



# ERIE COUNTY WATER AUTHORITY

## INTEROFFICE MEMORANDUM

September 22, 2021

To: Terrence D. McCracken, Secretary to the Authority

From: Lavonya C. Lester, Director of Administration *LCL*

Subject: Furnish & Deliver Various Wood Products

To the ECWA for One Year, from November 1, 2021, to October 31, 2022

Project No. 202100197

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During waterline repairs and maintenance, there is a need for certain supplies in the field. Wood products are of necessity. Wood blocking and wedges are used to provide support to watermain and fittings while making repairs. The wood products make up the gap between the soil and pipe and provide a rigid support. This contract also includes dump truck side boards, which are a sacrificial part of a dump truck that gets damaged during loading and unloading of the truck.

The current contract (PN 201800199) was originally for one year, 2018-2019. Two one-year extensions were included in the previous agreement. The last extension expires on October 31, 2021. The annual spend in years past is approximately \$27,000.00.

We are looking to formally bid these items again for a one-year contract with two one-year extensions upon mutual agreement between both parties. This will be a unit price contract. The annual spend will be based on the unit cost of each product. The Administration Department is seeking Board Resolution to Advertise for the above referenced contract. The following documents are attached:

- Blue Authorization Form.
- One (1) set of Contract Documents.

### **Budget Information**

Unit: 2010

G/L: 401000-662110 Materials & Supplies

LCL: jmf

Attachment

cc: L. Kowalski

PUWA-982-2101-X-12

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

**Contract:** \_\_\_\_\_ **Project No.:** 202100197  
**Project Description:** Furnish and Deliver Various Wood Products to ECWA for 1 Year from  
11/01/2021 to 10/31/2022

**Item Description:**

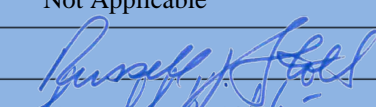

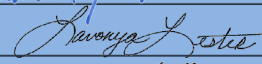
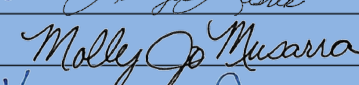


☐ Agreement ☐ Professional Service Contract ☐ Amendment ☐ Change Order  
☐ BCD ☐ NYSDOT Agreement ☒ Contract Documents ☐ Addendum  
☐ Recommendation for Award of Contract ☐ Recommendation to Reject Bids  
☐ Request for Proposals  
☐ Other \_\_\_\_\_

**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. Distribution Engineer	Not Applicable	Date: _____
<input checked="" type="checkbox"/> Chief Operating Officer		Date: 09/22/2021
<input checked="" type="checkbox"/> Executive Engineer		Date: 09/22/2021
<input checked="" type="checkbox"/> Director of Administration		Date: 09/22/2021
<input checked="" type="checkbox"/> Risk Manager		Date: 09/22/2021
<input checked="" type="checkbox"/> Chief Financial Officer		Date: 09/22/2021
<input checked="" type="checkbox"/> Legal		Date: 9/22/2021

**APPROVED FOR BOARD RESOLUTION:**

☒ Secretary to the Authority  Date: 09/22/21

**Remarks:** Unit price contract

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

Set No:

**Invitation to Bid**

**FURNISH AND DELIVER VARIOUS  
WOOD PRODUCTS TO THE ERIE  
COUNTY WATER AUTHORITY  
from NOVEMBER 1, 2021  
through OCTOBER 31, 2022**

**Project No. 202100197**

**Erie County Water Authority**  
3030 Union Road  
Cheektowaga, New York 14227



ERIE COUNTY WATER AUTHORITY  
BUFFALO, NEW YORK

FURNISH AND DELIVER VARIOUS WOOD PRODUCTS TO  
THE ERIE COUNTY WATER AUTHORITY  
FROM NOVEMBER 1, 2021 THROUGH OCTOBER 31, 2021  
PROJECT No: 202100197

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

**FURNISH AND DELIVER VARIOUS WOOD PRODUCTS TO  
THE ERIE COUNTY WATER AUTHORITY  
FROM NOVEMBER 1, 2021 TO OCTOBER 31, 2022**

PROJECT NO: 202100197

NOTICE TO BIDDERS

The Erie County Water Authority will receive separate, sealed bids for the furnishing of all labor, plant, tools, equipment and specified materials for **furnish and deliver various wood products to the Erie County Water Authority from November 1, 2021 to October 31, 2022.**

Bids must be received by the Erie County Water Authority no later than 11:00 a.m. EST, on **Day of Week, Date** at the Service Center Front Desk, Erie County Water Authority, 3030 Union Road, Cheektowaga, New York 14227.

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

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

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

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

All bids being mailed (including FedEx, UPS, Priority Mail, etc.) or delivered shall be directed to the "SERVICE CENTER FRONT DESK" at the address listed above in a sealed envelope and be clearly marked on the outside of the mailing or hand-delivered envelope "BID ENCLOSED- FURNISH AND DELIVER VARIOUS WOOD PRODUCTS TO THE ERIE COUNTY WATER AUTHORITY FROM NOVEMBER 1, 2021, TO OCTOBER 31, 2022".

Beginning at 9:00 a.m., on **day, date**, 2021, Project Manuals and accompanying drawings, if applicable, may be obtained by writing the Service Center Front Desk at the above address or calling 716-684-1510, between the hours of 9:00 a.m. and 4:00 p.m. Contract Documents will be mailed to prospective bidders wishing to obtain a set upon receipt of prospective bidder's charge number for UPS or FedEx. The mailing date will be considered the bidder's date of receipt. Partial sets of documents will not be available.

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

In accordance with State Finance Law §§139-j and 139-k, all questions about meaning or intent of the bidding documents shall be submitted to the designated contact person in writing. The designated contact is Lavonya Lester, Director of Administration, Erie County Water Authority, 3030 Union Road, Buffalo, New York 14227, email: [llester@ecwa.org](mailto:llester@ecwa.org).

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

ERIE COUNTY WATER AUTHORITY

TERRENCE D. McCracken  
Secretary to the Authority

ERIE COUNTY WATER AUTHORITY  
BUFFALO, NEW YORK

FURNISH AND DELIVER VARIOUS WOOD PRODUCTS TO  
THE ERIE COUNTY WATER AUTHORITY  
FROM NOVEMBER 1, 2021 THROUGH OCTOBER 31, 2022  
PROJECT No: 202100197

INSTRUCTIONS TO BIDDERS

1. BID SHALL BE SUBMITTED ON THESE ERIE COUNTY WATER AUTHORITY (the "Authority") BID FORMS or bid will not be considered. Bid must be typed or printed in ink. Original autograph signatures in ink are required. Facsimile or rubber stamp signatures will not be accepted. ALL PAGES OF THIS BID DOCUMENT MUST BE RETURNED INTACT.
2. LATE PROPOSALS. Any bids received at the Authority after the date and time prescribed will not be considered for contract award.
3. EMERGENCY CLOSINGS. In the event of an emergency closing of certain Authority facilities and/or operations and/or services due to any flood, fire, fire drill, power failure, uncontrolled weather conditions or other cause beyond the Secretary to the Authority's control, only bids received prior to the date and time or postmarked as of the date prescribed will be considered for contract award.
4. ANY CHANGE IN WORDING OR INTERLINEATION OF THE ADVERTISEMENT AS PUBLISHED BY THE AUTHORITY shall be reason to reject the proposals in the event that such change in the Advertisement to Bid is not discovered prior to entering into a contract, to void any contract entered into pursuant to such bid. Proposals may be rejected if they show any omissions, alterations of form, additions not called for, conditional or alternate bids other than are provided for in the proposal form, escalation clauses or irregularities of any kind.
5. THE AUTHORITY, IN THE BEST INTERESTS OF THE PUBLIC, RESERVES THE RIGHT TO REJECT any and all bids, to accept either in whole or in part any one bid or combination of bids as may be provided in the bid specifications, and to waive any informalities in bids. The Authority does not obligate itself to accept the lowest or any other proposal, and reserves the right to re-bid.
6. CONTRACT(S) OR PURCHASE ORDER(S) WILL BE AWARDED after due consideration of the suitability of goods and/or services bid to satisfy these specifications, the total cost of such goods and/or services including all cost elements, and the timeliness of the agreed upon delivery date.
7. An EXECUTORY CLAUSE shall be a part of any agreement entered into pursuant to this bid. See, § 7 of the Proposed Contract Documents.

8. FAILURE TO MEET DELIVERY SCHEDULE as per accepted bid may result in legal action by the Authority to recover damages.
9. PRICES SHALL BE QUOTED F.O.B. DESTINATION.
10. COLLECT TRANSPORTATION CHARGES WILL NOT BE PAID BY THE AUTHORITY. All freight, cartage, rigging, postage or other transportation charges shall be prepaid and included in the bid. There will be no additional charges for delivery.
11. NO TAXES ARE TO BE BILLED TO THE AUTHORITY. Bids shall not include any State or local excise, sales, transportation or other tax, unless State law specifically levies such tax on purchases made by a public benefit corporation created by the State of New York. The Authority Purchase Order is an exemption certificate. Any applicable taxes from which the Authority is not exempt shall be listed separately as cost elements and added into the total net bid.
12. THE SUCCESSFUL BIDDER shall comply with all laws, rules, regulations and ordinances of the Federal Government, the State of New York and any other political subdivision or regulatory body which may apply to Bidder's performance under this contract.
13. GRATUITIES, ILLEGAL OR IMPROPER SCHEMES. The Authority may terminate contracts or purchase orders, if it is determined that gratuities in the form of entertainment, gifts or otherwise were offered or given by a vendor, his agent or representative to any Authority official or employee with a view towards securing favorable treatment with respect to the awarding of this bid or the performance of the contract or purchase order. The Authority may also terminate a contract or purchase order if it is determined that the successful bidder engaged in any other illegal or improper scheme promotive of favoritism or unfairness incidental to the bidding process or the performance of the contract or purchase order. In the event that it is determined that said improper or illegal acts occurred, the Authority shall be entitled to terminate the contract or purchase order and/or exercise any other remedy available to it under existing law.
14. ANY CASH DISCOUNT which is part of a bid will be considered as a reduction in the bid prices in determining the award of the bid. Date of invoice must not precede date of delivery. The Authority policy is to pay all claims in a timely manner within the specified time. However, if for some reason payment is delayed, the Authority will take the discount when payment is made. The Authority will not pay any interest charges nor refund discount amounts taken after the discount period. If this procedure is unsatisfactory, please quote net.
15. ANY ADDITIONAL INFORMATION which bidder desires to add to the bid shall be written on a separate sheet of paper attached to and submitted with the formal sealed bid to be read at the formal opening.
16. WARRANTY: Notwithstanding anything to the contrary herein contained, BIDDER agrees that the warranties as prescribed by the Laws of the State of New York are and will remain in effect; that this warranty and the time to exercise said warranty in effect at the time of the breach, if any, caused by any breach or by any hidden or latent defect will be as prescribed



by the Laws of the State of New York. The obligations of BIDDER herein are independent of any other obligations.

17. THIS BID IS FIRM AND IRREVOCABLE for a period of 45 days from the date and time of the bid opening. If a contract is not awarded within the 45 day period, a bidder to whom the bid has not been awarded may withdraw his bid by serving written notice upon the Secretary to the Authority of his intention to do so.
18. PRICES CHARGED TO THE ERIE COUNTY WATER AUTHORITY are to be no higher than those offered to any other governmental or commercial consumer. If a bidder has a New York State or a Federal GSA contract for any of the items covered in this bid or any similar items, he shall so indicate that he has said contract on these bid papers and automatically supply a copy of this contract within five days after notification of award.
19. PRICE IS FIRM. The unit prices bid shall remain firm and any other charges bid shall also remain firm for delivery of the equipment, material, work, or services described in this bid. No cost increase shall be charged for any reason whatsoever.
20. EXTENSION OF PRICE PROTECTION. Any contract entered into pursuant to this bid to supply the Authority requirements of goods and/or services for a definite period of time as stated in the attached specifications may be extended for not more than two successive periods of equal length at the same bid price upon the mutual agreement of the successful bidder and the Authority. All extensions shall be submitted in writing and shall have prior approval by the Secretary to the Authority.
21. IN EXECUTING THIS BID, THE BIDDER AFFIRMS that all of the requirements of the specifications are understood and accepted by the bidder, and that the prices quoted include all required materials and services. The undersigned has checked all of the bid figures, and understands that the Authority will not be responsible for any errors or omissions on the part of the undersigned in preparing this bid. Mistakes or errors in the estimates, calculations or preparation of the bid shall not be grounds for the withdrawal or correction of the bid or bid security. In case of error in extension of prices in the bid, the unit price will govern.
22. ACCOUNTABILITY. The undersigned shall be fully accountable for his or its performance under this bid or any contract or purchase order entered into pursuant to this bid, and agrees that he or its officers will answer under oath all questions relevant to the performance thereof and to any transaction, act or omission done or omitted in connection therewith if called before any Judicial, County or State officer or agency empowered to investigate the contract or his performance.

FURNISH AND DELIVER VARIOUS WOOD PRODUCTS To  
THE ERIE COUNTY WATER AUTHORITY  
FROM NOVEMBER 1, 2021 THROUGH OCTOBER 31, 2022  
PROJECT No: 202100197

BID FORM AND BID FORM SUPPLEMENTS

OPENING DATE: xxx

TIME: xxx

NAME OF BIDDER: \_\_\_\_\_

PERSON AUTHORIZED TO ENTER INTO CONTRACT FOR BIDDER:

NAME: \_\_\_\_\_

TITLE \_\_\_\_\_

SUBMISSION DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: \_\_\_\_\_

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

NAME: \_\_\_\_\_

TITLE \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: \_\_\_\_\_

EMAIL: \_\_\_\_\_

## **BID ITEMS & BID SHEET**

**BID DESCRIPTION: FURNISH AND DELIVER VARIOUS WOOD PRODUCTS TO THE ERIE COUNTY WATER AUTHORITY FROM NOVEMBER 1, 2021 TO OCTOBER 31, 2022**

PROJECT No.: 202100197

Ship to: ERIE COUNTY WATER AUTHORITY  
SERVICE CENTER  
Attention: Stores Department  
Address: 3030 Union Road, Cheektowaga, New York 14227

- 1. Bidder shall identify the manufacturer and material type in the Bidder's Proposal for all items for which a bid is submitted. Bidders shall take note that it is mandatory to provide all information requested for all Goods included under the Bid Item for which a bid is submitted.*
- 2. Deliver all wood products to the following address: ECWA Service Center, 3030 Union Road, Cheektowaga, New York 14227.*
- 3. All wood products shall be delivered within a reasonable delivery timeframe.*
- 4. Quantities provided are estimated annual aggregate amounts.*

Item No.	Quantity	U/M	Catalog No./Description	Unit Price	Total Price
1	3000	Ea.	Hardwood pointed stakes 3/4"x 2"x 36"	\$	\$
2	6000	LF	Hardwood wedges 2" x 4" x 12"	\$	\$
3	25	Ea.	Dump truck sideboard 2-1/2"x 10"x 11ft	\$	\$
4	5000	Ea.	Rough hardwood blocking 2"x 8"x 16"	\$	\$

Item No.	Quantity	U/M	Catalog No./Description	Unit Price	Total Price
5	500	Ea.	Rough hardwood blocking 4" x 4" x16"	\$	\$
<b>Total Net Bid</b>					\$

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

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

NAME OF BIDDER: \_\_\_\_\_

AUTHORIZED SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

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

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

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

ADDRESS OF PRINCIPAL OFFICE: STREET \_\_\_\_\_

CITY \_\_\_\_\_

AREA CODE \_\_\_\_\_ PHONE \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

Check one: CORPORATION \_\_\_\_\_ PARTNERSHIP \_\_\_\_\_ INDIVIDUAL \_\_\_\_\_

INCORPORATED UNDER THE LAWS OF THE STATE OF \_\_\_\_\_

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

YES \_\_\_\_\_ NO \_\_\_\_\_

TRADE NAMES: \_\_\_\_\_

ADDRESS OF LOCAL OFFICE: STREET \_\_\_\_\_

CITY \_\_\_\_\_

AREA CODE \_\_\_\_\_ PHONE \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

NAMES AND ADDRESSES OF PARTNERS:

_____	_____
_____	_____
_____	_____

IDENTIFICATION #: (COMPLETE ONE):

Federal Employer Identification Number: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

**INFORMATION REQUIRED FROM BIDDERS**  
**REGARDING PROPOSED CONTRACT DOCUMENTS**

**Question 1:**

The BIDDER represents that it has reviewed the Proposed Contract Documents beginning at page AGT-1.

CHECK ONE:

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

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

**Question 2:**

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

CHECK ONE:

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

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\*Insert Additional Page(s) if necessary.

**Question 3:**

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

CHECK ONE:

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

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

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

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

NAME OF BIDDER: \_\_\_\_\_

AUTHORIZED SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

**BID SECURITY FORM**

BIDDER (Name and Address):

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

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

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

OWNER:

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

BID

BID DUE DATE: \_\_\_\_\_

PROJECT:       **FURNISH AND DELIVER VARIOUS WOOD PRODUCTS TO THE  
ERIE COUNTY WATER AUTHORITY FROM NOVEMBER 1, 2021,  
TO OCTOBER 31, 2022**

Project No: 202100197

**BOND**

BOND NUMBER: \_\_\_\_\_

DATE: (Not later than Bid due date): \_\_\_\_\_

PENAL SUM: \_\_\_\_\_ (Words)        \_\_\_\_\_ (Figures)

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

**BIDDER**

**SURETY**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Seal)  
Bidder's Name and Corporate Seal

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Seal)  
Surety's Name and Corporate Seal

By: \_\_\_\_\_  
Signature and Title

By: \_\_\_\_\_  
Signature and Title  
(Attach Power of Attorney)

Attest: \_\_\_\_\_  
Signature and Title

Attest: \_\_\_\_\_



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

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

3.01 This obligation shall be null and void if:

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

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

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

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

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

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

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

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

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

## END OF BID BOND

**NON-COLLUSIVE BIDDING CERTIFICATION**

as mandated by Public Authority Law § 2878

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

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

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

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

**NOTICE**

(Penal Law § 210.45)

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

**BID NOT ACCEPTABLE WITHOUT FOLLOWING CERTIFICATION:**

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

TERMS \_\_\_\_\_ DELIVERY DATE AT DESTINATION \_\_\_\_\_

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

ADDRESS \_\_\_\_\_

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

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

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

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

## SECTION 2875 OF THE PUBLIC AUTHORITIES LAW

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

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

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

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

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

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

(SEAL)

## **SECTION 2876 OF THE PUBLIC AUTHORITIES LAW**

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

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

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

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

or of any political subdivision thereof or of a public authority, when called before a grand jury, head of a state department, temporary state commission, or other state agency, the organized crime task force in the department of law, head of a city department, or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath.

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

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

(SEAL)

## **FORMS A, B, and C**

### STATE FINANCE LAW REQUIREMENTS

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

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

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

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

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

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

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

## **FORM A**

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

#### **Instructions:**

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

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

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

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

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

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

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

\_\_\_\_\_

\_\_\_\_\_

**FORM B**

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

**Instructions:**

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

**Offerer Certification:**

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

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

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

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

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

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

\_\_\_\_\_

\_\_\_\_\_



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

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

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

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

**Instructions:**

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

**FORM C (Continued)****Offerer's Disclosure of Prior Non-Responsibility Determinations**

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

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

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

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

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

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle):
- No                      Yes
3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle)
- No                      Yes
4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

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

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

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Add additional pages as necessary)

**FORM C (Continued)**

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

6. If yes, please provide details below.

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

Date of Termination or Withholding of Contract: \_\_\_\_\_

Basis of Termination or Withholding:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Add additional pages as necessary)

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

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

Signature

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

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

## **Contract Termination Provision**

### **Instructions:**

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

### **Sample Contract Termination Provision**

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

**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: \_\_\_\_\_

FURNISH AND DELIVER VARIOUS WOOD PRODUCTS TO  
THE ERIE COUNTY WATER AUTHORITY  
FROM NOVEMBER 1, 2021 THROUGH OCTOBER 31, 2022  
PROJECT NO: 202100197

AGREEMENT

**MATERIALS AND SUPPLIES CONTRACT  
FOR FURNISHING AND DELIVERING VARIOUS WOOD PRODUCTS**

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

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

hereinafter referred to as the “Authority,” and

**SUPPLIER NAME**  
Street Address  
City, State Zip code

hereinafter referred to as the “Supplier.”

The Authority seeks to enter into a contract with the supplier to furnish and deliver wood products upon the terms and conditions stated in this Agreement.

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

**ARTICLE 1 – THE PROCUREMENT**

**1.01** The Supplier agrees to furnish and deliver wood products (collectively, “Wood Products”) at the pricing set forth in Article 4 of this Agreement. The Authority will notify the Supplier periodically throughout the duration of this Agreement when Wood Products are to be delivered and in what quantities.

**1.02** The Supplier shall furnish and deliver the Wood Products upon the following terms and conditions:

- A. All Wood Products shall meet the specification which are attached to, and incorporated in this Agreement as Appendix A.
- B. All Wood Products shall be delivered to the Authority’s Service Center located at 3030 Union Road, Cheektowaga, New York 14227 (“Service Center”).

- C. The Authority will determine the quantity of Wood Products to be supplied by the Supplier during the term of this Agreement. In its Invitation to Bid, the Authority estimated the quantity of Wood Products it expects to order from the Supplier. The Supplier is not entitled to any adjustment in the unit price as a result of changes in these items ranging from zero to any quantity. The Supplier shall not make any claim for anticipated profits, loss of profits or for other damages as a result of changes in the quantities actually purchased.

**1.03** In response to the Authority's Invitation to Bid, the Supplier submitted and signed Bid Documents and a Proposal, a copy of which is attached to, and incorporated in, this Agreement as the Bid Form and Bid Form Supplements (BID-1 through BID-20).

**1.04** This Agreement shall remain in effect from November 1, 2021 through October 31, 2022. The parties may agree in writing to extend this Agreement under the same terms and conditions, or upon such terms and conditions acceptable to the Authority, for two (2) additional one (1) year terms.

## **ARTICLE 2 – COMPLIANCE**

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

**2.02** The Supplier shall comply with the provisions set forth in Public Authorities Law §§ 2875, 2876, and 2878 of the laws of the State of New York. In response to the Authority's Invitation to Bid, the Supplier submitted and signed the Public Authorities Law forms, a copy of which are attached to and incorporated in, this Agreement as BID-9 through BID-12.

**2.03** The Supplier shall comply with the provisions set forth in State Finance Law §§ 139-j and 139-k. In response to the Authority's Invitation to Bid, the Supplier signed and submitted, in accordance with the provisions set forth in the State Finance Law, Forms A, B, and C, a copy of which is attached to, and incorporated in, this Agreement as the BID-13 through BID-19.

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

**2.05** The Supplier shall comply with the provisions of the Human Rights Law (Executive Law § 290, *et. seq.*) and Labor Law § 201-g of the laws of the State of New York. In response to the Authority's Invitation for Bids, the Supplier submitted and signed the Statement Regarding Prevention of Unlawful Discriminatory Practices, a copy of which is attached to, and incorporated in, this Agreement, as BID-20.

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

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

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

### **ARTICLE 3 – PRICING & DELIVERY SCHEDULE**

**3.01** The Supplier shall deliver Wood Products within thirty (30) days of receipt of an Authority purchase order. No Wood Products are to be delivered unless ordered by the Authority.

**3.02** The parties agree the prices on which this Agreement is based shall be F.O.B. to the point of delivery. The Authority requires and the Supplier agrees all freight, cartage, rigging, postage or other transportation charges shall be paid by the Supplier and not charged to the Authority.

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

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

- A. If the Supplier has a New York State or a Federal GSA contract for any of the items covered under this Agreement or any similar items, the Supplier shall supply such items, if acceptable to the Authority, when the price for such item is no higher than the quoted price in this Agreement.
- B. If the Supplier offers any CASH discount, the Suppliers agree to invoice the Authority for a price not higher than offered under the CASH discount.

**3.05** The Supplier's failure to timely delivery an order shall constitute a material breach of this Agreement for which the Authority may seek and recover damages, including attorney fees and other expenses.

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



## ARTICLE 4 – PAYMENT

**4.01** The Supplier agrees to supply, furnish and deliver wood products, to the Authority's Service Center at the unit prices set forth below:

Item No.	Estimated Quantities	U/M	Catalog No./Description	Unit Price
1	3000	Ea.	Hardwood pointed stakes ¾"x 2"x 36"	\$
2	6000	LF	Hardwood wedges 2" x 4" x 12"	\$
3	25	Ea.	Dump truck sideboard 2-1/2"x 10"x 11ft	\$
4	5000	Ea.	Rough hardwood blocking 2"x 8"x 16"	\$
5	500	Ea.	Rough hardwood blocking 4" x 4" x 16"	\$

**4.02** The Supplier shall be responsible for the payment of all freight, cartage, rigging, postage, or other transportation charges relating to furnishing all necessary materials. In its Bid Proposal, the Supplier submitted a proposed unit price payment for the items outlined in § 3.01 of the Article and included all freight, cartage, rigging, postage, and other transportation charges in the proposed unit price payment pursuant to the Bid Instructions. Under no circumstances will the Authority be responsible for any freight, cartage, rigging, postage, or other transportation charges related to furnishing all necessary materials to the Erie County Water Authority Service Center.

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

## ARTICLE 5 – GENERAL PROVISIONS

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

**5.02 Amendments:** The parties agree any modifications or variations from the terms of this Agreement must be in writing, authorized by a resolution of the Board of Commissioners of the Authority, and signed by all parties to be effective.

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

**5.04 Indemnification:**

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

**5.05 Insurance:**

- A. The Supplier agrees to 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 B.
- B. The Supplier agrees to provide and maintain insurance that will provide coverage for claims arising out of the negligent performance of this Agreement.
- C. The Supplier agrees to provide Certificates of Insurance certifying the coverage required by this provision.

- D. The Supplier agrees to provide the name of an employee who will be responsible for providing the Authority with current and updated Certificates of Insurance. The Authority will require the name of the employee, the employee's phone number and email address.

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

**5.07 New York Law and Jurisdiction:** Notwithstanding any other provision of this Agreement, any dispute concerning any question of fact or law arising under this Agreement which is not disposed of by agreement between the Supplier and the Authority shall be governed, interpreted and decided by a court of competent jurisdiction of the State of New York in accordance with the laws of the State of New York.

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

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

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

**5.11 Independent Status:** Nothing contained in the Agreement shall be construed to render either the Authority or the Supplier, an owner, member, officer, partner, employee or agent of the other, nor shall either party have authority to bind the other in any manner, other than as set forth in this Agreement, it being intended that the Supplier shall remain an independent contractor

responsible for its own actions. The Supplier is retained by the Authority only for the purpose and to the extent set forth in this Agreement.

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

**5.13 Force Majeure:** The Supplier shall not be liable to the Authority for any failure to perform the services if any such failure is caused by forces beyond Supplier'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.

**5.14 Gratuities, Illegal or Improper Schemes:**

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

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

## **ARTICLE 6 – SEVERABILITY**

**6.01** Any provision or part of the Agreement held to be void or unenforceable by a court of competent jurisdiction shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the parties, which agrees that the Agreement shall be reformed to replace

such stricken provisions or part thereof with a valid enforceable provision that comes as close as possible to expressing the intent of the stricken provision. The validity and enforceability of all other provisions of this Agreement shall not otherwise be affected.

## **ARTICLE 7 – EXECUTORY CLAUSE**

**7.01** The parties agree and understand that this Agreement shall be executory to the extent of funds have been budgeted and appropriated by the Authority. The Authority shall not submit any purchase order without first determining whether funds have been budgeted and appropriated to pay for such procurement. If the Authority’s Comptroller rejects or holds an invoice submitted by the Supplier due to a lack of funds in the appropriate budget line, the Supplier’s only remedy would be (1) to await for a budget transfer to be approved, or (2) to accept a return of the materials and supplies F.O.B. to the point of delivery to the Supplier. The Authority shall not be subject to any further liability.

## **ARTICLE 8 – TERMINATION**

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

### **ERIE COUNTY WATER AUTHORITY**

By \_\_\_\_\_  
Jerome D. Schad, Chair

### **INSERT SUPPLIER**

By \_\_\_\_\_  
[INSERT NAME, TITLE]

STATE OF NEW YORK     )  
COUNTY OF ERIE        ) ss:

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

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK         )  
COUNTY OF ERIE            ) ss:

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 2021, before me personally came {Name}, to me known, who, being by me duly sworn, did depose and say that he resides in {City, State} that he is the {Title} of the Corporation described in the above instrument; and that he signed his name thereto by order of the Board of Directors of said Corporation.

\_\_\_\_\_  
Notary Public

## **APPENDIX A**

### **Bid Specifications**

## **BID SPECIFICATIONS**

### **BID DESCRIPTION: FURNISH AND DELIVER VARIOUS WOOD PRODUCTS TO THE ERIE COUNTY WATER AUTHORITY FROM NOVEMBER 1, 2021 TO OCTOBER 31, 2022**

PROJECT No.: 202100197

#### **SECTION 1 – WOOD SPECIFICATIONS & REQUIREMENTS**

1. Hardwood pointed stakes.
  - a. 3/4" x 2" x 36" painted hardwood stakes.
  - b. Top 1/3 of the stakes painted light blue.
  - c. One side to be smooth.
  - d. Bundled (25 stakes per bundle, separated and delivered on pallets.)
2. Hardwood wedges.
  - a. 2" x 4" x 12" long, dense hardwood only.
  - b. Hemlock not acceptable.
3. Dump Truck Sideboards.
  - a. Rough cut, oak only.
  - b. 2-1/2" x 10" x 11 ft long.
  - c. Hemlock not acceptable.
4. Rough hardwood blocking.
  - a. 2" x 8" x 16"
  - b. Hemlock not acceptable.
5. Rough hardwood blocking.
  - a. 4" x 4" x 16"
  - b. Hemlock not acceptable.
6. Wood products are to be separated and bundled. Wood products shall be palletized and strapped down to allow for ease of mobility; steel or poly bands required. Cellophane only wrapped wood product shall not be considered properly strapped down. Wood products shall be oriented with adequate spacing to allow for air flow and to prevent wood from retaining moisture.
7. Price to include delivery
8. Hardwood is defined as oak or cherry unless otherwise specified.

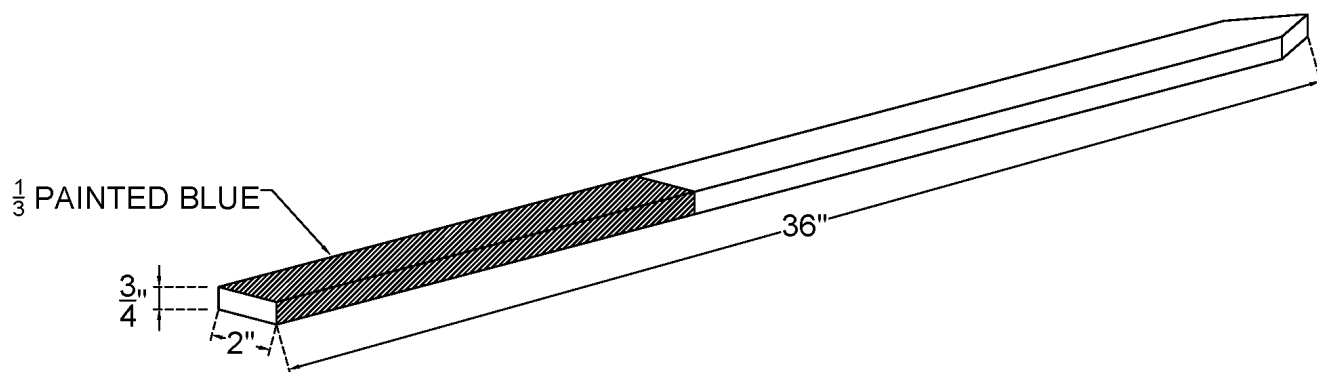
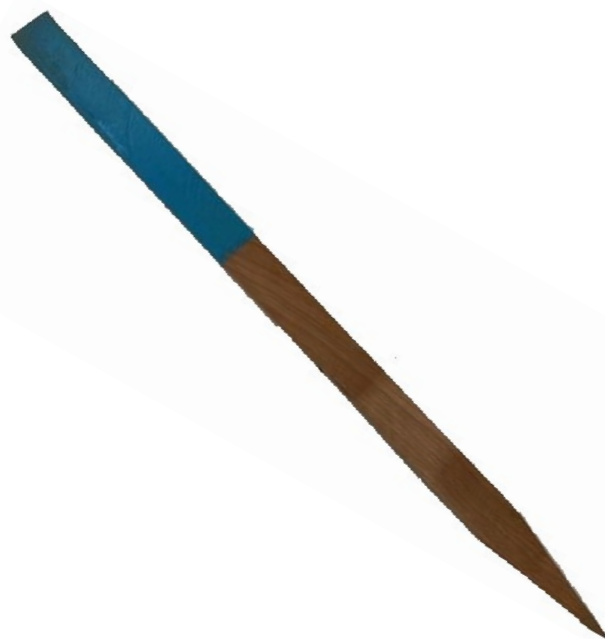


**Erie County Water Authority**

3030 Union Road  
Cheektowaga NY 14227  
Tel 716-684-1510  
FAX 716-684-3937

**PRODUCT SPECIFICATIONS****HARDWOOD POINTED STAKES****Minimum Requirements:**

- $\frac{3}{4}$ " X 2" X 36" painted stakes, made from select, knot-free, crack-free hardwood.
- Hardwood is defined as oak or cherry unless otherwise specified.
- Top 1/3 of the stakes painted light blue.
- One side to be smooth.
- Bundled (25 stakes per bundle), delivered on pallets.
- Price to include delivery.



Date: September 10, 2021  
Date Last Issued: September 10, 2021  
Date First Issued: September 10, 2021

Item Number

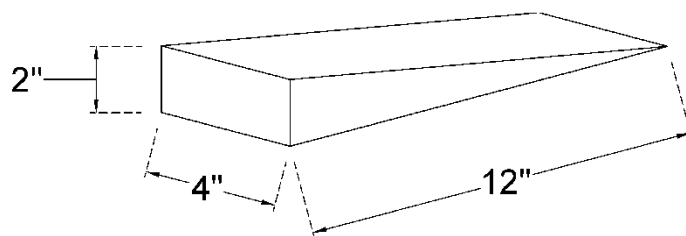
1

**Erie County Water Authority**

3030 Union Road  
Cheektowaga NY 14227  
Tel 716-684-1510  
FAX 716-684-3937

**PRODUCT SPECIFICATIONS****HARDWOOD WEDGES****Minimum Requirements:**

- 2" X 4" X 12" long, made from select, knot-free, crack-free hardwood.
- Hardwood is defined as oak or cherry unless otherwise specified.
- Hemlock not acceptable.
- Price to include delivery.



Date: September 10, 2021  
Date Last Issued: September 10, 2021  
Date First Issued: September 10, 2021

Item Number

2



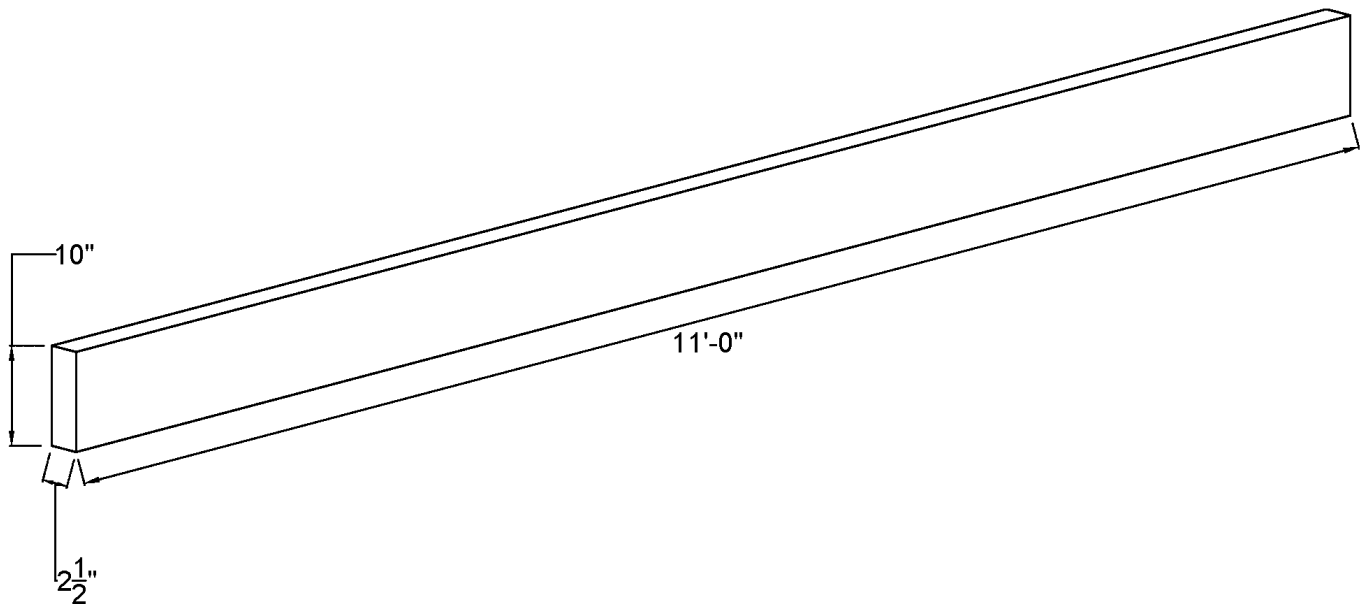
**Erie County Water Authority**  
3030 Union Road  
Cheektowaga NY 14227  
Tel 716-684-1510  
FAX 716-684-3937

## PRODUCT SPECIFICATIONS

### DUMP TRUCK SIDE BOARDS

#### Minimum Requirements:

- Rough cut, oak only.
- 2-1/2" X 10" X 11 ft. long.
- Hemlock not acceptable.
- Price to include delivery.



Date: September 10,2021  
Date Last Issued: September 10,2021  
Date First Issued: September 10,2021

Item Number

3



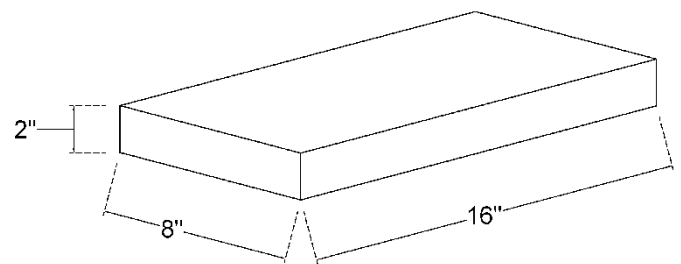
**Erie County Water Authority**  
3030 Union Road  
Cheektowaga NY 14227  
Tel 716-684-1510  
FAX 716-684-3937

## PRODUCT SPECIFICATIONS

### HARDWOOD BLOCKING 2" X 8" X 16"

#### Minimum Requirements:

- Made from select, knot-free, crack-free hardwood.
- Hardwood is defined as oak, or cherry unless otherwise specified.
- All to be bundled and palletized.
- Price to include delivery.



Date: September 10,2021  
Date Last Issued: September 10,2021  
Date First Issued: September 10,2021

Item Number

4



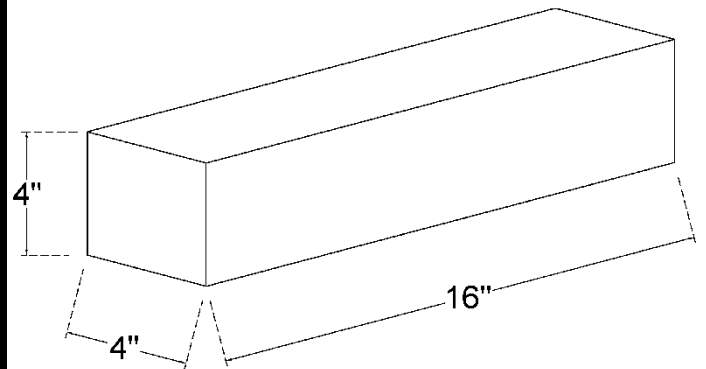
**Erie County Water Authority**  
3030 Union Road  
Cheektowaga NY 14227  
Tel 716-684-1510  
FAX 716-684-3937

## PRODUCT SPECIFICATIONS

### HARDWOOD BLOCKING 4" X 4" X 16"

#### Minimum Requirements:

- Made from select, knot-free, crack-free hardwood.
- Hardwood is defined as oak, or cherry unless otherwise specified.
- All to be bundled and palletized.
- Price to include delivery.



Date: September 10,2021  
Date Last Issued: September 10,2021  
Date First Issued: September 10,2021

Item Number

5

## **APPENDIX B**

### **Insurance Requirements**

**FURNISH AND DELIVER VARIOUS WOOD PRODUCTS TO  
THE ERIE COUNTY WATER AUTHORITY FROM  
NOVEMBER 1, 2021 TO OCTOBER 31, 2022**

**Project No.: 202100197**

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 lifetime use of vendors "Product" and/or applicable statute of limitation. 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
- Per Project/Job Aggregate Limit Required
- 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
- Per Project/Job Aggregate Limit Required
- Erie County Water Authority to be scheduled as an Additional Insured

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.