

## **Table of Contents: July 2019 NFWB Meeting**

1 July Meeting Agenda .....	2
2 Letter from EFC - WIHA Grant Amount Increased .....	5
3 Draft July 15 Special Meeting Minutes .....	7
4 Draft June 2019 Meeting Minutes .....	9
4 July 2019 Personnel Actions .....	13
5 RESOLUTION 2019-07-002 - WTP Generator Repairs .....	14
6 Milton CAT Radiator Repair Quote, June 25, 2019 .....	16
8 RESOLUTION 2019-07-003 - Approving Zero Cost Change Order for Emergency Repair Contract .....	18
9 Cerrone IDIQ Zero Dollar Change Order .....	20
10 RESOLUTION 2019-07-004 - Designating USI Insurance Services as Broker for Workers Compensation .....	21
11 RESOLUTION 2019-07-005 - Awarding Bid for Gorge Pump Station Elevator Refurbishment .....	22
12 GPS Elevator Bid Tabulation .....	24
13 RESOLUTION 2019-07-006 - Awarding Bid for Clearwell Vent House Roof .....	25
14 Clearwell Vent Building Bid Tabulation .....	26
15 RESOLUTION 2019-07-007 - Authorizing Gorge Pump Station Grant and Financing Applications .....	27
16 RESOLUTION 2019-07-008 - Gorge Pump Station Projects SEQR .....	29
17 RESOLUTION 2019-07-009 - Approving Service Line Protection Provider Agreement .....	31
18 Marketing Agreement with Water and Sewer Service Plan Provider .....	33



**Regular Session of the  
Niagara Falls Water Board  
July 22, 2019 5:00 PM at  
Michael C. O’Laughlin Municipal Water Plant**

**1. Attendance and Preliminary Matters**

**Forster \_\_\_ Kimble \_\_\_ Larkin \_\_\_ Leffler \_\_\_ O’Callaghan \_\_\_**

**a. Letters and Communications**

**i. July 16, 2019 Letter from Environmental Facilities Corporation Increasing Water Infrastructure Improvement Act Grant Award**

**b. Public Comment (All speakers must register with the Chairperson prior to roll call and are limited to three minutes per person – total time for all speakers may not exceed one hour)**

**c. Approval of Minutes from July 15, 2019 Special Meeting**

**d. Approval of Minutes from June 24, 2019 Meeting**

**2. From the Executive Director**

**3. Superintendent**

**4. Engineering**

**5. Director of Administrative Services – Personnel Items**

**a. Staff Requested:**

**i. Motion to Approve Personnel Actions and Report dated July 22, 2019.**

**6. Information Technology (IT)**

**7. Director of Financial Services – Financial Reports**

**8. Other Reports**

- a. Questions Regarding Monthly O&M Report (if any)
- b. Safety

**9. General Counsel and Secretary**

**10. From the Chairman**

**11. Resolutions**

**2019-07-002 – AUTHORIZING WATER TREATMENT PLANT BACKUP GENERATOR REPAIRS**

- a. Milton CAT Service Estimate No. SCQT074370, June 25, 2019

**2019-07-003 – APPROVING ZERO COST CHANGE ORDER NUMBER 2 FOR EMERGENCY REPAIR CONTRACT**

- a. Change Order Number 2

**2019-07-004 – DESIGNATING USI INSURANCE SERVICES, INC., AS BROKER OF RECORD FOR WORKERS COMPENSATION POLICY**

**2019-07-005 – AWARDING BID FOR GORGE PUMP STATION ELEVATOR REFURBISHMENT AND UPGRADES**

- a. Bid Tabulation Summary

**2019-07-006 – AWARDING BID FOR CLEARWELL VENT BUILDING ROOF REPLACEMENT**

- a. Bid Tabulation Summary

**2019-07-007 – RESOLUTION AUTHORIZING GRANT AND FINANCING APPLICATIONS FOR WORK AT GORGE PUMPING STATION**

**2019-07-008 – SEQRA TYPE II DETERMINATION FOR GORGE PUMPING STATION IMPROVEMENT PROJECTS**

**2019-07-009 – APPROVING MARKETING AGREEMENT WITH UTILITY SERVICES PARTNERS PRIVATE LABEL, INC. (“HOMESERV”) FOR WATER AND SEWER SERVICE LINE PROTECTION PROGRAM**

- a. Marketing Agreement

**12. Unfinished Business**

**13. New Business & Additional Items for Discussion**

**14. Executive Session (if needed)**

**15. Adjournment of Meeting**



## Environmental Facilities Corporation

ANDREW M. CUOMO  
Governor

SABRINA M. TY  
President and CEO

July 16, 2019

The Honorable Daniel O'Callaghan  
Chairman  
Niagara Falls Water Board  
5818 Buffalo Avenue  
Niagara Falls, NY 14302

Re: Drinking Water State Revolving Fund (DWSRF) Project No. 18588  
Watermain and Lead Service Line Replacement  
Niagara Falls Water Board  
Niagara County  
Increase in WIIA Grant Award

Dear Chairman O'Callaghan:

On behalf of Governor Andrew M. Cuomo, I am pleased to inform you that your community's grant for the above referenced project through the New York State Water Infrastructure Improvement Act (WIIA) has been increased from \$2,760,000 to \$3,000,000. The WIIA program's maximum grant thresholds for the 2019 funding year have been revised and is providing the opportunity to increase the grant award for this important project.

Please note that your grant amount is based on information provided in your application, including total estimated eligible project costs. The New York State Environmental Facilities Corporation (EFC) will determine the actual amount of your grant when the project is complete and EFC confirms the final project costs. Your grant may be reduced if total project costs are less than anticipated or if your project receives grant from another source.

Please confirm your acceptance of the increased grant award and intent to proceed with this project by completing and signing the enclosed form and e-mailing it to [nyswatergrants@efc.ny.gov](mailto:nyswatergrants@efc.ny.gov) no later than **August 9, 2019**.

Upon receipt of the confirmation, members of our EFC and DOH team will contact you to discuss how to best proceed with your financing to incorporate the additional grant amount. Thank you for your participation in the WIIA program. We look forward to continue working with you on your water quality improvement project.

Sincerely,

Sabrina M. Ty  
President and CEO

Enclosure(s)

cc: Niagara Falls Water Board – Mr. Rolfe Porter (email)  
Clark Patterson Lee – Mr. Steve Tanner, P.E. (email)

## ACKNOWLEDGEMENT AND ACCEPTANCE OF WIIA GRANT AWARD

Please confirm your community's acceptance of the additional WIIA grant for DWSRF Project No. 18588 by signing and providing the milestone information below. Please e-mail the completed form to [nyswatergrants@efc.ny.gov](mailto:nyswatergrants@efc.ny.gov) no later than **August 9, 2019**.

### ACKNOWLEDGED:

Niagara Falls Water Board  
Watermain and Lead Service Line Replacement  
DWSRF Project No. 18588

\_\_\_\_\_ (Signature of Authorized Representative)  
\_\_\_\_\_ (Print Name)  
\_\_\_\_\_ (Title) \_\_\_\_\_ (Date)



**Special Meeting  
Niagara Falls Water Board  
July 15, 2019 5:00 PM at  
Michael C. O’Laughlin Municipal Water Plant**

**1. Call to Order & Roll Call**

*Chairman O’Callaghan called the meeting to order at 5:00 p.m.*

Forster   P   Kimble   P   Larkin   P   Leffler   P   O’Callaghan   P  

**2. Resolution**

**2019-07-002 – APPROVING CHANGE ORDER FOR CHEMICAL TANK  
DEMOLITION PROJECT**

- a. Proposed Cerrone Change Order
- b. Veolia Environmental Services Quote
- c. Other Quotes for Comparison Purposes

*Mr. Forster confirmed with the NFWB’s safety specialist, Gina Senia, that she will be on site during this project.*

*Mr. Forster then stated he would like to make an amendment to the resolution to include the time for the work to be completed, with approval of the change order conditioned on the work commencing July 15, 2019 and being completed by August 1, 2019.*

*Motion by Mr. Forster and seconded by Ms. Larkin to amend*

*Forster   Y   Kimble   Y   Larkin   Y   Leffler   Y   O’Callaghan   Y*

*Motion carried 5-0*

*Motion by Ms. Larkin and seconded by Ms. Leffler to approve*

*Forster   Y   Kimble   Y   Larkin   Y   Leffler   Y   O’Callaghan   Y*

*Motion carried 5-0*

### **3. Adjournment**

*Motion by Ms. Kimble and seconded by Ms. Leffler to adjourn at 5:08 p.m.*

*Forster \_\_Y\_\_ Kimble \_\_Y\_\_ Larkin \_\_Y\_\_ Leffler \_\_Y\_\_ O'Callaghan \_\_Y\_\_*

*Motion carried 5-0*

DRAFT





**Regular Session of the  
Niagara Falls Water Board  
June 24, 2019 5:00 PM at  
Michael C. O’Laughlin Municipal Water Plant**

**1. Attendance and Preliminary Matters:**

*Chairman O’Callaghan called the meeting to order at 5:00 p.m.*

Forster   P   Kimble   P   Larkin   P   Leffler   P   O’Callaghan   P  

**a. Letters and Communications**

*The Board discussed a letter received from a ratepayer regarding changing the name on an account; the matter had been handled by staff.*

**b. Public Comment (All speakers must register with the Chairperson prior to roll call and are limited to three minutes per person – total time for all speakers may not exceed one hour)**

**c. Approval of Minutes from May 20, 2019**

*Motion by Ms. Kimble and seconded by Ms. Leffler to approve the meeting minutes.*

*Forster   abstain   Kimble   Y   Larkin   Y   Leffler   Y   O’Callaghan   Y*

*Motion passed 4-0*

**2. From the Executive Director**

*Mr. Fama states that a kick-off meeting with O’Brien & Gere took place on June 20, 2019 regarding the process waterline and piping project at the WWTP.*

*Mr. Fama explains that all 10 consent order projects have been started or will be started in the near future.*

**3. Superintendent**

*Mr. Eagler spoke on behalf of Mr. Wright regarding the re-design of storm flow to meet the NFWB policy in connection with a Meranti hotel project.*

*Designs for the two new hotels being built on Buffalo Ave. (65<sup>th</sup> St & 4<sup>th</sup> St.) have been reviewed by the NFWB Engineering Department, NF City Engineering Department and outside Maintenance Department. Plans meet all necessary requirements as far as water and sewer utilities are concerned and have been approved.*

#### **4. Engineering**

*Mr. Williamson explains the NFWB is on track to award work for July 2019 regarding the redirection of outfall 003.*

*This work will continue to be overseen by CPL; Mr. Fama believes this is the most efficient way to complete this task.*

#### **5. Director of Administrative Services – Personnel Items**

*Mr. Perry provided an updated organizational chart to all board members.*

*Mr. Perry explains he is still seeking an individual to fill the inventory control clerk position.*

*There were no personnel actions to approve at this time.*

#### **6. Information Technology (IT)**

*Mr. Perry states the fiber-optic wiring is in place; with minor growing pains.*

#### **7. Director of Financial Services – Financial Reports**

*Ms. Walker explains that the NFWB has received approximately \$41,000 for our services regarding the lead service line replacement program throughout the city of Niagara Falls.*

#### **8. Other Reports**

- a. Questions Regarding Monthly O&M Report (if any)**
- b. Safety**

*Ms. Senia states the Niagara Falls Fire Department was on site on June 18<sup>th</sup> to complete their annual inspection of both the WTP and the WWTP. Zero violations were reported.*

## 9. General Counsel and Secretary

## 10. From the Chairman

*Mr. O'Callaghan states he would like some additional information regarding the transition from Key Bank to Bank on Buffalo; he feels as though Bank on Buffalo has not delivered on promises for online credit card and check payments. Mr. O'Callaghan would like to see August 1, 2019 as the final deadline for implementing online credit card payments.*

*Ms. Walker states she has also spoken with Key Bank regarding their e-check options. Ms. Walker explains this transition is a work in progress.*

## 11. Resolutions

### **2019-06-001 -- APPLICATION FOR ENGINEERING PLANNING GRANT FOR LASALLE SEWER FLOW ENGINEERING ANALYSIS WORK**

- a. Short Form Environmental Assessment Form ("SEAF")  
Part One
- b. SEAF Part Two

*Motion by Ms. Leffler and seconded by Ms. Larkin to approve  
Forster \_\_Y\_\_ Kimble \_\_Y\_\_ Larkin \_\_Y\_\_ Leffler \_\_Y\_\_ O'Callaghan \_\_Y\_\_  
Motion passed 5-0*

### **2019-06-002 – 2019 MUNICIPAL COOPERATION AGREEMENT FOR SIDEWALK REPAIR**

- a. Proposed Inter-Municipal Agreement

*Motion by Ms. Kimble and seconded by Ms. Leffler to approve  
Forster \_\_Y\_\_ Kimble \_\_Y\_\_ Larkin \_\_Y\_\_ Leffler \_\_Y\_\_ O'Callaghan \_\_Y\_\_  
Motion passed 5-0*

### **2019-06-003 – DECLARING SEVERAL VEHICLES SURPLUS AND DIRECTING SALE OF SURPLUS VEHICLES VIA AUCTION**

- a. Perry Auctions Information

*Motion by Ms. Kimble and seconded by Ms. Larkin to approve  
Forster \_\_Y\_\_ Kimble \_\_Y\_\_ Larkin \_\_Y\_\_ Leffler \_\_Y\_\_ O'Callaghan \_\_Y\_\_  
Motion passed 5-0*

**2019-06-004 – AUTHORIZING T-MOBILE LEASE AMENDMENT**

**a. Proposed Lease Amendment**

*Motion by Ms. Larkin and seconded by Ms. Leffler to approve*

*Forster Y Kimble Y Larkin Y Leffler Y O'Callaghan Y*

*Motion passed 5-0*

**12. Unfinished Business**

*Mr. O'Callaghan requests an update regarding the demolition of defunct acid tanks at the WWTP.*

*Mr. Meyers from CPL states a discussion was had with Mark Cerrone regarding a change order to complete the removal of the residual chemicals from the acid tanks. However, they request previous payments be up-to-date prior to moving forward with additional work.*

**13. New Business & Additional Items for Discussion**

*Mr. Forster requested information regarding water main replacement plans, hydrants out of service, lift station SCADA, street cut restoration, and the portable generator borrowed through Niagara County Emergency Management, with responses provided by Mr. Eagler.*

*Mr. Forster asked questions of Mr. Perry regarding implementation of the time clock, internet use policy, the number of motor vehicles insured, reports to the State, the drug testing policy, and training offered through Human Resources.*

*The fact that grant-funded service line replacements currently are being performed by the City through a contract between the City and Fourth Generation was discussed. Complaints regarding this work should be addressed to the City because the Water Board has no role in that work and is not a party to the contract between the City and Fourth Generation.*

**14. Executive Session (if needed)**

*No executive session.*

**15. Adjournment of Meeting**

*Motion by Ms. Kimble and seconded by Ms. Larking to adjourn at 6:23 p.m.*

*Forster Y Kimble Y Larkin Y Leffler Y O'Callaghan Y*

*Motion passed 5-0*

**Niagara Falls Water Board**

**Personnel Actions and Report**

**Monday, July 22, 2019**

**Personnel Actions Requested of the Board**

**I. PERSONNEL ACTIONS RECOMMEND TO HIRE**

Line Item Number	Position	Department/Location	Pay Rate or Grade	ADDITIONAL INFORMATION
1.1	Electrician	Maintenace	Journeyman / \$ 29.08	Need to hire through the IBEW hall

**II. RECOMMENDED PROMOTION / MOVE / APPOINTMENT**

Line Item Number	Position	Type of labor move	Change in pay rate or grade	ADDITIONAL INFORMATION
2.1	CDT TEAM LEADER	Temporary assignment	Estimated \$3.00 from CDT Trainee	This is to replace the position until we can we can fill for J.S. who is retiring at the end of this month

**IV. BOARD NOTIFICATION OF OTHER MOVEMENT (CBA BID, MCSB APPOINTMENT, LEGAL STATUS CHANGE)**

Name	Position & type of labor move	Department/Location	Pay Rate or Grade	ADDITIONAL INFORMATION / AUTHORITY

**V. OTHER ACTIVITY OTHER PERSONNEL ACTIVITY FOR BOARD NOTIFICATION**

5.1	Journeyman Electrician	Resignation	\$29.08	Resigned to work for the Union Local

**VI. PERSONNEL ON LONG TERM LOA**

Name	Last Day Worked	Dept	Return Status	Comments
Tim Gratto	4/16/2019	Outside Water	TBD	Worker's Comp

*NIAGARA FALLS WATER BOARD RESOLUTION # 2019-07-002*

**AUTHORIZING WATER TREATMENT PLANT BACKUP GENERATOR REPAIRS**

**WHEREAS**, the Niagara Falls Water Board (“Water Board”) Water Treatment Plant (“WTP”) is equipped with CAT brand emergency backup generators sufficient to maintain vital operations in the event of a power failure to the WTP; and

**WHEREAS**, these generators are original to the WTP and require repairs and refurbishment in order to continue to provide reliable emergency backup power; and

**WHEREAS**, the generator radiator seals and/or gaskets need replacement; and

**WHEREAS**, Milton CAT is the sole source for original equipment manufacturer authorized repair and maintenance services; and

**WHEREAS**, Milton CAT has provided an estimate No. SCQT074370 dated June 25, 2019 to perform the required seal and/or gasket replacement work for an estimated total of \$41,626.25; and

**WHEREAS**, Water Board staff have determined that there is no acceptable alternative to performing this work as soon as practicable;

\* CONTINUED ON NEXT PAGE \*

**NOW THEREFORE BE IT**

**RESOLVED**, that on behalf of the Niagara Falls Water Board, its Executive Director hereby is authorized to enter into an agreement with Milton CAT to perform seal and/or gasket replacement work on the Water Treatment Plant emergency backup generators; and

**IT IS FURTHER RESOLVED**, that the funds authorized by this Resolution are \$41,626.25, with any other or further work exceeding the Executive Director's purchasing authority to be approved by further resolution of the Board of Directors.

*Water Board Personnel Responsible for Implementation of this Resolution:*  
Executive Director

*Water Board Budget Line or Capital Plan Item with Funds for this Resolution:*  
CIP Item No. WTP-7, Water Treatment Plant Infrastructure Projects – Misc.

On July 22, 2019, the question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
Board Member Forster	[    ]	[    ]	[    ]	[    ]
Board Member Kimble	[    ]	[    ]	[    ]	[    ]
Board Member Larkin	[    ]	[    ]	[    ]	[    ]
Board Member Leffler	[    ]	[    ]	[    ]	[    ]
Chairman O'Callaghan	[    ]	[    ]	[    ]	[    ]

Signed By:

Vote Witnessed By:

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Daniel T. O'Callaghan, Chairperson

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Sean W. Costello, Secretary to Board

**Milton**

Brewer, ME (207) 989-1890  
 Cranston, RI (401) 946-6450  
 Richmond, VT (802) 434-4228  
 Scarborough, ME (207) 883-9586  
 Wareham, MA (508) 291-1200  
 Miford, MA (508) 634-3400

Batavia, NY (585) 815-6200  
 Binghamton, NY (607) 772-6500  
 Clifton Park, NY (518) 877-8000  
 Syracuse, NY (315) 476-9981  
 Londonderry, NH (603) 665-4500

# SERVICE ESTIMATE

**ESTIMATE NUMBER:** SCQT074370  
**ESTIMATE DATE:** 6/25/2019  
**ESTIMATE EXPIRES:** 8/24/2019

**BILL TO**

Niagara Falls Water Board  
 Water Treatment Plant  
 5815 Buffalo Ave  
 Niagara Falls, NY 14304  
 USA

**SHIP TO**

Niagara Falls Water Board  
 8515 Buffalo Ave  
 Niagara Falls, NY 14304  
 USA

SERVICE CALL	DATE	INVOICE ACCOUNT	ORDER ACCOUNT	LOCATION	DIVISION	PAGE
CSR0429934	06/25/2019	0658597	0658597	Batavia	Engine	1 of 2
SALES REP	CUSTOMER CONTACT NAME	CUSTOMER CONTACT PHONE	TERMS			
Kasinski, Sam						
MAKE	MODEL	SERIAL NUMBER	CUSTOMER EQUIPMENT ID	MILTON CAT EQID	SMU	
AA	3512 EPG	24Z06664		E05177	280	
DESCRIPTION				UNIT PRICE	EXTENDED PRICE	

## REPLACE SEALS &/OR GASKET - RADIATOR

ESTIMATE: During regular business hours, replace leaking radiator cores. Note, upon disassembly further parts and labor may be required beyond this estimate and an additional estimate will be furnished at that time. The genset will be unavailable for a few days during this work.

**Parts**

1	1124036	Valve	50.84	50.84
25	1606386	Seal	8.16	204.00
25	1606387	Seal	7.83	195.75
6	1U5517	Disc	3.11	18.66
18	2388649	ELC Premix 50/50 5Gal	68.12	1,226.16
2	2884209	Towels Shop	3.86	7.72
1	2H3939	Union	19.07	19.07
1	2L8228	Union	18.75	18.75
25	2W0181	Core A	413.02	10,325.50
6	2W5330	Bracket A	24.42	146.52
6	2W5551	Strap A	31.86	191.16
1	3079919	Absorbent Pa	91.94	91.94
1	3B7745	Nipple	5.34	5.34
1	3N4906	Hose A	62.77	62.77
12	4L6454	Bolt	0.56	6.72
12	5P1075	Washer	0.59	7.08
8	5P4868	Clamp	6.44	51.52
12	5P5148	Strap	1.07	12.84
1	5P6302	Seal	4.52	4.52
2	6B9081	Bushing	16.62	33.24
1	6L8617	Cap	20.72	20.72
1	6V2055	Grease	51.71	51.71
2	6V5066	Seal-O-Ring	5.11	10.22
12	6V8801	Nut	0.30	3.60
1	7C4232	Tank As	3,038.92	3,038.92
1	7C4236	Tank As	4,909.40	4,909.40
2	7C4254	Tube	399.64	799.28
4	7C4342	Hose	26.75	107.00

CONTINUED

CUSTOMER INITIALS

DATE



**Milton**

Brewer, ME (207) 989-1890  
 Cranston, RI (401) 946-6450  
 Richmond, VT (802) 434-4228  
 Scarborough, ME (207) 883-9586  
 Wareham, MA (508) 291-1200  
 Miford, MA (508) 634-3400

Batavia, NY (585) 815-6200  
 Binghamton, NY (607) 772-6500  
 Clifton Park, NY (518) 877-8000  
 Syracuse, NY (315) 476-9981  
 Londonderry, NH (603) 665-4500

# SERVICE ESTIMATE

**ESTIMATE NUMBER:** SCQT074370  
**ESTIMATE DATE:** 6/25/2019  
**ESTIMATE EXPIRES:** 8/24/2019

## BILL TO

Niagara Falls Water Board  
 Water Treatment Plant  
 5815 Buffalo Ave  
 Niagara Falls, NY 14304  
 USA

## SHIP TO

Niagara Falls Water Board  
 8515 Buffalo Ave  
 Niagara Falls, NY 14304  
 USA

SERVICE CALL	DATE	INVOICE ACCOUNT	ORDER ACCOUNT	LOCATION	DIVISION	PAGE
CSR0429934	06/25/2019	0658597	0658597	Batavia	Engine	2 of 2
SALES REP	CUSTOMER CONTACT NAME	CUSTOMER CONTACT PHONE	TERMS			
Kasinski, Sam						
MAKE	MODEL	SERIAL NUMBER	CUSTOMER EQUIPMENT ID	MILTON CAT EQID	SMU	
AA	3512 EPG	24Z06664		E05177	280	
DESCRIPTION				UNIT PRICE	EXTENDED PRICE	

1	7C8535	Flange	97.41	97.41
1	8N1186	Hose A	62.19	62.19
1	8N3248	Gasket	4.50	4.50
2	8N3640	Ring	39.17	78.34
1	8N6406	Tube	868.41	868.41
4	8T7752	Pad-Hand	3.71	14.84
2	BACITROL-112	BRK CLEAN ENVIRO	16.81	33.62
2	W1891.4522-900	WINZER BRAKE CLEAN	5.41	10.82

## Labor

Total Labor 15,370.00

## Miscellaneous

1	Environmental Services & Supplies	630.17	630.17
720	New York Mileage	3.00	2,160.00
1	Parts/tool transport	675.00	675.00

Total Segment Parts 22,791.08  
 Total Segment Labor 15,370.00  
 Total Segment Miscellaneous 3,465.17

**Segment Total 41,626.25**

**Total Invoice Parts 22,791.08**  
**Total Invoice Labor 15,370.00**  
**Total Invoice Miscellaneous 3,465.17**

The estimate provided to you is based on what can be reasonably observed by a Milton CAT Product Support Representative. If, during actual repairs, additional worn or failed components are discovered, you will be contacted with an updated estimate that will include a breakdown of additional parts and/or labor. No additional repairs will be made without the customer's approval.

Any steam cleaning necessary to complete this service will be additional to this estimate.

This estimate is contingent on all remanufactured parts being acceptable for full core credit.

Transportation, freight, tax, miscellaneous supplies and environmental charges are not included unless otherwise noted.

We greatly appreciate the opportunity to estimate this repair for you, and look forward to providing you the best service in the industry.

<b>Estimate Amount</b>	<b>41,626.25</b>
------------------------	------------------

CUSTOMER PURCHASE ORDER

CUSTOMER PRINTED NAME

CUSTOMER SIGNATURE

DATE

**APPROVING ZERO COST CHANGE ORDER NUMBER 2  
FOR EMERGENCY REPAIR CONTRACT**

**WHEREAS**, the Niagara Falls Water Board (“Water Board”) awarded an emergency repair contract to Mark Cerrone, Inc., in January 2018, and that award was based on bid prices for estimated quantities of various materials and services; and

**WHEREAS**, the actual need for certain bid items has exceeded the estimated quantities upon which the contract award was based, but other bid items have not been used in the estimated quantities; and

**WHEREAS**, the result of this is that by adjusting the bid item quantities through a change order, the funds appropriated for the emergency repair contract are sufficient to pay for the work performed under the emergency repair contract without requiring an additional appropriation of funds; and

**WHEREAS**, City Engineering recommends the approval of \$0.00 change order as described above; and

**WHEREAS**, this is second \$0.00 change order for this contract, and is referred to as Change Order Number 2;

\* CONTINUED ON NEXT PAGE \*

**NOW THEREFORE BE IT**

**RESOLVED**, that the Niagara Falls Water Board hereby approves Change Order Number 2, a \$0.00 change order to the 2018-2020 indefinite delivery/indefinite quantity emergency repair contract, in order to adjust the estimated bid item quantities to match actual contract usage.

*Water Board Personnel Responsible for Implementation of this Resolution:*  
Executive Director

*Water Board Budget Line or Capital Plan Item with Funds for this Resolution:*  
GA 8120.4900.0443.000 (Repair of Real Property)  
FA 8340.0200.0443.000 (Repair of Real Property)

On July 22, 2019, the question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
Board Member Forster	[   ]	[   ]	[   ]	[   ]
Board Member Kimble	[   ]	[   ]	[   ]	[   ]
Board Member Larkin	[   ]	[   ]	[   ]	[   ]
Board Member Leffler	[   ]	[   ]	[   ]	[   ]
Chairman O'Callaghan	[   ]	[   ]	[   ]	[   ]

Signed By:

Vote Witnessed By:

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Daniel T. O'Callaghan, Chairperson

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Sean W. Costello, Secretary to Board



June 28, 2019

**TO:** Niagara Falls Water Board

**FROM:** Patrick Fama - Executive Director  
John Gerlach, P.E - City Engineer

**SUBJECT:** **2018-2020 I.D.I.Q. Emergency Repair Contract - Change Order #2 (\$0.00)**  
**February 2019 thru July 2019**

- 94<sup>th</sup> Street Water Main Repair (Start Date: February 8, 2019)
- Linwood Avenue Sewer Repair (Start Date: March 29, 2019)
- Fairfield Avenue Sewer Repair (Start Date: May 28, 2019)

A contract for the Niagara Falls Water Board's 2018-2020 I.D.I.Q. Emergency Repair Contract was awarded to Mark Cerrone, Inc., 2368 Maryland Avenue, Niagara Falls, New York in the amount of \$1,979,128.00.

Subsequent to the start of the I.D.I.Q. Contract, numerous *individual* repair projects throughout the contract's duration have resulted in several bid items significantly exceeding their original quantity estimates. However, existing underruns elsewhere in the contract will allow for complete payment on **all** exceeded bid quantities without the allotment of any additional funds (i.e. \$0.00 change order on contract)

It is the recommendation of the undersigned that the Niagara Falls Water Board allow for payment of the additional quantities referred to above via a no dollar change to the contract in a form acceptable to the Board's legal counsel.

Respectfully submitted,

Patrick Fama - Executive Director

A handwritten signature in black ink, appearing to read "John Gerlach".

John Gerlach, P.E. - City Engineer

Meeting: July 15, 2019

Forster \_\_\_\_\_ Kimble \_\_\_\_\_ Larkin \_\_\_\_\_ Leffler \_\_\_\_\_ O'Callaghan \_\_\_\_\_

**DESIGNATING USI INSURANCE SERVICES, INC.,  
AS BROKER OF RECORD FOR WORKERS COMPENSATION POLICY**

**WHEREAS**, the cost of Workers Compensation insurance coverage required by law is a major expense for the Niagara Falls Water Board (“Water Board”); and

**WHEREAS**, the Water Board procures Workers Compensation insurance coverage through a broker; and

**WHEREAS**, the Water Board’s Workers Compensation policy period begins on July 1, 2019; and

**WHEREAS**, a change-of-broker notification designating USI Insurance Services, Inc., as broker of record was transmitted to the current Workers Compensation insurance carrier, PERMA, on or about June 25, 2019 in order to change the broker prior to the July 1, 2019 policy renewal date; and

**WHEREAS**, the Water Board desires to ratify and adopt that change of broker;

**NOW THEREFORE BE IT**

**RESOLVED**, that the Niagara Falls Water Board hereby designates USI Insurance Services, Inc., as its broker of record for its Workers Compensation insurance policy; and

**IT IS FURTHER RESOLVED**, that this designation of USI Insurance Services, Inc., is effective as of June 25, 2019, and the notification provided to PERMA of this change in broker on June 25, 2019 hereby is adopted, ratified, and given full effect.

*Water Board Personnel Responsible for Implementation of this Resolution:*  
Director of Financial Services

On July 22, 2019, the question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
Board Member Forster	[    ]	[    ]	[    ]	[    ]
Board Member Kimble	[    ]	[    ]	[    ]	[    ]
Board Member Larkin	[    ]	[    ]	[    ]	[    ]
Board Member Leffler	[    ]	[    ]	[    ]	[    ]
Chairman O’Callaghan	[    ]	[    ]	[    ]	[    ]

Signed By:

Vote Witnessed By:

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Daniel T. O’Callaghan, Chairperson

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Sean W. Costello, Secretary to Board

*NIAGARA FALLS WATER BOARD RESOLUTION # 2019-07-005*

**AWARDING BID FOR GORGE PUMP STATION  
ELEVATOR REFURBISHMENT AND UPGRADES**

**WHEREAS**, the Niagara Falls Water Board (“Water Board”) Gorge Pump Station (“GPS”) is a critical component of its wastewater treatment system; and

**WHEREAS**, the GPS is located in the Niagara Gorge, and access for maintenance, service, and repairs primarily is through an elevator; and

**WHEREAS**, the GPS elevator requires extensive refurbishments and upgrades due to age related degeneration and wear; and

**WHEREAS**, on behalf of the Water Board, Clark Patterson Lee (“CPL”) prepared bid specifications for the necessary work; and

**WHEREAS**, a bid of \$447,500 from Hohl Industrial Services, Inc., was the only bid received for the project; and

**WHEREAS**, Jay Meyers, P.E., of CPL recommends the award of the bid to Hohl Industrial Services, Inc., and Water Board staff concur;

\* CONTINUED ON NEXT PAGE \*

**NOW THEREFORE BE IT**

**RESOLVED**, that on behalf of the Niagara Falls Water Board, its Executive Director hereby is authorized to contract with Hohl Industrial Services, Inc., for refurbishment and upgrades to the Gorge Pump Station elevator, for a total amount not to exceed the \$447,500 bid.

*Water Board Personnel Responsible for Implementation of this Resolution:*  
Executive Director

*Water Board Budget Line or Capital Plan Item with Funds for this Resolution:*  
Capital Plan Item No. S-1, GPS Elevator

On July 22, 2019, the question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
Board Member Forster	[    ]	[    ]	[    ]	[    ]
Board Member Kimble	[    ]	[    ]	[    ]	[    ]
Board Member Larkin	[    ]	[    ]	[    ]	[    ]
Board Member Leffler	[    ]	[    ]	[    ]	[    ]
Chairman O'Callaghan	[    ]	[    ]	[    ]	[    ]

Signed By:

Vote Witnessed By:

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Daniel T. O'Callaghan, Chairperson

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Sean W. Costello, Secretary to Board



<b>BID TABULATION SHEET</b>										
PROJECT NAME:	<b>GORGE PUMP STATION ELEVATOR</b>					CONTRACT FOR:	<b>NIAGARA FALLS WATER BOARD</b>			
CPL PROJECT NO.:	<b>1414301.00</b>					DATE: July 10, 2019	<b>2:00 pm TUESDAY JULY 9, 2019</b>			
<b>CONTRACTOR</b>	<b>BID FORM SIGNED</b>	<b>M/W/SDVBE</b>	<b>NON- COLLUSIVE</b>	<b>BID BOND</b>	<b>Quals Statement</b>	<b>BASE BID WITH ALLOWANCE</b>	<b>ADDENDA RECEIVED</b>		<b>ALTERNATES</b>	<b>TOTAL COST</b>
							1	2,3		
Hohl Industrial Services, Inc.	x	x	x	x	x	\$447,500.00	x	x	none	<b>\$447,500.00</b>



NIAGARA FALLS WATER BOARD RESOLUTION # 2019-07-005

**AWARDING BID FOR WATER TREATMENT PLANT  
CLEARWELL VENT HOUSE ROOF REPLACEMENT**

**WHEREAS**, the Niagara Falls Water Board (“Water Board”) water treatment plant (“WTP”) clearwell vent building roof is original to that structure and requires replacement in order to avoid structural damage; and

**WHEREAS**, on behalf of the Water Board, Clark Patterson Lee (“CPL”) prepared bid specifications for the necessary work; and

**WHEREAS**, a total of three bids were received for the project, with the low bid of \$38,321 from Jos. A. Sanders & Sons, Inc.; and

**WHEREAS**, Jay Meyers, P.E., of CPL recommends the award of the bid to Jos. A. Sanders & Sons, Inc., and Water Board staff concur;

**NOW THEREFORE BE IT**

**RESOLVED**, that on behalf of the Niagara Falls Water Board, its Executive Director hereby is authorized to contract with Jos. A. Sanders & Sons, Inc., for replacement of the water treatment plant clearwell vent house roof, for a total amount not to exceed the \$38,321 bid.

*Water Board Personnel Responsible for Implementation of this Resolution:*  
Executive Director

*Water Board Budget Line or Capital Plan Item with Funds for this Resolution:*  
Capital Plan Item No. WTP-6, WTP Building Improvements

On July 22, 2019, the question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
Board Member Forster	[    ]	[    ]	[    ]	[    ]
Board Member Kimble	[    ]	[    ]	[    ]	[    ]
Board Member Larkin	[    ]	[    ]	[    ]	[    ]
Board Member Leffler	[    ]	[    ]	[    ]	[    ]
Chairman O’Callaghan	[    ]	[    ]	[    ]	[    ]

Signed By:

Vote Witnessed By:

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Daniel T. O’Callaghan, Chairperson

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Sean W. Costello, Secretary to Board



BID TABULATION SHEET										
PROJECT NAME:	WTP VENT BUILDING ROOF					CONTRACT FOR:	NIAGARA FALLS WATER BOARD			
CPL PROJECT NO.:	1414301.00					DATE: July 10, 2019	2:15 pm TUESDAY JULY 9, 2019			
CONTRACTOR	BID FORM SIGNED	M/W/SDYBE	NON- COLLUSIVE	BID BOND	Quals Statement	BASE BID WITH ALLOWANCE	ADDENDA RECEIVED		ALTERNATES	TOTAL COST
							1	2		
Jos. A. Sanders & Sons, Inc.	x	x	x	x	x	\$38,321.00	x	x	none	\$38,321.00
Weaver Metal and Roofing	x		x	x	x	\$55,000.00	x	x	none	\$50,000.00
Grove Roofing Services, Inc	x	x	x	x	x	\$50,000.00	x	x	none	\$55,000.00

**RESOLUTION AUTHORIZING GRANT AND FINANCING  
APPLICATIONS FOR WORK AT GORGE PUMPING STATION**

**WHEREAS**, the Niagara Falls Water Board (“Water Board”) has determined that it is appropriate to apply for grant funding to assist in the financing of its various scheduled capital improvement projects and certain projects to be initiated upon the conclusion of engineering design work currently in progress; and

**WHEREAS**, as authorized by the New York State Water Infrastructure Act of 2017, the Environmental Facilities Corporation has been empowered to provide grants and other financial assistance to aid in funding water quality and wastewater infrastructure projects; and

**WHEREAS**, certain funding opportunities are also available via the Consolidated Funding Application process administered by the NY Empire State Development Corporation (ESD); and

**WHEREAS**, the Water Board by resolution desires specifically to authorize grant and/or funding applications for projects at the Gorge Pumping Station, which is a critical part of the Water Board’s wastewater treatment system; and

**WHEREAS**, projects planned or in progress at the Gorge Pumping Station include rehabilitation of its elevator, pumping equipment replacement, vibration mitigation work, grinder improvements, wet well heating and ventilation improvements, lighting and security system improvements, wet well sluice gate replacements, door repairs, and interior wall stabilization work; and

**WHEREAS**, State Environmental Quality Review Act review and classification of these Gorge Pumping Station projects is the subject of another Water Board resolution;

\* CONTINUED ON NEXT PAGE \*

**NOW THEREFORE BE IT**

**RESOLVED**, that the Niagara Falls Water Board hereby authorizes the submittal of grant and financing applications for design and construction of the above-referenced improvements to its Gorge Pumping Station.

*Water Board Personnel Responsible for Implementation of this Resolution:*  
Executive Director

*Water Board Budget Line or Capital Plan Item with Funds for this Resolution:*  
*Not applicable.*

On July 22, 2019, the question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
Board Member Forster	[    ]	[    ]	[    ]	[    ]
Board Member Kimble	[    ]	[    ]	[    ]	[    ]
Board Member Larkin	[    ]	[    ]	[    ]	[    ]
Board Member Leffler	[    ]	[    ]	[    ]	[    ]
Chairman O'Callaghan	[    ]	[    ]	[    ]	[    ]

Signed By:

Vote Witnessed By:

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Daniel T. O'Callaghan, Chairperson

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Sean W. Costello, Secretary to Board

**SEQRA TYPE II DETERMINATION FOR  
GORGE PUMPING STATION IMPROVEMENT PROJECTS**

**WHEREAS**, the Niagara Falls Water Board (“Water Board”) has identified capital improvement projects at the Gorge Pumping Station which include rehabilitation of its elevator, pumping equipment replacement, vibration mitigation work, grinder improvements, wet well heating and ventilation improvements, lighting and security system improvements, wet well sluice gate replacements, door repairs, and interior wall stabilization work; and

**WHEREAS**, pursuant to the requirements of the State Environmental Quality Review Act (“SEQRA”), the Water Board must consider pursuant to criteria set forth in SEQRA the environmental implications of such projects; and

**WHEREAS**, certain actions are classified under SEQRA as Type II actions; and

**WHEREAS**, Type II actions are those actions, or classes of actions, which have been found categorically to not have significant adverse impacts on the environment, or actions that have been statutorily exempted from SEQRA review, and Type II actions do not require preparation of an Environmental Assessment Form, a negative or positive declaration, or an Environmental Impact Statement; and

**WHEREAS**, Type II actions do not require any further SEQRA review; and

**WHEREAS**, the Water Board has considered under SEQRA the actions described above, and finds that pursuant to 6 NYCRR Section 617.5 (c) (1) and 617.5(c) (2), the following projects to be performed entirely within the physical structure of the Gorge Pumping Station are determined to be Type II actions because they involve “maintenance or repair involving no substantial changes in an existing structure or facility;” or “. . . replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, unless such action meets or exceeds any of the thresholds in section 617.4 of this Part,” requiring no further review by the NFWB;

\* CONTINUED ON NEXT PAGE \*

**NOW, THEREFORE, BE IT**

**RESOLVED**, that that the projects discussed above for improvement and rehabilitation of the Gorge Pumping Station hereby are determined to constitute SEQRA Type II Actions as defined under said regulation and do not require an environmental impact statement or any other determination or procedure.

*Water Board Personnel Responsible for Implementation of this Resolution:*  
Executive Director

*Water Board Budget Line or Capital Plan Item with Funds for this Resolution:*  
*Not applicable.*

On July 22, 2019, the question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
Board Member Forster	[    ]	[    ]	[    ]	[    ]
Board Member Kimble	[    ]	[    ]	[    ]	[    ]
Board Member Larkin	[    ]	[    ]	[    ]	[    ]
Board Member Leffler	[    ]	[    ]	[    ]	[    ]
Chairman O'Callaghan	[    ]	[    ]	[    ]	[    ]

Signed By:

Vote Witnessed By:

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Daniel T. O'Callaghan, Chairperson

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Sean W. Costello, Secretary to Board

*NIAGARA FALLS WATER BOARD RESOLUTION # 2019-07-009*

**APPROVING MARKETING AGREEMENT WITH  
UTILITY SERVICES PARTNERS PRIVATE LABEL, INC.,  
FOR WATER AND SEWER SERVICE LINE PROTECTION PROGRAM**

**WHEREAS**, the Niagara Falls Water Board (“Water Board”) issued a request for proposals (“RFP”) seeking a provider for water and sewer service line protection (“WSSLP”) services; and

**WHEREAS**, the Water Board select the proposal of Utility Service Partners Private Label, Inc., a HomeServ Company (“USP”), as the proposal that offers the most coverage at the lowest price to Water Board ratepayers; and

**WHEREAS**, the terms of a Marketing Agreement between the Water Board and USP now have negotiated; and

**WHEREAS**, the Water Board’s primary objectives for the WSSLP program are to:

1. Provide ratepayers with affordable protection against the significant, unexpected costs of repairing or replacing leaking water service lines, and repairing or replacing broken and leaking sanitary sewer service lines and clearing blockages;
2. Minimize the impacts to homeowners, neighbors, the public water and sewer system and the environment from broken/improperly functioning water and sanitary sewer service lines;
3. Ensure that timely, high-quality plumbing services that conform to City codes are provided to covered customers;
4. Educate ratepayers as to their responsibility regarding service line maintenance;
5. Provide support for the Water Board’s efforts to inspect sewer mains and sewer laterals, in order to identify sources of infiltration and damaged sewer lateral connections before basement backups and other negative consequences occur;
6. Accelerate the replacement of lead and galvanized water service lines with more suitable materials; and

**WHEREAS**, among the negotiated terms is that the Water Board will provide only the zip codes for the areas it serves to USP, and not any ratepayer names or addresses;

\* CONTINUED ON NEXT PAGE \*

**NOW THEREFORE BE IT**

**RESOLVED**, that the Niagara Falls Water Board hereby authorizes the Executive Director to execute the Marketing Agreement and to take such other or further actions as are required in order to implement the WSSLP program and the objectives described above.

*Water Board Personnel Responsible for Implementation of this Resolution:*  
Executive Director

*Water Board Budget Line or Capital Plan Item with Funds for this Resolution:*  
No expenditure of Water Board funds is required.

On July 22, 2019, the question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
Board Member Forster	[    ]	[    ]	[    ]	[    ]
Board Member Kimble	[    ]	[    ]	[    ]	[    ]
Board Member Larkin	[    ]	[    ]	[    ]	[    ]
Board Member Leffler	[    ]	[    ]	[    ]	[    ]
Chairman O'Callaghan	[    ]	[    ]	[    ]	[    ]

Signed By:

Vote Witnessed By:

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Daniel T. O'Callaghan, Chairperson

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Sean W. Costello, Secretary to Board



## MARKETING AGREEMENT

This MARKETING AGREEMENT ("**Agreement**") is entered into as of \_\_\_\_\_, 2019 ("**Effective Date**"), by and between the Niagara Falls Water Board ("**Water Board**"), and Entity: Utility Service Partners Private Label, Inc. d/b/a Service Line Warranties of America ("**Company**"), herein collectively referred to singularly as "Party" and collectively as the "Parties".

### RECITALS:

**WHEREAS**, sewer and water line laterals between the mainlines and the connection on private property are owned by individual property owners ("**Property Owner**"); and

**WHEREAS**, Water Board desires to offer Property Owners the opportunity, but not the obligation, to purchase a service line warranty and other similar products set forth in Appendix A or as otherwise agreed in writing from time-to-time by the Parties (each, a "**Product**" and collectively, the "**Products**"); and

**WHEREAS**, Company, a subsidiary of HomeServe USA Corp., is the administrator of the National League of Cities Service Line Warranty Program and has agreed to make the Products available to Property Owners subject to the terms and conditions contained herein; and

**NOW, THEREFORE**, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and with the intent to be legally bound hereby, the Parties agree as follows:

1. **Agreement.** This Agreement includes the term sheet attached hereto as Appendix A, the Request for Proposals Packet, including its appendices, incorporated hereto as Appendix B, Company's proposal dated February 22, 2019, incorporated hereto as Appendix C. In the event of a conflict between the terms of any appendix, document incorporated by reference, or other agreement entered into between the parties (including any and all attachments thereto and amendments thereof) and the terms of this Agreement, the terms contained in the body of this Agreement shall control.

2. **Purpose.** Water Board hereby grants to Company the right to offer and market the Products to Property Owners subject to the terms and conditions herein.

3. **Grant of License; Customer Information.**

A. Water Board hereby grants to Company a non-exclusive license ("**License**") to use Water Board's name and logo on letterhead and marketing materials to be sent to Property Owners from time to time, and to be used in advertising (including on the Company's website), all at Company's sole cost and expense and subject to Water Board's prior review and approval, which will not be unreasonably conditioned, delayed, or withheld. Written approval by a designated Water Board representative shall be obtained prior to any marketing material (including press releases) being distributed and prior to each and any use of the Water Board's logo by

Company. Water Board agrees that it will not extend a similar license to any competitor of Company offering the same or similar services during the Term and any Renewal Term of this Agreement.

B. On or immediately after the Effective Date, Water Board will provide Company with “zip plus 4” data for its Property Owners in the Water Board’s service territory in an agreed-upon format (and thereafter upon request from Company).

4. **Term.** The term of this Agreement ("**Term**") shall be for two (2) years from the Effective Date. The Agreement will automatically renew for up to three (3) additional one (1) year terms ("**Renewal Term**") unless one of the Parties gives the other written notice at least ninety (90) days prior to end of the Term or of a Renewal Term that the Party does not intend to renew this Agreement. In the event that Company is in material breach of this Agreement, the Water Board may terminate this Agreement thirty (30) days after giving written notice to Company of such breach, if said breach is not cured during said thirty (30) day period. Company will be permitted to complete any marketing initiative initiated prior to termination of this Agreement, after which time neither Party will have any further obligations to the other and this Agreement will terminate.

5. **Consideration.**

A. As consideration for such license, Company will pay to Water Board a License Fee of as set forth in Appendix A ("**License Fee**") during the term of this Agreement. The Water Board may use this license fee to support its efforts to inspect sewer mains and sewer laterals, in order to identify sources of infiltration and damaged sewer lateral connections before basement backups and other negative consequences occur, or for whatever other purpose it deems fit. The first payment shall be due by January 30th of the year following the conclusion of first year of the Term. Succeeding License Fee payments shall be made on a quarterly basis throughout the Term and any Renewal Term. Water Board agrees to provide a completed HomeServe New Partner Form and a Form W-9 to Company in order to facilitate proper payment of the License Fee. Water Board will have the right, at its sole expense, to conduct an audit, upon reasonable notice and during normal business hours, of Company's books and records pertaining to any fees due under this Agreement while this Agreement is in effect and for one (1) year after any termination of this Agreement.

B. In addition to the License Fees set forth in this Section, Company shall pay Water Board a startup fee ("**Startup Fee**") as set forth on Appendix A. Company will pay Water Board the Startup Fee within thirty (30) days after the date such Startup Fee becomes payable. The Water Board may use the startup fee to defray its costs incurred in soliciting and evaluating proposals for the services to be provided under this Agreement, to offset operational costs, or for any other purpose it deems fit.

C. Company shall pay Water Board an Administration Fee ("**Administration Fee**") as set forth on Exhibit A. Company will pay Water Board Administration Fees within thirty (30) days after the date such Administration Fee becomes payable.

6. **Confidentiality.** The Water Board is subject to the provisions of the Freedom of Information Law ("FOIL"), N.Y. Public Officers Law, Sections 84 through 90, relating to public access to

agency records. The Company shall specifically identify those portions of any document related to this Agreement deemed to be confidential, proprietary information, or trade secrets and provide any justification why such material, upon request, should not be disclosed by the Water Board. The top of each page containing such information must be clearly marked in bold type "THE CREATOR OF THIS DOCUMENT BELIEVES THAT THIS INFORMATION IS PROTECTED FROM DISCLOSURE UNDER THE STATE FREEDOM OF INFORMATION LAW." The Water Board accepts no responsibility for disclosure of information designated as exempt from disclosure, but the Board does intend to evaluate, on a case-by-case basis, whether exemption from disclosure applies when a FOIL request is made to the Water Board for examination of such information. Proposers should be aware that any and all aspects of this Agreement may be the subject of discussion at Board of Directors meetings that are open to the public. This Agreement itself may be disclosed pursuant to FOIL.

7. **Code Change.** The Parties understand that the pricing of the Products and compensation provided for in this Agreement are based upon the currently applicable Water Board, municipal or similar codes and the information provided in the RFP. In the event that Water Board knows or believes that any such code is changed, or proposed to be changed, in a way that could impact or otherwise relate to the performance of this Agreement or the Products, Water Board agrees to notify Company in advance of such change taking effect (a "**Code Change**").

8. **Notice.** Any notice required to be given hereunder shall be deemed to have been given when notice is (i) received by the Party to whom it is directed by personal service, (ii) sent by electronic mail (provided confirmation of receipt is provided by the receiving Party), or (iii) deposited as registered or certified mail, return receipt requested, with the United States Postal Service, addressed as follows:

**To:** Water Board:  
ATTN: Sean W. Costello, General Counsel  
Niagara Falls Water Board  
5815 Buffalo Avenue  
Niagara Falls, NY 14304  
Phone: (716) 283-9770 x211

**To:** Company:  
ATTN: Chief Sales Officer  
Utility Service Partners Private Label, Inc.  
4000 Town Center Boulevard, Suite 400  
Canonsburg, PA 15317  
Phone: (866) 974-4801

9. **Modifications or Amendments/Entire Agreement.** Any and all of the representations and obligations of the Parties are contained herein, and no modification, waiver or amendment of this Agreement or of any of its conditions or provisions shall be binding upon a party unless in writing signed by that Party.

10. **Assignment.** This Agreement and the License granted herein may not be assigned by Company other than to an affiliate or an acquirer of all or substantially all of its assets, without the prior written consent of the Water Board, such consent not to be unreasonably withheld.

11. **Counterparts/Electronic Delivery; No Third Party Beneficiary.** This Agreement may be executed in counterparts, all such counterparts will constitute the same contract and the signature of any Party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by facsimile or e-mail and upon receipt will be deemed originals and binding upon the Parties hereto, regardless of whether originals are delivered thereafter. Nothing expressed or implied in this Agreement is intended, or should be construed, to confer upon or give any person or entity not a party to this agreement any third- party beneficiary rights, interests, or remedies under or by reason of any term, provision, condition, undertaking, warranty, representation, or agreement contained in this Agreement.

12. **Choice of Law.** The governing law shall be the laws of the State of New York, without regard to the choice of law principles of the forum state.

13. **Incorporation of Recitals and Appendices.** The above Recitals and Appendices attached hereto are incorporated by this reference and expressly made part of this Agreement.

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

**NIAGARA FALLS WATER BOARD**

\_\_\_\_\_

Name: Patrick Fama

Title: Executive Director

**UTILITY SERVICE PARTNERS PRIVATE LABEL, INC.**

\_\_\_\_\_

Name: Michael Backus

Title: Chief Sales Officer

**Appendix A**  
**NLC Service Line Warranty Program**  
**Niagara Falls Water Board**  
**Term Sheet**

**I. Initial Term. Two years**

**II. License Fee.** During the Term, Company will pay Water Board ten (10%) of the payments of plan fees actually received from members during the Term under any plans sold hereunder, net of any discount, rebates, refunds, chargebacks, credits, and sales or similar taxes incurred or paid by Company in connection with such plans for: Water Board logo on letterhead, advertising, and marketing material, provided that all such materials also shall include Company's logo if requested by the Water Board.

**III. Startup Fee.** Twenty thousand dollars (\$20,000). Payment of the Startup Fee for the first year is subject to the approval and mailing of the first campaign for that year.

**IV. Administration Fee.** Ten thousand dollars (\$10,000) per year during the Term. Payment of the Administration Fee for the first year is subject to the approval and mailing of the first campaign for that year. In subsequent years, payment of the Administration Fee is subject to City's timely approval of all other marketing materials for the prior year and the approval and mailing of the first campaign of the current contract year.

**V. Products.**

- a. External water service line warranty (initially, \$3.99 per month)
  - b. External sewer/septic line warranty (initially, \$6.99 per month)
  - c. Interior plumbing and drainage warranty (initially, \$9.99 per month)
  - d. Water heater warranty (initially, \$7.99 per month) (not currently included in the product list of the National League of Cities Service Line Warranty Program)
- Company may adjust the foregoing Product fees as agreed by the Parties in writing.

**VI. Scope of Coverage.**

- a. Customer responsibility for the external water service line warranty is from the meter and/or curb box to the external wall of the home.
- b. Customer responsibility for the external sewer/septic line warranty is from the exit point of the home to the main
- c. Interior plumbing and drainage warranty covers water supply pipes and drainage pipes within the interior of the home.
- d. Water heater warranty: water heater repairs.

**VII. Marketing Campaigns.** Company shall have the right to conduct up to three campaigns per year, comprised of up to six mailings and such other channels as may be mutually agreed.

### VIII. On-Demand Pricing.

In response to your request for additional information regarding our On-Demand Repair Service, please see below for coverage and cost of services. These services are available to those without a plan who experience a repair emergency.

Service Type	Water	Sewer	Coverage
Repair	\$725	\$975	up to 5' in length and 6' in depth
Replacement	\$1,440	\$1,900	Up to 30' in length
Lead/Galvanized Line Replacement	\$1,440	N/A	Up to 30' in length
Sewer Line Jetting	N/A	\$ 185 / hour	

The above pricing does not include the cost of permits.