

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

**Contract:** \_\_\_\_\_ **Project No.:** 202100072  
**Project Description:** Computerized Maintenance Management System (CMMS) Implementation of Cityworks Server AMS within WTPs, Pump Stations, and WSTs.

**Item Description:**

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

**Action Requested:**

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

**Approvals Needed:**

**APPROVED AS TO CONTENT:**

<input checked="" type="checkbox"/> Sr. Production Engineer	<u>D J M Path</u>	Date: 06/02/2021
<input checked="" type="checkbox"/> Chief Operating Officer	<u>Russell J. Stoll</u>	Date: 6/2/2021
<input checked="" type="checkbox"/> Executive Engineer	<u>Jeanand F. Koralik</u>	Date: 06/02/2021
<input checked="" type="checkbox"/> Director of Administration	<u>Raymond J. Leste</u>	Date: 06/02/2021
<input checked="" type="checkbox"/> Risk Manager	<u>Molly J. Musarra</u>	Date: 06/02/2021
<input checked="" type="checkbox"/> Chief Financial Officer	<u>Karen A. Pendergast</u>	Date: 06/02/2021
<input checked="" type="checkbox"/> Legal	<u>Margaret A. Murphy</u>	Date: 06/02/2021

**APPROVED FOR BOARD RESOLUTION:**

<input checked="" type="checkbox"/> Secretary to the Authority	<u>T. J. M.</u>	Date: 06/02/21
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**Remarks:** \_\_\_\_\_

**Resolution Date:** \_\_\_\_\_ **Item No:** \_\_\_\_\_



# ERIE COUNTY WATER AUTHORITY

## INTEROFFICE MEMORANDUM

June 2, 2021

To: Terrence D. McCracken, Secretary to the Authority

From: Clayton J. Johnson, Production Engineer *CJJ*

Subject: CMMS Implementation of Cityworks Server  
AMS within WTPs, Pump Stations, and WSTs  
Request for Proposals  
Project No. 202100072

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Attached is a copy of the Request for Proposals for professional services for the implementation and integration of the Cityworks Asset Management System (AMS) within the Authority's water treatment plants (WTPs), pump stations, water storage tanks (WSTs), and associated electrical equipment.

The Authority has previously implemented the Cityworks CMMS platform (Version 15.6.1) for its Line Maintenance, Linear Assets, and Restoration Departments.

The Authority intends to continue to use the Cityworks CMMS platform to implement an automated system to create and manage work orders and service requests for the Authority's WTPs, pump stations, WSTs, and electrical assets. The Authority has asset registers for these assets in many different applications, predominantly spreadsheets. Maintenance work is planned and administered by the maintenance supervisors using hand developed schedules and documentation on both a proactive and reactive basis. The Authority would like to improve its management of this operations and maintenance work, and become more computer centric in its long-term planning and short-term maintenance activities.

This project will assist ECWA with the following items related to the WTPs, pump stations, WSTs, and associated electrical equipment:

- Asset Management
- Service Request Management
- Maintenance Management
- Resource Management
- Training

The project directly supports the Authority's Comprehensive Strategic Plan Initiatives 1. Resiliency of ECWA Infrastructure and Assets and 2. Promotion of Technology. The Authority has undertaken the implementation of a computerized maintenance management system (CMMS) for facility assets in order to implement the goals of the Strategic Plan as a component of its overall effort to enhance its level of service and demonstrate effective stewardship of the Authority's physical assets.

CJJ:jmf

cc: R.Stoll  
L.Kowalski  
J. Schlierf  
S. Reed

The Engineering Department is requesting a Resolution to Solicit the Request for Proposals. The contact person for the Restricted Period for this RFP will be Thomas NeMoyer. I recommend that the Request for Proposals be issued to the following professional service providers, who are all Platinum Partners with Cityworks for implementation services:

- GIS, Inc.
- Jacobs CH2M
- Jones, Edmunds and Associates
- Power Engineers
- Timmons Group
- Woolpert

The Request for Proposals and Authorization Form will need prior approval by the Legal Department, Chief Financial Officer, and Risk Manager prior to being sent to the Board for consideration.

**Budget Information:**

Unit: 8525 Information Technology

Budget Item No.: O&M Item No. 19 – Payments to Contractors – Other  
401000 931219 DATA PROC

CJJ:jmf

cc: R.Stoll  
L.Kowalski  
J. Schlierf  
S. Reed

## **REQUEST FOR PROPOSALS**

### **COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM (CMMS) IMPLEMENTATION OF CITYWORKS SERVER AMS WITHIN WTPs, PUMP STATIONS, AND WSTs**

**ECWA Project No. 202100072**

#### **General**

The Erie County Water Authority (Authority) is seeking proposals for professional services from qualified consultants/companies for the implementation and integration of Cityworks Asset Management System (AMS) within the Authority's water treatment plants (WTPs), pump stations, water storage tanks (WSTs), and associated electrical equipment.

The Authority reserves the right to modify or cancel this Request for Proposals (RFP) and/or the project; to reject any or all proposals; and to waive any or all irregularities. This Request for Proposals does not obligate the Authority to award a contract for the project or to reimburse any costs associated with the preparation of any proposal.

Any response to the Request for Proposals (RFP) is subject to the restrictions set forth in the New York State Finance Law §§139-j and 139-k and the Erie County Water Authority's Purchasing Policy, as amended. The Purchasing Policy is available by accessing the Erie County Water Authority's web site – <http://www.ecwa.org>, under the caption "Doing Business with ECWA."

#### **Project Description**

Two of the Authority's Strategic Plan initiatives include: 1) Resiliency of ECWA Infrastructure and Assets and 2) Promotion of Technology. The Authority has undertaken the implementation of a computerized maintenance management system (CMMS) for facility assets in order to implement the goals of the Strategic Plan as a component of its overall effort to enhance its level of service and demonstrate effective stewardship of the Authority's physical assets.

The Authority has previously implemented the Cityworks CMMS platform (Version 15.6.1) for its Line Maintenance, Linear Assets, and Restoration Departments.

The Authority intends to continue to use the Cityworks CMMS platform to implement an automated system to create and manage work orders and service requests for the Authority's WTPs, pump stations, WSTs, and electrical assets. The Authority has asset registers for these assets in many different applications, predominantly spreadsheets. Maintenance work is planned and administered by the maintenance supervisors using hand developed schedules and documentation on both a proactive and reactive basis. The Authority would like to improve its management of this operations and maintenance work, and become more computer centric in its long-term planning and short-term maintenance activities.

A gaps analysis and needs assessment was recently performed which included interviews with Authority management, maintenance, and operations staff and a review of the functional

requirements of the existing CMMS. Key takeaways from the gaps analysis and needs assessment include:

1. The Authority should provide a centralized location for all work and preventive maintenance data.
2. The Authority should update its current GIS system to account for new and replaced equipment.
3. The Authority should improve its ability to track labor, material, equipment costs.
4. The Authority can continue to use the current Cityworks setup (Line Maintenance and Restoration Departments) with minor modifications.
5. The Authority should use the CMMS platform within the Authority's network infrastructure and with wireless field connectivity (laptops and tablets).
6. The Authority needs the ability to hyperlink equipment O&M manuals with assets; this procedure will most likely be done within the GIS system.
7. The Authority should consider the ease of use for operations and maintenance staff.

The Authority currently utilizes a GIS (ArcGIS Desktop and Server 10.x) for the mapping of waterlines, hydrants, valves, and other features. The Authority GIS also includes a digital orthophoto base map, pavement edges, parcels, contours, railroads, hydrology, building footprints, and road centerlines. The Authority GIS is an enterprise geodatabase in ArcGIS Enterprise located on Microsoft Azure servers.

#### **A. Project Objective**

The Authority's primary objective for this contract is to have a fully functioning Cityworks CMMS system that provides Authority staff with the ability to manage all maintenance tasks within the WTPs, pump stations, and WSTs.

#### **B. Functional Objectives**

1. Asset Management
  - Update the existing asset inventory.
  - Update asset inventory in relation to a hierarchy format based on various factors, such as location, relationship, work process, etc.
  - Further integrate the CMMS platform with the Authority's GIS database.
2. Maintenance Management
  - Create and complete work orders for various types of assets.
  - Have the ability to track work order related items such as labor, materials, and equipment.
  - Assign multiple assets or tasks to a single work order.
  - Create templates for preventive maintenance that automatically generates work orders.
  - Have the ability to create a new work order from a preventive maintenance work order.
  - Create, assign, and complete work activities on desktop or mobile device.
  - Have the ability to print work orders and preventive maintenance work orders.

## **C. Modification, Configuration, and Implementation Objectives**

The consultant shall provide services to support the implementation of the Cityworks CMMS system. This scope shall include, but not be limited to, the evaluation of existing data, cleanup and migration of data, working with staff in determining additional data needs, collection of additional asset data, and adding a preventive maintenance schedule. The scope shall also include workflow evaluation and integration with the CMMS based on input from Authority staff. The objective is to keep the asset inventory straightforward and simple so that it is easy to manage. The following implementation objectives shall be included:

1. Asset Management
  - Review existing inventory list for data migration.
  - Work with Authority staff to refine the current asset list.
  - Collect and input all additional asset information for each attribute.
2. Service Request Management
  - Prepare service request system and generate forms.
  - Customize forms and system to address staff concerns.
3. Maintenance Management
  - Develop and input preventive maintenance schedules for asset inventory based on equipment classification and manufacturer recommendations in coordination with staff with the ability to modify, as needs dictate.
  - Prepare work order system in accordance with staff needs and requirements.
4. Resource Management
  - Add personnel costs on an hourly basis.
  - Create preventive maintenance schedules and templates for existing equipment.
5. Reports
  - Provide customized reports based on service request status, requestor, location, process (sub-process), date, etc.
  - Generate preventive maintenance reports based on scheduled maintenance.
  - Create preventive maintenance schedules and templates for existing equipment.

### **Training**

Consultant shall provide on-site training to operations, maintenance, administration, and management staff. Handouts and manuals detailing the process for various elements shall be provided. In addition to on-site training, provide video conferencing, and continuous support through phone and video tutorials in a timely manner.

### **Scope of Work**

The general scope of work is described in the example Professional Services Contract included as Attachment 1. Upon review of all submissions, the Authority reserves the right to approach and

further negotiate the terms of the example contract with any legal entity submitting a response to this Request for Proposals. The methods of payment shall be per the Professional Services Contract.

Spreadsheets showing the current WTP, pump station, WST, and electrical assets are included in **Attachment 2**.

### **Information Requests**

All questions and requests for information are to be directed to the designated ECWA Contact Person, Thomas NeMoyer at 716-685-8566 (email: [tnemoyer@ecwa.org](mailto:tnemoyer@ecwa.org)), in accordance with New York State Finance Law §§139-j and 139-k. An optional pre-proposal meeting will be held virtually via video conference (no in-person meeting) on June 23, 2021 at 10:00 a.m. local time to discuss the project. All prospective bidders that wish to attend the virtual meeting must email above referenced designated ECWA Contact Person by June 18, 2021. The video conference invitation shall be sent via email on June 21, 2021.

### **Proposal Requirements**

Proposals are to be concise, specific and straightforward. All pertinent information is to be contained in the proposal. The use of artwork, special covers, and extraneous information in the proposals is discouraged. Proposals are to remain valid for a minimum of 60 days. Page limits, for each proposal section, are included below and refer to single sided pages. Each proposal shall include the following:

- Item 1 - Qualifications and related experience, particularly related to the Cityworks CMMS platform and configuration. Consultant shall demonstrate completion of directly applicable projects involving the key personnel included in Item 3 below. Include a maximum of five references (related projects) for similar work including project name, location, contact person, budget, date of completion and state the relevance to this project.
  - Item 1 Page Limit – 6 pages, including related project summaries. More detailed project descriptions may be provided as an appendix.

The company must have successfully completed **at least three similar projects within the last five years.**

- Item 2 - Project understanding, technical approach and detailed scope of services. Identify any suggested revisions to and expand upon the detail of the general scope of work as outlined herein. Identify innovative ideas to improve upon the quality of the work, reduce schedule and optimize costs.
  - Item 2 Page Limit – 5 pages.
- Item 3 - Project staffing for all key personnel and subcontractors. Identify the proposed role of all staff proposed for this project. Provide a table of the current and projected workload of each proposed project staff member as it relates to availability to perform the proposed work. Provide the office of each proposed

project staff member and the location(s) where work will be performed. Provide an organizational chart showing all of the proposed personnel with a brief summary of experience applicable to this project. Indicate personnel role on the projects listed under Item 1 above.

- Item 3 Page Limit – 5 pages. Full resumes for key staff members may be provided as an appendix.

Item 4 - Work performed for the Authority in 2018, 2019, and 2020.

- Item 4 Page Limit – 1 page.

Item 5 - Current remaining workload with the Authority.

- Item 5 Page Limit – 1 page.

Item 6 - Completed Forms regarding Public Authorities Law §§ 2875, 2876, and 2878, State Finance Law §§139-j and 139-k and Unlawful Discriminatory Practices per Attachment 1, Appendix A (pp. 21-33).

Item 7 - Proof of insurance in accordance with Erie County Water Authority Insurance Requirements for Professional Services per Attachment 1, Appendix C.

Item 8 - Proposed project schedule, showing duration of all tasks.

- Item 8 Page Limit – 1 page.

Item 9 - Fee proposal which is to include a breakdown of fees for each task showing personnel (including title/grade), hours, hourly rates (billing and direct labor), overhead rates, and subcontractor costs for each task. Include subtask items as necessary to convey effort provided by individual personnel.

Provide an estimate of cashflow for fees over the duration of the project.

Provide information on direct costs including estimated total direct cost for non-lump sum tasks.

All consultants shall include a Special Services lump sum cost of \$50,000 for the purposes of this proposal. Provide fixed hourly billing rates for applicable personnel to be included in the Professional Services Contract as Appendix B.

- Item 9 Page Limit – 3 pages.



Proposals shall include the form on the following page for comparison purposes:

<b>Project 202100072</b>	
<b>RFP for CMMS Implementation of Cityworks Server AMS in to WTPs, Pump Stations, and WSTs</b>	
<b>Asset Inventory Updates</b>	<b>\$</b>
<b>Cityworks System Modification, Configuration, and Integration</b>	<b>\$</b>
<b>Cityworks System Testing</b>	<b>\$</b>
<b>End-user Training</b>	<b>\$</b>
<b>Technical Support (80 hrs.)</b>	<b>\$</b>
<b>Special Services</b>	<b>\$ 50,000.00</b>
<b>TOTAL:</b>	<b>\$</b>

**Proposals will be accepted until 4:00 p.m. on Friday, July 16, 2021.** Three hard copies of the proposal and one digital .pdf file (on a USB flash drive) are to be delivered to Erie County Water Authority, 3030 Union Road, Cheektowaga, NY 14227 to the attention of Mr. Leonard F. Kowalski, PE, Executive Engineer. Proposals received after this time will not be considered and will be returned unopened. All proposals being mailed (including Federal Express, UPS, Priority Mail, etc.) or hand delivered shall be directed to the attention of Mr. Kowalski in a sealed envelope and be clearly marked on the outside of the mailing or hand delivered envelope as follows: “PROPOSAL: CMMS IMPLEMENTATION OF CITYWORKS SERVER AMS WITHIN WTPs, PUMP STATIONS, AND WSTs.”

**Evaluation and Selection**

All proposals will be evaluated by a small in-house committee made up of Water Authority personnel familiar with the proposed project. Interviews and/or presentations of the proposals will be requested if needed. The proposals will be evaluated based on the criteria listed above.

The final scope of work and fee for professional services for the project will be negotiated with the selected firm. Professional Service Contracts will then be executed pending successful negotiation and authorization by the Water Authority Board of Commissioners. All firms submitting a proposal will be notified of the selection results. It is anticipated that the selection process will be completed in August 2021, and that the agreement will be executed in September 2021.

**ATTACHMENT 1**

Project No. \_\_\_\_\_  
Contract \_\_\_\_\_

**PROFESSIONAL SERVICES AGREEMENT**

This Agreement, effective as of \_\_\_\_\_, 2021 (“Effective Date”), is by and between

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

hereinafter referred to as the “Authority,” and

**Consultant Name**  
Consultant Address

hereinafter referred to as the “Consultant.”

The Authority project, for which professional services are to be provided under this Agreement, relates to the implementation of the Cityworks Server Asset Management System (AMS) within the Authority’s water treatment plants (WTPs), pump stations, and water storage tanks (WSTs) (the “Project”).

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

**ARTICLE 1 – THE PROJECT**

**1.01** The Consultant agrees to provide services for the implementation of the Cityworks Server AMS within the Authority’s WTPs, pump stations, and water storage tanks. The Authority intends that the implementation of Cityworks AMS will provide Authority personnel withh the ability to proactively manage all maintenance tasks within the WTPs, pump stations, and WSTs.

**1.02** The Consultant agrees to provide services for the following implementation components:

- A. Asset Inventory Updates,
- B. Cityworks System Modification, Configuration and Implementation,
- C. Cityworks System Testing,
- D. End-user Training,
- E. Technical Support, and
- F. Special Services.

## ARTICLE 2 – COMPLIANCE STANDARDS

### 2.01 Standard of Performance

- A. **Standard of Care:** The Consultant shall be held to the same standard of care applicable to any consultant providing similar services. The Consultant shall use the same level of care and skill customarily exercised by other professionals with the same degree of knowledge and experience under similar circumstances.
- 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.

### 2.02 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 Authorities 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 the Human Rights Law (Executive Law § 290, *et. seq.*) and Labor Law § 201-g of the laws of the State of New York. In response to the Authority’s Request for Proposals, the Consultant submitted and signed the Statement Regarding Prevention of Unlawful Discriminatory Practices, 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.

- H. 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 for the site visit; (c) the proposed date and time for the site visit; (d) the estimated start and finish time for the site visit; and (e) any additional information reasonably requested by the Authority's Security Officer. No person may visit any Authority Property without the authorization of the Authority and/or its Security Officer. While on Authority property, the Consultant's employees, representatives and engineers shall comply with the specific applicable security and access rules established by the Authority's Security Officer.

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

**2.04 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 3 – SCOPE OF SERVICE**

**3.01 Kick-off Meeting.** Prior to rendering any professional services, the Consultant will conduct a kickoff meeting with Authority personnel. The Consultant agrees to prepare and provide meeting minutes to the Authority within five business days of the meeting date.

**3.02 Special Services and Due Diligence.** The Consultant shall provide all professional services necessary to design and install the Project improvements including, but not limited to, the following:

- A. ***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. GIS-related assistance and integration.
  2. Assistance with grant research, completion of grant applications, and reporting/documentation after award.
  3. Extra travel and subsistence for the Consultant and its staff beyond that normally required under ordinary circumstances, when authorized by the Authority.

4. 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.
5. Other services, as deemed necessary by the Authority's Chief Operating Officer and Chief Financial Officer.

- B. Reliance on Others.** Subject to the standard of care set forth in § 2.01, paragraph A, the Consultant and its special services consultants may use or rely upon design elements and information ordinarily or customarily furnished by others including, but not limited to, specialty contractors, manufacturers, suppliers and the publishers of technical standards.
- C. Expert Witness Assistance.** The Consultant agrees to assist the Authority as an expert witness in litigation arising from the project development and construction, even if such assistance is requested by the Authority after the expiration or termination of this Agreement.

**3.03 Asset Inventory Updates:** The Consultant shall work with Authority staff to complete asset inventory updates based on the following:

***NOTE: For the purposes of preparing a proposal, all prospective consultants shall make the following assumptions:***

- *100 WTP Assets to be updated*
- *50 Pump Station Assets to be updated*
- *20 Water Storage Tank Assets to be updated*
- *100 Electrical Equipment Assets to be updated*

- A. Authority personnel will compile lists of assets to be updated and provide the Consultant all cut sheets, manuals, and other pertinent information for each asset.
- B. The Consultant shall coordinate with Authority personnel for the configuration of the necessary information for each asset in the Authority's Cityworks AMS. The Consultant shall ensure that all pertinent information for each asset is up-to-date and correct within the Authority's Cityworks AMS. The Consultant shall update or create templates and associated security access for Authority users for each asset within the Authority's Cityworks AMS. The Consultant shall coordinate with the Authority's GIS personnel to ensure that each asset is properly coordinated with appropriate GIS data.
- C. Consultant agrees to attend four (4) virtual meetings (web-based conference calls) with Authority personnel regarding asset inventory updates.

**3.04 Cityworks System Modification, Configuration, and Implementation**

- A. **Modification.** Upon authorization from the Authority, the Consultant shall:
1. Meet (virtually or in-person) with Authority personnel to determine the Authority's needs for the format of template work orders, service requests, and custom inspection reports.
  2. Create template work orders, service requests, and custom inspection reports for the Authority's Cityworks AMS.
- B. **Configuration and Implementation.** Upon authorization from the Authority, the Consultant shall:
1. Configure the Cityworks database with the work orders, service requests, and custom inspection types based on Authority input.
  2. Implement the work orders, service requests, and custom inspection types within the Cityworks AMS.

**3.05 Cityworks System Performance Testing:** Upon authorization from the Authority, the Consultant shall:

- A. Provide a Test Plan to execute system testing related to the updated Authority assets, and templates for work orders, service requests, and custom inspection reports.
1. The Consultant shall submit the Test Plan to Authority personnel for review and comment. The Consultant shall revise the Test Plan based the Authority's review and comments.
- B. The Performance Testing period shall last for a period of two weeks, at a minimum. During the Performance Testing period, the Cityworks system shall be tested prior to going live with the new CMMS system. If a major failure occurs during the two-week Performance Testing period, the Performance Testing period will be restarted once the failure is resolved. The determination of a major failure will be made solely by the Authority. Successful testing shall be in accordance with the Consultant's Test Plan.
- C. All services required by the Consultant during the Performance Testing period shall be included in the Cityworks System Testing lump sum fee.
- D. The Consultant shall fix any issues encountered during the Performance Testing period prior to going live with the new Cityworks CMMS System.

**3.06 End-User Training:** Upon authorization from the Authority, the Consultant shall:

- A. Provide a comprehensive Training Plan to the Authority. The Consultant shall outline the content, sequence, and duration of each segment of all training sessions necessary to thoroughly and comprehensively prepare Authority personnel to utilize

the CMMS.

1. The Training Plan shall be submitted to Authority staff for review and comment. The Consultant shall revise the test plan based the Authority's comments.
2. The Consultant agrees to provide training to all end users of the Authority's updated Cityworks CMMS system, including users at the Authority's WTPs, pump stations, and water storage tanks, and Authority personnel responsible for electrical equipment assets. The Consultant shall be responsible for training approximately 40 end users. All training will be conducted in-person within Authority facilities.

**B. Training Classes** - Each training class shall be limited to 6 Authority trainees. The Consultant shall provide fifty-six hours of training as outlined below:

1. Water Treatment Plants – Six 4-hour sessions (24 hours total).
2. Pump Stations and Water Storage Tanks - Four 4-hour sessions (16 hours total).
3. Electrical Equipment - Four 4-hour sessions (16 hours total).

**3.07 Bi-weekly Progress Reports:** The Consultant agrees to provide the Authority with a report on the progress of the Project via email, on a bi-weekly basis, with the following information:

- A. Design work performed during the previous two weeks,
- B. Design work scheduled for the next two weeks,
- C. Schedule status/deliverable status with an updated project schedule in Microsoft Project format, identifying all project milestones and current project status,
- D. Budget status/percent completed,
- E. Input needed from the Authority or others,
- F. Updated project schedule,
- G. Requests for scope changes, and
- H. Other issues or concerns.

**3.08 Technical Support:** The Consultant shall provide technical support on an as-needed basis as follows:

- A. Provide twelve months of support p go-live, not-to-exceed 200 hours.
- B. All technical support shall occur remotely by telephone or conference call.

**3.09 Service Timeframe.** Unless otherwise extended by mutual agreement of the parties, the Consultant will render professional services relating to this Project within the following timeframe:

- A. All services under § 3.01 through § 3.06 of this Agreement shall be completed and delivered to the Authority within 180 days of the issuance of the Authority's notice to proceed. These sections are complete when the training sessions have been conducted.
- B. All services under § 3.08 of this Agreement, Technical Support, shall be completed within one year following the Consultant's completion of training sessions;
- C. All other services should be completed by the end of the project with an estimated completion date of < date to be inserted based on consultant's proposal >.

#### **ARTICLE 4 – PAYMENT OF PROFESSIONAL SERVICES**

**4.01 Lump Sum Payments:** The Consultant agrees to accept a lump sum payment for the following services:

- A. ***Asset Inventory Updates, Cityworks System Modification, Configuration, and Implementation, Cityworks System Performance Testing, and End-User Training:*** For services described under §§ 3.01 through 3.07 of this Agreement, the Authority shall pay the Consultant a lump sum which will include all expenses, labor and costs associated with this service. Payment will be made monthly based on the percentage of completion up to 100% of the total lump sum amount.

**4.02 Technical Support:** For services described under § 3.08 of this Agreement, the Authority shall pay the Consultant the payable hourly rates listed under §4.04, paragraph B and direct non-salary expenses. Overtime premium will be paid at 50% of the Consultant's direct hourly rate in addition to the payable hourly rate listed under §4.04, paragraph B. Payment for these services and expenses will be made monthly.

**4.03 Special Services:** For services described under § 3.02, paragraph A, of this Agreement, the Authority shall pay the Consultant for special services pre-approved by the Authority's Chief Operating Officer in an amount approved by the Authority's Chief Financial Officer.

- A. When the Consultant is performing the special services described in § 3.02, paragraph A of this Agreement, such services will be billed at the fixed rates included in Appendix B of this Agreement.
- B. When the Consultant obtains special services from a third party, the Consultant will be reimbursed based on the actual invoice cost paid by the Engineer, plus 5%.



**4.04 Professional Services Cost Schedule:**

**A. Professional Services Costs:**

- |   |                 |
|---|-----------------|
| 1. Lump Sum – Asset Inventory Updates   | < insert cost > |
| 2. Lump Sum – Cityworks System Modification,<br>Configuration, and Implementation | < insert cost > |
| 3. Lump Sum – Cityworks System Performance Testing                                | < insert cost > |
| 4. Lump Sum – End- User Training  | < insert cost > |

TOTAL LUMP SUM COST: < insert cost >

**B. Technical Support Costs:**

	Payable Hourly Rate	Employee Direct Hourly Rate
< Insert Staff Title >	< insert cost >	< insert cost >
< Insert Staff Title >	< insert cost >	< insert cost >

The Dollar amount for the Consultant is based fixed hour estimate of < insert hours > hours of < insert staff title > Payable Hourly Rate and < insert hours > hours of < insert staff title > Payable Hourly Rate during the duration of the project. Payment will be made for actual hours worked during the duration of construction. Actual hours will vary based on production rates of the Contractor during construction, unforeseen circumstances that develop during construction, and weather conditions.

- |                                |                 |
|--------------------------------|-----------------|
| 1. Estimated Technical Support | < insert cost > |
| 2. TOTAL NOT TO EXCEED:        | < insert cost > |

**C. Special Services (not to exceed) \$50,000.00**

**D. Other Costs:**

- |  |                       |
|--|-----------------------|
| 1. Estimated Mileage (IRS rate)                            | < insert cost >/mile  |
| 2. Estimated Copy Costs (per copy)                         | < insert cost >/sheet |
| 3. Prints (per print)                                      | < insert cost >/print |
| 4. Subcontractor Expenses, invoiced<br>as special services | Cost plus 5% maximum  |
| 5. Other Direct Non-Salary Costs                           | At cost               |

**4.05 Audit:** 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 its audit. If the audit establishes an overcharge, the Consultant agrees to refund the excess.

## ARTICLE 5 – GENERAL PROVISIONS

**5.01 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's Executive Staff. 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.

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

**5.03 Right to Terminate:** The Authority reserves the right to terminate the 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.

**5.04 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.

**5.05 Confidential Information:**

- A. 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 after the expiration or termination of this Agreement.

**5.06 Warranty:** The Consultant will perform the services in a professional, workmanlike manner, consistent with industry standards. In the event the Consultant provides services that do not conform to this warranty, the Consultant will re-perform such services at no additional cost to the Authority, including costs associated with the enforcement of this warranty. When applicable, the Consultant will endeavor to acquire materials with third party warranties that are assignable to the Authority. Unless otherwise stated in this Agreement or provision, the Consultant agrees that the warranties as prescribed by the laws of the State of New York are and will remain in effect; that this warranty and the time to exercise said warranty in effect at the time of the breach, if any, caused by any breach or by any hidden or latent defect will be as prescribed by the laws of the State of New York. The Consultant's obligation under this section is independent of any other obligations stated in this Agreement.

**5.07 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 C.
- 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 address.

**5.08 Copyrights, Trademarks and Licensing:**

- A. The Consultant agrees all materials or work 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 after 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 GIS data, documents, and other 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.

**5.09 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.

**5.10 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.

**5.11 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.

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

unless reduced to writing and signed by an authorized officer of the party sought to be bound by such agreement.

**5.13 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 4.
- 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.

**5.14 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.

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

**5.16 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.

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

**ARTICLE 6 – SEVERABILITY**

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

**ARTICLE 7 – TERMINATION**

**7.01** The Authority reserves the right to terminate this Agreement in the event it is found that the Certification filed by the 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

*< Insert name of Consultant >*

By \_\_\_\_\_

**STATE OF NEW YORK )**  
**COUNTY OF ERIE ) ss:**

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 2020, 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 NEW YORK ) ss:**

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 2020, before me personally came \_\_\_\_\_, to me known, who, being by me duly sworn, did depose and say that he resides in \_\_\_\_\_, New York, that he is the \_\_\_\_\_ 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**  
**REQUIRED FORMS**

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



**NON-COLLUSIVE BIDDING CERTIFICATION**  
**as mandated by Public Authority Law § 2878**

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

- (1) The prices in this bid or proposal have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder/respondent or with any competitor; and
- (2) Unless otherwise required by law, the prices which have been quoted in this bid or proposal have not been knowingly disclosed by the bidder/respondent and will not knowingly be disclosed by the bidder/respondent prior to opening, directly or indirectly, to any other bidder/respondent or to any competitor; and
- (3) No attempt has been made or will be made by the bidder/respondent to induce any other person, partnership, or corporation to submit or not to submit a bid for the purpose of restricting competition.

**NOTICE**

(Penal Law § 210.45)

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

Affirmed under penalty of perjury this \_\_\_\_\_ day \_\_\_\_\_, 20\_\_

FIRM NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

\_\_\_\_\_ ZIP \_\_\_\_\_

AUTHORIZED SIGNATURE \_\_\_\_\_

TYPED NAME OF AUTHORIZED SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_ TELEPHONE No. \_\_\_\_\_

**SECTION 2875 OF THE PUBLIC AUTHORITIES LAW**

§2875. GROUND FOR CANCELLATION OF CONTRACT BY PUBLIC AUTHORITY. A clause shall be inserted in all specifications or contracts hereafter made or awarded by any public authority or by any official of any public authority created by the state or any political subdivision, for work or services performed or to be performed or goods sold or to be sold, to provide that upon the refusal of a person, when called before a grand jury, head of a state department, temporary state commission, or other state agency, the organized crime task force in the department of law, head of a city department, or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation concerning any transaction or contract had with the state, any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract.

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

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

\_\_\_\_\_  
(Name of Individual, Partnership or Corporation)

By \_\_\_\_\_  
(Person authorized to sign)

(SEAL)

## SECTION 2876 OF THE PUBLIC AUTHORITIES LAW

### §2876. DISQUALIFICATION TO CONTRACT WITH PUBLIC AUTHORITY

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

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

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

\_\_\_\_\_  
(Name of Individual, Partnership or Corporation)

By \_\_\_\_\_  
(Person authorized to sign)

(SEAL)

## FORMS A, B, and C

### STATE FINANCE LAW REQUIREMENTS

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

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

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

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

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

Contractor Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**FORM B**

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

**Instructions:**

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

**Offerer Certification:**

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

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

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

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

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

Contractor Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

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

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

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

**Instructions:**

The Authority must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for procurement contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to the Authority 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:

\_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Name and Title of Person Submitting this Form: \_\_\_\_\_

\_\_\_\_\_

Contract Procurement Number: \_\_\_\_\_

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

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

If yes, please answer the next questions:

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

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

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

Governmental Entity: \_\_\_\_\_

Date of Finding of Non-Responsibility: \_\_\_\_\_

Basis of Finding of Non-Responsibility: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Add additional pages as necessary)



## **CONTRACT TERMINATION PROVISION**

### **Instructions:**

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

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

A sample of the Termination Provision is included below. If a contract is terminated in accordance with State Finance Law §139-k(5), the Erie County Water Authority, 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.

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

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

**Offerer Statement:**

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

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

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

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

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

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

Offerer Address: \_\_\_\_\_

\_\_\_\_\_

**APPENDIX B**

**FIXED RATES FOR SPECIAL SERVICES**

<b>Grade</b>	<b>Hourly Billing Rate</b>

## APPENDIX C

### INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES AGREEMENT

#### COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM (CMMS) IMPLEMENTATION OF CITYWORKS SERVER AMS WITHIN WTPs, PUMP STATIONS, AND WSTs

ECWA Project No. 202100072

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. Technology Professional Liability (Including Cyber Liability\*)**

- \$2,000,000. Per Claim
- \$2,000,000. Aggregate

\*Note: Requirement can be met through a single policy or combination of separate policies for both Cyber Liability and Technology Professional Liability

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

ACORD 25 including copy of Additional Insured Endorsement

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

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

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

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

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

Certificates of Insurance should be e-mailed to [mmusarra@ecwa.org](mailto: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.



## APPENDIX D

### ERIE COUNTY WATER AUTHORITY CONFIDENTIALITY AND COPYRIGHT LICENSING AGREEMENT

#### **LICENSE:**

Upon execution of this Agreement, the Engineer 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 Engineer-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 Engineer 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 Engineer agrees that all digital data and hard copy from the ECWA GIS Basemap Features provided to the Engineer are copyrighted by the Authority, are protected by the copyright laws of the United States and are furnished to the Engineer with all rights reserved. Therefore, the Engineer is hereby permitted to use the digital data and hard copies thereof only for the purposes allowed under this Agreement. The Engineer 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 Authority of any changes in copyright requirements, the Engineer 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 Engineer application requirements. In providing data, the Authority assumes no obligation to assist the Engineer in the use of the data, or in the development, use, or maintenance of any applications applied to the data.

Engineer 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 Engineer 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, Engineer will additionally forfeit the license acquired to use copyrighted property of the Authority.

**SPECIFIC TERMS OF ACCEPTANCE:**

This Agreement constitutes the entire agreement between the parties.