



ERIE COUNTY WATER AUTHORITY
INTEROFFICE MEMORANDUM

July 7, 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 read "MJQ", is positioned to the right of the "From:" line.

Subject: Village of Hamburg Water System Takeover
Memorandum of Understanding
ECWA Project No. 201500037

Village of Hamburg (Village) expressed interest in consolidating their water system with the Erie County Water Authority's (Authority) as a part of Authority's Direct Service Area in 2015. On July 18, 2019, both parties signed a Memorandum of Understanding (2019 MOU), which required the Village to implement a number of improvements to their system to bring it up to the standards required by the Authority. The 2019 MOU stated that the Village will complete all steps necessary to authorize the transfer within three years following the MOU's effective date unless the date is extended by mutual agreement of both parties.

The Village has been making steady progress in constructing improvements including all required distribution system improvements. However, due to unforeseen circumstances, the remaining outstanding requirement, construction of a new water storage tank, could not be completed within the time frame set forth in 2019 MOU. Throughout the period of the 2019 MOU, the Engineering Department has been working with the Village to overcome the remaining issues and are in agreement with an extension. Therefore, the Law and Engineering Departments worked with the Village to extend the time set up in the 2019 MOU and the 2023 MOU incorporates all the terms and conditions of the 2019 MOU with time extension to July 19, 2026.

Attached find three copies of the 2023 MOU 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
HAVL-928-1501

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

Contract: _____ **Project No.:** 201500037
Project Description: Village of Hamburg Water System Takeover
Memorandum of Understanding

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 type="checkbox"/> Request for Proposals			
<input checked="" type="checkbox"/> Other <u>Memorandum of Understanding</u>			

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>7/7/2023</u>
<input type="checkbox"/> Chief Operating Officer	_____	Date: _____
<input checked="" type="checkbox"/> Executive Engineer		Date: <u>07/10/2023</u>
<input type="checkbox"/> Director of Administration	_____	Date: _____
<input type="checkbox"/> Risk Manager	_____	Date: _____
<input checked="" type="checkbox"/> Chief Financial Officer		Date: <u>07/07/2023</u>
<input checked="" type="checkbox"/> Legal		Date: <u>7/7/2023</u>

APPROVED FOR BOARD RESOLUTION:

<input checked="" type="checkbox"/> Secretary to the Authority		Date: <u>7/10/2023</u>
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Remarks: Village of Hamburg 2023 MOU

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

**VILLAGE OF HAMBURG
MEMORANDUM OF UNDERSTANDING**

THIS MEMORANDUM OF UNDERSTANDING made this 20th day of **July, 2023** ("Effective Date") by and between the **VILLAGE BOARD OF THE VILLAGE OF HAMBURG**, acting as commissioners for the Village Water District, with offices at 100 Main Street, Hamburg, New York 14075 (the "Village") and the **ERIE COUNTY WATER AUTHORITY**, a public benefit corporation having an office and principal place of business at 295 Main Street, Room 350, Buffalo, New York 14203 (the "Authority").

RECITALS

WHEREAS, the Village has created a Water District (the "District") and is the owner of certain property and facilities used for the sale and distribution of water to customers in said District; and

WHEREAS, pursuant to a Lease Management Agreement dated March 20, 1997, and amended on August 28, 1997 (the "LMA"), the District is leased and managed by the Authority, which obligates the Authority to make non-capital repairs to the District's property and facilities; and

WHEREAS, under the LMA, the Village retains the obligation to pay for capital improvements and to undertake periodic upgrades of water lines and other facilities at the Authority's request; and

WHEREAS, the Village has determined that it would be in the best interests of its residents and businesses to convey the property and facilities of the District (the "System") to the Authority in consideration of the Authority providing direct service to the District's water customers; and

WHEREAS, the Authority's Board of Commissioners and the Town's Board have approved and authorized execution of a Memorandum of Understanding (copy attached), effective on July 18, 2019, contemplating the sale and conveyance of the System to the Authority;

NOW, THEREFORE, the parties do hereby agree as follows:

1. The Authority and the Village agree that this Memorandum of Understanding incorporates the previous Memorandum of Understanding, effective on July 18, 2019, unless otherwise stated in this Memorandum of Understanding.

2. The Authority and the Village agree that this Memorandum of Understanding extends the Village's time to complete all steps necessary to authorize the transfer of the System to the Authority by three years from the Effective Date of this Agreement, or until July 19, 2026. The Authority and the Village further agree that this date maybe be further extended due to extenuating circumstances and upon the mutual agreement of both parties.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the dates below, as follows:

ERIE COUNTY WATER AUTHORITY

VILLAGE BOARD OF THE VILLAGE OF HAMBURG

By _____
Jerome D. Schad, Chairman

By _____
Thomas P. Tallman, Mayor

STATE OF YORK)
COUNTY OF ERIE) ss:

On the ___ day of July, in the year 2023, before me personally came Jerome D. Schad, to me known, who, being by me duly sworn, did depose and say that he resides in the Town of Amherst, New York, that he is the Chairman of the Board of Commissioners for the Erie County Water Authority described in the above instrument, and he signed his name thereto by the authorization of the Board of Commissioners for the Erie County Water Authority.

Notary Public

STATE OF YORK)
COUNTY OF ERIE) ss:

On the ___ day of _____ in the year 2023, before me personally came Thomas P. Tallman, to me known, who, being by me duly sworn, did depose and say that he resides in the Village of Hamburg, New York, that he is the Mayor of the Village of Hamburg described in the above instrument, and he signed his name thereto by the authorization of the Village Board of the Village of Hamburg pursuant to a duly enacted resolution.

Notary Public