

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

**Contract:** \_\_\_\_\_ **Project No.:** 202000212

**Project Description:** Request for Proposals for Mass Notification System

**Item Description:**


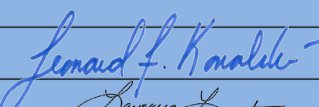

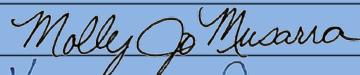


- |   |  |   |                                       |
|---|--|---|---------------------------------------|
| <input type="checkbox"/> Agreement                            | <input type="checkbox"/> Professional Service Contract | <input type="checkbox"/> Amendment          | <input type="checkbox"/> 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"/> Sr. Distribution Engineer  |   | Date: 3/16/2021  |
| <input checked="" type="checkbox"/> Chief Operating Officer    | _____  | Date: _____      |
| <input checked="" type="checkbox"/> Executive Engineer         |   | Date: 03/16/2021 |
| <input checked="" type="checkbox"/> Director of Administration |   | Date: 03/17/2021 |
| <input checked="" type="checkbox"/> Risk Manager               |  | Date: 03/16/2021 |
| <input checked="" type="checkbox"/> Chief Financial Officer    |  | Date: 03/16/2021 |
| <input checked="" type="checkbox"/> Legal                      |  | Date: 03/16/2021 |

**APPROVED FOR BOARD RESOLUTION:**

- |  |  |                |
|--|--|----------------|
| <input checked="" type="checkbox"/> Secretary to the Authority |  | Date: 03/17/21 |
|--|--|----------------|

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

**Resolution Date:** \_\_\_\_\_

**Item No:** \_\_\_\_\_



# ERIE COUNTY WATER AUTHORITY

## INTEROFFICE MEMORANDUM

March 16, 2021

To: Terrence D. McCracken, Secretary to the Authority

From: Michael J. Quinn, Senior Distribution Engineer

A handwritten signature in dark ink, appearing to be "MJQ", is written over the name "Michael J. Quinn".

Subject: Request for Proposals  
Mass Notification System  
ECWA Project No. 202000212

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Attached is a copy of the Request for Proposals for the procurement and implementation of a Mass Notification System.

In general, the project will include the procurement of a computer software system that will allow the Authority to easily provide notification to customers, emergency service agencies, etc. regarding emergency situations including watermain breaks, facility failure and other incidents that may impact the effective and efficient delivery of water. The system will also allow for focused notifications of planned outages as well as system wide notification and dissemination of more routine information such as water quality reports.

This project will involve the procurement of the system, integration with other Authority systems and functions (GIS, Dispatch, etc.), assistance with implementation, training and ongoing maintenance and system upgrades.

The project directly supports ECWA's Comprehensive Strategic Plan including Initiative 1: Resiliency of ECWA Infrastructure and Assets, Initiative 5: Enhance Customer Service, and Initiative 7: Emergency Preparedness.

I recommend that the Request for Proposals be issued to the following firms: all of which have been vetted and provided on-line demonstrations of system capabilities to the Engineering, Line Maintenance and Information Technologies Departments.

- Onsolve (CodeRed)
- GeoDecisions (Notify)
- Asher Group (Hyper-Reach); and
- Regroup Mass Notification.

In addition, the RFP document will be posted to the ECWA website.

The Engineering Department is requesting a Resolution to Solicit the Request for Proposals. The Contact Person for the Restricted Period for this Request for Proposals will be Michael Wymer.

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

**Budget Information:**

Unit: 6030 Public Information

- Item 60 Special Services

Unit: 2010 Line Maintenance

- Item 19 Payments to Contractors – Other

Unit: 2502 Construction

- Payments to Contractors - Other

MJQ:jmf

Attachments

cc: R.Stoll

L.Kowalski

K.Prendergast

L.Lester

ECWA-260-2001-X-16

# **REQUEST FOR PROPOSALS FOR MASS NOTIFICATION SYSTEM**

**ECWA Project No. 202000212**

## **General**

The Erie County Water Authority (Authority) is seeking proposals from qualified software vendors for a Mass Notification System. The goal of this Request for Proposals (RFP) is to identify and procure a system that quickly and reliably notifies the Authority's customers and staff of emergencies, planned outages, water quality concerns, etc.

### **2019 Authority Statistics:**

- Customers – 170,000
- Staff – 234
- Assets (direct service and lease managed) –
  - 3,600 miles of pipe
  - 19,000 hydrants
  - Two treatment plants
  - 37 storage tanks
  - 38 pump stations

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

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

## **Qualifications Format**

Vendors must organize their proposals in the following format:

- Letter of Transmittal
- Table of Contents
- Executive Summary
- Qualifications Questionnaire (RFP Section 1.)
- Pricing (RFP Section 2.)
- Required Forms
- Insurance
- Attachments

## 1. Qualifications Questionnaire

### 1.1. Vendor Background

Vendor Information	
Company Name	
Address	
City, State & Zip	
Website	

Primary Vendor Contact	
Name and Title	
Phone	
Email	

1. Vendor must represent how its core solution predominantly serves government with emergency notifications. State the total number of emergency notification clients currently served.
2. Vendor must have a minimum of 10 years of experience providing mass emergency notification services. Provide a brief company history, including any name changes, as well as the total number of years in business.
3. Vendor must have a national or regional presence. Vendor shall provide locations/addresses for all facilities that will support this effort.
4. Provide résumés for all key personnel assigned to this project, along with a description of each individual's primary responsibilities.

### 1.2. Vendor References

1. Provide references including contact information of at least three similar utilities where your firm provides similar notification services as those requested herein. Include the following information for each (marketing materials will not suffice):
  - Agency/utility name
  - Address, city, state, zip
  - Contact information
  - Years using system
  - Population
2. Provide documentation for at least three instances on both a system-wide basis as well as for a focused (neighborhood, street, etc.) basis for a where the proposed system has been effectively used to provide real-time notification of an incident or other important message.

### **1.3. System Architecture**

1. Describe the proposed system's ability to successfully deliver required messages with a minimum of a 90% connection rate and within what timeframe.
2. Describe the system's capabilities, at a minimum, to send messages via each of the following methods from within a single interface:
  - Voice
  - Text
  - Email
  - Mobile app
  - Social networks
3. It is preferable that the vendor operate and maintain its own calling infrastructure, however vendor shall identify the need and function of any third-party contractors utilized to manage or support any component.
4. Describe in detail the involvement of all third-party suppliers and infrastructure support organizations.
5. At a minimum, the system must be triple-redundant with facilities geographically separated across multiple power grids and time zones. Describe the vendor's compliance with this requirement and provide a description of the overall architecture.
6. The system must exceed 99.99% uptime. Describe your uptime calculation formula.
7. Explain in detail the vendor's measures to safeguard the system from downtime caused by catastrophic event; electrical failure, Internet outage, etc.
8. What measures are taken to secure the system from unauthorized access? List all appropriate electronic security certifications maintained by vendor.
9. Describe each of the vendor's physical facility locations.

### **1.4. Message Delivery**

1. The system must be immediately available. Describe the timeframe from contract execution to system use (message creation and distribution) of notifications.
2. All devices must be called at once for each notification. The system must not use a cascading calling methodology. Describe how this will be accomplished.
3. The system must not leave truncated or repeated messages resulting from automated answering devices. Describe how this is accomplished.

4. The system must allow a message to play, upon answering the phone, in its entirety from start to finish one time, with the option to replay upon a key press.
5. The proposed system must automatically attempt to redial all numbers that had an undelivered message. Describe how this is accomplished.
6. The system must allow users to create separate messages for each method of notification delivery (e.g., text, email, etc.). For emails, the system must allow for MIME emails with an HTML body and inline images and attachments. Describe how this is accomplished.
7. The system must be able to send staff notifications and geographic calls and deliver all messages in one step from a single launch process and an optional Application Program Interface (API). Describe how this is accomplished.
8. The vendor must provide an annual data and infrastructure performance test, utilizing all system database components. State whether the vendor complies and list any additional fees in the cost proposal.
9. The system must provide a tool for internal staff notifications. Describe how this requirement will be met.
10. The system must provide a customized toll-free caller ID. This toll-free or local number must allow residents to call and hear the last message sent to that particular phone number. Describe how this requirement will be met.
11. Vendor must provide a mobile app for users to initiate and send notifications including the time and date of initial delivery across all Apple, Android and Windows devices. Describe its existing capabilities.
12. The system must deliver a voice, text and email automated translation solution. Describe in detail the system's capabilities.
13. The system must allow for text and email responses with aggregated reporting using expanded web services to capture pre-selected options such as "Yes", "No", and free text responses. Please describe your two-way messaging capabilities in detail.

## **1.5. Mobile Alert App**

1. The system must provide a mobile app for notifying customers, even those that have not opted in to specifically receive Authority's alerts from. Describe capabilities in detail.
2. Provide functionality by which recipients can select the categories or alert types they would like to receive in the mobile app. Describe in detail.
3. App must be ad-free for a streamlined user experience.
4. Describe the user interface and include an actual screen shot.

5. List additional value beyond standard mobile alerting, offered by your mobile app solution.

## **1.6. Calling Database Management**

1. The proposed cost must include a vendor-provided database of residential, business, and cellular data for the Authority's system. Describe vendor-provided data options.
2. Explain how total Authority database will be populated and the precedence of various types of calling data.
3. Customers must be able to easily opt-in to the system with their contact information without requiring the creation of a username and passcode. This data must be available for immediate use. Describe the opt-in process in detail.
4. The system must provide customers with the option to launch a test call to their phones immediately after registration. Please describe this end-user process.
5. The system must provide a "Do Not Contact" feature. Describe system capabilities.
6. Explain how the proposed solution will keep database up-to-date and describe any associated costs in the pricing section.
7. Describe the vendor's process for removing inactive phone numbers from the database.
8. How does the vendor ensure that contact data is protected from resale, public records requests, and other exploitations?
9. The system must be capable of importing or integrating data from other databases (e.g., GIS databases, utility records, etc.). Describe how this is achieved and any outline any associated costs in the pricing section.
10. Provide at least two (2) examples of the vendor's success in obtaining contact information from residents and businesses. In each example, specify the percentage of the total database self-supplied by citizens.
11. Describe the vendor's support model for encouraging community enrollment and notifying residents of system features following implementation.
12. The Vendor must provide a live system performance test within thirty (30) days of contract execution. Supply throughput and disposition details from a comparable sized client within the last six (6) months.

## **1.7. Mapping and Geographic Data Selection**

1. The vendor must have at least 10 years of experience providing Web-based mass notification services that utilize geographic mapping controls.



2. The system must provide ESRI-based mapping capabilities with multiple drawing tools and to define and save notification areas for current or future use.
3. The system must allow users to upload and overlay client-supplied GIS maps for use in defining calling areas. Describe the system's capabilities.
4. Describe the vendor's method for geo-locating each address and state the timeframe needed to geo-code the Authority's database.
5. Describe your bulk data geocoding process and any vendor or third-party solutions used, including the average estimated time to geocode a full load data set for a similarly sized system.
6. Describe the vendor's procedures for releasing secure data to a third-party.
7. Does the system allow users to select multiple contiguous or non-contiguous areas for notification?
8. The system must allow the ability to recall and save shape files and to edit and resave such files for immediate and future use.
9. The system must be capable of adding custom mapping layers. Describe the level of effort and estimated hours required by Authority staff.
10. The system must allow users to access multiple map sources and customize map views by enabling or disabling specific GIS layers. Outline how this is accomplished.
11. Users must be able to designate specific addresses on the map and define the radius around the targeted areas. Describe how this is accomplished.
12. Users must be able to define a notification area down to the street level, including single addresses, address ranges and odd/even street addresses. Describe how this is accomplished.
13. The system must automatically geo-code all address data at entry.
14. Explain how the proposed system prevents centroid geo-coding errors. Describe in detail how the system deals with overlapping polygons within the mapping interface. If alerts drawn are overlapping, can the system still disseminate messages?
15. The system must allow for the exclusion of a specific address/addresses from all modes of notification on a single message initiation.

## **1.8. Reporting**

1. Describe the system's reporting capabilities, including the types of data represented and how long the data is archived.
2. Describe the system's ability to report on the status of every call, indicating the call disposition (i.e. answered by live person, answering machine, busy signal, or operator intercept.)
3. All report data must be updated in real time. Describe how this is accomplished.
4. The system must provide a variety of reporting formats, including statistical presentations, as well as graphical displays (e.g., charts and maps). Provide a sample report to illustrate the system's capabilities.

## **1.9. Training, Maintenance, and Implementation**

1. Initial live online training is required. Describe the vendor's initial services, as well as any follow-up training.
2. Describe the vendor's methodology for ongoing and routine training. Identify what training options are available, including if they are personalized, recorded, interactive, web-based, self-guided, etc.
3. Describe how support calls are handled. Is client support handled by a dedicated, in-house team or through a third-party?
4. Are there any restrictions or incremental costs regarding the number of times the agency may request support (i.e. training, troubleshooting or to speak to a representative)?
5. Describe the level of managed services provided including all affiliated costs.
6. Please outline the methodology and/or resources available regarding system promotional and enrollment materials to help increase customer awareness and engagement.

## **2. Pricing Structure**

Include a separate pricing page that includes the following information:

1. A description of how pricing is determined. Please include an itemized cost for the following components:
  - Base system procurement fees
  - Additional feature charges
  - Implementation fees
  - Training fees, including optional onsite cost per day
  - Additional data geocoding

- Vendor supplied data
- Performance testing fees
- Annual fee(s)
- Managed services hourly fee (i.e. Marketing, promotions, support, engineering, etc.)

### **Contract for Subscription**

An example Contract for the Mass Notification System is included as Attachment 1.

### **Required Forms:**

Complete Section 139 of the New York State Finance Law forms per Attachment 1, Appendix A.

### **Insurance Requirements:**

Provide proof of insurance in accordance with the Erie County Water Authority Insurance Requirements for Contract for Mass Notification System per Attachment 1, Appendix B.

### **Information Requests**

All questions and requests for information are to be directed to the designated ECWA Contact Person, Michael Wymer, PE at 716-685-8292 or via e-mail at [mwymer@ecwa.org](mailto:mwymer@ecwa.org), in accordance with New York State Finance Law §§139-j and 139-k.

**Proposals will be accepted until 4:00 p.m. on \_\_\_\_\_, 2021.** Five hard copies of the proposal and one digital .pdf file (on a USB flash drive) are to be delivered to Erie County Water Authority, 3030 Union Road, Cheektowaga, New York 14227 to the attention of Mr. Leonard F. Kowalski, PE, Executive Engineer. Proposals received after this time will not be considered and will be returned unopened. All proposals being mailed (including Federal Express, UPS, Priority Mail, etc.) or hand delivered shall be directed to the attention of Mr. Kowalski in a sealed envelope and be clearly marked on the outside of the mailing or hand delivered envelope as follows: "MASS NOTIFICATION SYSTEM".

### **Evaluation and Selection**

All qualifications packages 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.

All firms submitting qualifications will be notified of the selection results. It is anticipated that the selection process will be completed in \_\_\_\_\_ 2021, and that the agreement will be executed in \_\_\_\_\_ 2021.

## ATTACHMENT 1

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

### CONTRACT FOR MASS NOTIFICATION SYSTEM

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

**ERIE COUNTY WATER AUTHORITY**

295 Main Street, Room 350

Buffalo, New York 14203

hereinafter referred to as the “Authority,” and

**VENDOR NAME**

Vendor Address

hereinafter referred to as the “Vendor.”

The Authority seeks to enter into a contract with the Vendor to furnish and deliver a Mass Notification System upon the terms and conditions stated in this Agreement.

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

#### ARTICLE 1 – THE PROCUREMENT

**1.01** The Vendor shall furnish and deliver a Mass Notification System, at an annual subscription fee as set forth in Article 4 of this Agreement.

**1.02** The Vendor shall furnish and deliver the Mass Notification System upon the following terms and conditions:

- A. In response to the Authority’s Request for Proposals, the Vendor submitted and signed its Proposal, a copy of which is attached to, and incorporated in, this Agreement as Appendix A.
- B. The Mass Notification System will include message units sent via phone, email, and SMS test in the following quantities annually:
  - 1) [INSERT QUANTITIES OF MESSAGES]

**1.03** The Vendor will be responsible for start up and initial testing of the Mass Notification System and agrees to perform the following services as part of its cost for delivering the Mass Notification System:

- A. [INSERT SET UP AND EMPLOYEE TRAINING TO BE PROVIDED BY VENDOR]

**1.04** The Vendor will provide the Authority access and license to use the Mass Notification System, subject to an annual subscription fee payable to the Vendor.

A. The subscription period for the Mass Notification System shall commence on the date of delivery of the Mass Notification System.

B. The subscription fee for the Mass Notification shall include all costs and expenses for the following features:

1) [INSERT SUBSCRIPTION FEATURES]

## **ARTICLE 2 – COMPLIANCE**

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

**2.02** The Vendor shall comply with the provisions set forth in Public Authorities Law §§ 2875, 2876, and 2878 of the laws of the State of New York.

**2.03** In response to the Authority’s Request for Proposals, the Vendor 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 Appendix A.

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

**2.05** The Vendor shall comply with the provisions of State Finance Law § 139-L of the laws of the State of New York. In response to the Authority’s Request for Proposals, the Vendor submitted and signed the Sexual Harassment Bidding Certification, a copy of which is attached to, and incorporated in, this Agreement, as Appendix A.

**2.06** The Vendor 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 Vendor, its employees, agents and/or subcontractors wish to access any Authority property, they must notify the Authority’s Security Officer and provide the following information: (a) government-issued photo identification for all site visitors; (b) a detailed statement indicating the purpose for the site visit; (c) the proposed date and time for the site visit; (d) the estimated start and finish time for the site visit; and (e) any additional information reasonably requested by the Authority’s Security Officer. No person may visit any Authority property without the authorization of the Authority and/or its Security Officer. While on Authority property, the Vendor’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 Vendor, 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 TERMS**

**3.01** The Vendor agrees subscription fees under this Agreement shall remain firm and understands no cost increase shall be charged for any reason whatsoever.

**3.02** The Vendor guarantees to the Authority the price offered for any subscription will be no higher than those offered to any other governmental or commercial consumer.

- A. If the Vendor has a New York State or a Federal GSA contract for any of the items covered under this Agreement or any similar items, the Vendor 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 Vendor offers any CASH discount, the Vendor agrees to invoice the Authority for a price not higher than offered under the CASH discount.

**3.03** The Vendor's failure to timely delivery the Mass Notification System shall constitute a material breach of this Agreement for which the Authority may declared the Agreement to be void and terminated.

**3.04** The Authority is exempt from taxation. The Vendor 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 Vendor agrees to accept a unit price of \$[INSERT] for furnishing, delivering and initial setup and training for the Mass Notification System.

**4.02** The Authority agrees to pay the Vendor an annual subscription fee of \$[INSERT].

**4.03** The Vendor agrees and understands the Authority will not pay interest or late charges. The Vendor agrees the Authority will not be required to seek a refund to obtain the services and price provided in this Agreement.

## **ARTICLE 5 – GENERAL PROVISIONS**

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

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

**5.03 Right to Terminate:** The Authority reserves the right to terminate the Vendor's procurement at any time, without cause, based on seven (7) days' written notice. The Vendor 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 Vendor 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 Vendor's performance under this Agreement and those of its subcontractors or anyone for whom the Vendor is legally liable.
- B. To the fullest extent permitted by law, the Authority agrees to indemnify and hold the Vendor 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 Vendor shall secure and maintain such insurance as will protect itself from claims under the Workers' Compensation Act; claims for damages because of bodily injury, including personal injury, sickness or disease, or death of any of its employees or of any person other than its employees; and from claims for damages because of injury to or destruction of property including loss of use resulting therefrom in the amounts indicated on Appendix B.
- B. The Vendor shall provide and maintain insurance that will provide coverage for claims arising out of the negligent performance of this Agreement.
- C. The Vendor shall provide Certificates of Insurance certifying the coverage required by this provision.
- D. The Vendor shall provide the name of an employee who will be responsible for providing the Authority with current and updated Certificates of Insurance. The Authority will require the name of the employee, the employee's phone number and email address.

**5.06 Warranty:** The Vendor will perform the services in a professional, workmanlike manner, consistent with industry standards. In the event the Vendor provides services that do not conform

to this warranty, the Vendor will re-perform such services at no additional cost to the Authority, including costs associated with the enforcement of this warranty. When applicable, the Vendor will endeavor to acquire materials with third party warranties that are assignable to the Authority. Unless otherwise stated in this Agreement or provision, the Vendor 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 Vendor'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 Vendor 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 Vendor 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 Vendor from carrying out the terms of this Agreement or which would present a significant opportunity for the disclosure of confidential information. The Vendor 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 Vendor. So long as the Vendor reports such a conflict as required by this section, the Vendor will have no further obligations under the terms of this Agreement.

**5.09 Additional Conditions:** The Vendor and the Authority acknowledge that there may be additional conditions, terms and provisions which shall apply specifically to the subscription 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 Vendor, 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 Vendor shall remain an independent contractor responsible for its own actions. The Vendor is retained by the Authority only for the purpose and to the extent set forth in this Agreement.



**5.12 Doing Business Status:** The Vendor 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:** Vendor shall not be liable to the Authority for any failure to perform under this Agreement if any such failure is caused by forces beyond Vendor'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 Vendor 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 Vendor 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 Vendor, the Vendor'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 Vendor 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 – TERMINATION**

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

### **ERIE COUNTY WATER AUTHORITY**

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

### **VENDOR NAME**

By \_\_\_\_\_  
Representative, 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 \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss:

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

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

**APPENDIX A**  
**RESPONSE TO RFP**  
**STATE FINANCE LAW REQUIRED FORMS**

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

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

### **STATE FINANCE LAW REQUIREMENTS**

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

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

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

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

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

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

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

**FORM A**

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

**Instructions:**

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

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

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(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)

## APPENDIX B

### INSURANCE REQUIREMENTS FOR CONTRACT FOR MASS NOTIFICATION SYSTEM

ECWA Project No. 2021 \_\_\_\_\_

#### Insurance Specifications:

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

**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

**f. Technology Errors & Omissions/Professional Liability (including Cyber Liability):**

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

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.