation for Award of Contract | <input type="checkbox"/> Recommendation to Reject Bids | | |
| <input type="checkbox"/> Request for Proposals | | | |
| <input type="checkbox"/> Other _____ | | | |

Action Requested:

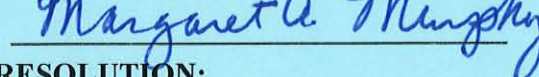
- | | |
|---|--|
| <input checked="" type="checkbox"/> Board Authorization to Execute | <input checked="" type="checkbox"/> Legal Approval |
| <input type="checkbox"/> Board Authorization to Award | <input type="checkbox"/> Execution by the Chairman |
| <input type="checkbox"/> Board Authorization to Advertise for Bids | <input type="checkbox"/> Execution by the Secretary to the Authority |
| <input type="checkbox"/> Board Authorization to Solicit Request for Proposals | |
| <input type="checkbox"/> Other _____ | |

Approvals Needed:

APPROVED AS TO CONTENT:

- | | | |
|---|--|---------------|
| <input checked="" type="checkbox"/> Chief Operating Officer |  | Date: 9/23/19 |
| <input checked="" type="checkbox"/> Chief Financial Officer |  | Date: 9/25/19 |
| <input type="checkbox"/> Director of Administration | _____ | Date: _____ |
| <input checked="" type="checkbox"/> Sr. Distribution Engineer |  | Date: 9-24-19 |

APPROVED AS TO FORM AND SUBSTANCE:

- | | | |
|---|--|---------------|
| <input checked="" type="checkbox"/> Legal |  | Date: 9/25/19 |
|---|--|---------------|

APPROVED FOR BOARD RESOLUTION:

- | | | |
|--|--|---------------|
| <input checked="" type="checkbox"/> Secretary to the Authority |  | Date: 9/25/19 |
|--|--|---------------|

Remarks: _____

Resolution _____
Date: October 3, 2019

Item _____
No: _____

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING is by and between the **TOWN BOARD OF THE TOWN OF EDEN**, the governing body of a municipal corporation acting on behalf of the Town Water Districts, with offices at 2795 Church Street, Eden New York 14057 ("Town") and the **ERIE COUNTY WATER AUTHORITY**, a public benefit corporation having an office and principal place of business at 295 Main Street, Room 350, Buffalo, New York 14203 ("ECWA").

RECITALS

WHEREAS, pursuant to Town Law § 198, the Town has created water districts, acquired property and constructed facilities for the purpose of delivering water for domestic and commercial usage and for fire protection (the "Public Water System"); and

WHEREAS, ECWA and the Town have entered into and/or amended several lease management agreements, with the current Lease Management Agreement, first approved on October 16, 1997 and last modified on August 18, 2019, due to expire on August 18, 2021;

WHEREAS, under the terms of the current Lease Management Agreement, the Town remains financially responsible for all capital improvement to the Public Water System while ECWA is responsible for routine maintenance and repairs to the Public Water System;

WHEREAS, the Town has determined it would be in the best interests of its residents and businesses to convey the Public Water System to ECWA by entering into a Direct Service Agreement and terminating the current Lease Management Agreement, as modified; and

WHEREAS, once the Public Water System has been conveyed to ECWA, the Town will no longer have any obligation or responsibility to maintain, repair, or improve the system, except for the meter pit and water line installed on Wepax Road and for the payment of annual Direct Service area hydrant service charges to ECWA;

WHEREAS, the Town will continue to own the meter pit and water line installed on Wepax Road, a private road. ECWA is responsible for the water line that provides water service underneath Jennings Rd up to and including the service valve on the western side of the meter pit that services Wepax Road. The Town is responsible for the meter pit, bypass piping and appurtenances associated with the meter pit and must keep it in good operating condition. The ECWA will own the meter in the meter pit;

WHEREAS, ECWA Board of Commissioners and the Town's Board have previously approved, and authorized the execution of the Memorandum of Understanding, in contemplation of the sale and conveyance of the Public Water System to ECWA; and

WHEREAS, the residents of these water districts have now approved the sale and conveyance of the Public Water System to ECWA at a mandatory referendum held on September 6, 2019 by a vote of 186-9; and

NOW, THEREFORE, the parties do hereby agree as follows:

1. Unless otherwise stated, the Town and the ECWA agree that this Memorandum of Understanding ("Memorandum No. 2") incorporates the previous Memorandum of Understanding, approved by ECWA on October 5, 2017 ("Memorandum No. 1").
2. ECWA affirms that all capital improvements required by Memorandum No. 1 have been satisfactorily completed by the Town.
3. Prior to entering into a Direct Service Agreement, the Town will provide ECWA with copies of all capital improvement contracts relating to the improvements set forth in Memorandum No. 1, along with any performance or maintenance bonds or any warranties required by such contracts.
4. While Memorandum No. 2 remains in effect, ECWA will be responsible not only for the repair and maintenance of the Public Water System but also for any necessary capital improvements to the Public Water System, which are not contained in the improvements agreed upon in the Memorandum No. 1 or in any subsequent correspondence from ECWA that predates October 4, 2019.
5. The ECWA agrees to accept the property and facilities of the Public Water System once the parties have agreed and executed a Direct Service Agreement and upon the terms and conditions mutually agreed upon by the ECWA and the Town.
6. Memorandum No. 2 will remain in effect until January 1, 2020 or the date when the direct service agreement has been signed by both parties, whichever is earlier.
7. The effective date of Memorandum No. 2 is October 4, 2019.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the date above written.

TOWN OF EDEN

By _____
Melissa M. Hartman, Supervisor

ERIE COUNTY WATER AUTHORITY

By _____
Jerome D. Schad, Chairman

STATE OF YORK)
COUNTY OF ERIE) ss:

On the ____ day of _____, in the year 2019, before me personally came Melissa M. Hartman, to me known, who, being by me duly sworn, did depose and say that she resides in the Town of Eden, New York, that she is the Supervisor of the Town of Eden described in the above instrument, and she signed her name thereto by the authorization of the Town Board of the Town of Eden pursuant to a duly enacted resolution.

Notary Public

STATE OF YORK)
COUNTY OF ERIE) ss:

On the ____ day of _____, in the year 2019, before me personally came Jerome D. Schad, to me known, who, being by me duly sworn, did depose and say that he resides in the Town of Amherst, New York, that he is the Chairman of the Board of Commissioners for the Erie County Water Authority described in the above instrument, and he signed his name thereto by the authorization of the Board of Commissioners for the Erie County Water Authority.

Notary Public