

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

Contract: _____ **Project No.:** 199300497
Project Description: Storage Tank Refurbishing, Cole Tank
Cooperative Agreement with Town of Orchard Park.

Item Description:

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

Action Requested:

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

Approvals Needed:

APPROVED AS TO CONTENT:

<input checked="" type="checkbox"/> Sr. Production Engineer	<u><i>Richard Aguirre</i></u>	Date: <u>5/4/2021</u>
<input checked="" type="checkbox"/> Chief Operating Officer	<u><i>Joseph J. Hill</i></u>	Date: <u>5/4/2021</u>
<input checked="" type="checkbox"/> Executive Engineer	<u><i>Jeanne F. Donahue</i></u>	Date: <u>05/05/2021</u>
<input checked="" type="checkbox"/> Director of Administration	<u><i>Savanya Lester</i></u>	Date: <u>05/05/2021</u>
<input checked="" type="checkbox"/> Risk Manager	<u><i>Molly P. Musarra</i></u>	Date: <u>05/05/2021</u>
<input checked="" type="checkbox"/> Chief Financial Officer	<u><i>Karen A. Bendegast</i></u>	Date: <u>05/05/2021</u>
<input checked="" type="checkbox"/> Legal	<u><i>Margaret A. Murphy</i></u>	Date: <u>05/04/2021</u>

APPROVED FOR BOARD RESOLUTION:

<input checked="" type="checkbox"/> Secretary to the Authority	<u><i>[Signature]</i></u>	Date: <u>05/05/2021</u>
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Remarks: _____

Resolution Date: _____ **Item No:** _____



ERIE COUNTY WATER AUTHORITY

INTEROFFICE MEMORANDUM

May 4, 2021

To: Terrence D. McCracken, Secretary to the Authority

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

Subject: Cooperative Agreement
Cole Storage Tank Refurbishing
Town of Orchard Park
ECWA Project No. 199300497

In an effort to take advantage of economies of scale, the Authority prepares refurbishment contracts with multiple tanks, often a mix of Authority owned tanks and Lease Managed tanks. RFP No. 202100021 includes the design and construction services for the refurbishment of six water storage tanks. One tank is owned by the Authority, three tanks are owned by the Town of Boston, and one tank is owned by the Town of Orchard Park. Prior to issuing the RFP, the Engineering Department wanted to get the Cooperative Agreements in place to ensure the Lease Managed Towns were aware of the costs associated with refurbishing their assets. The costs presented in the Cooperative Agreement are based on recent tank inspection reports and a contingency was included to be able to address unforeseen conditions encountered during construction.

It has been a standard practice of the Authority to work collaboratively with lease managed towns to ensure that tanks are being properly maintained. As part of this process, the Authority pays for the design and inspection costs and the town pays for the construction costs related to refurbishing the tank. In addition to the tank refurbishing, there are often improvements made to the tanks that make them safer for ECWA personnel to access and perform maintenance.

The Town-owned Cole Tank is in need of rehabilitation and is included in upcoming RFP No. 202100021 Water Storage Tank Rehabilitation. RFP No. 202100021 is planned to be advertised, for professional engineering services, after the May 27th Board Meeting. It is anticipated that the Town of Boston Cooperative Agreement will be presented to the Board for consideration on the May 27th meeting.

Attached is the new Cooperative Agreement for the Cole Storage Tank Refurbishment that has been signed by the Town of Orchard Park. At this time, we are asking that the Agreement be processed appropriately and executed by the Chairman. An executed copy must be returned to the Town. Please feel free to contact me if you have any questions.

CJJ:jmf
Attachments
cc: L.Kowalski
OPTN-326-9301-F

Budget Information:
Unit: 2502 Construction
Item No.: 74 Payments to Contractors-Tanks



TOWN OF ORCHARD PARK

ENGINEERING DEPARTMENT

S 4295 South Buffalo Street Orchard Park, New York 14127-2609

Phone: (716) 662-6425
Fax: (716) 662-6488
Email: openg@orchardparkny.org

TOWN ENGINEER
WAYNE L. BIELER, P.E.

April 22, 2021

Leonard F. Kowalski, PE
Erie County Water Authority
295 Main Street, Room 350
Buffalo, NY 14203

**Re: ECWA Cooperative Agreement
Cole Road Storage Tank Refurbishment**

Dear Mr. Kowalski:

The Orchard Park Town Board authorized the Deputy Supervisor to sign the agreement with the ECWA to pay the construction costs for the above referenced project for an amount not to exceed \$300,000.

The agreement has been signed and is attached for you to provide a signature. Please sign and return the agreement for our records.

Very truly yours,

Wayne L Bieler, P.E., CFM
Town Engineer

Attachments

cc: Remy Orffeo, Town Clerk
File #17.009

Visit the Town's website at www.orchardparkny.org

COOPERATIVE AGREEMENT

This Cooperative Agreement (“Agreement”), dated March __, 2021, is made by and between:

ERIE COUNTY WATER AUTHORITY

295 Main Street, Room 350
Buffalo, New York, 14203

hereinafter referred to as the “Authority,” and

TOWN OF ORCHARD PARK

4295 South Buffalo Street
Orchard Park, New York 14127

hereinafter referred to as the “Town.”

WHEREAS, pursuant to the Lease Management Agreement, dated September 2, 1998 and in effect until November 6, 2023 (hereinafter “LMA”), the Authority agreed to manage the Town’s water system, and to sell and distribute potable water to domestic and commercial customers within the Town-created water districts; and

WHEREAS, pursuant Article V, section 5.1 of the LMA, the parties agreed the Authority would refurbish the Town-owned water tanks and would bill the Town for the actual installed cost for the refurbishment; and

WHEREAS, on June 7, 2017, the Town agreed, by resolution, to pay the costs to refurbish the Benning Road and Cole Road Water Storage Tanks pursuant to a Cooperative Agreement, dated May 31, 2017; and

WHEREAS, after reviewing bids for the water storage tanks refurbishment, the Town requested the plans for the Cole Road Water Storage Tank (hereinafter “CRWST”) be delayed until the spring of 2019; and

WHEREAS, the CRWST has been taken out of service until plans for its refurbishment have been approved;

NOW, THEREFORE, the parties agree as follows:

1. **PUBLIC BIDDING**: The Authority agrees to bid the cost of construction in accordance with the terms of General Municipal Law §103 and Public Authorities Law §1069. The Authority intends to bid the refurbishment of the CRWST along with the refurbishment of several other water storage tanks in the Authority’s water system. The Authority agrees to provide inspection during construction in accordance with the project plans and specifications developed by the Authority.

2. **PROJECT COST:** Subsequent to the bidding process in which the Authority will determine the lowest responsible bid, the Authority will refer to the Town for its review and approval the cost pertaining to the CRWST portion of the project defined in the bid specifications.

3. **APPROVAL OF COST:** The Town will review the cost of the CRWST-related portion of the lowest responsible bid. The Town agrees that if the cost of the CRWST-related portion of the lowest responsible bid is \$300,000.00 or lower, the Town will approve such cost. If the cost of the CRWST-related portion of the lowest responsible is greater than \$300,000.00, the Town will determine in its sole judgment whether such cost is acceptable prior to the Authority awarding the project in accordance with the plans and specifications. The Town agrees to provide written approval of the cost within fourteen days after notification by the Authority, subject to the provisions of this paragraph.

4. **REIMBURSEMENT:** Upon completion of the construction project and pending its final approval of the contract for related work, the Authority will submit to the Town an accounting setting forth reimbursement of the actual installed cost for CRWST-related portion of the plans and specifications. The Town will reimburse the Authority for the cost of the CRWST portion of the project as set forth in the project plans and specifications. The Town agrees to remit payment to the Authority within 60 days of receipt of the invoice.

5. **AMENDMENTS AND MODIFICATIONS:** Any modification, amendment or variation from the terms of this Agreement must be in writing, authorized by a resolution of the Town's Board, authorized by a resolution of the Board of Commissioners of the Authority, and signed by all parties to be effective.

6. **ENTIRE AGREEMENT:** This Agreement contains 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 and contemporaneous communications, representations, or agreements, whether oral or written with respect to the subject matter hereof and has not been induced by any 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.

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

8. **APPROVAL:** This Agreement is subject to approval by the respective parties in accordance with the authority granted to each party.

9. **EFFECTIVE DATE**: The parties agree the effective date of this Agreement shall be the date the Agreement is approved by resolution by the Authority's Board of Commissioners.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the date above written.

TOWN OF ORCHARD PARK



ERIE COUNTY WATER AUTHORITY

JEROME D. SCHAD, Chair

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

On the 9 day of April, in the year 2021, before me personally came Joseph Liberti, to me known, who being by me duly sworn did depose and say that he resides in Orchard Park, New York, that he is the Deputy Supervisor of the Town of Orchard Park, described in the above instrument, and he signed his name thereto by the authorization of the Town Board of the Town of Orchard Park pursuant to a duly enacted resolution.

JENNIFER L. BRADY
Notary Public, State of New York
NO. 01BR6373222
Qualified in Erie County
My Commission Expires 4-2-20 22

Jennifer L. Brady
Notary Public - State of New York

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

On this ___ day of _____, 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 Chairman of the Erie County Water Authority, the corporation named in the foregoing indenture; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by a duly adopted resolution of the said Authority and that he signed his name thereto by like resolution.

Notary Public - State of New York