

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

Contract: _____ **Project No.:** 201900219
Project Description: Comprehensive Facilities Plan

Item Description:

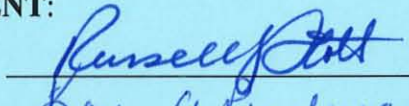
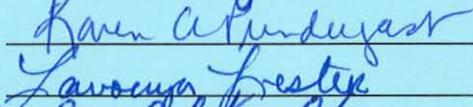
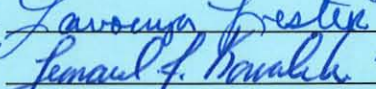

- | | | | |
|---|--|---|---------------------------------------|
| <input type="checkbox"/> Agreement | <input type="checkbox"/> Professional Service Contract | <input type="checkbox"/> Amendment | <input type="checkbox"/> Change Order |
| <input type="checkbox"/> BCD | <input type="checkbox"/> NYSDOT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

Action Requested:

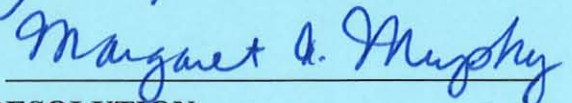
- | | |
|--|--|
| <input type="checkbox"/> Board Authorization to Execute | <input checked="" type="checkbox"/> Legal Approval |
| <input type="checkbox"/> Board Authorization to Award | <input type="checkbox"/> Execution by the Chairman |
| <input type="checkbox"/> Board Authorization to Advertise for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

Approvals Needed:

APPROVED AS TO CONTENT:

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

APPROVED AS TO FORM:

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

APPROVED FOR BOARD RESOLUTION:

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

Remarks: _____

Resolution Date: _____

Item No: _____



ERIE COUNTY WATER AUTHORITY
INTEROFFICE MEMORANDUM

September 25, 2019

To: Terrence D. McCracken, Secretary to the Authority

From: Leonard F. Kowalski, Senior Distribution Engineer

Subject: Request for Proposals
Comprehensive Facilities Plan
ECWA Project No. 201900219

A handwritten signature in blue ink, likely belonging to Leonard F. Kowalski, is written over the "From:" line.

Professional Services are required for the completion of a Comprehensive Facilities Plan (CFP), the scope of which consists of on-site condition reviews, space needs assessments, and a 30-year master plan document examining the alternatives for the projected use of the existing Union Road Service Center Facility, current leased space at the Ellicott Square Building, and/or a new office and operational space and facilities.

The Comprehensive Facilities Plan represents the first part of a multi-phase project by providing the planning and schematic design roadmap for the expansion, renovation, re-purposing and/or replacement of existing Authority facilities. The 2019 Capital Budget includes funds for the completion of this project.

Attached is the final copy of the Request for Proposals for the above referenced project. We are requesting Board authorization to solicit proposals and recommend that the Request for Proposals be issued to include the following architectural/engineering firms:

Carmina, Wood, Morris, DPC
Foit Albert Associates
Hamilton Houston Lownie Architects, LLC
Kideney Architects, PC
Labella Associates, PC
RCS Architecture, PLLC
Scheid Architectural, PLLC
Trautman Associates
Young + Wright Architectural

LFK:jmf

Attachments

cc: K.Prendergast

L.Lester

R.Stoll

M.Wymer

T.Fabozzi

**ERIE COUNTY WATER AUTHORITY
REQUEST FOR PROPOSALS
FOR CONSULTING ENGINEERING SERVICES**

COMPREHENSIVE FACILITIES PLAN

ECWA Project No. 201900219

General

The Erie County Water Authority (Authority) is seeking Professional Services Proposals for the completion of a Comprehensive Facilities Plan (CFP), the scope of which consists of on-site condition reviews, space needs assessments, and a 30-year master plan document examining the alternatives for the projected use of the existing Union Road Service Center Facility, current leased space at the Ellicott Square Building, and/or a new office and operational space and facilities.

The Authority reserves the right to modify or cancel this Request for Proposals and/or the projects; 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 any of the projects or to reimburse any costs associated with the preparation of any proposal.

The Request for Proposal (RFP) is being conducted pursuant to the New York State Finance Law §§139-j and 139-k and the Erie County Water Authority's Procurement Disclosure Policy. The Procurement Disclosure Policy is available by accessing the Erie County Water Authority's web site – <http://www.ecwa.org>, under the caption "Doing Business with ECWA".

Facility Descriptions

The Erie County Water Authority Service Center is located at 3030 Union Road in Cheektowaga, New York and consists of multiple structures/services located on a single 10.7-acre parcel. The original main building was constructed in 1959, followed by several additions and renovations, bringing the total square footage to approximately 77,000 square feet. The Service Center Facility is made up of the following components:

- Main Building containing offices and work areas for administrative and engineering, IT/Information Services, meter shop/maintenance crew and leak detection, material stores, mechanics garage, and common areas such as conference meeting rooms.
- North and South Vehicle Garages
- Warehouse (Building 5) and adjacent lean-to storage areas
- Stone Bin
- Vehicle Refueling Station with underground tank
- Former Vukelic Pumping Station (vacant)
- Spoils/Excavated Material storage area

- Material Storage Yard
- Electrical Transformer Station
- Employee and Authority Vehicle Parking

In addition to the Service Center, the Authority leases approximately 16,247 square feet of space in the Ellicott Square Building in downtown Buffalo, NY, as the primary location of customer service, legal, and management position offices.

General Scope of Work

The Comprehensive Facilities Plan represents the first part of a multi-phase project by providing the planning and schematic design roadmap for the expansion, renovation, re-purposing and/or replacement of existing Authority facilities. The CFP shall consider the following overarching scenarios:

1. Improved Service Center Facility
2. Improved Service Center Facility to include the relocation of employees currently located at the Ellicott Square Building
3. Facility to replace both the existing Service Center and Ellicott Square Building locations (new build or renovated space).

Generally, the scope of work for this project shall be as follows.

- Review and summarize all available data for the Service Center and Ellicott Square Building locations including past studies.
- Conduct a condition assessment of all Service Center facilities.
- Interview key Authority staff as to current and proposed staffing levels and facility use.
- Identify the space requirements of all groups/divisions/services within the Authority.
- Assess the ability of the Service Center Facility and Ellicott Square Building to serve Authority functional needs.
- Make recommendations as to which (if any) buildings should be renovated, replaced, relocated, etc.
- Recommend alternative locations for a new facility considering available land/space, location within the Authority's service area, available amenities (parking, transportation, etc.).
- Provide cost estimates for corrections, replacement, and/or reconstruction work for each scenario.
- Provide a suggested priority list and/or timeline for accommodating the recommended replacement and/or reconstruction work.
- Collect and summarize all project work in a single, comprehensive master plan document.

Phase 1 - On-Site Condition Assessment

The consultant shall inspect the Service Center Facility and document all components and elements requiring maintenance, repair, and/or major capital investment. The inspection process will be augmented with information provided by Authority staff regarding the current and

projected uses of each facility, the current and projected staffing levels for each facility and any known deficiencies currently affecting these needs.

Prior to the start of on-site assessment, the Consultant shall develop a data management plan with assessment standards/forms to ensure consistency and completeness of data gathered by the various engineering/architectural disciplines. An assessment schedule with planned survey dates for specific facilities shall be submitted as part of the data management plan.

The consultant will thoroughly examine building systems using non-destructive, on-site observation methods to compile a complete understanding of current building conditions and renovation needs for the Service Center Facility. The assessment shall be performed in accordance the established industry standards by individuals trained and licensed and/or certified in construction, engineering or architecture for the specific building systems they are assessing.

The types of building systems surveyed shall include, but are not limited to, the following systems:

- Site: topography/drainage, access/egress, traffic patterns, paving, curbing, parking, utilities, spoils storage
- Exterior Systems: foundation, roofs, walls, window systems, exterior doors, civil/structural components, lighting
- Interior Systems: walls, doors, flooring, ceiling, hardware, lighting, architectural components
- Fire and Safety Systems: including alarms, and fire escapes routes
- HVAC: including controls
- Electrical: including transformer stations, internal electrical distribution and back-up generators
- Plumbing systems: fixtures, supply, storm and sanitary sewer drainage, valving, irrigation, fire protection
- Elevator systems
- Outbuildings: including equipment storage buildings, refueling stations, mechanics garage, and vehicle storage.
- Security: including lighting, fencing and public access control.

The consultant is expected to identify locations of suspected hazardous materials (lead paint, asbestos, etc.) or concerning environmental considerations, based on known/ assumed age and type of construction for each facility. Specialized hazardous material sampling /testing is not in the scope of proposed work and would be considered as a Special Service, and where authorized, would be paid from the designated fee allowance.

At the conclusion of the on-site condition assessment, the Consultant shall provide a comprehensive document which shall include the categorization of immediate, short-term, and long-term capital repair and replacement requirements to include:

- Assessment of current facility conditions including condition data sheets.
- Assessment of each building's compliance with applicable building codes
- Estimated life expectancy of each component
- Estimated current market value of the Service Center Facility buildings and property.

- Identification of major repairs which require immediate undertaking (present-5 years out) and estimate of associated costs
- Identification of major repairs which will likely be necessary in the foreseeable future (5, 10, 20, and 30 years out) and estimate of likely costs

Phase 2 - Needs Assessment

The consultant shall prepare a Needs Assessment that includes a summary of how the Service Center and Ellicott Square Building facilities are being utilized, identifying whether individual areas are over- or under-utilized.

The Consultant shall conduct interviews with designated Authority representatives to help identify specific past, current, and expected future operational and facility needs and deficiencies.

For each location, the assessment shall include the following tasks:

- Identify the nature of work performed in, or function on, each workspace and assess departmental space needs and requirements.
- Identify the number of employees using each space
- Assess as to whether current spaces are functioning efficiently and effectively. Identify cost-effective layout alterations that may provide space for additional employees to possibly defer additional construction activity
- Identify inter/intra-departmental working relationships and the level of intensity of those working relationships related to space planning. Identify the physical proximity needs of the inter/intra departmental working relationships
- Identify ancillary and accessory requirements, such as conference/meeting rooms, printer/copier areas, and file & storage space. Also include functional spaces, such as restrooms, mechanical rooms, vestibules, stairwells, elevators, hallways, and similar space allocations
- Identify security issues and concerns and discuss with appropriate Authority personnel the ways they can be addressed
- Assess whether the specific space is currently adequate given the nature of the work performed therein or the function thereof.
- Assess whether the specific space will be adequate into the foreseeable future (5, 10, 20, and 30 years out) given the nature of the work performed therein or function thereof and the possible expansion of the work or the number of employees performing such work.
- Assess each facility's exterior features that support the facility on its site, including public and entry access, on-site storage of parts and materials, maintenance activities, spoils storage and handling and vehicle accommodations
- Assess parking capacity for public and staff needs
- Assess public accessibility to public meeting spaces

Phase 3 - Conceptual Design

Taking the information gathered through the existing conditions and needs assessment, Consultant shall generate a minimum of three (3) schematic design options for improvements to

the existing Service Center Facility, and a minimum of three (3) schematic design options for improvements to the existing Service Center Facility to include the relocation of employees currently located at the Ellicott Square Building. These design options should generate building floor plans and site plans to reflect design intent.

The conceptual design phase shall also analyze an additional schematic design option of the scenario in which the functions performed at the Service Center Facility and Ellicott Square Building are merged and relocated to a single new facility in an alternate location. Provide a minimum of two (2) schematic design options for a new facility. Provide a minimum of five (5) location options and summarize criteria for evaluation of each site including available land/space, location within the Authority's service area, available amenities (parking, transportation, etc.).

Consultant shall develop and facilitate a process to develop and present the assumptions, goals, and requirements for review, discussion, and refinement of the presented conceptual designs. Within each design concept, the consultant shall provide recommendations for immediate, five, ten, and twenty-year expenditures including related costs and schedule recommended improvements.

Conceptual phasing plans shall be described to allow for continued Authority operations throughout the recommended improvements.

Phase 4 – Comprehensive Facilities Plan Document

Using information developed in Phases 1 through 3 provide a comprehensive facilities plan document that summarizes the existing conditions, needs assessment, schematic designs and identifies the recommended path moving forward. The document should include an Executive Summary, purpose and needs statement, evaluations performed, evaluation of alternatives, preliminary cost estimates and schedules, supported by relevant exhibits and supporting information.

Progress or draft submittals – Ten (10) hard copies, one (1) digital .pdf file, and copies of all digital files in their native format for review and commenting.

Final Reports – Ten (10) bound hardcopies, one (1) digital .pdf file, and digital copies of all component files in their original file format.

Special Services

The Authority may require one or more of the following special services in carrying out the project.

1. Soils Investigations - including test borings, pavement cores, and the related analysis.
2. Detailed mill, shop and/or laboratory inspection of materials and equipment.
3. Land surveys, maps, plates, descriptions and title investigations which may be required to acquire lands, easements, and rights-of-way for the proposed facilities.
4. Additional copies of reports, contract drawings and documents.

5. Extra travel and subsistence for the Consultant and his staff beyond that normally required under ordinary circumstances, when authorized by the Authority.
6. Assistance to the Authority serving as an expert witness in litigation arising from project development or construction.
7. New York State SEQR (Type I and Unlisted Actions).
8. Air, water, and/or soil sampling, testing, and/or analysis.
9. Operation and maintenance manuals.
10. Start-up services.
11. Hazardous material testing and assessment.
12. Wetlands investigations, delineation, and mitigation.
13. Storm Water Pollution Prevention Plans
14. Applications for NYSDEC permitting

Information Requests

All questions and requests for information are to be directed to the designated ECWA Contact Person, Michael W. Wymer, PE, Senior Production Engineer at 716-685-8292, in accordance with New York State Finance Law §§139-j and 139-k. An optional pre-proposal meeting will be held at the Union Road Service Center (3030 Union Road, Cheektowaga, NY 14227) on _____ at _____ AM. local time to view the work location and discuss the project.

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. Each proposal is to include the following:

- Item 1 - Qualifications and related experience, particularly on the type of projects outlined above. Respondents should draw from previous experience and demonstrated competence to articulate how their capabilities are distinct, comprehensive, and add value. Consultant should further document expertise by including the information regarding the following:
- Facility and Property Condition Assessments to include applicable facility inventory use, type, and area (square feet).
 - Understanding of operations, activities, staffing needs and maintenance of public facilities including water utilities.
 - Experience with the use of life-cycle cost and value engineering for similar facilities.
 - Any other information that would assist the review team in understanding the consultant's experience and capacity to efficiently and effectively complete the project.
 - A minimum of three (3) references for similar work. Provide project name, location, contact person, budget, and date of completion.

- Item 2 - Project understanding, technical approach and detailed scope of services. Identify any suggested revisions to the scope of work as outlined herein. Consultant should outline methodology and logistics capable of meeting the goals outlined in the scope, as well as provide a proposed work plan for development and implementation of the described in the scope of work. Discuss challenges or any other project issues that may affect the successful completion of the work.
- Item 3 - Project staffing for all key personnel and subcontractors; current workload; and office location(s) where work will be performed for each project. Provide detail relating to the experience and qualifications of the members of the team, including an organizational chart showing all key personnel who will be assigned to this project. Submit brief resumes demonstrating the training, experience, and other qualifications of the key personnel who will be assigned to this project.
- Item 4 - Work performed for the Water Authority in 2017, 2018, and 2019.
- Item 6 - Current remaining workload with the Water Authority.
- Item 7 - Completed attachment titled Section 139 of State Finance Law per attached.
- Item 8 - Proof of insurance in accordance with the Erie County Water Authority Insurance Requirements for Professional Services as follows below.
- Item 9 - Proposed project schedule. Clearly identify the timeline of each scope component, kickoff and progress meetings, and pertinent milestones.
- Item 10 - Fee proposal which is to include a breakdown of engineering fees for each construction contract showing personnel, hours, hourly rates, overhead rates, and subcontractor costs for each phase per the scope of work. All consultants shall include Special Services lump sum cost of \$20,000.00 for the purposes of this proposal.

Proposals shall include the following form for comparison purposes:

Project 201900219 – RFP for: COMPREHENSIVE FACILITIES PLAN	
Comprehensive Facilities Plan	\$
Special Services	\$ 20,000.00
TOTAL:	\$

Proposals will be accepted until 4:00 p.m. on _____. Five copies of each proposal are to be delivered to Erie County Water Authority, 3030 Union Road, Cheektowaga, New York 14227 to the attention of Mr. Russell J. Stoll, PE, Executive Director. 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. Stoll in a sealed envelope and be clearly marked on the outside of the mailing or hand delivered envelope as follows: "PROPOSAL – COMPREHENSIVE FACILITIES PLAN".

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 the engineering services for the project will be negotiated with the selected firm(s). Professional Service Contracts will then be executed pending successful negotiation and authorization by the Water Authority Board of Commissioners. All firms submitting proposals will be notified of the selection results. It is anticipated that the selection process will be completed in December 2019, and that the agreement will be executed in January 2020.

Insurance Requirements

Insurance Requirements

Erie County Water Authority Insurance Requirements for Vendor Services

Project Number: **201900219**

Description: **Comprehensive Facilities Plan**

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

Insurance Requirements:

a) Workers Compensation:

Part 1: Workers Compensation: Statutory

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

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

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

c) Commercial General Liability:

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

d) Automobile Liability:

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

e) Umbrella Liability:

- \$1,000,000. Each Occurrence
- \$1,000,000. Aggregate

- Erie County Water Authority to be scheduled as an Additional Insured

f) Professional Liability

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

g) Certificates of Insurance to be provided to ECWA prior to start of work as follows:

- ACORD 25 (Item a-f) 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 ECWA 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 ECWA 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 ECWA 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 ECWA, 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.

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 ECWA shall not be construed to relieve the outside vendor of any obligations, responsibilities or liabilities.

Certificates of Insurance should be e-mailed to mmurphy@ecwa.org or mailed to Ms. Margaret Murphy, ECWA General Counsel Erie County Water Authority, 295 Main Street – Room 350, Buffalo, New York 14203-2494, or If you have any questions you can contact Mr. Murphy by e-mail or phone (716) 849-8433.

**State Finance Law Requirements
and Section 139-L
(Statement Relating to Sexual
Harassment Policy)**

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)

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:

[illegible]

(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, 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.

SECTION 139-L OF THE STATE FINANCE LAW
STATEMENT RELATING TO SEXUAL HARASSMENT POLICY

1. "Bidder" has the same meaning as the term, "Offerer," as that term is defined in State Finance Law § 139-k(1)(h), and includes anyone who submits a bid or proposal.
2. Every proposal or bid hereafter made and submitted to the Erie County Water Authority, where competitive bidding or a sealed proposal is required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed by the Bidder and affirmed by such Bidder as true under penalty of perjury:

SEXUAL HARASSMENT BIDDING CERTIFICATION

- (a) "By submission of this bid/proposal, 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 the Bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all its employees. Such policy shall, at a minimum, meet the requirements of Section two hundred one-g of the Labor Law."
3. A bid/proposal shall not be considered for award nor shall any award be made to a Bidder who has not complied with subdivision one of this section; provided, however, that if in any case the Bidder cannot make the foregoing certification, the Bidder shall so state and shall furnish with the bid/proposal a signed statement which sets forth in detail the reasons therefore.

The undersigned CERTIFIES, under penalty of perjury, that he is authorized to make this bid/proposal and execute this statement on sexual harassment; that he is familiar with the statements contained in ¶2(a) of this document, as well as the provisions of State Finance Law §139-L and Labor Law §201-g, and such statements are true and have been complied with by the Bidder.

(Name of Individual, Partnership or Corporation)

By _____
(Person authorized to sign)

(SEAL)

END OF BID FORM SUPPLEMENTS