

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

**Contract:** 15-13-09 **Project No.:** 201500025  
**Project Description:** Neptune Water Meter Contract

**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 contract extension

**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 Approve contract extension

**Approvals Needed:**

**APPROVED AS TO CONTENT:**

Department Head Aileen A. Pendergast Date: 6/18/19  
 Risk Manager no ins. Date: 6/18/19  
 Director of Administration Kevin J. Gester Date: 6/18/19  
 Executive Engineer \_\_\_\_\_ Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

Legal Margaret A. Murphy Date: 6/19/19

**APPROVED FOR BOARD RESOLUTION:**

Secretary to the Authority [Signature] Date: 6/19/19

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

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



# ERIE COUNTY WATER AUTHORITY

## INTEROFFICE MEMORANDUM

June 18, 2019

To: Terrence D. McCracken, Secretary to the Authority

From: Karen A. Prendergast, Chief Financial Officer

Subject: Neptune Technologies Contract

---

Attached is a request from Neptune Technology Group, Inc. (Neptune) to extend our existing procurement agreement which expires on July 31, 2019 for one year to July 31, 2020.

In June of 2015, a request for sealed bids or proposals was published in Dodge reports and Business First to furnish water meters and registers from August 1, 2015 through July 31, 2018. Neptune was the only bidder. On September 10, 2015, the Authority entered into a procurement agreement with Neptune Technology Group, Inc. at an estimated cost of \$6,012,760.

The agreement includes two optional, mutually agreed upon extensions of one-year at the same terms and conditions as the original agreement. This would be the last extension under this contract.

The meter shop budget for 2019 assumes approximately 7,580 meters and 3,870 registers will be installed or replaced under our meter change program at an equipment cost of \$1,700,000. Based on similar assumptions for the 2020 budget, I am recommending the Authority extend the procurement agreement with Neptune for a one-year period at an estimated cost of \$1,700,000.

Please prepare a resolution requesting Board approval of the extension on the June 27, 2019 meeting.



June 18, 2019

Karen Prendergast  
Erie County Water Authority  
295 Main Street Room 350  
Buffalo, NY 14203

Re: Contract 1403-15 – Extension Request 08/01/19 – 07/31/20

Dear Ms. Prendergast:

Neptune Technology Group Inc. requests a renewal of contract 1403-15 with Erie County Water Authority. As the current contract is due to expire on 7/31/19, the term of the new contract extension would be from 8/1/19 to 7/31/20. All pricing, terms and conditions would remain the same.

Thank you for your continued interest in Neptune products. If you have any questions, please contact your local sales representative, Dave Johnson, at 585-315-3287, or our Bid Department at 470-280-4399.

Sincerely,

A handwritten signature in black ink that reads "Lawrence M. Russo".

Lawrence M. Russo  
VP, Finance

LMR/jr  
File A16245

## ERIE COUNTY WATER AUTHORITY CONTRACT EXTENSION FORM

<b>PROJECT NO.:</b>	201500025	<b>CONTRACT NO.:</b>	15-13-09
<b>JOB NUMBER:</b>		<b>EC NO.:</b>	
<b>OWIP NO.:</b>		<b>ENTERED BY/DATE</b>	
<b>TITLE:</b>	Furnishing and Delivering of Water Meters from August 1, 2015 through July 31, 2018.		
<b>CONTRACTOR:</b> Neptune Technology Group			
<b>EXTENSION TERMS ACCORDING TO CONTRACT:</b>			
Section 00500; page 00500P—2 paragraph 3.02 A			
The duration of the contract is from August 1, 2015 to July 31, 2018. If the Erie County Water Authority and CONTRACTOR mutually agree to continue this Contract after the 31 <sup>st</sup> day of July, 2018 and July 2019 it shall Be extended for the term of one (1) year on the same terms and conditions provided herein.			
Neptune Technology Group has requested a one year extension. All pricing, terms and conditions remain the			
<b>NEW CONTRACT TERM:</b>			
August 1, 2019 — July 31, 2020			
<b>COMPENSATION:</b>			
The value of a one-year extension is \$1,700,000			
>>>> APPROVED BY: <<<<<			
<b>Contractor:</b> Neptune Technology Group Inc.		<b>ERIE COUNTY WATER AUTHORITY</b>	
<b>Signature:</b>			
<b>Title:</b>		<b>Date:</b>	
<b>Original Contract</b>	\$ 6,012,760.00	<b>PREPARER</b>	
1 <sup>st</sup> one-year extension	1,700,000.00	<b>Date:</b>	
2 <sup>nd</sup> one-year extension	1,700,000.00	<b>DEPARTMENT HEAD</b>	
<b>New Contract Amount</b>	\$ 9,412,760.00	<i>Karen M. Pendry</i> <b>Date:</b> 6/18/19 <b>EXECUTIVE ENGINEER</b>	
		<i>Russell J. Foltz</i> <b>Date:</b> 6/18/19 <b>CHAIRMAN</b>	
		<b>Date:</b>	

ERIE COUNTY WATER AUTHORITY  
BUFFALO, NEW YORK

**FURNISHING AND DELIVERING WATER METERS  
FROM AUGUST 1, 2015 TO JULY 31, 2018  
PROJECT NO: 201500025**

SECTION 00500P

PROCUREMENT AGREEMENT

THIS PROCUREMENT AGREEMENT is dated as of the 10<sup>th</sup> day of September in the year 2015, by and between the ERIE COUNTY WATER AUTHORITY (hereinafter called OWNER) and NEPTUNE TECHNOLOGY GROUP, INC. (hereinafter called CONTRACTOR).

WITNESSETH: OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 - GOODS and POINT OF DELIVERY

1.01 GOODS

CONTRACTOR shall, at its own cost and expense, furnish the Goods and other Services as shown and specified in the Procurement Documents. The Goods to be furnished are generally described as follows:

**FURNISHING AND DELIVERING WATER METERS  
FROM AUGUST 1, 2015 TO JULY 31, 2018  
PROJECT NO: 201500025**

1.02 POINT OF DELIVERY

A. Scheduling:

1. Scheduling of delivery of water meters will be determined by the Erie County Water Authority.

B. Destination:

1. Delivery shall be by motor freight to the Erie County Water Authority Service Center, 3030 Union Road, Cheektowaga, New York 14227; Monday through Friday, 9:00 a.m. to 3:00 p.m., excluding holidays.

## ARTICLE 2 - ENGINEER

- 2.01 The Project has been designed by the OWNER, who is hereinafter called ENGINEER. The OWNER will assume all duties and responsibilities and have the rights and authority assigned to ENGINEER by OWNER in connection with furnishing the Goods in accordance with the Contract Documents.

## ARTICLE 3 - CONTRACT TIMES

### 3.01 Time of the Essence

- A. All time limits for Milestones, if any, Substantial Completion, Final Completion and readiness for final payment as stated in the Procurement Documents are of the essence.

### 3.02 Contract Time

- A. The duration of the Contract is from August 1, 2015 to July 31, 2018. If the Erie County Water Authority and CONTRACTOR mutually agree to continue this Contract after the 31<sup>st</sup> day of July, 2018 and 31<sup>st</sup> day of July, 2019, it shall be extended for the term of one (1) year on the same terms and conditions provided herein. CONTRACTOR shall provide written notification to the Erie County Water Authority of the contract extension prior to the expiration of the initial term of this Contract.
- B. The OWNER will notify CONTRACTOR periodically throughout the duration of the Contract when Goods are to be delivered and in what quantities. The Goods are to be delivered to the Point of Delivery and ready for OWNER's acceptance of delivery within the time period identified in the Procurement Bid Form. No Goods are to be delivered unless ordered by OWNER.
- C. All Shop Drawings required by the Procurement Documents shall be submitted to ENGINEER for review and approval within seven (7) days after the request of ENGINEER.

## ARTICLE 4 - LIQUIDATED AND SPECIAL DAMAGES (NOT USED)

## ARTICLE 5 - CONTRACT PRICE

- 5.01 OWNER shall pay CONTRACTOR, in current funds, for furnishing Goods and for performing other Services in accordance with the Procurement Documents the prices stated in CONTRACTOR'S Bid, which Bid is attached hereto and identified as Exhibit 1 of this Agreement. As provided in paragraph 11.03 of the Procurement General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by ENGINEER as provided in paragraph 9.08 of the

Procurement General Conditions. Unit prices have been computed as provided in paragraph 11.03 of the Procurement General Conditions.

## ARTICLE 6 - PAYMENT PROCEDURES

### 6.01 Submittal and Processing of Payments

- A. CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the Procurement General Conditions. Applications for Payment will be processed as provided in the Procurement General Conditions.

### 6.02 Progress and Final Payments

- A. OWNER shall make monthly progress payments on account of the Contract Price on the basis of CONTRACTOR'S Applications for Payment as recommended by ENGINEER. CONTRACTOR'S Applications for Payment will be due on the last day of the month. All progress payments will be on the basis of the amount of the Goods furnished as provided for in paragraph 2.07.A of the Procurement General Conditions.

## ARTICLE 7 - INTEREST

- 7.01 All moneys not paid when due hereunder shall bear interest at the maximum rate allowed by law at the place of the Project.

## ARTICLE 8 - CONTRACTOR'S REPRESENTATIONS

- 8.01 As part of the inducement for OWNER to enter into this Agreement CONTRACTOR makes the following representations:
  - A. CONTRACTOR has examined and carefully studied the Procurement Documents and the other related data identified in the Procurement Bidding Documents.
  - B. CONTRACTOR has visited the Site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, and performance for furnishing the Goods.
  - C. CONTRACTOR is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and performance of the Work.
  - D. CONTRACTOR has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplemen-

tary Conditions as provided in paragraph 4.02 of the Procurement General Conditions, and (2) reports and drawings of a Hazardous Environmental Condition identified at the Site, if any, which have been identified in the Procurement Supplementary Conditions as provided in paragraph 4.06 of the Procurement General Conditions.

- E. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may effect cost, progress or performance for furnishing the Goods or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Procurement Documents to be employed by CONTRACTOR, and safety precautions and programs incident thereto.
- F. CONTRACTOR does not consider that any further examinations, investigations, explorations, tests, studies or data are necessary for furnishing the Goods at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Procurement Documents.
- G. CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the Site that relates to furnishing the Goods as indicated in the Procurement Documents.
- H. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Procurement Documents.
- I. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Procurement Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.
- J. The Procurement Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing the Goods.

## ARTICLE 9 - PROCUREMENT DOCUMENTS

9.01 The Procurement Documents consist of the following:

- A. This Procurement Agreement (8 pages).
- B. Performance Bond (2 pages).



- C. Procurement General Conditions (44 pages).
- D. Procurement Supplementary Conditions (10 pages).
- E. Specifications, as listed in the table of contents of the Procurement Manual.
- F. Appendix A - Women and Minority Business Enterprise Policy.
- G. Addenda consisting of Numbers      to     , inclusive.
- H. Exhibits to the Agreement enumerated as follows:
  - 1. Exhibit 1, Procurement Bid Form (27 pages).
- I. The following, which may be delivered or issued on or after the Effective Date of the Agreement, and are not attached hereto:
  - 1. Notice to Proceed
  - 2. Written Amendments
  - 3. Work Change Directives
  - 4. Change Order(s)

9.02 The documents listed in paragraph 9.01 above are attached to this Procurement Agreement (except as expressly noted otherwise above). Documents not attached are incorporated by reference. There are no Procurement Documents other than those listed in this Article 9.

9.03 The Procurement Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the Procurement General Conditions.

## ARTICLE 10 - MISCELLANEOUS

### 10.01 Terms

- A. Terms used in this Procurement Agreement will have the meanings indicated in the Procurement General Conditions.

### 10.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or

discharge the assignor from any duty or responsibility under the Procurement Documents.

#### 10.03 Successors and Assigns

- A. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Procurement Documents.

#### 10.04 Severability

- A. Any provision or part of the Procurement Document, held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Procurement Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

#### 10.05 Waiver

- A. The waiver by the OWNER of any breach or violation of any term, covenant, or condition of this Agreement or of any Law or Regulation shall not be deemed to be a waiver of any other term, covenant, condition, or Law or Regulation or of any subsequent breach or violation of the same or of any other term, covenant, condition, or Law or Regulation. The subsequent payment of any monies or fee by the OWNER which may become due hereunder shall not be deemed to be a waiver of any preceding breach or violation by CONTRACTOR of any term, covenant, condition of this Procurement Agreement or of any applicable Law or Regulation.

IN WITNESS WHEREOF, the parties hereto have executed this Procurement Agreement on the day and year first written above.

This Procurement Agreement will be effective on September 11, 2015.

OWNER: Erie County Water Authority

CONTRACTOR: Neptune Technology Group Inc.

By: Earl Zjann

By: Lawrence M. Russo

Title: Chairman

Title: VP, Finance

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest Patricia Foley

Attest Steven S. Beasley

Address for giving notices

Address for giving notices

\_\_\_\_\_  
\_\_\_\_\_

1600 Alabama Hwy 229  
Tallassee, AL 36078

(If OWNER is a corporation, partnership, or limited liability company, attach evidence of authority to sign) (If OWNER is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Procurement Agreement.)

License No. \_\_\_\_\_  
(where applicable)

Agent for service of process: \_\_\_\_\_

(If CONTRACTOR is a corporation, partnership, or limited liability company, attach evidence of authority to sign.)