



# ERIE COUNTY WATER AUTHORITY

## INTEROFFICE MEMORANDUM

November 17, 2023

To: Terrence D. McCracken, Secretary to the Authority

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

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

Subject: MP-084 Water System Improvements'  
Transmission Main Installation, Town of Tonawanda  
Right of Entry Agreement  
20 Pirson Parkway, Town of Tonawanda  
ECWA Project No. 202000084

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The Erie County Water Authority (ECWA) is undertaking the construction of a new transmission main in the Town of Tonawanda (MP-084). A portion of the new main will be constructed from Brookside Terrace in the City of Tonawanda boundary to the existing 48-inch stub pipe along Military Road in the Town of Tonawanda and adjacent to the south boundary of the Tonawanda Landfill. The property at 20 Pirson Parkway in the Town of Tonawanda will be used for temporary access and staging for above-referenced construction. On July 20, 2023, the Water Authority Board approved a Right of Entry Agreement with the Town granting temporary access to the property to ECWA, Arcadis of New York (Consultant), and Concrete Applied Technologies Corp d/b/a CATCO (Contractor). The original Right of Entry is set to expire on December 31, 2023. Due to unforeseen circumstances, the project completion has been delayed until the spring/summer of 2024 and as such the Right of Entry is being modified to change the expiration date to September 1, 2024. All other terms of the agreement remain unchanged.

The ECWA Law and Engineering Departments have reviewed the terms of this Agreement including the expiration date and collectively are recommending that the Board review and approve attached Agreement and authorize the Chairman to execute same. There is no cost associated with this Agreement.

Attached find three copies of the Agreement for execution by the Chairman. Thank you and please feel free to contact me if you have any questions.

MJQ:jmf

Attachments

cc: L.Kowalski

W.Wheeler

CONT-MP-084-2001-X-10

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

**Contract:** MP-084 **Project No.:** 202000084  
**Project Description:** Water System Improvements,  
Transmission Main Installation, Town of Tonawanda

**Item Description:**



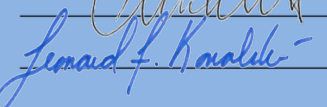
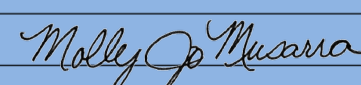
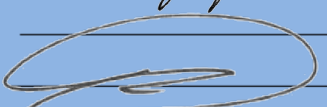
<input checked="" type="checkbox"/> Agreement	<input type="checkbox"/> Professional Service Contract	<input checked="" type="checkbox"/> Amendment	<input type="checkbox"/> Change Order
<input type="checkbox"/> BCD	<input type="checkbox"/> NYSDOT Agreement	<input type="checkbox"/> Contract Documents	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

**Action Requested:**


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

**Approvals Needed:**

**APPROVED AS TO CONTENT:**

<input checked="" type="checkbox"/> Sr Distribution Engineer		Date: <u>11/17/2023</u>
<input checked="" type="checkbox"/> Chief Operating Officer		Date: <u>11/17/2023</u>
<input checked="" type="checkbox"/> Executive Engineer		Date: <u>11/21/2023</u>
<input type="checkbox"/> Director of Administration	_____	Date: _____
<input checked="" type="checkbox"/> Risk Manager		Date: <u>11/20/23</u>
<input type="checkbox"/> Chief Financial Officer	_____	Date: _____
<input checked="" type="checkbox"/> Legal		Date: <u>11/17/23</u>

**APPROVED FOR BOARD RESOLUTION:**

<input checked="" type="checkbox"/> Secretary to the Authority		Date: <u>11/28/2023</u>
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**Remarks:** Right of Entry Agreement for 20 Pirson Pkwy, Town of Tonawanda

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

## RIGHT OF ENTRY AGREEMENT

The undersigned, TOWN OF TONAWANDA, 2919 Delaware Avenue, Kenmore, New York 14217, (the "Town"), hereby grants to the ERIE COUNTY WATER AUTHORITY, 3030 Union Road, Cheektowaga, New York 14227, (the "ECWA"), CONCRETE APPLIED TECHNOLOGIES CORP. d/b/a CATCO, 1266 Townline Road, Alden, New York 14004 ("CATCO") and ARCADIS of New York, Inc., 50 Fountain Plaza, Suite 600, Buffalo, New York 14202 ("Arcadis") (collectively hereinafter referred to as the "Parties"), the right of entry upon certain Town owned property known as 20 Pirson Parkway, (the "Premises") as more specifically identified in the plan attached hereto as Exhibit "A", for the purpose of temporary access and staging for the construction of a 48" waterline from Brookside Terrace (City of Tonawanda Boundary) to the existing 48" stub pipe along Military Road (Town of Tonawanda) and adjacent to the south boundary of the Tonawanda Landfill.

This Right of Entry is subject to the following conditions:

1. The Parties hereby covenant and agree to indemnify and save harmless the Town, its Town Board, Officers, Employees and Agents from any and all loss, costs and expense, including attorneys' fees, claims, demands, actions or causes of action arising directly or indirectly from any and all acts or omissions by the ECWA, CATCO and/or Arcadis, their Officers, Employees, and/or Agents, in carrying out its activities pursuant to the provisions of this Agreement.

2. The ECWA, CATCO and Arcadis agree to provide the Town with a Certificate of Insurance naming the Town of Tonawanda, its Town Board, Officials, Employees and Agents as additional insureds, on a primary and non-contributory basis, on its general liability coverage and maintain insurance with the following policy limits:

Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 general aggregate
Automobile Liability coverage	\$1,000,000 per occurrence
Excess Liability Coverage (Umbrella)	\$3,000,000
Workers Compensation and Employers' Liability	\$1,000,000.

3. This Right of Entry will commence on May 15, 2023 and expire on September 1, 2024.

4. The ECWA, CATCO and Arcadis agree that this Right of Entry shall in no way interfere with any work/activities to be conducted by the Town at the Premises. In this regard, in the event the Town determines that the ECWA, CATCO and/or Arcadis is/are interfering with the work/activities of the Town, and notifies the Parties of this determination, either verbally or in writing, the Parties agree to cease any operations and vacate the Premises immediately.

5. The Town reserves the right to terminate this Agreement at any time by delivering written notice of such termination to the Parties. Upon receipt of such termination notice, the Parties agree to immediately vacate the Premises and remove any personal property, equipment, etc. it may have placed on the Premises.

6. The Parties agrees to restore the Premises to its condition immediately prior to the time the Parties exercised the rights herein, all to the reasonable satisfaction of the Town.

[This Right of Entry may be signed in counterparts.]

WITNESS MY HAND AND SEAL this \_\_\_\_\_ day \_\_\_\_\_, 2023.

TOWN OF TONAWANDA

Seal

by \_\_\_\_\_  
Joseph H. Emminger, Supervisor

STATE OF NEW YORK     )  
COUNTY OF ERIE        ) ss:

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 2023 before me, the undersigned, personally appeared Joseph H. Emminger, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

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

ERIE COUNTY WATER AUTHORITY

Seal

by \_\_\_\_\_  
its \_\_\_\_\_

STATE OF NEW YORK     )  
COUNTY OF ERIE        ) ss:

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 2023, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

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

CONCRETE APPLIED TECHNOLOGIES  
CORP., d/b/a CATCO

Seal

by \_\_\_\_\_  
its \_\_\_\_\_

STATE OF NEW YORK     )  
COUNTY OF ERIE        ) ss:

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 2023, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

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



ARCADIS OF NEW YORK, INC.

by *Ann Walter*  
its Associate Vice President

STATE OF NEW YORK     )  
COUNTY OF ERIE        ) ss:

On the 4th day of December, in the year 2023, before me, the undersigned, personally appeared Jason Williams, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

LANA GARDNER  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01GA6334188  
Qualified in Erie County  
My Commission Expires 12-14-2023

*Lana Gardner*  
Notary Public





TOWN OF TOWNANDA, NEW YORK  
ERIE COUNTY WATER  
AUTHORITY

WP-084:  
WATER SUPPLY  
IMPROVEMENTS  
TRANSMISSION MAIN  
INSTALLATION  
TOWN OF TOWNANDA

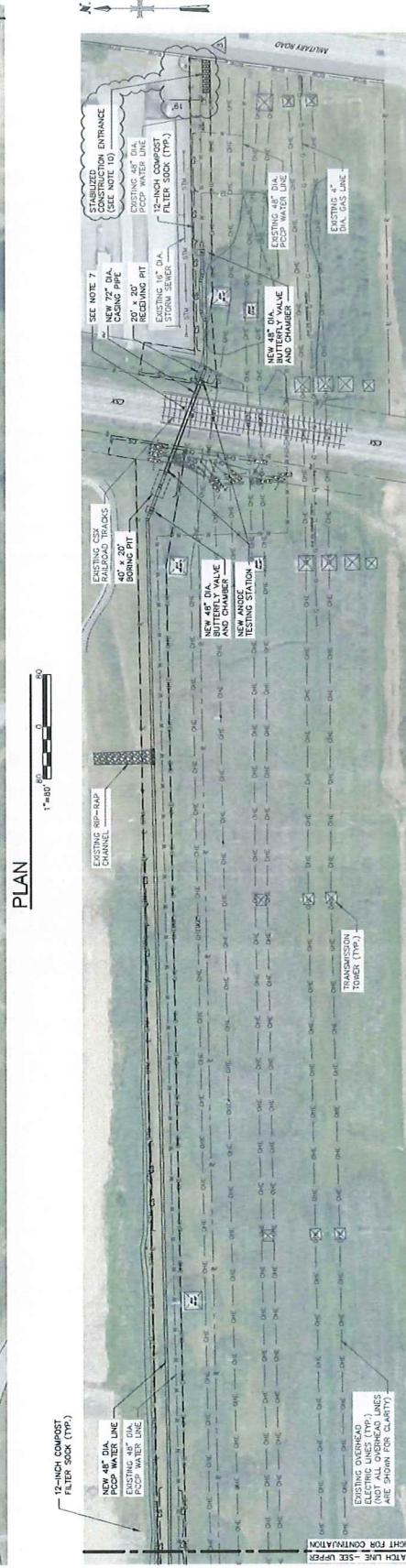
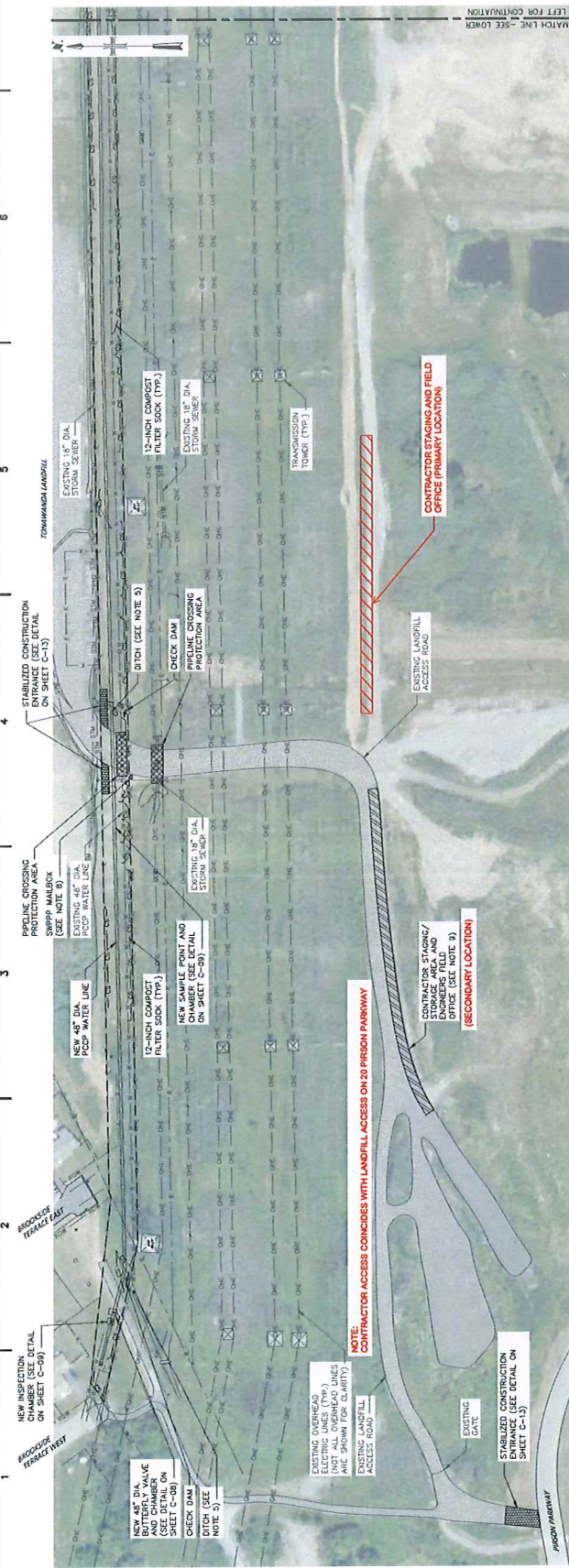
ARCADIS PROJ. NO. 30041729

NO.	DATE	ISSUED FOR
1		
2	12-11-22	ECONOM SUBMITTAL
3	3-4-23	INVESTIG REVISIONS

DATE: MAY 2023  
PROJECT NO.: 30041729  
FILE NAME: C-02  
DESIGNED BY: M. HIGGINS  
DRAWN BY: M. WELSHANS  
CHECKED BY: D. SEIDER  
SHEET TITLE: GENERAL

CONTRACTOR: ARCADIS OF NEW YORK, INC.  
2023

SCALE: AS NOTED  
SHEET: C-02 OF 16



**Exhibit A**

**Call811**  
before you dig





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/20/2023

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

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

<b>PRODUCER</b> License # 1009544 <b>Lawley, LLC</b> 361 Delaware Avenue Buffalo, NY 14202	<b>CONTACT NAME:</b> Tania Lanza	
	<b>PHONE (A/C, No, Ext):</b> (716) 849-1546 1546	<b>FAX (A/C, No):</b> (716) 849-8291
<b>E-MAIL ADDRESS:</b> tlanza@lawleyinsurance.com		
<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
<b>INSURER A :</b> Philadelphia Indemnity Ins Co		<b>18058</b>
<b>INSURER B :</b> Public Employer Risk Management Association, Inc.		
<b>INSURER C :</b>		
<b>INSURER D :</b>		
<b>INSURER E :</b>		
<b>INSURER F :</b>		

<b>INSURED</b>	<b>CERTIFICATE NUMBER:</b>	<b>REVISION NUMBER:</b>
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**Erie County Water Authority**  
 295 Main St Suite #350  
 Buffalo, NY 14203-2494

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
<b>A</b>	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	<input checked="" type="checkbox"/>		PHPK2570690	7/1/2023	7/1/2024	EACH OCCURRENCE \$ <b>1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>1,000,000</b> MED EXP (Any one person) \$ <b>10,000</b> PERSONAL & ADV INJURY \$ <b>1,000,000</b> GENERAL AGGREGATE \$ <b>3,000,000</b> PRODUCTS - COMP/OP AGG \$ <b>3,000,000</b> \$
<b>A</b>	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			PHPK2570690	7/1/2023	7/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
<b>A</b>	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			PHUB870006	7/1/2023	7/1/2024	EACH OCCURRENCE \$ <b>10,000,000</b> AGGREGATE \$ <b>10,000,000</b> \$
<b>B</b>	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N / A	WC 0002079-01	7/1/2023	7/1/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ <b>100,000</b> E.L. DISEASE - EA EMPLOYEE \$ <b>100,000</b> E.L. DISEASE - POLICY LIMIT \$ <b>500,000</b>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
**Additional Insured and Waiver of Subrogation coverage shown will apply if marked with an X.**  
 Terms set forth as evidenced by the attached endorsement (s) identified on the Acord 101

SEE ATTACHED ACORD 101

<b>CERTIFICATE HOLDER</b>	<b>CANCELLATION</b>
<b>Town of Tonawanda, its Town Board, Officials, Employees and Agents</b> 2919 Delaware Ave, Room #14 Buffalo, NY 14217	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 



## ADDITIONAL REMARKS SCHEDULE

AGENCY <b>Lawley, LLC</b>	License # 1009544	NAMED INSURED <b>Erie County Water Authority 295 Main St Suite #350 Buffalo, NY 14203-2494</b>
POLICY NUMBER <b>SEE PAGE 1</b>		
CARRIER <b>SEE PAGE 1</b>	NAIC CODE <b>SEE P 1</b>	EFFECTIVE DATE: <b>SEE PAGE 1</b>

## ADDITIONAL REMARKS

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

## Description of Operations/Locations/Vehicles:

Complete Certificate Holder: Town of Tonawanda, its Town Board, Officials, Employees and Agents

When required by executed written contract, the following endorsements apply:

## General Liability:

PI-GL-005 (07/12) - Additional Insured Primary and Non-Contributory Insurance

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED  
PRIMARY AND NON-CONTRIBUTORY INSURANCE**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

**SCHEDULE**

**Effective Date:** 02/14/2022

**Name of Person or Organization (Additional Insured):**

Town of Tonawanda  
291 Ensminger Road, Suite 2  
Tonawanda, NY 14217

**SECTION II – WHO IS AN INSURED** is amended to include as an additional insured the person(s) or organization(s) shown in the endorsement Schedule, but only with respect to liability for “bodily injury,” “property damage” or “personal and advertising injury” arising out of or relating to your negligence in the performance of “your work” for such person(s) or organization(s) that occurs on or after the effective date shown in the endorsement Schedule.

This insurance is primary to and non-contributory with any other insurance maintained by the person or organization (Additional Insured), except for loss resulting from the sole negligence of that person or organization.

This condition applies even if other valid and collectible insurance is available to the Additional Insured for a loss or “occurrence” we cover for this Additional Insured.

The Additional Insured’s limits of insurance do not increase our limits of insurance, as described in **SECTION III – LIMITS OF INSURANCE**.

All other terms, conditions, and exclusions under the policy are applicable to this endorsement and remain unchanged.