



ERIE COUNTY WATER AUTHORITY

INTEROFFICE MEMORANDUM

October 8, 2024

To: Terrence D. McCracken, Secretary to the Authority

From: Leonard F. Kowalski, PE, Executive Engineer *LFK*

Subject: Agreement for the Refurbishment of the Sandridge Tank
And the Conveyance of County Property and Water Facilities
Town of Alden, PN 202400245

Erie County Water Authority (Authority) and County of Erie (County) designed and constructed Sandridge Tank and associated water facilities to provide water to part of the Town of Alden, including service to State-operated Wende Correctional Facility and the County-operated Correctional Facility. The system has been operated by the Authority under a Lease Management Agreement since 1993.

Sandridge Tank will be refurbished under contract W-035-B (PN 202300060) for the cost of \$1,900,000. Under the above-referenced agreement, the County agreed to contribute \$1,000,000 for the refurbishment project, which will be managed by the Authority. After completion of the project and execution of this agreement, the ownership of Sandridge Tank and County owned watermains will be transferred to the Authority.

Attached is the Agreement for the Refurbishment of the Sandridge Tank and the Conveyance of County Property and Water Facilities for the Board's consideration and, if approved, for the Chairman to execute.

LFK:jmf
Attachments
cc: ALTN-772-2401

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

Contract: _____ **Project No.:** 202400245
Project Description: Agreement for the Refurbishment of the Sandridge Tank and the Conveyance of County Property and Water Facilities.

Item Description:


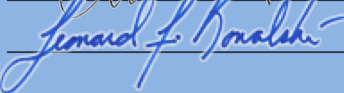



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|---|--|---|---------------------------------------|
| <input checked="" type="checkbox"/> Agreement | <input type="checkbox"/> Professional Service Contract | <input type="checkbox"/> Amendment | <input type="checkbox"/> Change Order |
| <input type="checkbox"/> BCD | <input type="checkbox"/> NYSDOT Agreement | <input type="checkbox"/> Contract Documents | <input type="checkbox"/> Addendum |
| <input type="checkbox"/> Recommendation for Award of Contract | <input type="checkbox"/> Recommendation to Reject Bids | | |
| <input type="checkbox"/> Request for Proposals | | | |
| <input type="checkbox"/> Other _____ | | | |

Action Requested:


| | |
|---|--|
| <input checked="" type="checkbox"/> Board Authorization to Execute | <input checked="" type="checkbox"/> Legal Approval |
| <input type="checkbox"/> Board Authorization to Award | <input checked="" type="checkbox"/> Execution by the Chairman |
| <input type="checkbox"/> Board Authorization to Advertise for Bids | <input type="checkbox"/> Execution by the Secretary to the Authority |
| <input type="checkbox"/> Board Authorization to Solicit Request for Proposals | |
| <input type="checkbox"/> Other _____ | |

Approvals Needed:

APPROVED AS TO CONTENT:

| | | |
|---|---|-------------------------|
| <input type="checkbox"/> Sr Production Engineer | _____ | Date: _____ |
| <input checked="" type="checkbox"/> Chief Operating Officer |  | Date: <u>10/08/2024</u> |
| <input checked="" type="checkbox"/> Executive Engineer |  | Date: <u>10/8/2024</u> |
| <input type="checkbox"/> Director of Administration | _____ | Date: _____ |
| <input checked="" type="checkbox"/> Risk Manager |  | Date: <u>10/8/2024</u> |
| <input checked="" type="checkbox"/> Chief Financial Officer |  | Date: <u>10/09/2024</u> |
| <input checked="" type="checkbox"/> Legal |  | Date: <u>10/08/2024</u> |

APPROVED FOR BOARD RESOLUTION:

| | | |
|--|--|----------------------|
| <input checked="" type="checkbox"/> Secretary to the Authority |  | Date: <u>10/9/24</u> |
|--|--|----------------------|

Remarks: _____

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

**AGREEMENT FOR THE REFURBISHMENT OF THE SANDRIDGE TANK
AND THE CONVEYANCE OF COUNTY PROPERTY AND WATER FACILITIES**

THIS AGREEMENT, effective on this 17th day of **October, 2024** by and between the **COUNTY OF ERIE**, a municipal corporation of the State of New York having its principal offices at 95 Franklin Street, Buffalo, New York 14202 (the “County”) and the **ERIE COUNTY WATER AUTHORITY**, a public benefit corporation having an office and principal place of business at 295 Main Street, Room 350, Buffalo, New York 14203 (the “Authority”), (collectively referred to as the “Parties”).

RECITALS

WHEREAS, in 1984, the County and the Authority designed and constructed a water transmission loop with appurtenant facilities for the purpose of delivering water to certain water customers in the Town of Alden, including the delivery of water to the State-operated, Wende Correctional Facility and the County-operated, Correctional Facility; and

WHEREAS, as part of this water transmission loop and with the County’s approval, the Authority designed and constructed a 5.0 million gallon per day water pumping station, owned and operated by the Authority, located in the Town of Lancaster on Broadway between Schwartz and Ransom Road, which is a necessary appurtenant facility for the delivery of water services to these customers in the Town of Alden; and

WHEREAS, as part of this water transmission loop, on behalf of the County, the Authority designed and constructed the following facilities that were to be owned and funded by the County:

(1) a transmission main in the Town of Alden easterly along Broadway, from Town Line Road to Sandridge Road, consisting of approximately 14,474 linear feet of 16-inch ductile iron pipe and 328 linear feet of 16-inch prestressed concrete cylinder pipe (referred to as “Section One”); (2) a transmission main in the Town of Alden northerly along Sandridge Road and Wende Road from

Broadway to Walden Avenue, consisting of approximately 22,485 linear feet of 20-inch ductile iron pipe and 460 linear feet of 20-inch prestressed concrete cylinder pipe (referred to as “Section Two”); (3) a 1.5 million gallon elevated water storage tank, known as the Sandridge Water Tank, located at the northwest corner of the intersection of Broadway and Sandridge Road, including approximately 412 linear feet of 16-inch ductile iron pipe (referred to as “Section Three”); and (4) a transmission main in the Town of Alden westerly along Walden Avenue from Wende Road to the existing 12-inch main on Walden Avenue, consisting of approximately 3,473 linear feet of 12-inch PVC pipe and 3,760 linear feet of 20-inch ductile iron pipe (referred to as “Section Four”), (Sections One through Four collectively referred to herein as the “County Property and Water Facilities”); and

WHEREAS, pursuant to the terms of the 1993 lease management agreement between the County and the Authority, which is attached hereto and incorporated herein as **Exhibit A**, the Authority has continued to manage the County Property and Water Facilities on a month-to-month basis; and

WHEREAS, the County Executive and Legislature have determined it would be in the County’s best interests to convey the County Property and Water Facilities to the Authority, in consideration for the Authority agreeing to directly supply water services to the above-mentioned water customers; and

WHEREAS, once the County Property and Water Facilities have been conveyed to the Authority, the County will no longer have any obligation or responsibility to maintain, repair, improve, or oversee the water system property and facilities; and

WHEREAS, the Parties agree that the County Property and Water Facilities outlined above, excepting Section Two therefrom, shall be conveyed under the terms outlined in this

Agreement and the facilities outlined in Section Two shall be conveyed by the County to the Water Authority at such date when the Parties are able to secure access to Section Two.

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

1. All paragraphs set forth in the Recitals are incorporated into the body of this Agreement as though separately and specifically set forth herein.

2. The Parties agree that this Agreement is subject to the provisions contained in the Tariff adopted, as may be later amended, by the Authority and recorded in the County Clerk's Office and other relevant provisions of state law relating to the transfer, disposition, or sale of the County Property and Water Facilities.

3. **REFURBISHMENT OF SANDRIDGE WATER TANK:** The County understands and agrees the Authority will not accept the ownership of, or the responsibility for, the County Property and Water Facilities until the County has agreed to contribute One Million Dollars (\$1 Million) for the cost and expenses relating to the refurbishment of the Sandridge Water Tank.

a. The Erie County Department of Health ("DOH") requires water storage tanks to be inspected every five years. Pursuant to the DOH requirement, the Authority has retained the professional services of Tank Industrial Consultants ("TIC") to perform a detailed inspection of the Sandridge Water Tank in 2009 and 2016. In 2018, the Authority retained Greenman Pederson, Inc. ("GPI") to perform another inspection of the tank.

b. The Authority has provided the County, through its Commissioner of Public Works, copies of these inspection reports. Based on these inspections, the Authority has made the following findings as to the condition of the Sandridge Water Tank:

i. The tank interior dry coating is generally in poor condition with widespread corrosion present;

ii. The exterior coating is generally poor to fair condition; and

iii. Deficiencies requiring modification to the ladders, railings, and piping have also been identified.

c. The County understands that, by executing this Agreement, the County agrees to secure funding, not conditioned on any particular source for such funding, to reimburse the Authority for the cost and expenses associated with the refurbishment of the Sandridge Water Tank in an amount not to exceed the sum of One Million Dollar (\$1 Million), and upon such other terms and conditions as set forth in this Agreement.

d. In exchange for the County's promise to contribute to the costs and expenses associated with the refurbishment of the Sandridge Water Tank, the Authority agrees to the following:

i. **Project Design & Specifications:** The Authority will be responsible for designing and drafting the plans and specifications for the refurbishment of the Sandridge Water Tank.

ii. **Public Bidding:** The Authority bid the cost of construction in accordance with the terms of General Municipal Law §103 and Public Authorities Law §1069. The Authority agrees to provide inspection during construction in accordance with the project plans and specifications developed and approved by the Authority.

iii. **Project Cost:** The Authority awarded the construction contract for the refurbishment of the Sandridge Water Tank to the lowest responsible bidder, Amstar of WNY, Inc. with a total bid amount of \$1,900,000. The Authority will be responsible for all remaining costs and expenses relating to the tank refurbishment, unless otherwise provided under the terms of this Agreement.

iv. **Contribution:** Within 30 days from the execution of this Agreement, the County shall remit to the Authority the sum of **One Million Dollars and 00/100 (\$1 Million)** for the costs and expenses relating to the tank

refurbishment, inclusive of the design, planning, construction and inspection phases of work, as set forth by the terms and conditions of this Agreement.

4. **TRANSFER OF COUNTY PROPERTY AND WATER FACILITIES:** Upon the completion of the improvements outlined in paragraph 3 (Refurbishment of Sandridge Water Tank), the County agrees to take the following steps necessary for the transfer of the County Property and Water Facilities:

a. Prepare and verify with the Authority an inventory of the County Property and Water Facilities including the following:

i. Copies of all documents possessed by the County reflecting investment, work, maintenance, capital improvement, and other information associated with its tank being transferred to the Authority, which exist now or may exist in the future prior to the transfer of the County Property and Water Facilities to the Authority, in the County's possession; and

ii. A legal description and map with metes and bounds of the premises where the County Property and Water Facilities is located, along with the record drawings of the tank, service connection details, field books and any other information pertinent to the water distribution system, in the County's possession; and

b. Provide a Written Opinion from the County Attorney, in a form acceptable to the Authority's Legal Department, confirming the County Property and Water Facilities may be transferred free and clear of any liens, claims, or other encumbrances;

c. Prepare a proposed Bill of Sale, in a form acceptable to the Authority's Chief Financial Officer, listing the tank, pumps, valves and other appurtenances;

d. Prepare proposed warranty deed for the premises commonly known as 12380 Broadway, Town of Alden and bearing SBL No. 118.00-3-10.2, in a form acceptable to the Authority's Legal Department, transferring all real property upon which tanks and other appurtenance facilities are affixed; and

e. Prepare an assignment of all permanent or temporary easements outside of a public right of way or any licenses acquired by the County, all of which would be necessary for access to the County Property and Water Facilities.

f. The County shall transfer the County Property and Water Facilities, excepting Section Two therefrom. The Parties will work cooperatively to secure any approval(s) necessary to secure access to Section Two of the County Property and Water Facilities. Once the necessary approval(s) are secured, the County will also transfer and the Water Authority agrees to accept Section Two of the County Property and Water Facilities outlined herein for no additional consideration.

5. **FAILURE TO CONVEY COUNTY PROPERTY AND WATER FACILITIES:** If for reasons beyond the control of the County, the County is unable to transfer the County Property and Water Facilities to the Authority, as contemplated under this Agreement, the County agrees to reimburse the Authority for any cost or expenses expended by the Authority for the refurbishment of the Sandridge Water Tank. In such a case, the Authority will submit to the County an accounting setting forth the actual installed cost and related expenses incurred by the Authority associated with the tank refurbishment, excluding any costs or expenses for which the Authority obtained federal or state funding. The County agrees to remit payment to the Authority within 60 days of receipt of the final invoice.

6. **MODIFICATION:** This Agreement constitutes the entire understanding of the parties. No modification of any provision thereof shall be valid unless in writing and signed by the parties.

7. **ASSIGNMENT:** The Authority shall not delegate any duties or assign any of its rights under this Agreement without the prior express written consent of the County.

8. **INDEPENDENT CONTRACTOR:** The Authority agrees to perform the services, which are the object of this Agreement, as an Independent Contractor and neither it nor any of its employees, members, directors, agents, or representatives shall be or hold themselves out to be employees, officers, agents or representatives of the County.

9. **INDEMNITY:** The Authority shall indemnify and hold harmless the County, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising directly or indirectly out of the performance or failure to perform hereunder by the Authority or third parties under the direction or control of the Authority; and to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto.

10. **INSURANCE:** During the term of this Agreement, the Authority agrees to cause its contractors, subcontractors, and vendors to maintain insurance coverage consistent with the insurance certificate included as **Exhibit B** hereto and to name the "County of Erie" as an additional insured on all such insurance policies, and to provide to the County Attorney certificate(s) of insurance evidencing such insurance coverage prior to the commencement of any work contemplated in this Agreement.

11. **TERMINATION:** In the event of a breach or default by either the Authority or the County of any of the terms and conditions of this Agreement, the Parties may terminate this Agreement on ten (10) days written notice to the other Party and request such other remedy as may be reasonable and appropriate in view of the circumstances of such breach or default, including but not limited to, reimbursement.

12. **EXECUTIVE ORDER No. 13:** The Authority shall comply with Erie County Executive Order 13 (2014) and agrees to complete the Certificate collectively attached hereto as **Exhibit C** and made a part hereof. The Authority shall make such records available, upon request, to the County's Division of Equal Employment Opportunity for review. The County shall have the right, upon reasonable notice and at reasonable times, to inspect the books and records of the Authority its offices and facilities, for the purpose of verifying information supplied in the Erie County Equal Pay Certification and for any other purpose reasonably related to confirming the Agency's compliance with Erie County Executive Order 13 (2014). Notwithstanding the termination provisions contained herein, violation of the provisions of Executive Order 13 (2014), may constitute grounds for the immediate termination of this Agreement and may constitute grounds for determining that the Authority is not qualified to participate in future County contracts.

13. **PROMOTIONAL MATERIAL:** The Authority agrees to acknowledge in any and all promotional material the fact that the Authority received financial support from the County, including, but not limited to the Authority's website, marketing materials and/or other publications.

14. **ENTIRE AGREEMENT:** This Agreement and its attachments constitute the entire Agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments, and writings. It shall not be released, discharged, changed

or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

15. **THIRD PARTY RIGHTS:** Nothing herein is intended or shall be construed to confer upon or give to any third party or its successors and assigns any rights, remedies or basis for reliance upon, under or by reason of this Agreement, except in the event that specific third-party rights are expressly granted herein.

16. **NOTICE:** All notices of any nature referred to in this Contract shall be in writing and either sent by registered or certified mail postage pre-paid, or delivered by hand or overnight courier, or sent by facsimile (with acknowledgment received and a copy of the notice sent by registered or certified mail postage pre-paid), as set forth below or to such other addresses as the respective parties hereto may designate in writing. Notice shall be effective on the date of receipt. Notices shall be sent to the following:

To the County:
Commissioner of Public Works
95 Franklin Street, 14th Floor
Buffalo, New York 14202

With a copy to:
County Attorney
95 Franklin Street, Room 1634
Buffalo, New York 14202

To the Authority:
Terrence D. McCracken
Secretary to the Authority
295 Main Street, Room 350
Buffalo, New York 14203-2494

With a copy to:
General Counsel
Erie County Water Authority
295 Main Street, Room 350
Buffalo, New York 14203

17. **APPLICABLE LAW:** This Agreement is governed by the laws of the State of New York. In addition, the parties hereby agree that any cause of action arising out of this Agreement shall be brought in the County of Erie.

18. **SEVERABILITY:** If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid or void or unenforceable, the remainder of the terms and provisions of this Agreement shall in no way be affected, impaired, or invalidated, and to the extent permitted by applicable law, any such term, or provision shall be restricted in applicability or reformed to the minimum extent required for such to be enforceable. This provision shall be interpreted and enforced to give effect to the original written intent of the parties prior to the determination of such invalidity or unenforceability.

[REST OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the ERIE COUNTY WATER AUTHORITY has caused its corporate seal to be hereunto affixed and these presents to be signed by its authorized officer and the COUNTY OF ERIE has caused its corporate seal to be hereunto affixed and these presents to be signed by its duly authorized officer as of the effective date of this Agreement.

ERIE COUNTY WATER AUTHORITY

JEROME D. SCHAD, Chair

COUNTY OF ERIE

MARK C. POLONCARZ / LISA CHIMERA
County Executive / Deputy County Executive

APPROVED AS TO CONTENT

WILLIAM GEARY
Commissioner of Public Works

APPROVED AS TO FORM

KRISTEN M. WALDER
Deputy County Attorney
Doc. No. _____

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

On this ___ day of _____, 2024, before me personally came JEROME D. SCHAD, to me known, who being by me duly sworn did depose and say that he resides in Amherst, New York, that he is the Chairman of the ERIE COUNTY WATER AUTHORITY, the corporation named in the foregoing indenture; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by a duly adopted resolution of the said Authority and that he signed his name thereto by like resolution.

Notary Public - State of New York

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

On this ___ day of _____, 2024, before me personally came MARK C. POLONCARZ / LISA CHIMERA, to me known, who being by me duly sworn did depose and say that he resides in Buffalo, New York, that he/she is the County Executive/Deputy County Executive of the COUNTY OF ERIE, the municipal corporation named in the foregoing indenture; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by a duly adopted resolution of the said County of Erie and that he signed his name thereto by like resolution.

Notary Public - State of New York

EXHIBIT A
1993 LEASE MANAGEMENT AGREEMENT

LEASE MANAGEMENT AGREEMENT

THIS AGREEMENT is made this *16th* day of *July*, 19*93*, by and between the **ERIE COUNTY WATER AUTHORITY**, a public benefit corporation having its office and principal place of business at 350 Ellicott Square Building, Buffalo, New York, hereinafter referred to as the "Authority" and the **COUNTY OF ERIE**, a municipal corporation of the State of New York, having its principal offices at 95 Franklin Street, Buffalo, New York, hereinafter referred to as the "County":

WITNESSETH:

WHEREAS, The County is the owner of a water transmission loop and appurtenant facilities used in the sale and distribution of water to certain customers in the Town of Alden; and

WHEREAS, The Erie County Water Authority was created to provide a safe and adequate supply of water to the residents of Erie County and has the capacity and expertise to operate and manage the aforementioned County facilities; and

WHEREAS, The parties find it mutually advantageous for the Authority to operate and manage these facilities and thereby furnish a supply of water to customers serviced by those same facilities;

NOW, THEREFORE, In consideration of the mutual covenants and agreements herein set forth, the parties agree as follows:

I. BASIS OF THE AGREEMENT

1.1 For the term of this Agreement, the Authority will operate, maintain and repair all of the aforementioned facilities. The Authority will have the exclusive right to furnish, for sale, a supply of water to customers serviced by these facilities.

1.2 The County agrees that it will not permit its facilities to be used for the sale of water by any other purveyor and will obtain its sole supply of water from the Authority so long as any term of this Agreement remains in effect.

1.3 The facilities of the County shall remain the property of the County. Any indebtedness incurred by the County previously or hereafter shall be solely the obligation of the County.

II. DEFINITIONS

2.1 The term "County" shall mean the County of Erie, State of New York.

2.2 The term "facilities of the County" shall mean the facilities used in the transmission and distribution of water described as follows:

Section 1 - Transmission Main No. 1 - approximately 14,300 linear feet of 16-inch prestressed concrete pressure pipe in the Town of Alden easterly along Broadway from Town Line Road to Sandridge Road;

Section 2 - Transmission Main No. 2 - approximately 21,200 linear feet of 20-inch prestressed concrete pressure pipe in the Town of Alden northerly along Sandridge and Wende Roads from Broadway to Walden Avenue;

Section 3 - 1.5 million gallon elevated tank in the Town of Alden at the northwest corner of the intersection of Broadway and Sandridge Road;

Section 4 - Extension of transmission main - approximately 5,400 linear feet of 12 inch prestressed concrete pressure pipe in the Town of Alden westerly along Walden Avenue from Wende Road to the existing 12 inch water main on Walden Avenue.

Facilities of the County shall include, as well, any replacements, together with any additions, betterments and improvements that may hereafter be furnished or installed by the County at its own cost and expense while any term of this agreement remains in effect.

2.3 The term "additions, betterments and improvements", as used herein, shall be deemed to include any property, facility or capital item paid for, installed or furnished by either party hereto which is not now in existence, and which is not a replacement of an item of property which is in existence at the date of this agreement or the structural replacement of any building or any tank owned by the County.

2.4 The term "repair" as used herein, shall be deemed to include, but not be limited to, the sandblasting or painting of the interior or exterior of any tank owned by the County, and replacement of any existing total unit such as an overflow box, altitude box, altitude valve or other apparatus including the repair of parts for any portion of the total unit.

2.5 The term "actual installed cost" shall include the cost of materials, supplies, paving, labor, services or other items consumed or employed in the construction and installation of any replacement or addition, betterment, or improvement, together with the Authority's most recent audited overhead rate to cover the administrative costs of construction workers as well as the purchase and storage of materials and supplies.

2.6 The term "Tariff" means the Rules for the Sale of Water and the Collection of Rents and Charges duly adopted by the Authority and filed pursuant to Law in the office of the Clerk of the County of Erie. This term shall also include any additions, revisions, changes or modifications to the Tariff that may be adopted by the Authority.

2.7 The term "customer" shall mean any person, including corporations or other entities residing in the County, receiving water through the aforementioned facilities.

III. CHARGES FOR THE SUPPLY OF WATER

3.1 On and after the effective date of this agreement, the Authority will continue to furnish a supply of water to those persons now being served by the aforementioned facilities, and to such residents and inhabitants thereof who shall apply to the Authority for the service of water while any term of this agreement remains in effect. However, nothing herein contained shall obligate the Authority to make, provide or install any main extensions to or from the existing facilities.

3.2 It is expressly understood and agreed that the furnishing of water and the performance of services by the Authority to the County and its customers serviced by the aforementioned facilities shall be strictly in accordance with and governed in all respects by the Authority's Rules for the Sale of Water and the Collection of Rents and Charges, as well as any amendments or changes which may be duly promulgated and adopted.

3.3 By entering into this Agreement, the County adopts as water rates to be paid by the aforementioned customers in the

County the rates and charges for water as set forth in the Authority's Tariff, and the County further adopts the rules and regulations for the operation of the aforementioned County facilities and the use of water therein as set forth in the Authority's Tariff.

IV. DISTRICT'S DUTY TO PROVIDE FACILITIES

4.1 The County may, at its own cost and expense, make additions, betterments and improvements to the aforementioned County facilities in order to provide an adequate supply of water for residents and inhabitants, including those residents not now served with a public water supply, and for the purpose of providing adequate and proper fire protection in and for them.

4.2 Any additions, betterments and improvements will be installed in accordance with the Authority's specifications. Construction inspection on such projects is the responsibility of the County. The Authority may also elect to inspect such construction and may require correction of work which does not conform with its standards.

V. AUTHORITY'S DUTY TO OPERATE, MAINTAIN AND REPAIR THE FACILITIES OF THE DISTRICT

5.1 In accordance with the Authority's Tariff and standards, the Authority will install service connections to County mains, curb boxes, meters, meter couplings, and like devices upon receipt of an application and payment of the deposit by a County customer.

The meters mentioned in this section shall belong to the Authority and may be removed by the Authority at the termination of this Agreement.

5.2 Upon receipt of a certified copy of a resolution of the County Legislature requesting the installation of any hydrants and specifying the locations where the same are to be placed upon the mains of the County, the Authority will, at its initial cost and expense but subject to reimbursement by the County of the actual installed cost as herein provided, place and install the hydrant and hydrant connections in accordance with Authority standards.

5.3 The Authority agrees to operate, maintain and repair all aforementioned County facilities at its own expense. The Authority will also provide such additions, betterments and improvements as may be requested by County officials and will bill the County for the actual installed cost of all such additions, betterments and improvements.

5.4 The Authority agrees to make, at its initial cost and expense, such replacements and relocations of the facilities of the district as may be requested by the County or responsible public official, subject to reimbursement therefore by the County as hereinafter provided.

5.5 A Replacement involving one section of pipe which is less than a full length will be deemed a repair. In instances when more than one length must be replaced, then such replacement shall not be deemed a repair.

5.6 In an emergency situation, the Authority will make all replacements. When no emergency exists, the Water Authority shall be obligated to advise the Commissioner of Public Works that construction or installation of any replacement, betterment, improvement, hydrant, hydrant connection or hydrant repair

must be completed. The Commissioner of Public Works shall advise the Water Authority within twenty-four (24) hours of the time the Water Authority provides notice that the addition, betterment or improvement must be completed that the County wishes to complete the addition, betterment or improvement. In the event that the County determines that it should complete the addition, betterment or improvement rather than the Water Authority, the County shall complete such addition, betterment or improvement within thirty (30) days of the date that notice is provided to the County that the Water Authority intends to complete the addition, betterment or improvement.

5.7 Legal title to the replacements, additions, betterments and improvements made by the Authority shall remain the property of the Authority until reimbursement has been made by the County. The County agrees to reimburse the Authority in the amount billed, on or before the close of the County's fiscal year in which such bill was rendered by the Authority.

If reimbursement is not made within the said fiscal year, the County agrees to provide funds therefore in the County budget for the following fiscal year and will reimburse the Authority for all unpaid bills of any previous fiscal year within ninety (90) days after the commencement of the County's next fiscal year.

5.8 When requested by the County in writing, the Authority will also furnish and install connections to and interconnections between the mains owned by the parties hereto at such locations and in such manner as the parties shall hereafter mutually

agree upon. Any such connections and interconnections made by the Authority during the term of this Agreement shall be severed and disconnected at the Authority's own cost and expense in such manner as the Authority shall determine at the termination of this Agreement.

It is further agreed by the parties that upon termination of this agreement, the County will reimburse the Authority for the actual cost paid or incurred by the Authority for ~~unused ma-~~ materials and supplies obtained, used and consumed in conjunction with its performance of this agreement.

Handwritten initials and scribbles, including "AZ" and "JC".

5.9 The parties agree to and each shall keep and maintain during the term of this agreement an inventory of each item of property furnished, installed, and paid for. The inventory shall show the actual cost and date of installation, together with the necessary and appropriate maps, blueprints, and engineering records covering such installation in accordance with the Procedures and Specifications of the Authority as well as any changes, amendments, and revisions thereto.

The Authority, during the term of this Agreement and upon reasonable notice, will make its books, records and accounts available during normal business hours for examination by the County or its agent with respect to the actual installed costs of any property installed by the Authority and billed to the County.

VI. SERVICE OUTSIDE THE DISTRICT

6.1 The County may, but only with the written consent of the Authority, permit a person or corporation owning real property contiguous to the boundaries of the area which contains the aforementioned facilities, or the Town of Alden, to purchase water supplied by the facilities of the County.

6.2 It is further mutually understood and agreed that the Authority in its sole discretion may at its own cost and expense make other additions, betterments, and improvements within the area serviced by the aforementioned facilities, when economically feasible, in order to provide an adequate supply of water at proper pressure:

- a. to future extensions of the area which contains the aforementioned County facilities that may hereafter be established by the County;
- b. to other areas within which the Authority is authorized and empowered to serve water.

The County further agrees that such improvements may be installed at such location or locations as the Authority may determine and that the same may be connected and interconnected with the facilities of the County to the extent and in such manner as the Authority shall determine. Legal title to the additions, betterments, and improvements installed by the Authority pursuant to this paragraph shall be and shall remain in the Authority.

6.3 It is further mutually understood and agreed that the County will permit the Authority to use the facilities of the County, without imposition of any rentals or other charges, to transport water to areas located outside of and beyond the limits of the areas which contain County facilities.

It is further understood and agreed that such use of these County facilities by the Authority to serve out-of-district customers will not reduce the supply of water so that it will be insufficient for County customers serviced by these facilities.

VII. RECOGNITION OF SYSTEM OBSOLESCENCE AND RESPONSIBILITY TO PLAN FOR REPLACEMENT

7.1 The County recognizes that mains, valves, hydrants, tanks, pumping stations and other appurtenances of a water system have fixed use lives and that prudent management requires the planning for their regular replacement. While some elements of a water system may last for eighty (80) years, others require replacement after twenty (20) years or less. The County recognizes and commits itself to a reinvestment in its system, which, when fixed over a period of sixty (60) years, will amount to no less than the full original cost of the system.

VIII. RECOGNITION OF OBLIGATIONS IN THE EVENT OF REGULATORY ACTION

8.1 The parties acknowledge that both the County and the Erie County Water Authority may be subject to regulatory actions by various county, state and federal agencies and, that as a result of such regulatory action, changes in operating procedures and capital improvements may be required.

The County specifically recognizes its obligation to promptly provide the funds to cover the costs of any capital improvements in its system necessitated by local, state or federal regulatory action. The Authority agrees to make, at its initial cost and expense, such capital investments to meet these regulatory requirements as the County or a responsible public official

may request, subject to reimbursement by the County in its next fiscal year.

The Authority also recognizes its responsibility to make such operating changes as may be required by regulatory action.

IX. INDEMNIFICATION

9.1 It is further understood and agreed that the County shall at all times indemnify, protect and save harmless the Authority from and against all costs or expenses resulting from any and all loss, damages, detriments, suits, claims, demands, costs and charges which the Authority may directly or indirectly suffer, sustain or be subject to, by reason of or on account of the construction, maintenance, operation, use, repair, change or relocation of County facilities, and the supplying of water service to certain customers under the terms and conditions of this agreement, whether such loss or damages be suffered or sustained by the Authority directly or by its employees, customers or licensees, or be suffered or sustained by other persons or corporations who may seek to hold the Authority liable therefore, when and to the extent caused by the fault, failure or negligence of the County.

9.2 It is further understood and agreed that the Authority shall at all times indemnify, protect and save harmless the County from and against all costs or expenses resulting from any and all loss, damages, detriments, suits, claims, demands, costs and charges which the County may directly or indirectly suffer, sustain or be subject to, by reason of or on account of the construction, maintenance, operation, use, repair, change or relocation of County facilities, and the supplying of water service to

certain customers under the terms and conditions of this agreement, whether such loss or damages be suffered or sustained by the County directly or by its employees, customers or licensees, or be suffered or sustained by other persons or corporations who may seek to hold the County liable therefore, when and to the extent caused by the fault, failure or negligence of the Authority.

X. EFFECTIVE DATE AND TERM

10.1 The effective date of this Agreement shall be the *16th* day of *July*, 19*93*, and the initial term shall expire five (5) years thereafter.

10.2 It is further agreed that the terms of this Agreement may be modified from time to time to such extent as the parties hereto may mutually agree upon in writing. Subject to proper law and Authority, this Agreement may be renewed at the option of either party hereto for additional periods of five (5) years, but subject to cancellation at any time within any such five (5) year renewal period by either party upon one (1) year's notification in writing to the other party. Written notice of intention to renew this agreement for successive five (5) year periods shall be given to the other party hereto within sixty (60) days prior to the expiration of any such five (5) year period.

Upon failure of either party to renew this agreement or to invoke the cancellation clause of the agreement, it is automatically extended from month to month until renewal or notification to cancel as set forth above.

IT IS UNDERSTOOD by the Parties that this Agreement shall be executory only to the extent of the monies available to the County of Erie and appropriated therefor, and no liability on account thereof shall be incurred by the County beyond the monies available and appropriated for the purpose thereof.

IN WITNESS WHEREOF, The respective parties hereto set their hands and seals the day and year first above written.

WITNESS:

(SEAL)

WITNESS:

(SEAL)

ERIE COUNTY WATER AUTHORITY

Joseph H. George
CHAIRMAN

COUNTY OF ERIE

[Signature]
COUNTY SUPERVISOR EXECUTIVE

[Signature] 6/11/93
COMMISSIONER OF PUBLIC WORKS

[Signature] 6/15/93
ASSISTANT COUNTY ATTORNEY

92-623 PU

EXHIBIT B
ERIE COUNTY INSURANCE GRID

INSTRUCTIONS FOR COUNTY OF ERIE STANDARD INSURANCE CERTIFICATE

I. Insurance shall be procured and certificates delivered before commencement of work or delivery of merchandise or equipment.

II. CERTIFICATES OF INSURANCE

A. Shall be made to the "County of Erie, 95 Franklin St, Buffalo NY, 14202"

B. Coverage must comply with all specifications of the contract.

C. Must be executed by an insurance company, agency or broker, which is licensed by the Insurance Department of the State of New York. If executed by a broker, notarized copy of authorization to bind or certify coverage must be attached.

III. Forward the completed certificate to: County of Erie, (Department or Division) responsible for entering into the agreement for construction, purchase, lease or service.

IV. Minimum coverage with limits are as follows:

| Vendor Classification | A Construction and Maintenance | B Purchase or Lease of Merchandise or Equipment | C Professional Services | D Property Leased To Others Or Use Of Facilities Or Grounds | E Concessionaires Services | F Livery Services | G All Purposes Public Entity Contracts |
|--|-----------------------------------|--|----------------------------------|--|----------------------------------|----------------------------------|---|
| Commercial Gen. Liab. | \$1,000,000 per occ. | \$1,000,000 CSL | \$1,000,000 CSL | \$1,000,000 | \$1,000,000 CSL | \$1,000,000 | \$1,000,000 CSL |
| General Aggregate | \$2,000,000 | \$2,000,000 | \$2,000,000 | \$2,000,000 | \$2,000,000 | \$2,000,000 | \$2,000,000 |
| Products Completed Operations Liability | \$2,000,000 | \$2,000,000 | \$2,000,000 | \$2,000,000 | \$2,000,000 | \$2,000,000 | \$2,000,000 |
| Blanket Broad Form Contractual Liability | INCLUDE | | | | | | |
| Contractual Liability | | INCLUDE | INCLUDE | INCLUDE | INCLUDE | INCLUDE | INCLUDE |
| Broad Form P.D. | INCLUDE | | | | | | |
| X.C.U. (explosion, collapse, Underground) | INCLUDE | | | | | | |
| Liquor Law | | | | INCLUDE | INCLUDE | | |
| Auto Liab. | \$1,000,000 CSL | | \$1,000,000 CSL | \$1,000,000 CSL | \$1,000,000 CSL | \$1,000,000 CSL | \$1,000,000 CSL |
| Owned | INCLUDE | | INCLUDE | INCLUDE | INCLUDE | INCLUDE | INCLUDE |
| Hired | INCLUDE | | INCLUDE | INCLUDE | INCLUDE | INCLUDE | INCLUDE |
| Non-Owned | INCLUDE | | INCLUDE | INCLUDE | INCLUDE | INCLUDE | INCLUDE |
| Excess/Umbrella Liab. | \$5,000,000 | \$1,000,000 | \$1,000,000 | \$1,000,000 | \$1,000,000 | \$5,000,000 | \$1,000,000 |
| Worker's Compensation & Employer's Liability | STATUTORY | STATUTORY | STATUTORY | STATUTORY | STATUTORY | STATUTORY | STATUTORY |
| Disability Benefits | STATUTORY | STATUTORY | STATUTORY | STATUTORY | STATUTORY | STATUTORY | STATUTORY |
| Professional Liability | | | \$5,000,000 | | | | |
| Erie County, To Be Named Add'l Insd. | Gen. Liab., Auto Liab., & Excess | Broad Form Vendors May Be Required | Gen. Liab., Auto Liab., & Excess | Gen. Liab., Auto Liab., & Excess | Gen. Liab., Auto Liab., & Excess | Gen. Liab., Auto Liab., & Excess | Gen. Liab., Auto Liab., & Excess |

V. Construction contracts require excess Umbrella Liability limits of \$5,000,000.

VI. Coverage must be provided on a primary-noncontributory bases.

VII. Designated Construction Project General Aggregate Limit Per Project Endorsement CG 25 03 is required.

VIII. If the concessionaire is required to have a N.Y.S. license to dispense alcoholic beverages an endorsement for liquor liability is required.

IX. Waiver of Subrogation: Required on all lines unless noted.

X. Transportation of people in buses, vans or station wagons requires \$5,000,000 excess liability.

XI. Workers Compensation: State Workers' Compensation / Disability Benefits Law --- Use Applicable Certificates Below:

| Workers Compensation Forms | |
|----------------------------|-------------------------------|
| CE-200 | Exemption |
| C105.2 | Commercial Insurer |
| SI-12 | Self Insurer |
| GSI-105.2 | Group Self Insured |
| U-26.3 | New York State Insurance Fund |

| DBL (Disability Benefits Law) Forms | |
|-------------------------------------|--------------|
| CE-200 | Exemption |
| DB-120.1 | Insurers |
| DB-155 | Self Insured |
| | |
| | |

XII. The "ACORD" form certificate may be used in place of the County of Erie Standard Insurance Certificate, provided that all of the above referenced requirements are incorporated into the "ACORD" form certificate.

EXHIBIT C
ERIE COUNTY EXECUTIVE ORDER No. 13



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

Executive Order #13

Pay Equity Certification on County Contracts

WHEREAS, federal law, including the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964 and Federal Executive Order 11246 of September 24, 1965 (Equal Employment Opportunity) (together "Federal Equal Pay Law"), requires that men and women in the same workplace be given equal pay for equal work; and

WHEREAS, Section 194 of New York State Labor Law ("NYS Equal Pay Law") prohibits compensating men and women differently for the same work; and

WHEREAS, on average, a full-time working woman in New York State earns just 85 cents for every dollar that a man earns and the pay gap is even greater for African-American and Latina women; and

WHEREAS, females make up nearly fifty-two percent of Erie County's population; and

WHEREAS, women make up nearly half of the U.S. labor force and are a growing number of breadwinners in their families; and

WHEREAS, this pay differential shortchanges women and their families by thousands of dollars a year, and potentially hundreds of thousands of dollars over a lifetime, presenting a lifelong threat to those families' economic security and reducing their earnings through Social Security and other post retirement plans; and

WHEREAS, poverty is recognized as a leading cause of or contributing factor to many social problems, including but not limited to substance abuse, domestic violence, child abuse, improper nutrition, obesity, improper health care and criminal conduct; and

WHEREAS, the impact of pay differentials is exacerbated as workers age, causing underpaid workers to disproportionately rely upon various forms of public support in their retirement years; and

WHEREAS, pay inequity can significantly impact the County, necessitating the provision of various public subsidies for low income residents and leading to the lack of receipt of income by women residents which would be spent in our local economy; and

WHEREAS, through the enforcement of current state and federal laws that ban unequal pay for equal work, Erie County can help ameliorate the many negative consequences of pay inequality, thereby improving the lives of those who might otherwise be underpaid, strengthening families and protecting children, and reducing the demand for public services, all positively impacting county, state and federal budgets.

NOW, THEREFORE, I MARK C. POLONCARZ, Erie County Executive, by virtue of the authority vested in me by the Erie County Charter § 302, do hereby order as follows:

1. It is ordered that on and after January 1, 2015, all Erie County offices, departments and administrative units, including but not limited to the Division of Purchase, fully implement a requirement in all bids, requests for proposals and other contract solicitations that the contractor submit an Erie County Equal Pay Certification which certifies the contractor's compliance with Federal Equal Pay Law and New York State Equal Pay Law (together, the "Equal Pay Laws"). Such certification shall be required prior to execution of the contract; and it is,

2. Further ordered that such certification shall include a representation by the contractor that it has not been the subject of an adverse finding under the Equal Pay Laws within the previous five years and shall include disclosure of any currently pending claims against the contractor; and it is,

3. Further ordered that violation of any provision of the Equal Pay Laws during the effective period of such a contract or the filing of a false or misleading Erie County Equal Pay Certificate may constitute grounds for immediate termination of such a contract; and it is,

4. Further ordered that violation of any provision of the Equal Pay Laws during the effective period of such a contract or the filing of a false or misleading Erie County Equal Pay Certificate may constitute grounds for determining a bidder or responder is not qualified to participate in future County contracts; and it is,

5. Further ordered that the Law Department prepare an Erie County Equal Pay Certification for use by Erie County offices, departments and administrative units and assure compliance with this Executive Order in the contract approval process; and it is,

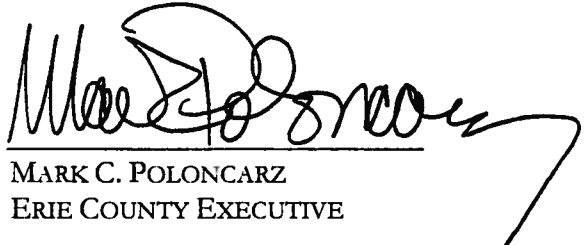
6. Further ordered that the County Division of Equal Employment Opportunity ("EEO") establish a procedure for compliance monitoring and periodic auditing of certification records; and it is,

GIVEN, under my hand and the Privy Seal of the County of Erie in the City of Buffalo this 6th day of November, in the year two thousand fourteen.



COUNTY OF ERIE

BY:


MARK C. POLONCARZ
ERIE COUNTY EXECUTIVE

Erie County Equal Pay Certification

In order to comply with Executive Order 13 dated November 6, 2014, we hereby certify that we are in compliance with federal law, including the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, Federal Executive Order 11246 of September 24, 1965 and New York State Labor Law Section 194 (together "Equal Pay Law"). We understand that this certification is a material component of this contract. Violation of the provisions of Executive Order 13, which is attached hereto and made a part hereof, can constitute grounds for the immediate termination of this contract and may constitute grounds for determining that a bidder is not qualified to participate in future county contracts.

We have evaluated wages and benefits to ensure compliance with the Equal Pay Law. We certify that we have not been the subject of an adverse finding under the Equal Pay Law within the previous five years and, in the alternative, if we were the subject of an adverse finding under the Equal Pay Law within the previous five years, we have annexed a detailed description of the finding(s). In addition, we have annexed a detailed description of any currently pending claims under the Equal Pay Law in which we are involved.

Signature

Verification

A) OWNER/PARTNERSHIP

STATE OF _____)
COUNTY OF _____) SS:

_____, being duly sworn, states he or she is the owner of (or a partner in) _____, and is making the foregoing Certification and that the statements and representations made in the Certification are true to his or her own knowledge.

Sworn to before me this _____ Day of _____, 20__

Notary

B) CORPORATE

STATE OF _____)
COUNTY OF _____) SS:

_____, being duly sworn, states that he or she is the
Name of Corporate Officer
_____, of _____,
Title of Corporate Officer Name of Corporation

the enterprise making the foregoing Certification, that he or she has read the Certification and knows its contents, that the statements and representations made in the Certification are true to his or her own knowledge, and that the Certification is made at the direction of the Board of Directors of the Corporation.

Sworn to before me this _____ Day of _____, 20__

Notary