



ERIE COUNTY WATER AUTHORITY

INTEROFFICE MEMORANDUM

April 2, 2024

To: Terrence D. McCracken, Secretary to the Authority

From: Michael J. Quinn, PE, Senior Distribution Engineer

A handwritten signature in black ink, appearing to be "MJQ", is written over the "From:" line.

Subject: Contract HS-005
Miscellaneous Electrical Engineering Services 2024-2025
ECWA Project No. 202400058

The following material is attached:

- Authorization Form requesting Board Authorization to execute the attached Professional Service Contract with Hazen and Sawyer.
- Professional Service Contract for the above-referenced project.
- Copy of Interoffice Memorandum from Michael J. Quinn, PE, Senior Distribution Engineer, dated February 29, 2024, detailing the recommendation for the contract assignment after review of Request for Proposals (PN 202300268).

In support of their facilities, the Authority performs routine electrical improvement projects at various sites throughout the Authority's service area; these sites include office type buildings like the Union Road Service Center, and production facilities including tank/pump stations and the Sturgeon Point and Van de Water Treatment Plants.

Contract HS-005 will provide services that may include field measurements and investigations, cost estimates, designs, drawings, specifications, field inspections, power system and arc-flash hazard studies, technical meetings, reports, and other related services as requested.

Budget Information (2024):

- Unit: 1010 Sturgeon Point Plant
 - Item 17 Payments to Contractors Elect.
- Unit: 1015 Van De Water Plant
 - Item 17 Payments to Contractors Elect.
- Unit: 1020 Control Operations
 - Item 17 Payments to Contractors Elect.

Funds for this contract for services under this contract in 2025 will be budgeted on the same budget items accordingly.

MJQ:jmf

Attachments

cc: L.Kowalski

M.Wymer

S.Aiple

L.Lester

CONT-HS-005-2401-X-01




ERIE COUNTY WATER AUTHORITY

INTEROFFICE MEMORANDUM

February 29, 2024

To: Terrence D. McCracken, Secretary to the Authority

From: Michael J. Quinn, Senior Distribution Engineer 

Subject: Request for Proposals
Miscellaneous Electrical Engineering Services 2024-2025
ECWA Project No. 202300268

The Erie County Water Authority (Authority) recently issued a Request for Proposals (RFP) for electrical engineering services, that may include (but are not limited to) field measurements and investigations, cost estimates, designs, drawings, specifications, field inspections, technical meetings, reports, and other related services as requested. Detail list of scope of services is stated in the RFP. The work will be performed under one two-year contract.

The RFP was issued to five (5) consulting engineering firms: Arcadis, Hazen and Sawyer, Wendel, Hunt, and Nussbaumer & Clarke, Inc. In addition, the RFP was posted to the ECWA website.

Nussbaumer & Clarke, Inc. declined to respond (via email dated January 20, 2024) and no response was received from Arcadis or Hunt. There were four (4) additional responses from the website: C&S Engineers, Inc., Labella Associates, DPC, LiRo Engineers, Inc., Popli, Architecture + Engineering & LS, and DPC d/b/a Popli Design Group, and.

The proposals were reviewed by a committee from the Engineering and Electrical Departments. Primarily, experience and staffing were evaluated and, to a lesser degree, were scope and project approach. It was determined that while each firm possessed relevant qualifications to perform the work proposed, based on the review and evaluation of the proposals, it was the committee's opinion that Hazen and Sawyer was the best firm for this project due to a combination of experience and qualifications. In addition, the firm's fee is in line with the other firms and appears reasonable.

The Engineering and Electrical Departments will move forward with negotiations with Hazen and Sawyer for the electrical engineering services project.

Budget Information:

Unit: 1010 Sturgeon Point Plant

–Item 17 Payments to Contractors Elect.

Unit: 1015 Van De Water Plant

–Item 17 Payments to Contractors Elect.

Unit: 1020 Control Operations

–Item 17 Payments to Contractors Elect.

MJQ:jmf

cc: L.Kowalski
M.Wymer
S.Aiple
L.Lester
ECWA-326-2302

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

Contract: HS-005 **Project No.:** 202400058
Project Description: Miscellaneous Electrical Engineering Services 2024-2025.

Item Description:


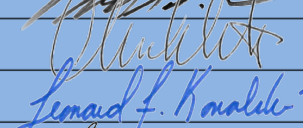
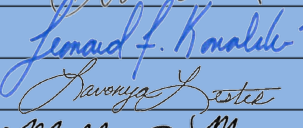
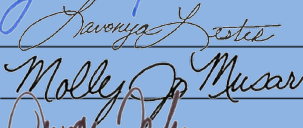


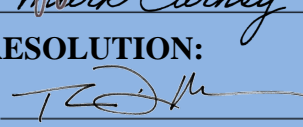
<input type="checkbox"/> Agreement	<input checked="" type="checkbox"/> Professional Service Contract	<input type="checkbox"/> Amendment	<input type="checkbox"/> Change Order
<input type="checkbox"/> BCD	<input type="checkbox"/> NYSDOT Agreement	<input type="checkbox"/> Contract Documents	<input type="checkbox"/> 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:

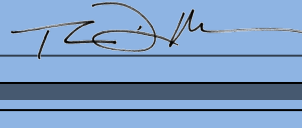
<input checked="" type="checkbox"/> Board Authorization to Execute	<input checked="" type="checkbox"/> Legal Approval
<input type="checkbox"/> Board Authorization to Award	<input checked="" type="checkbox"/> Execution by the Chairman
<input type="checkbox"/> Board Authorization to Advertise for Bids	<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"/> Sr Distribution Engineer		Date: <u>4/2/2024</u>
<input checked="" type="checkbox"/> Chief Operating Officer		Date: <u>04/02/2024</u>
<input checked="" type="checkbox"/> Executive Engineer		Date: <u>4/5/2024</u>
<input checked="" type="checkbox"/> Director of Administration		Date: <u>04/02/2024</u>
<input checked="" type="checkbox"/> Risk Manager		Date: <u>04/02/2024</u>
<input checked="" type="checkbox"/> Chief Financial Officer		Date: <u>04/03/2024</u>
<input checked="" type="checkbox"/> Legal		Date: <u>04/02/2024</u>

APPROVED FOR BOARD RESOLUTION:

<input checked="" type="checkbox"/> Secretary to the Authority		Date: <u>4/5/2024</u>
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Remarks: _____

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

**PROFESSIONAL SERVICES AGREEMENT
FOR ENGINEERING SERVICES**

This Agreement, effective as of April 18, 2024 (“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

HAZEN AND SAWYER
1 Seneca Street, Suite 2875
Buffalo, New York 14203

hereinafter referred to as the “Consultant.”

The Authority project, for which engineering services are to be provided under this Agreement, relates to miscellaneous design and construction related services for electrical improvements at Authority facilities in various locations throughout the Authority’s service area (the “Project”).

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

ARTICLE 1 – CONSULTANT SERVICES

1.01 Standard of Performance

- A. **Standard of Care:** The standard of care for all professional engineering and related services performed or furnished by the Consultant under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the time and in the same locality.
- B. **Technical Accuracy:** The Authority shall not be responsible for discovering deficiencies in the technical accuracy of the Consultant’s services. The Consultant shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Authority-furnished information.

1.02 Scope of Services

- A. The Authority and the Consultant will identify and quantify the tasks and activities undertaken under this Agreement prior to executing the work and billing the Authority, in the manner described as follows:
1. The Authority's Chief Operating Officer (the "COO") and the Authority's Executive Engineer will monitor and oversee the tasks and activities being performed by the Consultant pursuant to this Agreement. The Department Head for which the scope of work is being completed must have approval of the COO or the Executive Engineer before a task or assignment may be given to the Consultant or its personnel.
 2. Before the task or assignment is undertaken, the Consultant will provide the Authority with a proposal including an estimate of the time (broken down by title) and expenses to complete the work. No work should proceed until the COO or Executive Engineer has approved the estimate after consulting with the Department Head. The Authority will provide the Consultant with acceptance of the proposal via email.
 3. The Consultant will keep the Department Head updated on the progress of the work. Before any task or assignment exceeds the estimated time or expenses, the Consultant will advise the Department Head, the COO, and the Executive Engineer, revising the original estimate for time and expenses to complete the work. The approval of the COO or Executive Engineer is necessary before the Consultant can invoice the Authority for additional time and/or expenses.
 4. The Consultant will only bill for actual time and expenses. The Consultant's invoice must identify the task or assignment by project name and project number.
- B. The Consultant agrees and represents it will provide services related to electrical engineering design and construction services to the Authority, on an as needed basis subject to Paragraph A of this § 1.02, including but not limited to:
1. Perform site visits to take field measurements and perform investigations.
 2. Perform electrical designs which include the development of drawings, specifications, and cost estimates.
 3. Perform facility inspections to determine condition of equipment and compliance with applicable codes, regulations, and best practices.
 4. Attend meetings as requested and provide technical assistance.

5. Provide on-call assistance and support of Authority personnel in response to emergency and after-hour events.
6. Provide electrical engineering support in the scheduled absence of Authority electrical personnel.
7. Develop technical reports.
8. Assist with the development of capital plans and budgets.
9. Develop electrical drawings for rehabilitation projects.
10. Develop electrical drawings for new construction projects.
11. Develop equipment specifications for procurement purposes.
12. Interface with vendors for retrofits to existing equipment.
13. Interface with electrical utilities for electrical service modifications or data requests.
14. Provide structural engineering services for duct bank design.
15. Provide in-house support staff for minor civil, structural, architectural, and mechanical design.
16. During construction; make on-site visits, review material submittals, shop drawings and test results, and respond to contract's Requests for Information (RFI).
17. Start-up assistance with newly constructed equipment.
18. Conduct power system and arc-flash hazard studies and/or field data collection. SKM software shall be used for electrical coordination and arc-flash analysis.

C. ***Special Services:*** The Consultant may employ one or more of the following special services in carrying out the Project, subject to the Authority's approval:

1. Detailed mill, shop and/or laboratory inspection of materials and equipment.
2. Land surveys, maps, plates, descriptions and title investigations which may be required to acquire lands, easements, and rights-of-way for the proposed facilities.

3. Environmental Impact Statements or other environmental studies or permit applications.
4. Hazardous material testing and assessment.
5. Air, water, and/or soil sampling, testing, and/or analysis.
6. Assistance with grant research, completion of grant applications, and reporting/documentation after award.
7. Development/updating electrical safety plans, programs, or policies.
8. Legal services, as deemed necessary and approved by the Authority's General Counsel, for acquiring lands, easements and rights-of-ways or other Project-related services.
9. Other services, as deemed necessary by the Authority's COO or in their absence the Executive Engineer and Chief Financial Officer (CFO) or in their absence the Authority Comptroller.

D. **Contingency Allowance:** The Engineer may use contingency allowance when the original scope of work for the Project was not sufficient to allow for subsequent changes in scope to improve the completed Project. The Engineer may use the contingency allowance to accommodate specific scope modifications necessary for overall project completeness. The Engineer may only use contingency allowance following review and approval of the Department Head and Chief Operations Officer (COO) or in their absence the Executive Engineer and Chief Financial Officer (CFO) or in their absence the Authority Comptroller.

1.03 Access to Authority Property:

- A. If the Consultant, its employees, agents and/or 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 of 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.
- B. The Authority's Security Officer will issue security passes to the Consultant's employees assigned to work on-site at one of the Authority's facilities, allowing entrance to such Authority facility subject to the same conditions as an Authority employee.
- C. No person may visit any Authority property without the authorization of the Authority and/or its Security Officer.

- D. While on Authority property, the Consultant's employees and representatives shall comply with the specific applicable security and access rules established by the Authority's Security Officer.

1.04 Compliance with Laws and Regulations, and Policies and Procedures

- A. The Authority and the Consultant shall comply with all applicable federal, state or local laws and regulations and all applicable Authority policies and procedures.
- B. The Consultant shall comply with the provisions set forth in Public Authorities Law §§ 2875, 2876, and 2878 of the laws of the State of New York. In response to the Authority's Request for Proposals, the Consultant submitted and signed the Public Authority's Law forms, a copy of which are attached to, and incorporated in, this Agreement as Appendix A.
- C. The Consultant shall comply with the provisions set forth in State Finance Law §§ 139-j and 139-k. In response to the Authority's Request for Proposals, the Consultant submitted and signed Forms A, B, and C, a copy of which are attached to, and incorporated in, this Agreement as Appendix A.
- D. By executing this Agreement, the Consultant affirms under the penalties of perjury that there was no collusion in the proposal submitted to the Authority, upon which forms the basis of this Agreement.
- E. The Consultant shall comply with the provisions of State Finance Law § 139-L of the laws of the State of New York. In response to the Authority's Request for Proposals, the Consultant submitted and signed the Sexual Harassment Bidding Certification, a copy of which is attached to, and incorporated in, this Agreement, as Appendix A.
- F. The Consultant 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.
- G. The Authority shall provide the Consultant in writing any and all Authority policies and procedures applicable to the Consultant's performance of services under this Agreement. The Consultant agrees to comply with such policies and procedures to the extent compliance is not inconsistent with professional practice requirements.

1.05 Whenever the Authority is operating under a Declaration of Emergency due to a pandemic, the Engineer, its employees, and agents shall comply with all health safety rules and regulations adopted by the State of New York, the County of Erie, or the Authority including, but not limited to, completing a health screening questionnaire, using a personal protective face mask, or complying with any testing or vaccination requirements, before entering any Authority worksite.

1.06 Unknown Conditions. The Consultant shall not be required to sign any documents, no matter by whom requested, that would result in the Consultant having to certify, guarantee, or

warrant the existence of conditions whose existence the Consultant cannot ascertain. The Authority agrees not to make resolution of any dispute with the Consultant for payment on any amount due to the Consultant in any way contingent upon the Consultant signing any such documents.

ARTICLE 2 – PAYMENT OF PROFESSIONAL SERVICES

2.01 The Consultant shall submit monthly invoices to the Authority, detailing the hours and description of the services rendered to the Authority, as well as expenses incurred, in a form acceptable to the Authority's Chief Financial Officer and/or Comptroller. The Consultant will be responsible for completing all work covered by this Agreement.

2.02 Costs for services provided under § 1.02, paragraph B, of this Agreement shall be billed at the hourly rates included in Appendix B of this Agreement.

2.03 For Special Services provided under § 1.02, paragraph C, of this Agreement, the Authority shall pay the Consultant for special services pre-approved by the Authority's Chief Operating Officer (Executive Engineer in the absence of Chief Operating Officer) in an amount approved by the Authority's Chief Financial Officer (Comptroller in the absence of Chief Financial Officer).

- A. When the Engineer is performing the Special Services described in § 1.02, paragraph B of this Agreement, such services will be billed at the fixed rates included in Appendix B of this Agreement.
- B. When the Engineer obtains special services from a third party, the Engineer will be reimbursed based on the actual invoice cost paid by the Engineer, plus 5%.

2.04 For Contingency Allowance items described under § 1.02, paragraph D, of this Agreement, the Authority shall pay the Engineer for contingency items pre-approved by the Authority's Chief Operating Officer (Executive Engineer in the absence of Chief Operating Officer) in an amount approved by the Authority's Chief Financial Officer (Comptroller in the absence of Chief Financial Officer).

- A. When the Engineer is performing the services described in § 1.02, paragraph D of this Agreement, such services will be billed at the fixed rates included in Appendix B of this Agreement.
- B. When the Engineer obtains services required as part of a contingency items from a third party, the Engineer will be reimbursed based on the actual invoice cost paid by the Engineer, plus 5%.

2.05 The Consultant shall keep accurate records and books of all disbursements, or expenses made or incurred by the Consultant pursuant to the services provided under this Agreement.

- A. Payments for services for will be based on detailed actual hours worked with a total cost not to exceed \$195,540.00.
- B. The cost of Special Services shall not exceed \$10,000.00.

- C. The cost of Contingency items shall not exceed \$20,000.00.
- D. The Consultant shall seek pre-approval from the COO or the Executive Engineer and the Chief Financial Officer or the Comptroller for disbursements or expenses expected to exceed \$500.00. Expenses will be reimbursed upon presentation of paid receipts with a total not to exceed \$10,000.00.

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

ARTICLE 3 – GENERAL PROVISIONS

3.01 Subcontract and Assignments: The Consultant may not subcontract or delegate any of the work, services, and/or other obligations of the Consultant without the express written consent of the Authority. The Authority and the Consultant bind themselves and their successors, administrators and assigns to the terms of this Agreement. The Consultant shall not assign, sublet or transfer its interest in the Agreement without the written consent of the Authority.

3.02 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.

3.03 Right to Terminate: The Authority reserves the right to terminate the Consultant's services at any time, without cause, based on seven (7) days' written notice. The Consultant shall not be entitled to lost profit and shall perform only such services, after notification of termination, as the Authority directs.

3.04 Indemnification:

- A. To the fullest extent permitted by law, the Consultant 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 Consultant's performance of professional services provided under this Agreement and those of its subcontractors or anyone for whom the Consultant is legally liable.
- B. To the fullest extent permitted by law, the Authority agrees to indemnify and hold the Consultant 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.

3.05 Confidential Information:

- A. In order to assist the Consultant in the performance of this Agreement, the Authority may provide the Consultant with confidential information including, but not limited to information relative to the services to be performed. All information received by the Consultant in any fashion and under any conditions resulting from the rendering of the services in consideration of this agreement, are considered confidential. The Consultant shall hold in confidence and not disclose to any person or any entity, any information regarding information learned during the performance of services including but not limited to information relative to the services to be performed.
- B. The Consultant shall use at least the same degree of care to protect and prevent unauthorized disclosure of any confidential information as it would use to protect and prevent unauthorized disclosure of its own proprietary information. The Consultant shall use confidential information only in the performance of this Agreement. No other use of the confidential information whether for the Consultant's benefit or for the benefit of others shall be permitted.
- C. In no event is the Consultant authorized to disclose confidential information without the prior written approval of the Authority. The Consultant may provide such information to its subcontractors for the purpose of performing the services; or disclose such information, with notice to the Authority, if such information is required to be disclosed by law or court order.
- D. The terms of this section shall be binding during and subsequent to the expiration or termination of this Agreement.

3.06 Insurance:

- A. The Consultant 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 C1.
- B. The Consultant shall provide and maintain insurance that will provide coverage for claims arising out of the negligent performance of its services.
- C. The Consultant shall provide Certificates of Insurance certifying the coverage required by this provision.
- D. The Consultant 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 addresses.

- E. The Engineer agrees to require all direct or indirect subcontractors to procure and maintain insurance in accordance with the Insurance Requirements, as set forth in the Addendum Agreement, attached as Appendix C2.

3.07 Copyrights, Trademarks and Licensing:

- A. All materials produced under this Agreement, whether produced by the Consultant alone or with others, and regardless of whether produced during regular working hours, shall be considered work made for hire and the property of the Authority. The Consultant shall, during and subsequent to the terms of this Agreement, assign to the Authority, without further consideration, all right, title and interest in all material produced under this Agreement. All material produced under this Agreement shall be and remain the property of the Authority whether registered or not.
- B. In performing work under this Agreement, the Consultant may be granted access to the Authority's data, documents, and other information. The Consultant understands and agrees to the use of such data, documentation and information shall be treated as confidential information and the Consultant shall abide by the terms and conditions of the Confidentiality and Copyright Licensing Agreement, attached and incorporated in this Agreement as Appendix D.

3.08 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 Consultant 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.

3.09 Conflicts of Interest: The Consultant 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 Consultant from carrying out the terms of this Agreement or which would present a significant opportunity for the disclosure of confidential information. The Consultant 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 of services already rendered by the Consultant. So long as the Consultant reports such a conflict as required by this section, the Consultant will have no further obligations for completing the scope of services under the terms of this Agreement.

3.10 Additional Conditions: The Consultant and the Authority acknowledge that there may be additional conditions, terms and provisions which shall apply specifically to the services to be performed. The parties agree to negotiate in good faith to agree upon such additional terms.

3.11 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.

3.12 Independent Status:

- A. Nothing contained in the Agreement shall be construed to render either the Authority or the Consultant, 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 Consultant shall remain an independent contractor responsible for its own actions. The Consultant is retained by the Authority only for the purpose and to the extent set forth in this Agreement.
- B. The Consultant is free to choose the aggregate number of hours worked and the scheduling of such hours as it shall see fit at its discretion within the limitations set forth in Article 2.
- C. Neither the Consultant nor its employees shall be considered under the provisions of this Agreement or otherwise as having an employee, servant or agency status or as being entitled to participate in any plans, arrangements or distributions of the Authority.
- D. In providing the services under this Agreement, the Consultant represents and warrants that it has complied with all applicable federal, state and local laws particularly with respect to licenses, withholdings, reporting and payment of taxes. The Consultant agrees to furnish copies of documentation to the Authority evidencing its compliance with such laws. The Consultant further represents and warrants that any income accruing to the Consultant and its employees from the Agreement shall be reported as such to the appropriate taxation authorities.

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

3.14 Gratuities: The Consultant 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. The Consultant 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.

3.15 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 4 – SEVERABILITY

4.01 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 5 – DURATION

5.01 All services to be provided under this Agreement shall be provided over a two-year period beginning on the effective date of the Agreement with one potential one-year extension, at the sole discretion of the Authority, at mutually agreed upon terms.

5.02 The Authority reserves the right to terminate this Agreement in the event it is found that the Certification filed by the Consultant 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 Consultant in accordance with the written notification terms of this Agreement.

ERIE COUNTY WATER AUTHORITY

By _____
Jerome D. Schad, Chair

HAZEN AND SAWYER

By _____
Mark Lenz, PE, Vice President

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

On the 18th day of April, in the year 2024, 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 2024, before me personally came Mark Lenz, PE, to me known, who, being by me duly sworn, did depose and say that he resides in _____, New York, that he is the Vice President 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
RESPONSE TO RFP
STATE FINANCE LAW REQUIRED FORMS

< Consultant's RFP response including the following required forms to be inserted here >

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 as 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 Requirements 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: Mark Lenz Date: 2/7/2024

Name: Mark Lenz, PE

Title: Vice President

Contractor Name: Hazen and Sawyer

Contractor Address: 1 Seneca Street, Suite 2875

Buffalo, NY 14203

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: Mark Lenz Date: 2/7/2024

Name: Mark Lenz, PE

Title: Vice President

Contractor Name: Hazen and Sawyer

Contractor Address: 1 Seneca Street, Suite 2875

Buffalo, NY 14203

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 conducting the Governmental Procurement 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:

Hazen and Sawyer

Address: 1 Seneca Street, Suite 2875, Buffalo, NY 14203

Name and Title of Person Submitting this Form: Mark Lenz, PE, CDT, Vice President

Contract Procurement Number: ECWA Project No. 202300268

Date: 2/7/2024

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: Mark Lenz Date: 2/7/2024
Signature

Name: Mark Lenz, PE, CDT

Title: Vice President

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(l).

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, 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

The Erie County Water 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.

APPENDIX B

CONSULTANT FIXED HOURLY BILLING RATES

Title/Grade	Hourly Billing Rate	Quantity (Hours)	Cost	Hourly Billing Rate	Quantity (Hours)	Cost	Total Cost for Year 1 + 2
	Year 1			Year 2			
Principal	\$275	5	\$1,375	\$285	5	\$1,425	\$2,800
Project Manager	\$250	60	\$15,000	\$260	60	\$15,600	\$30,600
Senior Electrical Engineer	\$220	80	\$17,600	\$230	80	\$18,400	\$36,000
Electrical Engineer	\$165	80	\$13,200	\$172	80	\$13,760	\$26,960
Junior Electrical Engineer	\$140	80	\$11,200	\$145	80	\$11,600	\$22,800
Senior Civil Engineer	\$220	10	\$2,200	\$230	10	\$2,300	\$4,500
Civil Engineer	\$165	10	\$1,650	\$172	10	\$1,720	\$3,370
Junior Civil Engineer	\$140	10	\$1,400	\$145	10	\$1,450	\$2,850
Structural Engineer	\$220	10	\$2,200	\$230	10	\$2,300	\$4,500
Mechanical Engineer	\$165	10	\$1,650	\$172	10	\$1,720	\$3,370
Architect	\$165	5	\$825	\$172	5	\$860	\$1,685
Landscape Architect	\$165	5	\$825	\$172	5	\$860	\$1,685
Licensed Surveyor	\$160	8	\$1,280	\$165	8	\$1,320	\$2,600
Survey Crew (2 person)	\$310	8	\$2,480	\$320	8	\$2,560	\$5,040
Construction Observer	\$140	20	\$2,800	\$145	20	\$2,900	\$5,700
CADD Drafter	\$140	20	\$2,800	\$145	20	\$2,900	\$5,700
Administration/Word Processing	\$85	10	\$850	\$88	10	\$880	\$1,730
Electrical Engineer (Subcontractor)	\$180	10	\$1,800	\$185	\$10	\$1,850	\$3,650
Subtotals			\$81,135			\$84,405	\$165,540
Special Services							\$10,000
Contingency							\$20,000
Total Estimated Cost							\$195,540

APPENDIX C1

INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES CONTRACT FOR CONSULTING ENGINEERING SERVICES

MISCELLANEOUS ELECTRICAL ENGINEERING SERVICES 2024-2025

ECWA Project No. 202300268

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:

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

f. Professional Liability:

- \$1,000,000 Per Claim
- \$1,000,000 Aggregate

g. Cyber Liability:

- \$1,000,000 Per Claim
- \$1,000,000 Aggregate

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

ACORD 25 (Item a-e) 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.

Please list the project number on the Certificate of Insurance.

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.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/28/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Ames & Gough 8300 Greensboro Drive Suite 980 McLean, VA 22102	CONTACT NAME: PHONE (A/C, No, Ext): (703) 827-2277	FAX (A/C, No): (703) 827-2279	
	E-MAIL ADDRESS: admin@amesgough.com		
INSURER(S) AFFORDING COVERAGE		NAIC #	
INSURED Hazen and Sawyer, D.P.C. 498 Seventh Avenue New York, NY 10018	INSURER A : American Casualty Co of Reading, PA A(XV)		20427
	INSURER B : National Fire Insurance Company of Hartford A(XV)		20478
	INSURER C : Continental Insurance Company A(XV)		35289
	INSURER D : Continental Casualty Company (CNA) A, XV		20443
	INSURER E : Beazley Syndicate 2623/623 at Lloyd's A+, XV		15792
INSURER F :			

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual Liab. GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X	X	7036845683	3/29/2024	3/29/2025	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
							MED EXP (Any one person)	\$ 15,000
							PERSONAL & ADV INJURY	\$ 1,000,000
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	X	X	7036845635	3/29/2024	3/29/2025	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
							Comp./Coll. Ded	\$ 1,000
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	X	X	7036845649	3/29/2024	3/29/2025	EACH OCCURRENCE	\$ 5,000,000
							AGGREGATE	\$ 5,000,000
								\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	X	7036845652	3/29/2024	3/29/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER	
							E.L. EACH ACCIDENT	\$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
D	Professional Liab.			AEH008231489	3/29/2024	3/29/2025	Per Claim/Aggregate	5,000,000
E	Cyber Liability			W31D2D240301	3/29/2024	3/29/2025	Per Claim/Aggregate	2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

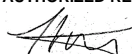
RE: ECWA CONTRACT #HS-005 PROJECT #202400058, MISC. ELECTRICAL ENGINEERING SERVICES 2024-2025

APPROVED/MJM

Erie County Water Authority (ECWA), its officers, agents and employees are included as additional insured with respect to General Liability per form CNA 75079xx 3/22, Automobile Liability per form CNA71527XX 10/12, and Umbrella Liability per form CNA75504XX 03/15, when required by written contract. General Liability, Automobile Liability and Umbrella Liability are primary and non-contributory over any existing insurance and limited to liability arising out of the operations of the named insured and when required by written contract. General Liability, Automobile Liability, Umbrella Liability and Workers Compensation policies include a waiver of subrogation in favor of the additional insureds where permissible by state law and when required by written SEE ATTACHED ACORD 101

CERTIFICATE HOLDER

CANCELLATION

Erie County Water Authority (ECWA) 295 Main St, Room 350 Buffalo, NY 14203-2494	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 



ADDITIONAL REMARKS SCHEDULE

AGENCY Ames & Gough		NAMED INSURED Hazen and Sawyer, D.P.C. 498 Seventh Avenue New York, NY 10018	
POLICY NUMBER SEE PAGE 1			
CARRIER SEE PAGE 1	NAIC CODE SEE P 1	EFFECTIVE DATE: SEE PAGE 1	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Description of Operations/Locations/Vehicles:

contract. Umbrella Liability coverage sits excess over General Liability, Automobile Liability and Employers Liability coverage. 30-day Notice of Cancellation will be issued for the General Liability, Automobile Liability, Umbrella Liability, Workers Compensation and Professional Liability policies in accordance with policy terms and conditions. Pollution Liability coverage is provided and included within the Professional Liability policy noted above. It shares the limits of the Professional Liability policy.



CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

Form with fields for: 1a. Legal Name & Address of Insured, 1b. Business Telephone Number of Insured, 1c. NYS Unemployment Insurance Employer Registration Number of Insured, 1d. Federal Employer Identification Number of Insured or Social Security Number, 2. Name and Address of Entity Requesting Proof of Coverage, 3a. Name of Insurance Carrier, 3b. Policy Number of Entity Listed in Box "1a", 3c. Policy effective period, 3d. The Proprietor, Partners or Executive Officers are included/excluded.

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. (To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy). The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The insurance carrier must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

Please Note: Upon cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: Tom Marchetti (Print name of authorized representative or licensed agent of insurance carrier)
Approved by: [Signature] 3/29/2024 (Signature) (Date)
Title: Vice President

Telephone Number of authorized representative or licensed agent of insurance carrier: 703-827-2277

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.

Workers' Compensation Law

Section 57. Restriction on issue of permits and the entering into contracts unless compensation is secured.

1. The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any compensation to any such employee if so employed.
2. The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter.



**Blanket Additional Insured - Owners, Lessees or Contractors -
with Products-Completed Operations Coverage Endorsement**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed as follows:

- I. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:
 - A. In the performance of your ongoing operations subject to such **written contract**; or
 - B. In the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury or property damage** included in the **products-completed operations hazard**, and only if:
 - 1. The **written contract** requires you to provide the additional insured such coverage; and
 - 2. This **Coverage Part** provides such coverage; and
 - C. Subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:
 - 1. Coverage broader than what you are required to provide by the **written contract**; or
 - 2. A higher limit of insurance than what you are required to provide by the **written contract**.

Any coverage granted by this Paragraph I. shall apply solely to the extent permissible by law.

- II. If the written contract requires additional insured coverage under the 07-04 edition of CG2010 or CG2037, then paragraph I. above is deleted in its entirety and replaced by the following:

WHO IS AN INSURED is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:

- A. In the performance of your ongoing operations subject to such **written contract**; or
- B. In the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury or property damage** included in the **products-completed operations hazard**, and only if:
 - 1. The **written contract** requires you to provide the additional insured such coverage; and
 - 2. This **Coverage Part** provides such coverage.

- III. But if the **written contract** requires:

- A. Additional insured coverage under the 11-85 edition, 10-93 edition, or 10-01 edition of CG2010, or under the 10-01 edition of CG2037; or
- B. Additional insured coverage with "arising out of" language;

then paragraph I. above is deleted in its entirety and replaced by the following:

WHO IS AN INSURED is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of **your work** that is subject to such **written contract**.

10020005120959950518698



**Blanket Additional Insured - Owners, Lessees or Contractors -
with Products-Completed Operations Coverage Endorsement**

IV. But if the **written contract** requires additional insured coverage to the greatest extent permissible by law, then paragraph I. above is deleted in its entirety and replaced by the following:

WHO IS AN INSURED is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of **your work** that is subject to such **written contract**.

V. The insurance granted by this endorsement to the additional insured does not apply to **bodily injury, property damage, or personal and advertising injury** arising out of:

A. The rendering of, or the failure to render, any professional architectural, engineering, or surveying services, including:

1. The preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
2. Supervisory, inspection, architectural or engineering activities; or

B. Any premises or work for which the additional insured is specifically listed as an additional insured on another endorsement attached to this **Coverage Part**.

VI. Under **COMMERCIAL GENERAL LIABILITY CONDITIONS**, the Condition entitled **Other Insurance** is amended to add the following, which supersedes any provision to the contrary in this Condition or elsewhere in this **Coverage Part**:

Primary and Noncontributory Insurance

With respect to other insurance available to the additional insured under which the additional insured is a named insured, this insurance is primary to and will not seek contribution from such other insurance, provided that a **written contract** requires the insurance provided by this policy to be:

1. Primary and non-contributing with other insurance available to the additional insured; or
2. Primary and to not seek contribution from any other insurance available to the additional insured.

But except as specified above, this insurance will be excess of all other insurance available to the additional insured.

VII. Solely with respect to the insurance granted by this endorsement, the section entitled **COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

The Condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended with the addition of the following:

Any additional insured pursuant to this endorsement will as soon as practicable:

1. Give the Insurer written notice of any **claim**, or any **occurrence** or offense which may result in a **claim**;
2. Send the Insurer copies of all legal papers received, and otherwise cooperate with the Insurer in the investigation, defense, or settlement of the **claim**; and
3. Make available any other insurance, and endeavor to tender the defense and indemnity of any **claim** to any other insurer or self-insurer, whose policy or program applies to a loss that the Insurer covers under this **coverage part**. However, if the **written contract** requires this insurance to be primary and non-contributory, this paragraph 3. does not apply to other insurance under which the additional insured is a named insured.

The Insurer has no duty to defend or indemnify an additional insured under this endorsement until the Insurer receives written notice of a **claim** from the additional insured.



**Blanket Additional Insured - Owners, Lessees or Contractors -
with Products-Completed Operations Coverage Endorsement**

VIII. Solely with respect to the insurance granted by this endorsement, the section entitled **DEFINITIONS** is amended to add the following definition:

Written contract means a written contract or written agreement that requires you to make a person or organization an additional insured on this **Coverage Part**, provided the contract or agreement:

- A. Was executed prior to:
 - 1. The **bodily injury** or **property damage**; or
 - 2. The offense that caused the **personal and advertising injury**;for which the additional insured seeks coverage; and
- B. Is still in effect at the time of the **bodily injury** or **property damage occurrence** or **personal and advertising injury** offense.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

10020005120959950518699





Waiver of Transfer of Rights of Recovery Against Others to the Insurer Endorsement

This endorsement modifies insurance provided under the following:

- COMMERCIAL GENERAL LIABILITY COVERAGE PART
- PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE
Name Of Person Or Organization:
ANY PERSON OR ORGANIZATION WHOM THE NAMED INSURED HAS AGREED IN WRITING IN A CONTRACT OR AGREEMENT TO WAIVE SUCH RIGHTS OF RECOVERY, BUT ONLY IF SUCH CONTRACT OR AGREEMENT:
1. IS IN EFFECT OR BECOMES EFFECTIVE DURING THE TERM OF THIS COVERAGE PART; AND 2. WAS EXECUTED PRIOR TO THE BODILY INJURY, PROPERTY DAMAGE OR PERSONAL AND ADVERTISING INJURY GIVING RISE TO THE CLAIM.

(Information required to complete this Schedule, if not shown above, will be shown in the Declarations.)

Under **COMMERCIAL GENERAL LIABILITY CONDITIONS**, it is understood and agreed that the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended by the addition of the following:

With respect to the person or organization shown in the Schedule above, the Insurer waives any right of recovery the Insurer may have against such person or organization because of payments the Insurer makes for injury or damage arising out of the **Named Insured's** ongoing operations or **your work** included in the **products-completed operations hazard**.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

100200066-40292826668378





ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY

It is understood and agreed that this endorsement amends the **BUSINESS AUTO COVERAGE FORM** as follows:

SCHEDULE

Name of Additional Insured Person Or Organization

ANY PERSON OR ORGANIZATION THAT YOU ARE REQUIRED BY WRITTEN CONTRACT OR WRITTEN AGREEMENT TO NAME AS AN ADDITIONAL INSURED.

1. In conformance with paragraph **A.1.c.** of **Who Is An Insured** of Section **II - LIABILITY COVERAGE**, the person or organization scheduled above is an insured under this policy.
2. The insurance afforded to the additional insured under this policy will apply on a primary and non-contributory basis if you have committed it to be so in a written contract or written agreement executed prior to the date of the "**accident**" for which the additional insured seeks coverage under this policy.

All other terms and conditions of the policy remain unchanged

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy.

Form No: CNA71527XX (10-2012)
Endorsement Effective Date:
Endorsement No:
Underwriting Company: National Fire Insurance Of Hartford

Policy No: 7036845635
Policy Effective Date: 3/29/24
Policy Page: 7036845635



**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY
AGAINST OTHERS TO US (WAIVER OF SUBROGATION)**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

- AUTO DEALERS COVERAGE FORM
- BUSINESS AUTO COVERAGE FORM
- MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: HAZEN AND SAWYER D.P.C.

Endorsement Effective Date: 03/29/2024

SCHEDULE

Name(s) Of Person(s) Or Organization(s):

ANY PERSON OR ORGANIZATION FOR WHOM OR WHICH YOU ARE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT TO OBTAIN THIS WAIVER FROM US. YOU MUST AGREE TO THAT REQUIREMENT PRIOR TO LOSS.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "**accident**" or the "**loss**" under a contract with that person or organization.



WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Any Person or Organization on whose behalf you are required to obtain this waiver of our right to recover from under a written contract or agreement.

The premium charge for the endorsement is reflected in the Schedule of Operations.

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.

APPENDIX C2

[THIS FORM IS INTENDED TO BE USED AS AN EXHIBIT OR ADDENDUM TO ANY SUBCONTRACT — IT SHOULD NOT BE USED BY ITSELF AS A SOLE CONTRACT DOCUMENT]

ADDENDUM AGREEMENT FOR CONSULTING SERVICES

This Addendum to the Agreement (“Addendum Agreement”) between [**Insert name of Upstream Consultant or Upstream Subconsultant**] (hereinafter referenced as “Consultant”) and [**Insert name of Downstream Subconsultant**] (hereinafter referenced as “Subconsultant”) is being entered into by the parties for any and all work done for, with, or on behalf of **the Erie County Water Authority** (hereinafter the “Authority”) under the Primary Contract No. _____, Project No. _____ [**Insert Project Description**] with [**Insert name of Consultant**], a copy of which may be obtained from [**Insert name and contract information of the entity**].

In accordance with the terms and conditions of the Primary Contract No. _____ entered into with the Erie County Water Authority, an **ACORD25-Certificate of Liability Insurance** shall be provided evidencing the following insurance is currently maintained and in force with an insurance carrier approved to do business in the State of New York and maintaining an A.M. Best Rating of A- or better showing the Authority as Certificate Holder and additional insured. You should share these requirements with your current insurance agent, broker or insurance company.

Insurance Requirements

Prior to the commencement of any work designated in any contract or agreement to which this Addendum Agreement is attached, and until at least the final completion and acceptance of the work under the contract or agreement to which this Addendum Agreement is attached, the Subconsultant, at its sole expense, shall maintain the following minimum insurance on its own behalf, and furnish to the Authority certificates of insurance evidencing same and reflecting the effective date of such coverage as listed below. In no event shall the failure to provide this proof, prior to the commencement of the work, be deemed a waiver by the Authority of the Subconsultant’s obligation to maintain the insurance set forth herein. The insurance required shall not be canceled, not renewed or materially changed after the issuance of the certificate of insurance required by this Addendum Agreement.

A. Worker’s Compensation, Occupational Disease & Employer’s Liability Insurance:

Worker’s Compensation, Occupational Disease & Employer’s Liability Insurance in accordance with the applicable laws and statutes to cover any injuries or illness to employees and any other person eligible for compensation, and the liability of the employer thereof to any person or organization, as follows:

Worker’s Compensation & Occupational Disease: Statutory

Employer's Liability: \$1,000,000 bodily injury by accident or disease, except for work work/employers subject to the New York Worker's Compensation Law, in which this insurance shall be unlimited.

All such coverage shall: not contain any exclusion for injuries to sole proprietors, partners, members of limited liability companies or executive officers of any corporate entity; and provide for a "Waiver of Subrogation" endorsement in favor of the Owner/Consultant.

Any Consultant/Subconsultant with a principal place of business located outside of the State of New York must include New York under Part 3A of the policy.

B. Commercial General Liability:

Commercial general liability insurance as provided under the ISO Commercial General Liability Coverage Form, CG 00 01, or its equivalent, for claims of Bodily Injury, Property Damage and Personal and Advertising Injury, with limits of not less than:

Per Occurrence and Personal & Advertising Injury-	\$1,000,000.00
General Aggregate & Products/Completed Operations Aggregate-	\$2,000,000.00
Fire Damage Legal Liability/Damage to Rented Property-	\$100,000.00
Medical Payment (per-person)	\$5,000.00

The coverage must include the following:

1. Liability assumed by the insured in an "insured contract" as that term is defined in the ISO Commercial General Liability Coverage Form, CG 00 01.
2. Products/Completed Operations liability for a period of three years after acceptance of the work.
3. A per project aggregate of \$ 2,000,000.00.
4. A "Waiver of Subrogation" Endorsement in favor of the Owner/Consultant.
5. Exterior Insulation Finish System ("EFIS") coverage must be specifically included or provided separately where the Consultant/Subconsultant work under this Agreement or in any contract or agreement to which this Addendum is attached in any way involves EFIS.
6. The coverage shall not include any provision, definition, exclusion or endorsement which in any way would serve to eliminate the insurance to any insured or additional insured for liability for bodily injury or property damage arising from work performed in New York State, for claims made under the New York Labor Law or for claims made by employees, subconsultants and employees of subconsultants hired to perform work by any insured or additional insured pursuant to work that is subject to this Addendum Agreement or in any contract or agreement to which this Addendum Agreement is attached.

7. The insurance is to be provided through insurers licensed and admitted to do business in the State of New York, with an A. M. Best financial rating of A- or better, or otherwise specifically approved by the Owner.

The Authority, its officers, directors, partners, representatives, agents, and employees must be named as Additional Insureds on a primary and non-contributory basis on both the ongoing and completed operations coverage required herein utilizing the ISO endorsements: CG 2010 04 13 or CG 2038 04 13 (or their equivalent) for ongoing operations; and CG 2037 04 13 (or its equivalent) for completed operations. The Additional Insured coverage shall contain no special limitation or limitation on the scope of the protection afforded to the Additional Insureds.

C. Commercial Automobile Liability Insurance:

Commercial Automobile Liability insurance covering the ownership, maintenance and use of all Owned, Non-Owned and Hired Vehicles by the Subconsultant with combined Bodily Injury and Property Damage limits including pollution transit coverage of \$1,000,000.00 per accident. The Authority, its officers, directors, partners, representatives, agents, and employees must be named as Additional Insureds on a primary and non-contributory basis. A “Waiver of Subrogation” in favor of the Authority must be included.

D. Commercial Umbrella/Excess Liability Insurance:

Commercial Umbrella/Excess Liability Insurance with limits of \$5,000,000.00 per occurrence and a \$5,000,000.00 aggregate. The Authority, its officers, directors, partners, representatives, agents, and employees must be named as Additional Insureds on a primary and non-contributory basis. A “Waiver of Subrogation” in favor of the Authority must be included.

E. Professional Liability: Project Specific Limits may differ as approved by the Authority

- \$5,000,000.00 per claim
- \$5,000,000.00 aggregate

JOB-SITE SAFETY:

The Authority makes no representation with respect to the physical conditions or safety of the Project Site. The Subconsultant shall, at its own expense, protect from injury its employees engaged in the performance of the Work. The prevention of accidents to all workers engaged in the Subconsultant’s work and others affected by the Subconsultant’s work is the responsibility of the Subconsultant. Subconsultant shall comply with all applicable federal, state, labor and local laws, regulations and codes concerning safety.

For purposes of this Addendum Agreement, “Project Site” means the entire construction site or the various separately identifiable part of the site described in any contract or agreement to which the Addendum Agreement is attached, and as described in the Primary Contract with the Authority.

WORKERS COMP IMMUNITY WAIVER:

In any and all claims against the Authority by any employee of the Subconsultant, anyone directly or indirectly employed by the Subconsultant (including any of the Subconsultant's subconsultants) or anyone for whose acts the Subconsultant may be liable, the indemnification obligation shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by or for the Subconsultant under workers' compensation acts, disability benefit acts or other employee benefit acts.

HOLD HARMLESS / INDEMNIFICATION:

- C. To the fullest extent permitted by law, the Consultant 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 Consultant's performance of professional services provided under this Agreement and those of its subcontractors or anyone for whom the Consultant is legally liable.

- D. To the fullest extent permitted by law, the Authority agrees to indemnify and hold the Consultant 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.

MISCELLANEOUS:

If any term or provision of this Addendum Agreement conflicts with or is otherwise inconsistent with any term or provision in the Primary Contract or any prior written agreement entered between the parties, the terms and provisions contained herein shall govern and control.

This Addendum Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and permitted assigns. This Addendum Agreement, its terms and any claims arising therefrom, shall be interpreted and construed in accordance with the laws of the State of New York.

This Addendum Agreement may be executed via facsimile or email in any number of counterparts, all of which taken together shall constitute one and the same agreement. No waiver by a party of any breach by the other party of any of the provisions of this Agreement shall be deemed a waiver of any preceding or succeeding breach of the same or any other provisions hereof. No such waiver shall be effective unless in writing and then only to the extent expressly set forth in writing.

No modification or amendment of this Addendum Agreement shall be effective unless in writing and signed by both parties and approved in writing by the Authority. If any term or provision of this Addendum Agreement shall to any extent be invalid or unenforceable, the remainder of this Addendum Agreement shall not be affected thereby, and each provision of this Addendum Agreement shall be valid and enforceable to the fullest extent permitted by law.

[Insert name of Upstream Consultant or
Upstream Subconsultant]

[Insert name of Downstream Subconsultant]

[Print Name and Title of Representative]

[Print Name and Title of Representative]

Date:

Date:

APPENDIX D

ERIE COUNTY WATER AUTHORITY CONFIDENTIALITY AND COPYRIGHT LICENSING AGREEMENT

LICENSE:

Upon execution of this Agreement, the Consultant acquires from the Authority a license to use the proprietary and intellectual property of the Authority for the purpose of completing the work under this Agreement.

The Authority reserves the right to incorporate any Consultant-created data into the Authority's database.

OWNERSHIP:

This License Agreement does not constitute a transfer of title or interest in the data. Any portion of the data that is modified or merged into another computer file or program by the Consultant or is integrated with other programs or data to form derivative products, shall continue to be subject to the provisions of this License Agreement. The Authority retains ownership of the data and all such portions.

CONFIDENTIALITY CLAUSE:

The Consultant agrees that all digital data and hard copy from the ECWA GIS Basemap Features provided to the Consultant are copyrighted by the Authority, are protected by the copyright laws of the United States and are furnished to the Consultant with all rights reserved. Therefore, the Consultant is hereby permitted to use the digital data and hard copies thereof only for the purposes allowed under this Agreement. The Consultant agrees not to otherwise copy, reproduce or use the digital data, hard copy, or the information contained therein for any other purpose whatsoever.

COPYRIGHT NOTICE:

The copyright notice included in each of the files is not only to be retained in those files but is also to be included in any copies made of those files. No part of the files may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photographing and recording, or by any information storage or retrieval system, except as expressly permitted in writing by the Erie County Water Authority.

Upon notification by the Licensor of any changes in copyright requirements, the Consultant will make said changes to all subsequent maps or reports, as required.

LIMITATION OF LIABILITY:

ECWA GIS Basemap Features are compiled to National Map Accuracy Standards for 1"=100' scale mapping by Woolpert, Dayton, Ohio, using Stereo photogrammetric methods from aerial photography dated April, May, and/or November 1990. The control grid is based on New York

State Plane Coordinates and North American Datum 1983. The parcels are from Erie County Tax Maps which were available in the County Finance office in June of 1993.

The Authority makes no claims as to the accuracy of the ECWA GIS Basemap Features and assumes no responsibility for their positional or content accuracy. The Authority makes no claims as to the ability of the ECWA GIS Basemap Features to fulfill Consultant application requirements. In providing data, the Authority assumes no obligation to assist the Consultant in the use of the data, or in the development, use, or maintenance of any applications applied to the data.

Consultant recognizes and agrees that the Authority makes NO REPRESENTATIONS OF ANY KIND INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, NOR ARE ANY SUCH WARRANTIES TO BE IMPLIED, WITH RESPECT TO THE DATA OR INFORMATION FURNISHED.

TERMINATION:

The License to use data terminates upon completion of the work under this Agreement.

LIQUIDATION OF DAMAGES FOR BREACH OF AGREEMENT:

The parties agree that if Consultant breaches the Agreement and uses or discloses any of the copyrighted information in any way other than that allowed, during, or subsequent to, the terms of this Agreement for any purpose whatsoever, the damages of the Authority shall be deemed liquidated at three times the amount of the total value of the data as determined by the Erie County Water Authority.

In addition to treble damages for breach of Agreement, Consultant will additionally forfeit the license acquired to use aforementioned copyrighted property of the Authority.

SPECIFIC TERMS OF ACCEPTANCE:

This Agreement constitutes the entire agreement between the parties.