



ERIE COUNTY WATER AUTHORITY
INTEROFFICE MEMORANDUM
September 15, 2020

To: Terrence D. McCracken, Secretary to the Authority

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

Subject: Furnish and Install Pump Station Roof and Siding Replacements
ECWA Project No. 202000165
Reject Bids and Re-advertise

On Tuesday, August 11, 2020, the Authority received two bids for the above referenced contract. Prior to the bid opening, the Bid Notice was publicly advertised for 31 calendar days. The two bids were as follows:

- Weaver Metal and Roofing, Inc. - \$230,800
- Arrow Sheet Metal Works, Inc. - \$320,000

Prior to bidding, based on material costs and past contracts, ECWA estimated the cost of the contract to be approximately \$150,000.

ECWA solicited bids from ten roofing contractors including posting the bid advertisement on Construction Exchange and Construct Connect. During bid advertising, most of the roofing contractors stated that they were too busy to finish this type of contract by the end of 2020 and elected not to bid on the contract. The contract required the project to be completed by December 30, 2020.

Based on discussions with roofing contractors, many contractors are backlogged due to the delays in roofing work, which could not be performed from March-June 2020 due to the COVID-19 pandemic. Roofing material costs have also increased due to supply shortages resulting from the COVID-19 pandemic.

Pursuant to Public Authorities Law § 1069, ECWA has the authority to reject all bids if it is in the Authority's best interests. Article 6 of the Instructions to Bidders also states the Authority has the right to reject any or all bids, if the Authority deems such action to be in the public interest with the right to re-bid. The power to reject all bids, as set forth in Public Authorities Law § 1069, is like the power given municipal corporations pursuant to General Municipal Law § 103.

Due to receiving only two bids and the high costs of the two bids, the Engineering Department recommends the Board rejects both bids submitted on August 11, 2020 and authorize the advertisement in January 2021, for new bids with contract completion dates in the summer of 2021. Pushing the contract into next year should allow roofing contractors to catch up on their 2020 work and begin preparing for next year's work.

The following documents are attached:

- Blue Authorization Form - this form provides the project name and project number, the action that is being requested of the Board, and it provides a list of approvals that are required prior to being acted on by the Board.
- One copy of Procurement Instructions to Bidders
- One (1) set of Contract Documents.

CJJ: jmf
Attachments
cc: R.Stoll
L.Kowalski
M.Wymer
L.Lester

INSTRUCTIONS TO BIDDERS

1. BID SHALL BE SUBMITTED ON THESE ERIE COUNTY WATER AUTHORITY (the “Authority”) BID FORMS or bid will not be considered. Bid must be typed or printed in ink. Original autograph signatures in ink are required. Facsimile or rubber stamp signatures will not be accepted. ALL PAGES OF THIS BID DOCUMENT MUST BE RETURNED INTACT.
2. LATE PROPOSALS. Any bids received at the Authority after the date and time prescribed will not be considered for contract award.
3. ADDENDA. All questions about the meaning or intent of the Bidding Documents shall be submitted to the Authority in writing and received by the Authority at least ten (10) days prior to the date for the opening of Bids. Interpretations, clarifications, and/or supplemental instructions considered necessary by the Authority in response to such questions will be issued by Addenda. Addenda may also be issued to clarify, correct or change the Bidding Documents as deemed advisable by the Authority. All Addenda will be mailed by either Registered or Certified mail, with return receipt requested to all parties recorded by the Authority as having received the Bidding Documents, for receipt not later than three (3) days prior to the date for the opening of Bids. Failure of any Bidder to receive any such Addendum shall not relieve any bidder from any obligation of the bid submitted. All Addenda so issued shall become part of the Contract Documents. All Addenda must be submitted with the bid proposal and be properly signed by the Bidder. Only questions answered by Addenda will be binding. The Authority will not be responsible for any other explanations or interpretation of such documents which anyone presumes to make on behalf of the Authority before expiration of the time set for the receipt of Bids. No interpretation of the meaning of the plans, specifications or other Contract Documents will be made to any bidder orally. Oral and other interpretations or clarifications will be without legal effect.
4. EMERGENCY CLOSINGS. In the event of an emergency closing of certain Authority facilities and/or operations and/or services due to any flood, fire, fire drill, power failure, uncontrolled weather conditions or other cause beyond the Secretary to the Authority's control, only bids received prior to the date and time or postmarked as of the date prescribed will be considered for contract award.
5. ANY CHANGE IN WORDING OR INTERLINEATION OF THE ADVERTISEMENT AS PUBLISHED BY THE AUTHORITY shall be reason to reject the proposals in the event that such change in the Advertisement to Bid is not discovered prior to entering into a contract, to void any contract entered into pursuant to such bid. Proposals may be rejected if they show any omissions, alterations of form, additions not called for, conditional or alternate bids other than are provided for in the proposal form, escalation clauses or irregularities of any kind.
6. THE AUTHORITY, IN THE BEST INTERESTS OF THE PUBLIC, RESERVES THE RIGHT TO REJECT any and all bids, to accept either in whole or in part any one bid or combination of bids as may be provided in the bid specifications, and to waive any

informalities in bids. The Authority does not obligate itself to accept the lowest or any other proposal, and reserves the right to re-bid.

7. CONTRACT(S) OR PURCHASE ORDER(S) WILL BE AWARDED after due consideration of the suitability of goods and/or services bid to satisfy these specifications, the total cost of such goods and/or services including all cost elements, and the timeliness of the agreed upon delivery date.
8. FAILURE TO MEET DELIVERY SCHEDULE as per accepted bid may result in legal action by the Authority to recover damages.
9. PRICES SHALL BE QUOTED F.O.B. DESTINATION.
10. COLLECT TRANSPORTATION CHARGES WILL NOT BE PAID BY THE AUTHORITY. All freight, cartage, rigging, postage or other transportation charges shall be prepaid and included in the bid. There will be no additional charges for delivery.
11. NO TAXES ARE TO BE BILLED TO THE AUTHORITY. Bids shall not include any State or local excise, sales, transportation or other tax, unless State law specifically levies such tax on purchases made by a public benefit corporation created by the State of New York. The Authority Purchase Order is an exemption certificate. Any applicable taxes from which the Authority is not exempt shall be listed separately as cost elements and added into the total net bid.
12. THE SUCCESSFUL BIDDER shall comply with all laws, rules, regulations and ordinances of the Federal Government, the State of New York and any other political subdivision or regulatory body which may apply to Bidder's performance under this contract.
13. GRATUITIES, ILLEGAL OR IMPROPER SCHEMES. The Authority may terminate contracts or purchase orders, if it is determined that gratuities in the form of entertainment, gifts or otherwise were offered or given by a vendor, his agent or representative to any Authority official or employee with a view towards securing favorable treatment with respect to the awarding of this bid or the performance of the contract or purchase order. The Authority may also terminate a contract or purchase order if it is determined that the successful bidder engaged in any other illegal or improper scheme promotive of favoritism or unfairness incidental to the bidding process or the performance of the contract or purchase order. In the event that it is determined that said improper or illegal acts occurred, the Authority shall be entitled to terminate the contract or purchase order and/or exercise any other remedy available to it under existing law.
14. ANY CASH DISCOUNT which is part of a bid will be considered as a reduction in the bid prices in determining the award of the bid. Date of invoice must not precede date of delivery. The Authority policy is to pay all claims in a timely manner within the specified time. However, if for some reason payment is delayed, the Authority will take the discount when payment is made. The Authority will not pay any interest charges nor refund discount amounts taken after the discount period. If this procedure is unsatisfactory, please quote net.

15. ANY ADDITIONAL INFORMATION which bidder desires to add to the bid shall be written on a separate sheet of paper attached to and submitted with the formal sealed bid to be read at the formal opening.
16. WARRANTY: Notwithstanding anything to the contrary herein contained, BIDDER 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 obligations of BIDDER herein are independent of any other obligations.
17. THIS BID IS FIRM AND IRREVOCABLE for a period of 45 days from the date and time of the bid opening. If a contract is not awarded within the 45 day period, a bidder to whom the bid has not been awarded may withdraw his bid by serving written notice upon the Secretary to the Authority of his intention to do so.
18. PRICES CHARGED TO THE ERIE COUNTY WATER AUTHORITY are to be no higher than those offered to any other governmental or commercial consumer. If a bidder has a New York State or a Federal GSA contract for any of the items covered in this bid or any similar items, he shall so indicate that he has said contract on these bid papers and automatically supply a copy of this contract within five days after notification of award.
19. PRICE IS FIRM. The unit prices bid shall remain firm and any other charges bid shall also remain firm for delivery of the equipment, material, work, or services described in this bid. No cost increase shall be charged for any reason whatsoever.
20. EXTENSION OF PRICE PROTECTION. Any contract entered into pursuant to this bid to supply the Authority requirements of goods and/or services for a definite period of time as stated in the attached specifications may be extended for not more than two successive periods of equal length at the same bid price upon the mutual agreement of the successful bidder and the Authority. All extensions shall be submitted in writing and shall have prior approval by the Secretary to the Authority.
21. IN EXECUTING THIS BID, THE BIDDER AFFIRMS that all of the requirements of the specifications are understood and accepted by the bidder, and that the prices quoted include all required materials and services. The undersigned has checked all of the bid figures, and understands that the Authority will not be responsible for any errors or omissions on the part of the undersigned in preparing this bid. Mistakes or errors in the estimates, calculations or preparation of the bid shall not be grounds for the withdrawal or correction of the bid or bid security. In case of error in extension of prices in the bid, the unit price will govern.
22. ACCOUNTABILITY. The undersigned shall be fully accountable for his or its performance under this bid or any contract or purchase order entered into pursuant to this bid, and agrees that he or its officers will answer under oath all questions relevant to the performance thereof and to any transaction, act or omission done or omitted in connection therewith if called before any Judicial, County or State officer or agency empowered to investigate the contract or his performance.



Erie County Water Authority

3030 Union Road • Cheektowaga, New York 14227-1097
716-684-1510 • FAX 716-684-3937

INVITATION TO BID

BID DESCRIPTION: **FURNISH AND INSTALL PUMP STATION ROOF AND SIDING REPLACEMENTS**

PROJECT No.: 202000165

OPENING DATE: ?

TIME: 11:00 a.m.

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If an APPENDIX document does not have an X on the line preceding it, then the APPENDIX document will not be a contract requirement.

NOTICE TO BIDDERS

The Erie County Water Authority (the “Authority”) will receive separate, sealed bids for the furnishing of all labor, plant, tools, equipment and specified materials, etc. to **Furnish and Install Pump Station Roof and Siding Replacements.**

Bids must be received by the Erie County Water Authority no later than 11:00 a.m. EST, on ? at the Service Center Front Desk, Erie County Water Authority, 3030 Union Road, Cheektowaga, New York 14227.

All bid openings are recorded and posted on the ECWA website, along with the bids results.

When permitted, members of the public may be present to observe the bid opening. All attendees must bring a government-issued photo identification (driver’s license preferred) and check-in with the ECWA receptionist before being allowed entry to the bid opening.

Whenever the Erie County Water Authority is operating under a Declaration of Emergency due to a pandemic or other general state of emergencies, members of the public may be precluded from being present at such bid opening.

ANYONE ENTERING THE SERVICE CENTER OR OTHER AUTHORITY FACILITIES IS SUBJECT TO SUCH RESTRICTIONS OR LIMITATIONS IN PLACE AT THE TIME OF ENTRY.

All bids being mailed (including FedEx, UPS, Priority Mail, etc.) or delivered shall be directed to the “SERVICE CENTER FRONT DESK” at the address listed above in a sealed envelope and be clearly marked on the outside of the mailing or hand-delivered envelope “**BID ENCLOSED – Furnish and Install Pump Station Roof and Siding Replacements.**”

Beginning at 9:00 a.m., on ?, the Instruction to Bidders, Form of Bid and form of Contract, Specifications, and Security Bonds may be obtained by writing the Service Center Front Desk at the above address or calling 716-684-1510, between the hours of 9:00 a.m. and 4:00 p.m. Contract Documents will be mailed to prospective bidders wishing to obtain a set upon receipt of prospective bidder’s charge number for UPS or FedEx. The mailing date will be considered the bidder’s date of receipt. Partial sets of documents will not be available.

A pre-bid meeting will be held at **1:00 p.m.**, prevailing time, on ? beginning at the Harris Hill Pump Station (8660 Main Street, Williamsville, NY 14221) and will continue to the other pump stations. Attendance at the pre-bid meeting is recommended but is not mandatory.

Each bid shall be accompanied by a certified check or bid bond in the amount of five percent (5%) of the amount of the bid.

In accordance with State Finance Law §§139-j and 139-k, all questions about meaning or intent of the bidding documents shall be submitted to the designated contact person in writing. The designated contact is Attention: Clayton J. Johnson, PE, Production Engineer, Erie County Water Authority, 3030 Union Road, Buffalo, New York 14227, telephone 716-345-5076.

The Erie County Water Authority reserves the right to reject any and all bids or to accept any bid deemed to be for the best interest of the Water Authority even though the bid chosen may result in the award of the contract to a bidder whose bid is not mathematically lowest.

ERIE COUNTY WATER AUTHORITY

TERRENCE D. McCracken
Secretary to the Authority

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16. WARRANTY: Notwithstanding anything to the contrary herein contained, BIDDER 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 obligations of BIDDER herein are independent of any other obligations.
17. THIS BID IS FIRM AND IRREVOCABLE for a period of 45 days from the date and time of the bid opening. If a contract is not awarded within the 45 day period, a bidder to whom the bid has not been awarded may withdraw his bid by serving written notice upon the Secretary to the Authority of his intention to do so.
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20. EXTENSION OF PRICE PROTECTION. Any contract entered into pursuant to this bid to supply the Authority requirements of goods and/or services for a definite period of time as stated in the attached specifications may be extended for not more than two successive periods of equal length at the same bid price upon the mutual agreement of the successful bidder and the Authority. All extensions shall be submitted in writing and shall have prior approval by the Secretary to the Authority.
21. IN EXECUTING THIS BID, THE BIDDER AFFIRMS that all of the requirements of the specifications are understood and accepted by the bidder, and that the prices quoted include all required materials and services. The undersigned has checked all of the bid figures, and understands that the Authority will not be responsible for any errors or omissions on the part of the undersigned in preparing this bid. Mistakes or errors in the estimates, calculations or preparation of the bid shall not be grounds for the withdrawal or correction of the bid or bid security. In case of error in extension of prices in the bid, the unit price will govern.
22. ACCOUNTABILITY. The undersigned shall be fully accountable for his or its performance under this bid or any contract or purchase order entered into pursuant to this bid, and agrees that he or its officers will answer under oath all questions relevant to the performance thereof and to any transaction, act or omission done or omitted in connection therewith if called before any Judicial, County or State officer or agency empowered to investigate the contract or his performance.

BID SPECIFICATIONS**SECTION 1 - SHOP DRAWING SUBMITTAL AND CORRESPONDENCE PROCEDURE**

1.01 GENERAL

- A. The submittal of Shop Drawings shall conform to requirements of General Conditions and procedures described in this Section, unless waived by the OWNER.

1.02 SUBMITTAL ADMINISTRATIVE REQUIREMENTS

- A. Submittals of Shop Drawings shall be made to the OWNER at the address listed below:

Clayton J. Johnson, PE, Production Engineer
 Erie County Water Authority
 3030 Union Road
 Buffalo, New York 14227
cjohnson@ecwa.org

- B. Letter of Transmittal for Submittals:

1. Provide separate letter of transmittal with each submittal. Each submittal shall be for one Specification Section.
2. At the beginning of each letter of transmittal and each letter of inquiry, provide a reference heading indicating the following:
 - a. OWNER's Name: _____
 - b. Project Name: _____
 - c. Contract No.: _____
 - d. Transmittal No.: _____
 - e. Section No.: _____
3. For submittals with proposed deviations from requirements of the Contract Documents, the letter of transmittal shall specifically describe each proposed variation.

- C. All Shop Drawings submitted shall bear CONTRACTOR's stamp of approval and signature, as evidence that submittal has been reviewed by CONTRACTOR and verified as complete and in accordance with the Contract Documents. Submittals without this CONTRACTOR's stamp of approval will not be reviewed by the ENGINEER and will be returned to the CONTRACTOR.

1. CONTRACTOR's stamp shall contain the following:

“Project Name: _____

Contractor’s Name: _____

Date: _____

Item/Submittal Title: _____

Specification Section: _____

Submittal No. and Review Cycle: _____

I hereby certify that the shop drawing has satisfied Contractor’s obligations under the Contract Documents relative to Contractor’s review and approval of this submittal.

Approved By (for CONTRACTOR): _____”

- D. The CONTRACTOR shall initially submit to OWNER a full electronic submittal file. Initial submittal does not require paper copy, only final approved submittal shall be provided with two (2) full paper copies, along with the electronic final copy.
- E. Electronic Submittals: Identify and incorporate information in each electronic submittal file as follows:
1. Assemble complete submittal package into a single indexed file incorporating submittal requirements of a single Specification Section and transmittal form with links enabling navigation to each item.
 2. Name file with submittal number or other unique identifier, including revision identifier.
 3. Provide means for insertion to permanently record Contractor's review and approval markings and action taken by Engineer.
 4. Transmittal Form for Electronic Submittals: Use electronic form acceptable to Owner, containing the following information:
 - a. Project name.
 - b. Date.
 - c. Name of firm or entity that prepared submittal.
 - d. Names of subcontractor, manufacturer, and/or supplier.
 - e. Indication of full or partial submittal.
 - f. Transmittal number numbered consecutively.
 - g. Remarks.
- F. Processing Time: Allow time for submittal review, including time for resubmittals, as follows.
1. Initial Review: Allow 15 days for initial review of each submittal. Allow additional time if coordination with subsequent submittals is required. OWNER will advise CONTRACTOR when a submittal being processed must be delayed for coordination.
 2. Intermediate Review: If intermediate submittal is necessary, process it in same manner as initial submittal.

3. Resubmittal Review: Allow 15 days for review of each resubmittal.

1.03 SUBMITTAL PROCEDURES

- A. General Submittal Procedure Requirements: Prepare and submit submittals required by individual Specification Sections. Types of submittals are indicated in individual Specification Sections.
 1. Submit electronic submittals via email as PDF electronic files.
 - a. Engineer will return annotated file. Annotate and retain one copy of file as an electronic Project record document file.
 2. Certificates and Certifications Submittals: Provide a statement that includes signature of entity responsible for preparing certification. Certificates and certifications shall be signed by an officer or other individual authorized to sign documents on behalf of that entity.
- B. Product Data: Collect information into a single submittal for each element of construction and type of product or equipment.
 1. If information must be specially prepared for submittal because standard published data are not suitable for use, submit as Shop Drawings, not as Product Data.
 2. Mark each copy of each submittal to show which products and options are applicable.
 3. Include the following information, as applicable:
 - a. Manufacturer's catalog cuts.
 - b. Manufacturer's product specifications.
 - c. Standard color charts.
 - d. Statement of compliance with specified referenced standards.
 - e. Testing by recognized testing agency.
 - f. Application of testing agency labels and seals.
 - g. Notation of coordination requirements.
 - h. Availability and delivery time information.
 4. For equipment, include the following in addition to the above, as applicable:
 - a. Wiring diagrams showing factory-installed wiring.
 - b. Printed performance curves.
 - c. Operational range diagrams.
 - d. Clearances required to other construction, if not indicated on accompanying Shop Drawings.
- C. Shop Drawings: Prepare Project-specific information, drawn accurately to scale. Do not base Shop Drawings on reproductions of the Contract Documents or standard printed data.
- D. Qualification Data: Prepare written information that demonstrates capabilities and experience of firm or person. Include lists of completed projects with project names

- and addresses, contact information of Engineers and owners, and other information specified.
- E. Welding Certificates: Prepare written certification that welding procedures and personnel comply with requirements in the Contract Documents. Submit record of Welding Procedure Specification and Procedure Qualification Record on AWS forms. Include names of firms and personnel certified.
 - F. Manufacturer Certificates: Submit written statements on manufacturer's letterhead certifying that manufacturer complies with requirements in the Contract Documents. Include evidence of manufacturing experience where required.
 - G. Product Certificates: Submit written statements on manufacturer's letterhead certifying that product complies with requirements in the Contract Documents.
 - H. Material Certificates: Submit written statements on manufacturer's letterhead certifying that material complies with requirements in the Contract Documents.
 - I. Material Test Reports: Submit reports written by a qualified testing agency, on testing agency's standard form, indicating and interpreting test results of material for compliance with requirements in the Contract Documents.
 - J. Product Test Reports: Submit written reports indicating that current product produced by manufacturer complies with requirements in the Contract Documents. Base reports on evaluation of tests performed by manufacturer and witnessed by a qualified testing agency, or on comprehensive tests performed by a qualified testing agency.
 - K. Field Test Reports: Submit written reports indicating and interpreting results of field tests performed either during installation of product or after product is installed in its final location, for compliance with requirements in the Contract Documents.

1.04 OWNER'S REVIEW

- A. Submittals not required in the Contract Documents will not be reviewed by ENGINEER and will not be recorded in OWNER'S submittal log. All hardcopies of such submittals will be returned to CONTRACTOR.
- B. Submittals, Results of OWNER'S Review: Each submittal will be given one of the following dispositions:
 1. Approved: Upon return of submittal marked "Approved", order, ship, or fabricate materials and equipment included in the submittal (pending OWNER'S approval or acceptance, as applicable, of source quality control submittals) or otherwise proceed with the Work in accordance with the submittal and the Contract Documents.
 2. Approved as Corrected: Upon return of submittal marked "Approved as Corrected", order, ship, or fabricate materials and equipment included in the submittal (pending OWNER'S approval or acceptance, as applicable, of source

quality control submittals) or otherwise proceed with the Work in accordance with the submittal and the Contract Documents, provided it is in accordance with corrections indicated.

3. Approved as Corrected – Resubmit: Upon return of submittal marked “Approved as Corrected – Resubmit”, order, ship, or fabricate materials and equipment included in the submittal (pending OWNER’s approval or acceptance, as applicable, of source quality control submittals) or otherwise proceed with the Work in accordance with the submittal and the Contract Documents, provided it is in accordance with corrections indicated. Provide to OWNER record re-submittal with all corrections made. Receipt of corrected re-submittal is required before materials or equipment covered in the submittal will be eligible for payment.
4. Revise and Resubmit: Upon return of submittal marked “Revise and Resubmit”, make the corrections indicated and re-submit to OWNER for approval.
5. Not Approved: This disposition indicates material or equipment that cannot be approved. Upon return of submittal marked “Not Approved”, repeat initial submittal procedure utilizing approvable material or equipment.

SECTION 2 – RETROFIT ROOFING SYSTEMS

PART 1 GENERAL

1.01 DESCRIPTION

A. Scope:

1. Furnish all labor, material, tools, equipment and services for the retrofit roof system as indicated, in accord with the provisions of the contract documents. The metal roof panel system manufacturer will provide all components required for a complete single-supplier system including purlins, trim/flashing, fascias, ridge, closures, ridge vent, sealants, fillers and any other required items as specified in related sections.
2. Factory-formed metal roof and wall panels, including fascia, soffit, and liner panels and includes:
 - a. Factory-formed panels in vertical installation
 - b. Factory-formed panels in horizontal installation
 - c. Metal flashings and trim
 - d. Fascia, as needed

1.02 QUALITY ASSURANCE

A. Manufacturer’s Qualifications:

1. CONTRACTOR of the retrofit framing system shall be experienced in installing metal roof systems of similar size and scope to this project for a minimum of five (5) years.

2. Manufacturer of the retrofit framing system shall be experienced in fabricating complete single-supplier metal roof systems of similar size and scope to this project for a minimum of five (5) years.

B. Installing Contractor Qualifications

1. Installer shall be experienced in installation of structural light-gage retrofit framing and metal roof panel systems for a minimum of two (2) years and shall be a factory-authorized installer of the manufacturer trained in the installation of the retrofit framing system specified.

C. Installation Quality Control

1. The metal roof panel system manufacturer shall conduct inspections of the retrofit framing system prior to metal roof panel installation to ensure straightness and proper alignment to minimize oil-canning and to confirm the system components have been installed in accordance with the installation documents.

1.03 REFERENCES

A. Standards referenced in this Section are listed below

1. American Institute of Steel Construction (AISC)
 - a. AISC - Specification for Structural Steel for Buildings
 - b. American Iron and Steel Institute (AISI)
 - c. AISI CF00-01 - A Design Guide for Standing Seam Roof Panels
 - d. AISI CF97-01 - A Guide for Designing with Standing Seam Roof Panels.
 - e. AISI "Cold Form Steel Design Manual"
2. American Society of Civil Engineers (ASCE)
 - a. ASCE-7 - Minimum Design Loads for Buildings and other Structures
3. American Society for Testing and Materials (ASTM) (As Applicable)
 - a. ASTM A 36/A 36M - Structural Steel
 - b. ASTM A 307 - Steel Bolts and Studs
 - c. ASTM A 446 - Steel Sheet, Zinc Coated (Galvanized) By The Hot-Dip Process
 - d. ASTM A 525/A 525M - Steel Sheet, Zinc-Coated by the Hot-Dip Method
 - e. ASTM A 529/A 529M - Structural Steel with 42 KSI Minimum Yield Point
 - f. ASTM A 1101 - Steel Sheet and Strip, Carbon, Hot-Rolled
 - g. ASTM A 653/A 653M - Specification for Steel Sheet, Zinc Coated (Galvanized) or Zinc-Iron Alloy - Coated (Galvannealed) By Hot-Dip Method
 - h. ASTM E 1514 -Structural Standing Seam Steel Roof Panel Systems.
 - i. ASTM E 1592 - Structural Performance Test for Metal Panel and Siding Systems by Uniform Static Air Pressure Difference
 - j. ASTM A792 - Specification for Galvalume Coated Steel
4. Metal Building Manufacturers Association
 - a. MBMA - Metal Building Systems Design Practices Manual
5. Factory Mutual
 - a. FM-4471 - Wind Uplift Test for Metal Roof Panel Systems

6. American Welding Society
7. AWS D1.1 Structural Welding Code – Steel
8. AWS D1.3 Structural Welding Code - Steel Sheet
- B. Steel Structures Painting Council
 1. SSPC- SP10 - Steel Structures Painting Manual
- C. Underwriters Laboratories, Inc. (UL)
 1. UL 580 - Tests for Uplift Resistance of Roof Assemblies
- D. American Society Of Heating, Refrigerating And Air-Conditioning Engineers (ASHRAE)
 1. ANSI/ASHRAE Standard 90.1, Energy Standard for Buildings

1.04 SUBMITTALS

- A. Action Submittals: Submit the following:
 1. Product Data
 - a. The following shall be submitted by the retrofit framing system manufacturer for approval in a timely manner after award of contract.
 - b. Detail drawings shall consist of catalog cuts, design and installation drawings and other data necessary to clearly describe design, materials, gages, sizes, layouts, construction details, fasteners and erection.
 - c. Manufacturer's product literature for retrofit roofing system components including purlins and supports, and clips.
 - d. A minimum of six (6) project references of similar use and size listing the owner, location, scope and name of project as provided by the manufacturer.
 - e. Obtain approval of all submittals prior to fabrication and installation.
 2. Guarantee.

1.05 DELIVERY, STORAGE, AND HANDLING

- A. Materials shall be delivered to the site in a dry and undamaged condition and stored out of contact with the ground. Materials shall be covered with weathertight coverings and kept dry.
- B. Deliver materials, required for each pump station, to each pump station location:
 1. William Pump Station
 - a. End of South Penora Street, Depew, NY 14043
 2. Jewett-Holmwood Pump Station
 - a. 7275 Jewett-Holmwood Rd., Orchard Park, New York
 3. Clark Street Pump Station
 - a. 4907 Clark St., Hamburg, NY 14075
 4. Harris Hill Pump Station
 - a. 8660 Main St., Williamsville, NY 14221
 5. Lakeview Pump Station

- a. 6549 Schultz Rd., Lake View, NY 14085
- 6. Marilla Pump Station
 - a. 11633 Clinton Street, Alden, NY 14004

C. All roofing systems shall be installed prior to November 1, 2020.

D. Project shall be closed out prior to December 30, 2020.

1.06 WARRANTY

- A. The roofing systems shall be guaranteed to be free from defects in materials for a period of twenty years and workmanship for a period of two years, from the date the materials are installed.

1.07 EXISTING ROOF SYSTEM AND TESTING

- A. The CONTRACTOR shall obtain field measurements and forward them to the retrofit system manufacturer for coordination and integration into the installation documents and submittals. This shall be done prior to commencing any engineering and design work and before fabrication of any materials.
- B. All pump stations, except the Lakeview Pump Station, have shingled roofs with wood trusses.
- C. The Lakeview Pump Station has an existing metal roof and siding that shall be replaced.

1.08 DESIGN REQUIREMENTS

- A. General
- B. Wind Load Design
 - 1. The assembly shall withstand a wind load of 140 miles per hour (MPH) velocity as required by the code.

PART 2 PRODUCTS

2.01 APPROVED MANUFACTURERS

- A. The retrofit framing and metal roof panel system as specified in this section shall be as manufactured by the following or a prior approved equal with all roof panel, framing components and accessories from a single source manufacturer:
1. McElroy Metal, Inc.
 2. Union Corrugating Company
 3. Or OWNER approved equal

2.03 MATERIALS AND MANUFACTURED UNITS

A. Metal Panels

1. Profile: Major longitudinal ribs 3/4" (45 mm) deep, spaced 9" (229 mm) on center; minor longitudinal ribs centered between major ribs.
2. Size: 36" (914 mm) cover width, lengths as required.
3. Material: Galvalume steel sheet conforming to ASTM A792, AZ55 coating for bare; AZ50 coating for painted; 26 gauge sheet thickness.
4. Finish: Siliconized polyester color coat applied to sight-exposed face of sheet after pretreatment and priming in accordance with coating manufacturer's recommendations.
5. Finish: Polyvinylidene fluoride color coat, minimum 70% polyvinylidene fluoride resin content, applied to sight-exposed face of sheet after pretreatment and priming in accordance with coating manufacturer's recommendations.
 - i. Color: Shall be selected by OWNER during shop drawing review.
OWNER will select color from Manufacturer's standard colors.

B. Trim

1. Manufacturer's standard sheet metal matching panel material and finish, break-formed to profiles including, but not limited to:
 - i. Gutters and downspouts
 - ii. Termination and transition strips
 - iii. Eaves
 - iv. Ridgecaps/Ridge vent
 - v. Drip edge/Rake edge
 - vi. J-Channel
 - vii. Rail Snow Guard
 - viii. Ridge Vent Screen
2. CONTRACTOR shall provide all materials required to provide a fully functioning roofing system.
3. Color: Match panel finish as selected by OWNER during shop drawing review.

- C. Clips and Fasteners: Supply items required for installation of panels in accordance with manufacturer’s installation instructions and other indicated items; supply stainless steel clips and fasteners.
- D. Purlins
 - 1. CONTRACTOR shall use Tulip Popper or Pine.

2.04 MISCELLANEOUS PRODUCTS

2.05 ROOFTOP EQUIPMENT

- A. Flexible pipe flashing shall be the metal roof system manufacturer’s standard product of a configuration to seal around circular pipe penetrations and prevent intrusion of water through the metal roofing membrane. Flexible pipe flashing shall consist of a flexible ring of EPDM or other suitable material bonded to a malleable steel draw-ring which when fastened to the roofing membrane will weatherproof the penetration.
 - 1. Roofing System Installer shall install in accordance with the manufacturer’s instructions.

2.06 ROOF LOCATIONS AND DIMENSIONS

- A. Refer to the tables below for the dimensions of each existing roof system and wall dimensions of the Lakeview Pump Station.

Table 1. Roof Dimensions

Location	Peak to Eave Length (ft.)	Roof Length per Side (ft.)
William Street Pump Station	27	68
Jewett-Holmwood Pump Station	21	58
Clark Street Pump Station	22	56
Harris Hill Pump Station	27	68
Lakeview Pump Station	8	21
Marilla Pump Station	14	26

Table 2. Lakeview Pump Station Wall Dimensions

Location	No. of Walls	Wall Height (ft.)	Wall Length per Side(ft.)
Lakeview Pump Station	2	14	13
	2	21 ⁽¹⁾	10

⁽¹⁾Height is from bottom of building to peak of roof.

2.07 SIDING INSULATION – Lakeview Pump Station Only

- A. CONTRACTOR shall remove and replace metal siding and insulation within the building walls at Lakeview Pump Station. All effort associated with this work shall be included

under Bid Item No. 5b. Insulation shall be per the New York State Building Code (latest revision).

PART 3 EXECUTION

3.01 ROOF REPLACEMENT

- A. For all roofs except the Lakeview Pump Station, CONTRACTOR shall install replacement metal roof over existing shingled roofs as per roofing manufacturer's instructions.
- B. For Lakeview Pump Station Roof, CONTRACTOR shall remove existing metal roof and install replacement metal roof as per roofing manufacturer's instructions.

3.02 EXTENSION OF EXISTING COMPONENTS

- A. Extension of Electrical Service: When power vents are removed and reinstalled on curbs on the new metal roof panel system, the contractor shall extend the electrical service as required to render the power vent operational. Extensions shall be made with like gage and type wire. If the original service is run in conduit, conduit shall be installed on the extension. Junction boxes shall be provided at splices in wire or conduits. Junction boxes and conduit shall be secured to the steel framing structure. All work shall be accomplished to comply with the local electrical code. OWNER will address any electrical service extensions.
- B. Extension of Existing Plumbing Vents: During the installation of the specified metal roof panel system, the extension and flashing of existing plumbing vents will be required. The CONTRACTOR shall extend existing plumbing vents through the metal roof panels, as required and provide flexible vent pipe flashings at the roof panel penetration. Plumbing vent extensions shall be made with material of like composition of the plumbing vent being extended, and shall be securely braced within the attic space to ensure continued service of the vent. As often as possible, when extending plumbing vents, the CONTRACTOR shall ensure that the roof penetration is located between the side seams of the metal roof panels such that the malleable ring on the flexible vent pipe flashing will lay flat against the roof panel around its entire circumference. The CONTRACTOR shall install elbow fittings to horizontally displace the pipe if necessary. The metal roof panel system manufacturer must approve plumbing vents that do not fall between side seams.
- C. Extension of Existing Hot Flue Stacks: During the installation of the specified metal roof panel system, the extension and flashing of existing hot flue stacks will be required. The CONTRACTOR shall extend existing hot flue stacks through the metal roof panels, as required and provide flashings at the roof panel's penetration. Flashings shall be flexible vent stack type or rooftop equipment curb type depending on the size of the existing stack. Hot flue stack extensions shall be of double wall construction made with material of like composition of the hot flue stack being extended, and shall be securely braced within the attic space to ensure continued service of the vent. Hot flue stacks shall be extended to be

3 feet higher than the elevation of any roof within a 10-foot radius of the hot flue stack penetration.

- D. Extension of Existing Ductwork: When existing gravity vents, power vents, gooseneck fresh air make-up, and other vents are installed on curbs on the new metal roof panel system, the extension of vent ductwork will be required. The CONTRACTOR shall extend existing ductwork through the metal roof panel system, as required to ensure the continued service of the vent. Ductwork shall be securely attached to new rooftop equipment curb and joints shall be sealed tight to provide a leak-proof assembly. Ductwork extensions shall be made with material of like composition and gage of the ductwork being extended.

3.03 REINSTALLATION OF EXISTING COMPONENTS

- A. Reinstallation of Existing Vents: During the installation of the specified metal roof panel system, the removal and reinstallation of existing power vents, gravity vents, and gooseneck vents shall be required. The CONTRACTOR shall remove and reinstall vents indicated to extend through the metal roof panel system. The contractor shall have the responsibility to remove such vents without damage, and reinstall the vents on new rooftop equipment curbs. Vents shall be securely fastened to the equipment curb to prevent displacement and to provide a weathertight installation. In the case of power vents, the electrical service shall be extended to ensure continued service of the vent.

3.04 CLEAN UP

- A. The CONTRACTOR shall protect installed products from damage by subsequent construction activities until final acceptance. The contractor shall collect and dispose of all framing system cuttings and debris including unused anchors, framing fasteners, sealant and associated material from the jobsite.

END OF BID SPECIFICATIONS

BID DOCUMENTS AND PROPOSAL

BID DESCRIPTION: FURNISH AND INSTALL PUMP STATION ROOF AND SIDING REPLACEMENTS

PROJECT No.: 202000165

OPENING DATE: **[INSERT]**

TIME: **[INSERT]**

NAME OF BIDDER: _____

PERSON AUTHORIZED TO ENTER INTO CONTRACT FOR BIDDER:

NAME: _____

TITLE _____

SUBMISSION DATE: _____

ADDRESS: _____

PHONE: _____

PERSON EMPLOYED BY THE BIDDER, WHO WILL BE RESPONSIBLE FOR OBTAINING BONDS AND/OR INSURANCE COVERAGE

NAME: _____

TITLE _____

ADDRESS: _____

PHONE: _____

EMAIL: _____

BID ITEMS & BID SHEET**BID DESCRIPTION: FURNISH AND INSTALL PUMP STATION ROOF AND SIDING REPLACEMENTS**

PROJECT No.: 202000165

Ship to: ERIE COUNTY WATER AUTHORITY
SERVICE CENTER

Attention: Clayton J. Johnson, Production Engineer

Address: 3030 Union Road, Buffalo, New York 14227

1. All roofing systems shall be installed prior to October 1, 2021.
2. Project shall be closed out prior to December 30, 2021.

Item No.	Quantity	U/M	Description	Lump Sum Price
1	1	LS	Roof for William Street Pump Station	
2	1	LS	Roof for Jewett-Holmwood Pump Station	
3	1	LS	Roof for Clark Street Pump Station	
4	1	LS	Roof for Harris Hill Pump Station	
5a	1	LS	Roof for Lakeview Pump Station	
5b	1	LS	Siding for Lakeview Pump Station	
6	1	LS	Roof for Marilla Pump Station	
			TOTAL NET BID =	

APPENDIX A

NOTE: Bid results are available on the Erie County Water Authority website, www.ecwa.org (under Doing Business tab, select option Business Opportunities). No bid results will be given over the telephone.

The Bidder agrees to supply all material/equipment/labor above-described at the above-quoted price and in accordance with all applicable Bid Specifications.

NAME OF BIDDER: _____

AUTHORIZED SIGNATURE: _____ DATE: _____

INFORMATION REQUIRED FROM BIDDERS
AT TIME OF CANVASS OF BIDS

To facilitate correct drawing and execution of contract, bidder shall supply full information concerning legal status:

FIRM NAME _____

ADDRESS OF PRINCIPAL OFFICE: STREET _____

CITY _____

AREA CODE _____ PHONE _____ STATE _____ ZIP _____

Check one: CORPORATION _____ PARTNERSHIP _____ INDIVIDUAL _____

INCORPORATED UNDER THE LAWS OF THE STATE OF _____

If foreign corporation, state if authorized to do business in the State of New York:

YES _____ NO _____

TRADE NAMES: _____

ADDRESS OF LOCAL OFFICE: STREET _____

CITY _____

AREA CODE _____ PHONE _____ STATE _____ ZIP _____

NAMES AND ADDRESSES OF PARTNERS:

IDENTIFICATION #: (COMPLETE ONE):

Federal Employer Identification Number: _____

Social Security Number: _____

INFORMATION REQUIRED FROM BIDDERS
REGARDING PROPOSED CONTRACT DOCUMENTS

Question 1:

The BIDDER represents that it has reviewed the Proposed Contract Documents beginning at page 35.

CHECK ONE:

- YES, BIDDER has reviewed the Proposed Contract Documents.
- NO, BIDDER has not reviewed the Proposed Contract Documents.

Failure to review the Proposed Contract Documents will result in the BIDDER being deemed NONRESPONSIVE by the Authority and therefore, ineligible to be awarded the Contract.

Question 2:

The BIDDER accepts the terms of the Proposed Contract Documents as drafted and agrees to execute the Contract as drafted if awarded the Bid.

CHECK ONE:

- YES, BIDDER accepts the Proposed Contract Documents.
- NO, BIDDER proposes the following amendment(s) to the Proposed Contract Documents:

*Insert Additional Page(s) if necessary.

Question 3:

Is the proposed Amendment a Condition of the Bid Proposal? If the Authority rejects the proposed Amendment would the Bidder withdraw its Bid?

CHECK ONE:

YES, the Amendment is a Condition of the Bid Proposal.

IF the Amendment is a Condition of the Bid Proposal and the Authority rejects the Amendment, the Authority will deem the Bid withdrawn and will proceed to award the Bid to the next lowest, responsible bidder.

NO, the BIDDER would like to negotiate the terms of the Amendment prior to the execution of the Contract.

Please answer Question 3 for each proposed Amendment to the Proposed Contract Documents and insert additional pages if necessary to provide such answers.

NAME OF BIDDER: _____

AUTHORIZED SIGNATURE: _____ DATE: _____

BID SECURITY FORM

BIDDER (Name and Address):

SURETY (Name and Address of Principal Place of Business):

OWNER:

Erie County Water Authority
295 Main Street, Room 350
Buffalo, New York 14203

BID

BID DUE DATE: _____

PROJECT:

Furnish and Install Pump Station Roof and Siding Replacements

Project No: 202000165

BOND

BOND NUMBER: _____

DATE: (Not later than Bid due date): _____

PENAL SUM: _____ (Words) _____ (Figures)

IN WITNESS WHEREOF, Surety and Bidder, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

BIDDER

SURETY

(Seal)
Bidder's Name and Corporate Seal

(Seal)
Surety's Name and Corporate Seal

By: _____
Signature and Title

By: _____
Signature and Title
(Attach Power of Attorney)

Attest: _____
Signature and Title

Attest: _____

APPENDIX A

1.01 Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to OWNER upon default of Bidder the penal sum set forth on the face of this Bond.

2.01 Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by OWNER) the executed Agreement required by the Bidding Documents and any performance and payment Bonds required by the Bidding Documents.

3.01 This obligation shall be null and void if:

- A. OWNER accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by OWNER) the executed Agreement required by the Bidding Documents and any performance and payment Bonds required by the Bidding Documents, or
- B. All Bids are rejected by OWNER, or
- C. OWNER fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by paragraph 5.01 hereof).

4.01 Payment under this Bond will be due and payable upon default by Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from OWNER, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.

5.01 Surety waives notice of and any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by OWNER and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from Bid due date without Surety's written consent.

6.01 No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in paragraph 4.01 above is received by Bidder and Surety and in no case later than one year after Bid due date.

7.01 Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.

8.01 Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.

9.01 Surety shall cause to be attached to this Bond a current and effective Power or Attorney evidencing the authority of the officer, agent or representative who executed this Bond on behalf of Surety to execute, seal and deliver such Bond and bind the Surety thereby.

10.01 This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

11.01 The term "Bid" as used herein includes a Bid, offer or proposal as applicable.

END OF BID BOND

NON-COLLUSIVE BIDDING CERTIFICATION

as mandated by Public Authority Law § 2878

By submission of this bid, 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 to the best of his knowledge and belief:

- (1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- (2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
- (3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

NOTICE

(Penal Law § 210.45)

IT IS A CRIME, PUNISHABLE AS A CLASS A MISDEMEANOR UNDER THE LAWS OF THE STATE OF NEW YORK, FOR A PERSON, IN AND BY A WRITTEN INSTRUMENT, TO KNOWINGLY MAKE A FALSE STATEMENT, OR TO MAKE A FALSE STATEMENT, OR TO MAKE A STATEMENT WHICH SUCH PERSON DOES NOT BELIEVE TO BE TRUE.

BID NOT ACCEPTABLE WITHOUT FOLLOWING CERTIFICATION:

Affirmed under penalty of perjury this _____ day _____, 20____

TERMS _____ DELIVERY DATE AT DESTINATION _____

FIRM NAME _____

ADDRESS _____

_____ ZIP _____

AUTHORIZED SIGNATURE _____

TYPED NAME OF AUTHORIZED SIGNATURE _____

TITLE _____ TELEPHONE No. _____

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 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 Requirement 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 no later than when the Offerer submits its proposal.

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(1).

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 (the “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 (the “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)

**CONTRACT FOR FURNISHING AND INSTALLING PUMP
STATION ROOF AND SIDING REPLACEMENTS**

This Agreement, effective _____, 2020 (“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

CONTRACTOR NAME
Street Address
City, State Zip

hereinafter referred to as the “Contractor.”

The Authority seeks to enter into an agreement with the Contractor to furnish materials, to replace siding, and to install roofs at various pump stations upon the terms and conditions stated in this Agreement

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

ARTICLE 1 – THE PROCUREMENT

1.01 The Contractor will furnish the necessary materials and will replace the roofs at the following locations:

- A. William Street Pump Station Roof;
- B. Jewett-Holmwood Pump Station Roof;
- C. Clark Street Pump Station Roof;
- D. Harris Hill Pump Station Roof; and
- E. Lakeview Pump Station Roof.
- F. Marilla Pump Station Roof.

1.02 The Contractor will furnish the necessary materials and will replace the siding at the Lakeview Pump Station.

1.03 The Contractor will replace the roofs and siding described in §§ 1.01 and 1.02 of this Article prior to **October 1, 2021**. Prior to December 30, 2020, The Contractor will provide the Authority with all invoices for labor and materials, as well as its certified payroll records.

1.04 Contractor agrees that the roofs and siding described in §§ 1.01 and 1.02 of this Article are guaranteed to be free from defects in materials for a period of twenty years and workmanship for a period of two years, from the date the materials are installed.

1.05 In response to the Authority's Invitation to Bid, the Contractor submitted and signed Bid Documents and Proposal, a copy of which is attached to, and incorporated in, this Agreement as Appendix A.

1.06 Bid Specifications set forth in the Invitation to Bid are incorporated in this Agreement as Appendix B.

1.07 The Contractor agrees that the labor performed under this Agreement shall be performed in accordance with the requirements of Article 8 (Sections 220-223 of the New York State Labor Law. The supplements to be provided and wages to be paid to workers, laborers and mechanics employed under this Agreement, determined pursuant to Section 220 of the Labor Law, are set forth in and incorporated in this Agreement as Appendix D, Prevailing Rate Schedule. The Contractor agrees that the wage rates and supplemental benefits shown in Appendix D are subject to change. The wage rates and supplemental benefits to be paid and provided are those prevailing at the time labor under this Agreement is being performed.

1.08 Prior to the execution of this Agreement, the Contractor agrees to provide a Payment Bond pursuant to the terms and conditions set forth in Appendix E.

1.09 Prior to the execution of this Agreement, the Contractor agrees to provide a Performance Bond pursuant to the terms and conditions set for in Appendix F.

1.10 The Contractor agrees that it will abide by and will require its subcontractors to abide by the Authority's Affirmative Action Requirements and Women and Minority Business Enterprise Policy, as set forth in and incorporated in this Agreement as Appendix G.

1.11 The Contractor agrees that it will abide by and will require its subcontractors to abide by the Authority's Apprenticeship Policy, as set forth in and incorporated in this Agreement as Appendix H.

ARTICLE 2 – COMPLIANCE

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

2.02 The Contractor 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 Invitation to Bid, the Contractor 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 Contractor affirms under the penalties of perjury that there was no collusion in the bid submitted to the Authority, upon which forms the basis of this Agreement.

2.05 The Contractor 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 Invitation for Bids, the Contractor 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 Contractor 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 Contractor, its employees, agents and 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 Contractor’s employees and representatives shall comply with the specific applicable security and access rules established by the Authority’s Security Officer.

ARTICLE 3 – PAYMENT FOR MATERIALS AND SUPPLIES

3.01 The Contractor agrees to accept a lump sum payment of \$ [REDACTED] as compensation for furnishing all necessary materials and for the labor associated with replacing and installing the following:

Item No.	Quantity	U/M	Description	Lump Sum Price
1	1	LS	Roof for William Street Pump Station	
2	1	LS	Roof for Jewett-Holmwood Pump Station	
3	1	LS	Roof for Clark Street Pump Station	
4	1	LS	Roof for Harris Hill Pump Station	
5a	1	LS	Roof for Lakeview Pump Station	
5b	1	LS	Siding for Lakeview Pump Station	
6	1	LS	Roof for Marilla Pump Station	

			TOTAL LUMP SUM PAYMENT =	
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3.02 The Contractor shall be responsible for the payment of all freight, cartage, rigging, postage or other transportation charges relating to furnishing all necessary materials. In its Bid Proposal, the Contractor submitted a proposed lump sum payment for the items outlined in § 3.01 of this Article and included all freight, cartage, rigging, posting and other transportation charges in such proposed lump sum payment pursuant to the Bid Instructions. Under no circumstances will the Authority be responsible for any freight, cartage, rigging, postage or other transportation charges relating to furnishing all necessary materials to the worksite.

3.03 The Authority is exempt from taxation. The Contractor 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 – GENERAL PROVISIONS

4.01 Subcontract and Assignments: The Contractor may not subcontract or delegate any of the obligations of the Contractor without the express written consent of the Authority. The Authority and the Contractor bind themselves and their successors, administrators and assigns to the terms of this Agreement. The Contractor shall not assign, sublet or transfer its interest in the Agreement without the written consent of the Authority.

4.02 Amendments: No modification or variation from the terms of this Agreement shall be effective unless it is in writing and authorized by a resolution of the Board of Commissioners of the Authority and signed by all parties.

4.03 Right to Terminate: The Authority reserves the right to terminate the Contractor’s procurement at any time, without cause, based on seven (7) days’ written notice. The Contractor 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.

4.04 Indemnification:

- A. To the fullest extent permitted by law, the Contractor 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 Contractor’s performance under this Agreement and those of its subcontractors or anyone for whom the Contractor is legally liable.
- B. To the fullest extent permitted by law, the Authority agrees to indemnify and hold the Contractor 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.

4.05 Insurance:

- A. The Contractor 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 C.
- B. The Contractor shall provide and maintain insurance that will provide coverage for claims arising out of the negligent performance of this Agreement.
- C. The Contractor shall provide Certificates of Insurance certifying the coverage required by this provision.
- D. The Contractor 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.

4.06 Warranty: Unless otherwise stated in this Agreement, the Contractor 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 Contractor's obligation under this section is independent of any other obligations stated in this Agreement.

4.07 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 Contractor 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.

4.08 Conflicts of Interest: The Contractor 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 Contractor from carrying out the terms of this Agreement or which would present a significant opportunity for the disclosure of confidential information. The Contractor 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 Contractor. So long as the Contractor reports such a conflict as required by this section, the Contractor will have no further obligations under the terms of this Agreement.

4.09 Additional Conditions: The Contractor and the Authority acknowledge that there may be additional conditions, terms and provisions which shall apply specifically to the delivery of materials and supplies to be furnished. The parties agree to negotiate in good faith to agree upon such additional terms.

4.10 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.

4.11 Independent Status: Nothing contained in the Agreement shall be construed to render either the Authority or the Contractor, 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 Contractor shall remain an independent contractor responsible for its own actions. The Contractor is retained by the Authority only for the purpose and to the extent set forth in this Agreement.

4.12 Doing Business Status: The Contractor represents it is qualified to do business in the State of New York and has registered with the New York Secretary of State.

4.13 Gratuities, Illegal or Improper Schemes:

- A. The Contractor 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 Contractor 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 Contractor, the Contractor'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 Contractor 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.

4.14 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 5 – SEVERABILITY

5.01 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 6 – TERMINATION

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

ERIE COUNTY WATER AUTHORITY

By _____
Jerome D. Schad, Chair

INSERT CONTRACTOR

By _____
[INSERT NAME, TITLE]

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

On the _____ day of _____, in the year 2020, 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 NEW YORK)
COUNTY OF ERIE) ss:

On the _____ day of _____, in the year 2020, before me personally came [Insert Name], to me known, who, being by me duly sworn, did depose and say that he resides in _____, New York, that he is the [Insert Title] 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
Bid Documents & Proposal

APPENDIX B
Bid Specifications

APPENDIX C

Insurance Requirements

Insurance specs:

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.

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:**
 - \$5,000,000. Each Occurrence
 - \$5,000,000. Aggregate
 - Erie County Water Authority to be scheduled as an Additional Insured

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 contractor 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 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.

APPENDIX D

Prevailing Wage Rate Schedule

INSTRUCTIONS AND SCHEDULE OF MINIMUM WAGE RATES ISSUED BY NEW YORK STATE LABOR DEPARTMENT

No laborer, worker or mechanic in the employ of the CONTRACTOR or a Subcontractor or other person doing or contracting to do a whole or a part of the work contemplated by this agreement, shall be permitted or required to work more than eight (8) hours in any calendar day, or more than five (5) days in any one week, except in cases of extraordinary emergency caused by fire, flood, or damages to life and property.

The wages to be paid for a legal day's work to laborers, workmen or mechanics under this agreement, shall not be less than the prevailing rate of wages as defined and determined by the Industrial Commissioner of the State of New York, a schedule of which is attached to this contract and made a part thereof, with the same force and effect as though set forth in full herein.

In the performance of the work the CONTRACTOR shall give preference to citizens of the State of New York who have been residents for at least twelve (12) months immediately prior to the commencement of their employment, and persons other than citizens may be employed when citizens of the State of New York are not available. If the above provisions of this contract and the provisions of Sec. 222 of the Law of the State of New York are not complied with, this contract Labor shall be void.

In the hiring of employees for the performance of work under this contract or by subcontract hereunder, the CONTRACTOR or subcontractor, or any persons acting on behalf of the CONTRACTOR or subcontractor, shall not by any reason of race or color discriminate against or intimidate any employee hired for the performance of work under this contract on account of race or color.

There may be deducted from the amount payable to the CONTRACTOR by the Water Authority, under this contract, a penalty of five dollars (\$5.00) for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of this contract.

This contract may be cancelled or terminated by the Water Authority and all monies due or to become due hereunder may be forfeited for a second or subsequent violation of the terms or conditions of the preceding paragraph of this contract.

**PUBLIC WORKS - FAILURE TO PAY PREVAILING WAGE
EXCLUSION FROM CONTRACTING OR SUBCONTRACTING
CHAPTER 147**

A. 7314-A

Memorandum relating to this chapter, see Legislative Memoranda, post.

Approved May 24, 1991, effective as provided in Section 3.

An act to amend the labor law, in relation to debarment of public building service
CONTRACTORS

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1:

Paragraph b of Subdivision 3 of Section 220-b of the Labor Law, as amended by Chapter 651 of the Laws of 1989, is amended to read as follows:

- b. When two final determinations have been rendered against a CONTRACTOR or subcontractor and/or its successor within any consecutive six-year period determining that such CONTRACTOR or subcontractor and/or its successor has willfully failed to pay the prevailing rate of wages or to provide supplements in accordance with this article, whether such failures were concurrent or consecutive and whether or not such final determinations concerning separate public work projects are rendered simultaneously, such CONTRACTOR or subcontractor and/or its successor shall be ineligible to submit a bid on or be awarded any public work contract with the state, any municipal corporation or public body for a period of five years from the second final determination. For purposes of this article, a successor shall mean an employer engaged in work substantially similar to that of the predecessor, where there is substantial continuity of operation with that of the predecessor.

SECTION 2:

Subdivision 7 of Section 235 of the labor Law, as added by Chapter 777 of the Laws of 1971, is amended to read as follows:

7. When, pursuant to the provisions of this section two final orders have been entered against a CONTRACTOR or subcontractor and/or its successor within any consecutive six-year period determining that such CONTRACTOR or subcontractor and/or its successor has willfully failed to pay the prevailing wages in accordance with the provisions of this article, whether such failures were concurrent or consecutive and whether or not such final determinations concerning separate public building service contracts are rendered simultaneously, such CONTRACTOR or subcontractor and/or its successor, and if the CONTRACTOR or subcontractor and/or its successor is a corporation, any officer of such corporation who knowingly participated in such failure, shall be ineligible to submit a bid on or be awarded any public building service work for a period of five years from the date of the second order. For purposes of this article, a successor shall mean an employer engaged in work substantially similar to that of the predecessor, where there is substantial continuity of operation with that of the predecessor. Nothing of this subdivision shall be construed as affecting any provision of any other law or regulation relating to the awarding of public contracts.

SECTION 3:

This act shall take effect 60 days after the date upon which it shall have become a law and shall apply to any conduct occurring after such date.

STATE OF NEW YORK
DEPARTMENT OF LABOR

NOTICE TO ALL PUBLIC OFFICIALS IN CHARGE OF
PUBLIC WORK CONSTRUCTION AND ALL CONTRACTORS
AND SUBCONTRACTORS ENGAGED IN PUBLIC WORKS
CONSTRUCTION IN THE STATE OF NEW YORK

Article 8, Section 220 of the Labor Law, as amended by Chapter 750 of the Laws of 1956, provides, among other things, that it shall be the duty of the fiscal officer to make a determination of the schedule of wages to be paid to all laborers, workmen and mechanics employed on public work projects including supplements for welfare, pension, vacation and other benefits. These supplements may include hospital, surgical or medical insurance or benefits; life insurance or death benefits; accidental death or dismemberment insurance; and pension or retirement benefits. If the amount of supplements provided by the employer is less than the total supplements shown on the wage schedule, the difference shall be paid in cash to employees.

Article 8, Section 220 of the Labor Law, as amended by Chapter 750 of the Laws of 1956, also provides that the supplements to be provided to laborers, workmen and mechanics upon public works "shall be in accordance with the prevailing practices in the locality..." The amount for supplements listed on the enclosed schedule does not necessarily include all types of prevailing supplements in the locality, and a future determination of the Industrial Commissioner may require the CONTRACTOR to provide additional supplements.

The CONTRACTOR shall provide statutory benefits for disability benefits, workmen's compensation, unemployment insurance and Social Security.

The substance of this notice should be included in your contract.

Signed - Dr. Philip Ross
INDUSTRIAL COMMISSIONER

Article 8 of the New York State Labor Law was amended on July 15, 1983 to provide that wages for Public Projects are to be paid pursuant to the existing Bargaining Agreement in the area where the work is to be performed.

Wages are to be paid on this project as hereinafter set forth or pursuant to the Collective Bargaining Agreement in effect in Erie County, whichever are higher.

During the performance of this contract, the CONTRACTOR agrees as follows:

- (a) The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, creed, sex, age, color or national origin, and will take affirmative action to insure that they are afforded equal employment opportunities without discrimination because of race, creed, sex, age, color or national origin or because a person has opposed any practices forbidden under these sections or because he filed a complaint, testified, or assisted in any proceeding under these sections. Such action shall be taken with reference, but not limited to: recruitment, employment, classification, job assignment, promotion, upgrading, demotion, transfer, layoff, discharge, expulsion or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.
- (b) The CONTRACTOR will send to each labor union or representative of workers with which he has or is bound by a collective bargaining or other agreement or understanding, a notice, to be provided by the State Commission for Human Rights, advising such labor union or representative of the CONTRACTOR'S agreement under clauses (a) through (h) (hereinafter called "non-discrimination clauses) and requesting such labor union or representative to agree in writing, whether in such collective bargaining or other agreement or understanding or otherwise, that such labor union or representative will not discriminate against any member or applicant for membership because of race, creed, sex, age, color or national origin, and will take affirmative action to insure that they are afforded equal membership opportunities without discrimination because of race, creed, sex, age, color or national origin. Such action shall be taken with reference, but not limited to: recruitment, employment, job assignment, promotion, upgrading, classification, demotion, transfer, layoff, discharge, expulsion or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training. Such notice shall be given by the CONTRACTOR prior to the commencement of performance of this contract. Such written agreement shall be made by such labor union or representative prior to the commencement of performance of this contract, unless such labor union or representative fails or refuses so to agree in writing, in which event the CONTRACTOR shall promptly notify the State Commission for Human Rights of such failure or refusal.
- (c) The CONTRACTOR will post and keep posted in conspicuous places, available to employee's and applicants for employment, notices to be provided by the State Commission for Human Rights setting forth the substance of the provisions of clauses (a)

and (b) and such provisions of the State's laws against discrimination as the State Commission for Human Rights shall determine.

- (d) The CONTRACTOR will state, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, that all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, sex, age, color or national origin.
- (e) The CONTRACTOR will comply with the provisions of Sections 291-299 of the Executive Law and the Civil Rights Law, will furnish all information and reports deemed necessary by the State Commission for Human Rights under these non-discrimination clauses and such sections of the Executive Law, and will permit access to his books, records and accounts by the State Commission for Human Rights, the Attorney General and the Industrial Commissioner for purposes of investigation to ascertain compliance with these non-discrimination clauses and such sections of the Executive Law and Civil Rights Law.
- (f) This contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the contracting agency upon the basis of a finding made by the State Commission for Human Rights that the CONTRACTOR has not complied with these non-discrimination clauses, and the CONTRACTOR may be declared ineligible for future contracts made by or on behalf of the State or a public authority or agency of the State, until he satisfied the State Commission for Human Rights that he has established and is carrying out a program in conformity with the provisions of these non-discrimination clauses. Such finding shall be made by the State Commission for Human Rights after conciliation efforts by the Commission have failed to achieve compliance with these non-discrimination clauses and after a verified complaint has been filed with the Commission, notice thereof has been given to the CONTRACTOR and an opportunity has been afforded him to be heard publicly before three members of the Commission. Such sanctions may be imposed and remedies invoked independently of or in addition to sanctions and remedies otherwise provided by law.
- (g) If this contract is cancelled or terminated under clause (f), in addition to other rights of the Erie County Water Authority provided in this contract upon its breach by the CONTRACTOR, the CONTRACTOR will hold the Erie County Water Authority harmless against any additional expenses or costs incurred by the Authority in completing the work or in purchasing the services, materials, equipment or supplies contemplated by this contract, and the Erie County Water Authority may withhold payments from the CONTRACTOR in an amount sufficient for this purpose and recourse may be had against the surety on the performance bond if necessary.
- (h) The CONTRACTOR will include the provisions of clauses (a) through (g) in every subcontract or purchase order in such manner that provisions will be binding upon each subcontractor or vendor as to operations to be performed within the State of New York. The CONTRACTOR will take such action in enforcing such provisions of such subcontract or purchase order as the contracting agency may direct, including sanctions or remedies for noncompliance. If the CONTRACTOR becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the CONTRACTOR shall promptly so notify the Attorney General and Attorney for the Erie County Water Authority, requesting them to intervene and protect the interest of the State of New York and the Erie County Water Authority.

INSERT PREVAILING WAGE SCHEDULE FROM DOL

APPENDIX E

Payment Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

SURETY (Name and Address of Principal Place of Business):

OWNER (Name and Address):

Erie County Water Authority
295 Main Street, Room 350
Buffalo New York 14203

CONTRACT

Date:

Amount:

Description: ERIE COUNTY WATER AUTHORITY
FURNISH AND INSTALL PUMP STATION
ROOF AND SIDING REPLACEMENTS
PROJECT No. 202000165

BOND

Date (Not earlier than Contract Date):

Amount:

Modifications to this Bond Form:

Surety and CONTRACTOR, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Performance Bond to be duly executed on its behalf by its authorized officer, agent or representative.

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)

Signature: _____

Name and Title:

SURETY

Company: _____ (Corp. Seal)

Signature: _____

Name and Title:
(Attach Power of Attorney)

(Space is provided below for signatures of additional parties, if required.)

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)

Signature: _____

Name and Title:

SURETY

Company: _____ (Corp. Seal)

Signature: _____

Name and Title:

EJCDC No. 1910-28-B (1996 Edition)

Originally prepared through the joint efforts of the Surety Association of America, Engineers Joint Contract Documents Committee, the Associated General Contractors of America, the American Institute of Architects, the American Subcontractors Association, and the Associated Specialty Contractors.

1. The CONTRACTOR and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the OWNER to pay for labor, materials and equipment furnished for use in the performance of the Contract, which is incorporated herein by reference.
2. With respect to the OWNER, this obligation shall be null and void if the CONTRACTOR:
 - 2.1. Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2. Defends, indemnifies and holds harmless the OWNER from all claims, demands, liens or suits by any person or entity who furnished labor, materials or equipment for use in the performance of the Contract, provided the OWNER has promptly notified the CONTRACTOR and the Surety (at the addresses described in paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the CONTRACTOR and the Surety, and provided there is no OWNER Default
3. With respect to Claimants, this obligation shall be null and void if the CONTRACTOR promptly makes payment, directly or indirectly, for all sums due.
4. The Surety shall have no obligation to Claimants under this Bond until:
 - 4.1. Claimants who are employed by or have a direct contract with the CONTRACTOR have given notice to the Surety (at the addresses described in paragraph 12) and sent a copy, or notice thereof, to the OWNER, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
 - 4.2. Claimants who do not have a direct contract with the CONTRACTOR:
 - 4.2.1 Have furnished written notice to the CONTRACTOR and sent a copy, or notice thereof, to the OWNER, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and
 - 4.2.2 Have either received a rejection in whole or in part from the CONTRACTOR, or not received within 30 days of furnishing the above notice any communication from the CONTRACTOR by which the CONTRACTOR had indicated the claim will be paid directly or indirectly; and
 - 4.2.3 Not having been paid within the above 30 days, have sent a written notice to the Surety and sent a copy, or notice thereof, to the OWNER, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the CONTRACTOR.
5. If a notice required by paragraph 4 is given by the OWNER to the CONTRACTOR or to the Surety, that is sufficient compliance.
6. When the Claimant has satisfied the conditions of paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:
 - 6.1. Send an answer to the Claimant, with a copy to the OWNER, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
 - 6.2. Pay or arrange for payment of any undisputed amounts.
7. The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
8. Amounts owed by the OWNER to the CONTRACTOR under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any Performance Bond. By the CONTRACTOR furnishing and the OWNER accepting this Bond, they agree that all funds earned by the CONTRACTOR in the performance of the Contract are dedicated to satisfy obligations of the CONTRACTOR and the Surety under this Bond, subject to the OWNER'S priority to use the funds for the completion of the Work.
9. The Surety shall not be liable to the OWNER, Claimants or others for obligations of the CONTRACTOR that are unrelated to the Contract. The OWNER shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
10. The Surety hereby waives notice of any change, including changes of time, to the Contract or to related Subcontracts, purchase orders and other obligations.
11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by paragraph 4.1 or paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
12. Notice to the Surety, the OWNER or the CONTRACTOR shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, the OWNER or the CONTRACTOR, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is, that this Bond shall be construed as a statutory Bond and not as a common law bond.
14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, the CONTRACTOR shall promptly furnish a copy of this Bond or shall permit a copy to be made.
15. DEFINITIONS
 - 15.1 Claimant: An individual or entity having a direct contract with the CONTRACTOR or with a Subcontractor of the CONTRACTOR to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of the CONTRACTOR and the CONTRACTOR'S Subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.
 - 15.2 Contract: The agreement between the OWNER and the CONTRACTOR identified on the signature page, including all Contract Documents and changes thereto.
 - 15.3 OWNER Default: Failure of the OWNER, which has neither been remedied nor waived, to pay the CONTRACTOR as required by the Contract or to perform and complete or comply with the other terms thereof.

APPENDIX F

Performance Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

SURETY (Name and Address of Principal Place of Business):

OWNER (Name and Address):

Erie County Water Authority
295 Main Street, Room 350
Buffalo New York 14203

CONTRACT

Date:

Amount:

Description: ERIE COUNTY WATER AUTHORITY
FURNISH AND INSTALL PUMP STATION
ROOF AND SIDING REPLACEMENTS
PROJECT No. 202000165

BOND

Date (Not earlier than Contract Date):

Amount:

Modifications to this Bond Form:

Surety and CONTRACTOR, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Performance Bond to be duly executed on its behalf by its authorized officer, agent or representative.

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)

Signature: _____
Name and Title:

SURETY

Company: _____ (Corp. Seal)

Signature: _____
Name and Title:
(Attach Power of Attorney)

(Space is provided below for signatures of additional parties, if required.)

CONTRACTOR AS PRINCIPAL

Company: _____ (Corp. Seal)

Signature: _____
Name and Title:

SURETY

Company: _____ (Corp. Seal)

Signature: _____
Name and Title:

EJCDC No. 1910-28-A (1996 Edition)

Originally prepared through the joint efforts of the Surety Association of America, Engineers Joint Contract Documents Committee, the Associated General Contractors of America, and the American Institute of Architects.

1. The CONTRACTOR and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the OWNER for the performance of the Contract, which is incorporated herein by reference.

2. If the CONTRACTOR performs the Contract, the Surety and the CONTRACTOR have no obligation under this Bond, except to participate in conferences as provided in paragraph 3.1.

3. If there is no OWNER Default, the Surety's obligation under this Bond shall arise after:

3.1. The OWNER has notified the CONTRACTOR and the Surety at the addresses described in paragraph 10 below, that the OWNER is considering declaring a CONTRACTOR Default and has requested and attempted to arrange a conference with the CONTRACTOR and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Contract. If the OWNER, the CONTRACTOR and the Surety agree, the CONTRACTOR shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive the OWNER'S right, if any, subsequently to declare a CONTRACTOR Default; and

3.2. The OWNER has declared a CONTRACTOR Default and formally terminated the CONTRACTOR'S right to complete the Contract. Such CONTRACTOR Default shall not be declared earlier than twenty days after the CONTRACTOR and the Surety have received notice as provided in paragraph 3.1; and

3.3. The OWNER has agreed to pay the Balance of the Contract Price to:

3.3.1. The Surety in accordance with the terms of the Contract; or

3.3.2. Another contractor selected pursuant to paragraph 4.3 to perform the Contract.

4. When the OWNER has satisfied the conditions of paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

4.1. Arrange for the CONTRACTOR, with consent of the OWNER, to perform and complete the Contract; or

4.2. Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or

4.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the OWNER for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by the OWNER and the contractor selected with the OWNER'S concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the Bonds issued on the Contract, and pay to the OWNER the amount of damages as described in paragraph 6 in excess of the Balance of the Contract Price incurred by the OWNER resulting from the CONTRACTOR Default; or

4.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances;

4.4.1. After investigation, determine the amount for which it may be liable to the OWNER and, as soon as practicable after the amount is determined, tender payment therefor to the OWNER; or

4.4.2. Deny liability in whole or in part and notify the OWNER citing reasons therefor.

5. If the Surety does not proceed as provided in paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the OWNER to the Surety demanding that the Surety perform its obligations under this Bond, and the OWNER shall be entitled to enforce any remedy available to the OWNER. If the Surety proceeds as provided in paragraph 4.4, and the OWNER refuses the payment tendered or the Surety has denied liability, in whole or in part, without

further notice the OWNER shall be entitled to enforce any remedy available to the OWNER.

6. After the OWNER has terminated the CONTRACTOR'S right to complete the Contract, and if the Surety elects to act under paragraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the OWNER shall not be greater than those of the CONTRACTOR under the Contract, and the responsibilities of the OWNER to the Surety shall not be greater than those of the OWNER under the Contract. To a limit of the amount of this Bond, but subject to commitment by the OWNER of the Balance of the Contract Price to mitigation of costs and damages on the Contract, the Surety is obligated without duplication for:

6.1. The responsibilities of the CONTRACTOR for correction of defective Work and completion of the Contract;

6.2. Additional legal, design professional and delay costs resulting from the CONTRACTOR'S Default, and resulting from the actions or failure to act of the Surety under paragraph 4; and

6.3. Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of the CONTRACTOR.

7. The Surety shall not be liable to the OWNER or others for obligations of the CONTRACTOR that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the OWNER or its heirs, executors, administrators, or successors.

8. The Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders and other obligations.

9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located and shall be instituted within two years after CONTRACTOR Default or within two years after the CONTRACTOR ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

10. Notice to the Surety, the OWNER or the CONTRACTOR shall be mailed or delivered to the address shown on the signature page.

11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the Contract was performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted here-from and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

12. Definitions.

12.1. Balance of the Contract Price: The total amount payable by the OWNER to the CONTRACTOR under the Contract after all proper adjustments have been made, including allowance to the CONTRACTOR of any amounts received or to be received by the OWNER in settlement of insurance or other Claims for damages to which the CONTRACTOR is entitled, reduced by all valid and proper payments made to or on behalf of the CONTRACTOR under the Contract.

12.2. Contract: The agreement between the OWNER and the CONTRACTOR identified on the signature page, including all Contract Documents and changes thereto.

12.3. CONTRACTOR Default: Failure of the CONTRACTOR, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.

12.4. OWNER Default: Failure of the OWNER, which has neither been remedied nor waived, to pay the CONTRACTOR as required by the Contract or to perform and complete or comply with the other terms thereof.

APPENDIX G
WOMEN AND MINORITY BUSINESS ENTERPRISE POLICY
ERIE COUNTY WATER AUTHORITY

It is the policy of the Authority to foster and encourage minority business enterprise participation in the construction contracts of the Authority. Through the setting of Minority Business Enterprise goals and careful monitoring of CONTRACTOR compliance, the Authority will ensure the fullest possible participation in construction activities by qualified minority and women-owned firms.

Some of the federal and state laws that provide the basis for Equal Employment Opportunity and Affirmative Action are:

1. Title VII, Civil Rights Act of 1964 (as amended by the Equal employment Opportunity Act of 1972): Prohibits employment discrimination because of race, color, sex, religion or national origin.
2. Executive Order 11246 (as amended by the Executive Order 11375): Requires Affirmative Action by all Federal CONTRACTORS and subcontractors and requires that all firms with Contracts over \$50,000.00 and 50 or more employees develop and implement written programs.
3. Equal Act of 1963: Requires employers to provide equal pay for men and women performing similar work.
4. New York State Human Rights Law: Prohibits discrimination based on race, color, sex, age, creed, disability, national origin and marital status in employment matters.
5. Flynn Act: Guarantees disabled citizens protection against discrimination in housing, employment, public accommodations, training programs and non-sectarian education due to mental, physical or medical disability.
6. Title VI, Civil Rights Act of 1964: Prohibits discrimination based on race, color or national origin in all programs which receive Federal aid.
7. Title IX, Education Amendments Act of 1972: Prohibits sex discrimination against students of any educational institution receiving Federal financial aid.

A. MINORITY BUSINESS UTILIZATION COMMITMENT

The Erie County Water Authority has established the following business utilization rules which requires all prime CONTRACTORS awarded construction contracts let by the Erie County Water Authority to exemplify Affirmative Action to sub-contract to minority business enterprise (MBE). For the purpose of these regulations, the term “Minority Business Enterprise” refers to a business at least fifty-one percent (51%) of which is owned and controlled by minority group members. Minority group members are citizens of the United States who are Women, Blacks, Hispanics and Native Americans. MBE’s must demonstrate current certification of a government agency.

The Authority has determined that a goal of ten percent (10%) of the total contract value represents a fair share of minority business utilization on each construction contract awarded.

Recipients of Authority construction Contracts must utilize minority-owned business sources for supplies, services and professional services, allowing these sources the maximum feasible opportunity to compete for Contracts, Subcontracts and third-tier Contracts to be performed, All prime CONTRACTORS awarded Authority Contracts estimated to exceed \$100,000.00 must take positive steps to “afford fair opportunities to MBE’s”. Positive steps shall include, but not be limited to, (a) utilizing a source list of bona fide minority business enterprises, (b) solicitations of bids from MBE’s particularly of those located in Erie County, (c) giving minority firms sufficient time to submit proposals in response to solicitations and (d) maintaining records showing minority business enterprises and specific efforts to identify and award Contracts to these Companies.

Each CONTRACTOR bidding on an Erie County Water Authority contract is to contact MBE’s and solicit bids for various aspects of each project. The CONTRACTOR is to supply the Authority with information regarding contracts for services and products with minority business enterprises and the dollar amount of each contract on the Minority Business Utilization Report.

The Successful Bidder shall submit to the Authority the Minority Business Enterprise Utilization Report - Part A within one week of the bid opening. Part A includes a list of MBE’s from whom the CONTRACTOR has solicited bids, or with whom the CONTRACTOR has signed a binding contractual agreement. The Authority will not consider a CONTRACTOR’s bid where the CONTRACTOR fails to submit this report or where an examination of the report evidences failure by the CONTRACTOR to comply with the affirmative action requirements of the Contract.

In the event of a joint venture participating in this MBE Program, the Joint Venture Disclosure Affidavit must be submitted with Part A by all parties involved. Only to the extent that a minority business enterprise contributes to and is paid for its participation in a joint venture will that dollar be credited towards the 10% goal of minority participation in the Erie Country Water Authority MBE Program.

MBE’s must be approved by the Erie County Water Authority before their participation may be credited toward the 10% goal. Where the proposed MBE is not approved by the Authority, an Authority MBE/Disclosure Affidavit must be filed with the Contract Compliance office. Forms and lists of certified MBE’s can be obtained by calling Lavonya Lester, Director of Equal Employment Opportunity (ECWA) at (716) 685-8223.

A Minority Business Enterprise Utilization Waiver Request may be completed and submitted with the Minority Business Enterprise Utilization Report - Part A to the Authority within one week of the bid opening. Waivers shall be granted only where the availability of MBE’s in the market area of the project is less than the 10% goal.

Sufficient information must be provided on the Minority Business Enterprise Utilization Waiver Request to ascertain whether a waiver should be approved, conditionally approved or rejected by advice of the Equal Opportunity Office.

A waiver approval limits the CONTRACTOR’s obligation to solicit MBE’s for this particular project. It does not relieve the CONTRACTOR of MBE utilization for any other Erie County Water Authority project on which he submits a bid.

Conditional approval of the waiver request makes it necessary for the CONTRACTOR to continue soliciting MBE’s for contracting purposes, after he has been declared the low bidder.

A MBE Utilization Waiver Request will be rejected if the CONTRACTOR:

1. fails to provide information on the Minority Business Enterprise Utilization Report with his bid.
2. provides fraudulent information of the MBE reports.
3. fails to make an honest good faith effort to recruit and contract with MBE's or
4. takes any other action which is contrary to the spirit and intent of the law.

THE INFORMATION PROVIDED ON THE MBE WAIVER REQUEST AND THE MBE UTILIZATION REPORT WILL BE CONSIDERED CONCURRENTLY TO DETERMINE IF A WAIVER SHOULD BE APPROVED, CONDITIONALLY APPROVED OR REJECTED.

The low bidder shall submit to the Authority, within one week of the bid opening, a schedule for minority business enterprise participation, with whom the CONTRACTOR intends to Subcontract, specifying the agreed price to be paid for such work, and identifying in detail the Contract item(s) or parts to be performed by each minority business enterprise. A letter of intent to enter into a Subcontract or purchase agreement, signed by the minority business, contingent upon the contract award, indicating the agreed upon price and scope of work, shall be provided, signed by both the CONTRACTOR and the minority business enterprise. The prime CONTRACTOR shall not substitute or delete the listed minority business enterprise without the written consent of the Erie County Water Authority.

In the event that the MBE goal for the contract is not met, the CONTRACTOR shall provide sufficient documentation to establish that every positive effort was made to identify, solicit and negotiate with MBE's in pursuit of the goal. Such documentation includes, but is not limited to, advertisement in minority-focused media, written contract with minority businesses indicating sufficient bidder's price along with evidence showing the work to be performed is the same, and not a reduced portion thereof.

The CONTRACTOR shall provide to the Erie County Water Authority copies of all subcontracts and/or purchase agreements with minority business enterprises within one week of the bid opening. A notice to proceed with construction shall not be issued until acceptable documentation is received.

When the project is thirty (30%) percent complete, the CONTRACTOR shall submit to the Authority the Minority Business Enterprise Utilization Report - Part B. Part B lists the MBE's on the project, the dollar amounts paid to that date and the estimated amount remaining to be spent.

The Minority Business Enterprise Utilization Report - Part C certifies the actual dollar amount expended to MBE's. Part C must be completed by the prime CONTRACTOR and submitted at the seventy-five (75%) percent payment level.

The Minority Business Enterprise Utilization Report - Part D certifies the total dollar amount expended to MBE's. Part D is to be submitted with the request for final payment.

In the event a CONTRACTOR fails to comply with these provisions the Authority may:

1. Summon the CONTRACTOR to a hearing
2. Withhold progress payments in part or in full
3. Cancel the contract.
4. Bar award of future Contracts until the CONTRACTOR can demonstrate that he will comply.

It is hereby the Erie County Water Authority's commitment to assure that on all contracts awarded, prime CONTRACTORS expend a fair share of the contract with bona fide minority businesses in accordance with the goals set forth by the Authority. Failure to comply with these provisions shall disqualify the bidder and shall constitute a breach of contract subject to all remedies available to the Authority.

The Prime CONTRACTOR and all minority Subcontractors are bound by all requirements as put forth in the Erie County Water Authority standard General Conditions and all modifications thereto contained in these Contract Specifications.

Listing of **AFFIRMATIVE ACTION FORMS ATTACHED:**

NAME OF FORM

Minority Business Utilization Report-
Part A

Waiver Request

Erie County Water Authority Minority Business
Enterprise Joint Venture Disclosure Affidavit

Erie County Water Authority Minority Business
Enterprise Utilization Report - Part B

Minority Business Enterprise Utilization
Report - Part C

Minority Business Enterprise Utilization
Report - Part D

**ERIE COUNTY WATER AUTHORITY
MINORITY BUSINESS ENTERPRISE
UTILIZATION REPORT - PART A**

This information must be submitted by the successful bidder within one week of bid opening.

COMPANY _____

AUTHORIZED REPRESENTATIVE _____

ADDRESS _____

TELEPHONE NUMBER _____

PROJECT NAME _____

PROJECT NUMBER _____

I. List actions taken to identify, solicit, and contact Minority Business Enterprises (MBE) to bid on subcontracts on this project.

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

II. List all bona fide Minority Business Enterprise, subcontractors, professional personnel, solicited, contracted, or presently negotiating a contract in accordance with the minority business utilization goal set forth by the Erie County Water Authority. (Attach additional sheets if necessary.)

MINORITY OWNED FIRM	SUPPLY/ SERVICE	AMOUNT OF PROPOSAL	PRIOR CERTIFICATION	CONTRACT EXECUTED	REASON NOT AWARDED
NAME: _____ ADDRESS: _____ TELE NO. _____ IRS NO. _____				YES _____ NO _____	
NAME: _____ ADDRESS: _____ TELE NO. _____ IRS NO. _____				YES _____ NO _____	
NAME: _____ ADDRESS: _____ TELE NO. _____ IRS NO. _____				YES _____ NO _____	
NAME: _____ ADDRESS: _____ TELE NO. _____ IRS NO. _____				YES _____ NO _____	

PART A CONTINUED

III. Assistance offered by CONTRACTOR to MBE's as to bonding, union requirements, obtaining work capital etc...

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____

IV. Total Dollar Amount to be subcontracted to Minority Business Enterprise(s): \$ _____

V. Total Amount of Bid: \$ _____

VI. MBE Percent (%) of project bid: _____

VII. **YOU MUST ATTACH COPIES OF RELEVANT CORRESPONDENCE AND DOCUMENTS INCLUDING RETURN RECEIPTS.**

DATE

SIGNATURE OF AUTHORIZED REPRESENTATIVE

Note: Within one week of the bid opening, this original form, together with a letter of intent to enter into a subcontract or purchase agreement, contingent upon the contract award, indicating the agreed upon price and scope of work, signed by both the CONTRACTOR and the Minority Business Enterprise, must be submitted to:

Lavonya Lester, Director of Equal Employment Opportunity (ECWA)
Erie County Water Authority
3030 Union Road
Cheektowaga, New York 14227

**ERIE COUNTY WATER AUTHORITY
MINORITY BUSINESS ENTERPRISE
JOINT VENTURE DISCLOSURE AFFIDAVIT**

To Be Submitted With Part A
Where Applicable

Joint Ventures: _____
Name: _____
Address: _____
Principal Office: _____
Office Phone: _____
Home Phone: _____

Percent of minority ownership in terms of profit and loss sharings:

Capital contributions by each joint venture and accounting therefore:

Equipment and supply contributions by each joint venturer and accounting therefore:

Any ownership options for ownership or loans between the joint venturers - identify terms thereof:

How and by whom the on-site work will be supervised and administered:

I, _____, as
representative of _____ Company,
do hereby swear or affirm that I am authorized to act on its behalf and that in this capacity and to
the best of my knowledge and belief, the information provided herewith relevant to the joint
venture of _____
is accurate, complete and current, and fairly represents the joint venture; further, that I have
personally reviewed the material and assured myself of its accuracy. It is recognized and
acknowledged that the statements herein are being given under oath and any material
misrepresentation will be grounds for terminating any contract which may be awarded in reliance
hereon.

SIGNATURE

**ERIE COUNTY WATER AUTHORITY
MINORITY BUSINESS ENTERPRISE UTILIZATION REPORT - PART B**

CONTRACTOR _____ CONTRACT NAME _____

- I. List all bona fide minority business enterprises, Subcontractors, suppliers, professional personnel, or joint venture firms, with whom you have entered into a binding agreement in accordance with the Minority Business Utilization Goal set forth by the Erie County Water Authority. Include minority trucking firms that will be utilized and included and estimated dollar amount. This information must be submitted to the Erie County Water Authority when the project is 30% complete.

(USE REVERSE SIDE IF MORE SPACE IS NEEDED) MINORITY OWNED FIRMS	TYPE OF WORK	DATE CONTRACT EXECUTED	TOTAL EXPENDED TO DATE	AMOUNT REMAINING
NAME: _____ ADDRESS: _____ _____ IRS #: _____				
NAME: _____ ADDRESS: _____ _____ IRS #: _____				

*Erie County Water Authority reserves the right to require documentation including, but not limited to, canceled checks to verify these amounts:

- II. Total Dollar Amount to be Subcontracted to minority Business Enterprise(s):
\$ _____
- III. Total dollar amount expended to date: \$ _____
- IV. Total amount of bid: \$ _____
- V. MBE Percent (%) of project bid: \$ _____

I, _____ as an official representative of _____
_____, do hereby certify that the information listed above is correct and complete.

NAME

TITLE

DATE

PART B CONTINUED

(USE REVERSE SIDE IF MORE SPACE IS NEEDED) MINORITY OWNED FIRMS	TYPE OF WORK	DATE CONTRACT EXECUTED	TOTAL EXPENDED TO DATE	AMOUNT REMAINING
NAME: _____ ADDRESS: _____ _____ IRS #: _____				
NAME: _____ ADDRESS: _____ _____ IRS #: _____				
NAME: _____ ADDRESS: _____ _____ IRS #: _____				
NAME: _____ ADDRESS: _____ _____ IRS #: _____				
NAME: _____ ADDRESS: _____ _____ IRS #: _____				
NAME: _____ ADDRESS: _____ _____ IRS #: _____				
NAME: _____ ADDRESS: _____ _____ IRS #: _____				
NAME: _____ ADDRESS: _____ _____ IRS #: _____				
NAME: _____ ADDRESS: _____ _____ IRS #: _____				

**MINORITY BUSINESS ENTERPRISE UTILIZATION REPORT - PART C
CERTIFICATION OF EXPENDITURES TO MBE's**

(To be completed by the prime CONTRACTOR and
submitted at the 75% payment level)

CONTRACTOR _____

CONTRACT: _____

MBE	PART B CONTRACT AMOUNT OF ESTIMATE	TOTAL EXPENDED TO DATE	ESTIMATED AMOUNT REMAINING

* Erie County Water Authority reserves the right to require documentation including, but not limited to, canceled checks to verify these amounts.

I, _____
_____ as an official representative of _____,

do hereby certify that the information listed above is correct and complete.

NAME

TITLE

DATE

MINORITY BUSINESS ENTERPRISE UTILIZATION REPORT - PART D

FINAL CERTIFICATION OF EXPENDITURES TO MBE's

(to be completed by the prime CONTRACTOR and submitted with
the request for final payment)

CONTRACTOR: _____

CONTRACT: _____

MBE	TOTAL AMOUNT EXPENDED

TOTAL OF ALL MBE
SUB-CONTRACTS \$ _____

AMOUNT OF
CONTRACT _____

FINAL MBE
PERCENTAGE _____

I, _____, as an official
representative of _____,

do hereby certify that the information listed above is correct and complete.

NAME

TITLE

DATE

ACCOUNTABILITY

The CONTRACTOR shall be fully accountable for its performance under this contract and agrees to answer under oath all questions relevant to the performance thereof and to any transaction, act, or omission had, done or omitted in connection therewith if called before the Erie County Water Authority, any Judicial, County or State Officer or agency empowered to investigate the Contract or its performance.

APPENDIX H

Erie County Water Authority Apprenticeship Policy

- A. During the performance of this Agreement, the Contractor, its assigns, and designees, agree that it will abide by and will require its Subcontractors to abide by the Erie County Water Authority's Apprenticeship Policy, as stated in paragraph B of this Appendix.
- B. That pursuant to New York State Labor Law §816-B, the Erie County Water Authority hereby mandates that all contractors and subcontractors entering into any construction contracts with the Erie County Water Authority shall have established apprenticeship agreements appropriate for the type and scope of work to be performed under the contract, that have been approved by the New York State Commissioner of Labor and shall require the employment of apprentices on Erie County Water Authority construction projects.