

ERIE COUNTY WATER AUTHORITY

VARIOUS LEGAL SERVICES 2019 Request for Information Project No: 201900020



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

**Designated Contact Person:
Terrence D. McCracken
Secretary to the Authority
tmccracken@ecwa.org**

TABLE OF CONTENTS

I. PURPOSE.....	3
II. BACKGROUND.....	3
III. SCOPE OF SERVICES REQUIRED.....	4
IV. PROPOSAL REQUIREMENTS.....	5
V. TERMS AND CONDITIONS.....	6
VI. ADDITIONAL INFORMATION.....	8
VII. TIME TABLE OF EVENTS.....	8
VIII. ATTACHMENTS:	
1. REQUIRED FORMS A, B AND C	8
2. SAMPLE CONTRACT TERMINATION PROVISION	15
3. INSURANCE REQUIREMENTS	16
4. PROPOSER CERTIFICATION	23

This Request for Information (RFI) for Professional Services, to provide Various Legal Services to the Erie County Water Authority, is being conducted pursuant to enacted legislation, New York State Finance Law § 139-J and § 139-K and the Erie County Water Authority's Procurement Disclosure Policy. A copy of the latter is provided with this RFI.

I. Purpose:

The Authority is soliciting proposals and qualifications from interested parties for various legal services, on an ongoing and/or as needed basis.

The Authority is seeking firms that have expert knowledge in specific areas of the law as specified in the scope of services below. The Authority intends to approve several firms to represent it on an as needed and ongoing basis for the two-year period June 1, 2019 through May 31, 2021 at the rates set forth in the responses to this RFI. The scope of each engagement will be confirmed in a retainer letter signed by the Authority and the approved firm.

II. Background:

BACKGROUND INFORMATION:

Organizational Information

The Erie County Water Authority is a public benefit corporation formed in 1949 to provide a potable water supply to the residents of Western New York. The Authority was created by an Act of the State Legislature, codified in Sections 1050 through 1073 of Title 3 (the "Erie County Water Authority Act") of Article 5 of the Public Authorities Law of the State of New York (as amended), to, among other things, finance, construct, operate and maintain a water supply and distribution system to benefit the residents of the County of Erie, New York. The Authority became operational in 1953. The Authority is financially self-sustaining, paying all operating expenses from revenues generated from the sale of water to 170,042 customers.

The Erie County Water Authority is not an agency of New York State, nor an agency of Erie County government. The Authority is completely independent with respect to budgeting, bonding authority, debt management and credit rating.

The Erie County Water Authority is governed by a Board of Commissioners. The Board consists of three members appointed by the Chairman of the Legislature of Erie County, subject to confirmation by a majority of said Legislature. Each Board member is appointed for a three-

year term and continues to hold office until a successor is confirmed. The three-year terms of office are staggered. The enabling State legislation provides that the officers of the Authority shall consist of a Chairman, a Vice-Chairman and a Treasurer who shall be members of the Authority, and a Secretary, who need not be a member of the Authority. The Board establishes policy and is responsible for the overall operations of the Authority.

III. Scope of Services:

The Erie County Water Authority is currently seeking firms that have knowledge and expertise in the following fields:

1. Labor Relations, Employment Law, including Litigation/Discrimination.
2. Bond Counsel and related finance matters.
3. Intellectual Property and Cyber Security Matters.
4. Insurance Coverage Matters and Litigation, including contracts and torts.
5. Authority Compliance (e.g., FOIL/Open Meetings Law, Ethics, Authorities Budget Office issues, Purchasing and Contract compliance)
6. Environmental Compliance.

Please identify the area or areas listed above for which your firm seeks to be considered.

IV. Information Response Requirements:

All respondents are required to send six (6) complete sets of responses (1 original and 5 copies) which should be submitted to the Authority at the following address:

Terrence McCracken
Secretary to the Authority
Erie County Water Authority
295 Main Street, Room 350
Buffalo, New York 14203

Package should be marked: **2019 RFI for Various Legal Services**

Information Responses must be delivered via mail or hand delivery to the Authority at the above location no later than **Friday, April 12, 2019 at 12:00 PM**. Responses delivered prior to the deadline shall remain unopened, so long as the package is properly marked as set forth above. Late responses will not be accepted and will be marked "TOO LATE" and returned to the sender unopened.

All six (6) copies of each response should be arranged as follows:

1. **Title Page:** Showing RFI name and respondent's name, address, telephone number and contact person.
2. **Letter of Introduction:** One page, introducing the respondent and manually signed by the person(s) authorized to sign on behalf of, and bind the company to, statements made in response to this RFI.
3. **Firm Profile:** The following will be required in a overview/profile as part of each response:
 - a. Brief (one or two paragraphs) description of the respondent's business, its history and its ability to provide the requested services, including number of years in business.
 - b. Information pertinent to the respondent's background and experience.
 - c. Identify principals and/or officers of the respondent firm.
 - d. Firm name.
 - e. Firm address.
 - f. Telephone numbers and e-mail addresses.
 - g. Contact person.
 - h. Respondent's size and organizational structure.
 - i. Three references that respondent may wish to provide with contact name and telephone number.
4. **Compensation:** Provide a two-year prospective rate sheet for these services.
5. **Certifications and Insurances:** All attached required NYS Finance Law Certifications Forms A, B, C, Proposer Certification and Insurance certificates must be submitted.
6. **Additional Information:** If additional services are provided by your firm that are not specified in the SCOPE OF SERVICES, please include those services in your firm's response.

V. Terms and Conditions:

- All responses become the property of the Authority.
- The Authority shall have no financial responsibility for any costs assumed by the Firms submitting the RFI.
- Each proposal shall be prepared simply and economically, and should provide straightforward and concise responses that satisfy the requirements of the RFI.
- The Authority reserves the right to request additional information from any and all Responders to assist in the evaluation process. It is the responsibility of each responding Firm to inquire about and clarify any aspect of the RFI that is not

understood.

Acceptance/Rejection

The Authority reserves the right to accept or to reject any or all of the respondent(s) and to select the Firm proposal(s) which, in the opinion of the Authority, will be in the Authority's best interest. The Authority specifically may choose other than the lowest cost proposal in order to provide the requisite experience and background which are deemed to be most appropriate for the Authority.

THE ISSUANCE OF THIS RFI CONSTITUTES ONLY AN INVITATION TO PRESENT PROPOSALS. THE AUTHORITY AND THE RFI EVALUATION COMMITTEE RESERVE THE RIGHT TO DETERMINE, IN THEIR SOLE DISCRETION, WHETHER ANY ASPECT OF THE PROPOSAL SATISFACTORILY MEETS THE CRITERIA ESTABLISHED IN THE RFI. THE AUTHORITY AND THE RFI EVALUATION COMMITTEE RESERVE THE RIGHT TO SEEK ADDITIONAL INFORMATION AND/OR CLARIFICATION FROM ANY RESPONDENT, THE RIGHT TO NEGOTIATE WITH ANY RESPONDENT SUBMITTING A RESPONSE, AND THE RIGHT TO REJECT ANY OR ALL RESPONSES, WITH OR WITHOUT CAUSE. IN THE EVENT THAT THE RFI IS WITHDRAWN BY THE AUTHORITY FOR ANY REASON, INCLUDING, BUT NOT LIMITED TO, THE FAILURE TO OCCUR OF ANY OF THOSE THINGS OR EVENTS SET FORTH HEREIN, THE AUTHORITY SHALL HAVE NO LIABILITY TO ANY RESPONDENT FOR ANY COSTS OR EXPENSES INCURRED IN CONNECTION WITH THE RFI OR OTHERWISE.

Selection/Evaluation Process

1. An RFI evaluation committee will review all accepted proposals. It is anticipated that this process may be completed by April 24, 2019.
2. The RFI evaluation committee will report to the Board of Commissioners, and it is anticipated that the committee will recommend a firm(s) by May 1, 2019. After acquiring the Board of Commissioners consent, the selected firm(s) will be notified.
3. The successful firm(s) will enter into a retainer agreement with the Authority to memorialize the rates for the services that may be provided during the two year period covered by this RFI. Each time the Authority engages an approved firm for a matter during the period covered by this RFI a Retainer Letter shall be entered into at the agreed-to rates describing the scope of services.
4. All proposals must state the period for which the Firm's response shall remain in effect, with a minimum of 120 days from the due date of the response.

5. Respondents, agents and/or associates are prohibited from contacting or soliciting any other Erie County Water Authority official, including Authority members, during the restricted period from March 26, 2019 through the award date.

6. Any changes to the request for proposal will be communicated in writing to all firms who receive this RFI.

VI. Additional Information:

All questions and requests for clarification should be addressed in writing to the designated contact person, Terrence McCracken, at tmccracken@ecwa.org. All questions and requests for clarifications will be answered and distributed via e-mail to all firms eligible to submit a response to the RFI.

VII. Time Table of Events

March 26,2019	- Distribute Request for Proposal (RFI)
April 5,2019	- Deadline for submitting questions due by 12:00 PM, EDT
April 12,2019	- RFI Responses due by 12:00 PM
April 12,2019-	The review process begins and respondents may be requested to provide additional information or requested to make oral presentations.
April 24, 2019	- RFI Evaluation Committee brings recommendation to Board of Commissioners as a staff item and asks for authorization to negotiate.
May 1, 2018	- RFI Evaluation Committee to seek Board of Commissioners authorization to enter into a contract.

FORMS A, B, and C

STATE FINANCE LAW REQUIREMENTS

The Erie County Water Authority (the “Authority”) is a government entity, as that term is defined in State Finance Law §§ 139-j(1)(a) and 139-k(1)(a). When the Authority seeks to procure goods or services by means of an Invitation or Notice to Bid, or a Request for Proposals, the State Finance Law imposes certain restrictions on anyone who may wish to offer goods or services to the Authority as an Offerer, as that term is defined in §§ 139-j(1)(h) and 139-k(1)(h).

During the Restricted Period, as defined in §§ 139-j(1)(f) and 139-k(1)(f), when bids or proposals are being solicited, the Authority will designate a contact person with whom the Offerer may

contact for information and other authorized purposes as set forth in §139-j of the State Finance Law. The designated contact is identified in the Notice to Bidders, or in the Request for Proposal. An Offerer is authorized to contact the Authority's designated contact for such purposes as set forth in § 139-j(3).

Pursuant to the State Finance Law, the Authority is also required to make certain findings before making any determinations as to the qualifications and eligibility of those seeking a procurement contract, as that term is defined in State Finance Law §§ 39-j(1)(g) and 139-k(1)(g). Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings of non-responsibility occurring within a 4-year period, the Offerer will be debarred from obtaining procurement contracts with the Authority. Further information about these requirements can be found in §§139-j and 139-k of the New York State Finance Law and the Erie County Water Authority's Procurement Disclosure Policy.

The following forms will be used by the Authority to make such findings:

Form A - Offerer's Affirmation of Understanding of, and Agreement to Comply with, the Authority's Permissible Contact Policy During the Restricted Period.

Form B - Offerer's Certification of Compliance with State Finance Law.

Form C - Offerer's Disclosure of Prior Non-Responsibility Determinations.

FORMS A, B, and C

STATE FINANCE LAW REQUIREMENTS

The Erie County Water Authority (the “Authority”) is a government entity, as that term is defined in State Finance Law §§ 139-j(1)(a) and 139-k(1)(a). When the Authority seeks to procure goods or services by means of an Invitation or Notice to Bid, or a Request for Proposals, the State Finance Law imposes certain restrictions on anyone who may wish to offer goods or services to the Authority as an Offerer, as that term is defined in §§ 139-j(1)(h) and 139-k(1)(h).

During the Restricted Period, as defined in §§ 139-j(1)(f) and 139-k(1)(f), when bids or proposals are being solicited, the Authority will designate a contact person with whom the Offerer may contact for information and other authorized purposes as set forth in §139-j of the State Finance Law. The designated contact is identified in the Notice to Bidders, or in the Request for Proposal. An Offerer is authorized to contact the Authority’s designated contact for such purposes as set forth in § 139-j(3).

Pursuant to the State Finance Law, the Authority is also required to make certain findings before making any determinations as to the qualifications and eligibility of those seeking a procurement contract, as that term is defined in State Finance Law §§ 139-j(1)(g) and 139-k(1)(g). Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings of non-responsibility occurring within a 4-year period, the Offerer will be debarred from obtaining procurement contracts with the Authority. Further information about these requirements can be found in §§139–j and 139–k of the New York State Finance Law and the Erie County Water Authority’s Procurement Disclosure Policy.

The following forms will be used by the Authority to make such findings:

Form A - Offerer’s Affirmation of Understanding of, and Agreement to Comply with, the Authority’s Permissible Contact Requirements During the Restricted Period.

Form B - Offerer’s Certification of Compliance with State Finance Law.

Form C - Offerer’s Disclosure of Prior Non-Responsibility Determinations.

FORM A

**Offerer's Affirmation of Understanding of, and Agreement to Comply
with, the Permissible Contact Requirements During the Restricted Period**

Instructions:

The Erie County Water Authority (the "Authority") is a government entity, as that term is defined in State Finance Law §§ 139-j(1)(a) and 139-k(1)(a). The Authority must obtain a written affirmation of understanding and agreement to comply with procedures regarding permissible contacts with the Authority in the restricted period for a procurement contract in accordance with State Finance Law §139-j and §139-k. It is required that this affirmation be obtained as early as possible in the procurement process, but no later than when the Offerer submits its proposal.

Offerer affirms that it understands and agrees to comply with the procedures of the Authority relative to permissible contacts as required by State Finance Law §139-j(3) and §139-j(6)(b).

By: _____ Date: _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

FORM B

**Offerer's Certification of Compliance
With State Finance Law §139-k(5)**

Instructions:

The Erie County Water Authority (the "Authority") is a government entity, as that term is defined in State Finance Law §§ 139-j(1)(a) and 139-k(1)(a). The Authority must obtain a Certification that the information submitted for a procurement contract is complete, true, and accurate regarding any prior findings of non-responsibility, such as non-responsibility pursuant to State Finance Law §139-j. The Offerer must agree to sign the Certification, under penalty of perjury, and to provide the Certification to the Authority. The Certification should be obtained as early as possible in the process, but no later than when an Offerer submits its proposal.

Offerer Certification:

I certify that all information provided to the Authority relating to the awarding of a procurement contract is complete, true, and accurate.

By: _____ Date: _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

FORM C**Offerer's Disclosure of Prior
Non-Responsibility Determinations****Background:**

The Erie County Water Authority (the "Authority") is a government entity, as that term is defined in State Finance Law §§ 139-j(1)(a) and 139-k(1)(a). New York State Finance Law §139-k(2) obligates the Authority to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. In accordance with State Finance Law §139-k, an Offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j; or (b) the intentional provision of false or incomplete information to a Government Entity.

The terms "Offerer" and "Governmental Entity" are defined in State Finance Law §§139-j(1). and §139-k(1). These sections also set forth detailed requirements about the restrictions on contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Offerer that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offerer is necessary to protect public property or public health safety, and the Offerer is the only source capable of supplying the required Article of Procurement, as that term is defined in State Finance Law §§ 139-j(1)(b) and 139-k(1)(b), within the necessary timeframe. See State Finance Law §139-j(10)(b) and §139-k(3).

Instructions:

The Authority must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for procurement contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to the Authority conducting the Governmental Procurement no later than when the Offerer submits its proposal.

FORM C (Continued)**Offerer's Disclosure of Prior Non-Responsibility Determinations**

Name of Individual or Entity Seeking to Enter into the Procurement Contract:

Address:

Name and Title of Person Submitting this Form:

Contract Procurement Number:

Date:

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):

No Yes

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle): No Yes
3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle) No Yes
4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity:

Date of Finding of Non-Responsibility:

Basis of Finding of Non-Responsibility:

(Add additional pages as necessary)

FORM C (Continued)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle): No Yes

6. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding:

(Add additional pages as necessary)

Offerer certifies that all information provided to the Erie County Water Authority with respect to State Finance Law §139-k is complete, true, and accurate.

By: _____ Date: _____
Signature

Name: _____

Title: _____

CONTRACT TERMINATION PROVISION

Instructions:

A Contract Termination Provision will be included in each procurement contract governed by State Finance Law §139-k. New York State Finance Law §139-k(5) provides that every procurement contract award subject to the provisions of State Finance Law §§139-k and 139-j shall contain a provision authorizing the governmental entity to terminate the contract in the event that the certification is found to be intentionally false or intentionally incomplete. This statutory contract language authorizes, but does not mandate, termination. “Government Entity” and “procurement contract” are defined in State Finance Law §§ 139 j(1) and 139-k(1).

This required clause will be included in a covered procurement contract.

A sample of the Termination Provision is included below. If a contract is terminated in accordance with State Finance Law §139-k(5), the Erie County Water Authority, as a governmental entity, is required to include a statement in the procurement record describing the basis for any action taken under the termination provision.

Sample Contract Termination Provision

The Erie County Water Authority, as a governmental entity, reserves the right to terminate this contract in the event it is found that the certification filed by the Offerer in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Authority may exercise its termination right by providing written notification to the Offerer in accordance with the written notification terms of this contract.

SECTION 139-L OF THE STATE FINANCE LAW
STATEMENT RELATING TO SEXUAL HARASSMENT POLICY

1. "Bidder" has the same meaning as the term, "Offerer," as that term is defined in State Finance Law § 139-k(1)(h), and includes anyone who submits a bid or proposal.
2. Every proposal or bid hereafter made and submitted to the Erie County Water Authority, where competitive bidding or a sealed proposal is required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed by the Bidder and affirmed by such Bidder as true under penalty of perjury:

SEXUAL HARASSMENT BIDDING CERTIFICATION

- (a) "By submission of this bid/proposal, EACH BIDDER AND EACH PERSON SIGNING ON BEHALF OF ANY BIDDER CERTIFIES, AND IN THE CASE OF A JOINT BID EACH PARTY THERETO CERTIFIES AS TO ITS OWN ORGANIZATION, under penalty of perjury, that the Bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all its employees. Such policy shall, at a minimum, meet the requirements of Section two hundred one-g of the Labor Law."
3. A bid/proposal shall not be considered for award nor shall any award be made to a Bidder who has not complied with subdivision one of this section; provided, however, that if in any case the Bidder cannot make the foregoing certification, the Bidder shall so state and shall furnish with the bid/proposal a signed statement which sets forth in detail the reasons therefore.

The undersigned CERTIFIES, under penalty of perjury, that he is authorized to make this bid/proposal and execute this statement on sexual harassment; that he is familiar with the statements contained in ¶2(a) of this document, as well as the provisions of State Finance Law §139-L and Labor Law §201-g, and such statements are true and have been complied with by the Bidder.

(Name of Individual, Partnership or Corporation)

By _____
(Person authorized to sign)

(SEAL)



ERIE COUNTY WATER AUTHORITY INTEROFFICE MEMORANDUM

March 17, 2019

To: Jerome D. Schad, Chairman
Mark S. Carney, Vice Chairman
E. Thomas Jones, Treasurer

From: Margaret A. Murphy, Attorney
David C. Mineo, Associate Attorney

Subject: 2018 FOIL Audit

The Erie County Water Authority (the "Authority"), in keeping with its pledge to the public and its customers to operate in an open and transparent manner, has adopted [Freedom of Information Law: Policy & Procedure for Accessing Public Record](#) ("FOIL Policy"). Pursuant to Section 13 of the FOIL Policy, the Legal Department has performed a FOIL Audit for calendar year 2018. We have gone through all FOIL files, both paper and electronic, for this period using the established FOIL checklist, a copy of which is attached to this memorandum.

2018 FOIL REQUESTS

In 2018, the Authority received 45 FOIL requests. In reviewing these paper and electronic files, we have determined following one file failed the audit.

ONE FAILED FOIL FILE

FOIL 2018-0018 Received: May 2, 2018 Telvock, Dan (WIVB)

Request: Lead and Copper Rule sample site and test results

Problem: An initial five-day response was due May 9, 2018. This FOIL request was overlooked, and no acknowledgement or response was sent until May 14, 2018, making it three business days late. Associate Attorney, Tim Gallagher, called Mr. Telvock, to apologize for the delay and immediately sent the information responsive to the FOIL request, eight business days after the FOIL request was made.

In August of 2018, the Legal Department and the Secretary of Authority implemented a calendar and tracking system. Most FOIL requests are received via email, thereby establishing the date and time of such request. When FOIL requests

are sent by mail, the correspondence is scanned and emailed to foil@ecwa.org, thereby establishing the date of when the request was received. The Legal Department has always established a FOIL Log, using an excel spreadsheet to calculate deadlines. A FOIL file is opened, and a check list is prepared to track the progress and stage of each response. Additionally, all FOIL requests are placed on the Board's agenda as "Communications." These steps have been taken to ensure FOIL request are not overlooked. No FOIL request has been overlooked and no response has been submitted late since this calendar and track system has been implemented.



ERIE COUNTY WATER AUTHORITY INTEROFFICE MEMORANDUM

March 18, 2019

To: Commissioners Schad, Carney and Jones

From: Robert J. Lichtenthal, Jr., Deputy Director

Subject: February 2019 Investment Report

The Investment Guidelines of the Erie County Water Authority requires that at a minimum a monthly investment report shall be presented to the Board of Commissioners.

In compliance with this requirement, I am submitting the February 2019 Investment Report.

Total Cash on Hand and Investments increased this month due to the impact of the annual billings to communities for Hydrant Fees. The vast majority of the hydrant fees are billed in January and February of each year with subsequent collections in February and March.

**ERIE COUNTY WATER AUTHORITY
FEBRUARY 2019 CASH & INVESTMENT REPORT**

Investment	Total Invested		Total Invested January 31, 2019	Change	Interest Income		Interest Income Year-to-Date	February Rate of Return	January Rate of Return
	February 28, 2019	February 28, 2019			February 28, 2019	February 28, 2019			
M&T- Wilmington Money Market	\$13,834.64	\$1,366,585.65	(\$1,352,751.01)		\$995.29	\$995.29	\$995.29	2.08%	2.08%
Treasuries	42,341,881.18	41,736,495.07	605,386.11		67,955.79	143,201.72	143,201.72	2.22% - 2.59%	2.28% - 2.59%
98B Yield Restricted SLGS	1,179,266.00	1,179,266.00	-		3,039.46	6,078.92	6,078.92	3.09%	3.09%
2003 Yield Restricted SLGS	862,839.00	862,839.00	-		1,783.20	3,566.40	3,566.40	2.48%	2.48%
Investment Premiums/(Discounts)	(55,443.53)	(65,194.16)	9,750.63		\$9,750.63	\$19,501.26	\$19,501.26	Compensating Balance, CD, NOW, Money Mkt	Compensating Balance, CD, NOW, Money Mkt
Cash-on-Hand & Deposits	42,545,108.80	38,409,699.76	4,135,409.04		11,072.85	23,422.57	23,422.57	(0.15% - 2.30%)	(0.15% - 2.30%)
Total Cash & Investments	\$ 86,887,486.09	\$ 83,489,691.32	\$ 3,397,794.77		\$ 94,597.22	\$ 196,766.16	\$ 196,766.16		

Actual	\$	94,597.22	\$	196,766.16
Budget	\$	86,632.00	\$	173,264.00
Variance	\$	7,965.22	\$	23,502.16



ERIE COUNTY WATER AUTHORITY

INTEROFFICE MEMORANDUM

March 15, 2019

To: Commissioners Schad, Carney and Jones

From: Karen A. Prendergast, Comptroller *KAP*
Steven V. D'Amico, Business Office Manager *SVD*

Subject: Monthly Financial Report – February 2019

NOTE: Operating Revenues and Operating Expense variances in this report are for only those categories of revenue and expense which are in excess of 1% of the total Operating Revenues and total Operating Expenses contained in the 2019 adopted Budget.

1.) Operating Revenue: For the Month of February, 2019:

Total actual operating revenue, \$5,811,000, was greater than the budget of \$5,539,000, by \$272,000, or, 4.9%.

Category	Actual	Budget	Better than Budget (Worse than Budget)
Residential	\$2,806,000	\$2,719,000	\$87,000
Commercial	547,000	524,000	23,000
Industrial	166,000	139,000	27,000
Public Authorities	169,000	147,000	22,000
Public Fire Protection	347,000	297,000	50,000
Sales to Other Utilities	322,000	261,000	61,000
Infrastructure Inv Charge	1,286,000	1,286,000	-
Other Water Revenues	168,000	166,000	2,000

Operating Revenue: Year-to-date at February 28, 2019:

Total actual year-to-date operating revenue, \$11,841,000, was greater than the budget of \$11,827,000, by \$14,000, or, 0.1%.

Category	Actual	Budget	Better than Budget (Worse than Budget)
Residential	\$5,682,000	\$5,824,000	\$(142,000)
Commercial	1,119,000	1,125,000	(6,000)
Industrial	351,000	304,000	47,000
Public Authorities	339,000	323,000	16,000
Public Fire Protection	672,000	616,000	56,000
Sales To Other Utilities	648,000	587,000	61,000
Infrastructure Inv Charge	2,704,000	2,707,000	(3,000)
Other Water Revenues	326,000	341,000	(15,000)

2.) Investment Income: For the Month of February, 2019:

Total actual investment income, \$95,000, was greater than the budget of \$87,000, by \$8,000 or, 9.2%.

Investment Income: Year-to-date at February 28, 2019:

Total actual year-to-date investment income, \$197,000, was greater than the budget of \$173,000, by \$24,000, or, 13.9%.

3.) Operating Expense: For the Month of February, 2019:

Total actual operating expense, \$3,413,000, came in under the budget of \$4,119,000, by \$706,000, or, 17.1%.

<u>Category</u>	<u>Actual</u>	<u>Budget</u>	Better than Budget <u>(Worse than Budget)</u>
Salaries, Wages, and Fringes	\$1,856,000	\$2,219,000	\$363,000
Overtime*	207,000	200,000	(7,000)
Chemicals Purchased	121,000	89,000	(32,000)
Power Purchased	139,000	356,000	217,000
Materials and Supplies	136,000	205,000	69,000
Transportation	96,000	96,000	-
Other Public Utilities	72,000	96,000	24,000
Insurance and Damages	352,000	233,000	(119,000)
Special Services	43,000	35,000	(8,000)
Payments to Contractors	598,000	815,000	217,000
Equip. Maint. Contracts	22,000	33,000	11,000
Administrative Credits	(124,000)	(222,000)	(98,000)

* Dollars in Overtime are included in Salaries, Wages & Fringes

Operating Expense: Year-to-date at February 28, 2019:

Total actual year-to-date operating expense, \$7,289,000, came in under the budget of \$8,691,000, by \$1,402,000, or, 16.1%.

<u>Category</u>	<u>Actual</u>	<u>Budget</u>	Better than Budget <u>(Worse than Budget)</u>
Salaries, Wages, and Fringes	\$3,973,000	\$4,759,000	\$786,000
Overtime*	393,000	417,000	24,000
Chemicals Purchased	210,000	186,000	(24,000)
Power Purchased	556,000	715,000	159,000
Materials and Supplies	206,000	349,000	143,000
Transportation	192,000	192,000	-
Other Public Utilities	146,000	170,000	24,000
Insurance and Damages	625,000	466,000	(159,000)
Special Services	61,000	59,000	(2,000)
Payments to Contractors	1,039,000	1,522,000	483,000
Equip. Maint. Contracts	162,000	176,000	14,000
Administrative Credits	(142,000)	(251,000)	(109,000)

* Dollars in Overtime are included in Salaries, Wages & Fringes

4.) Net Income:**

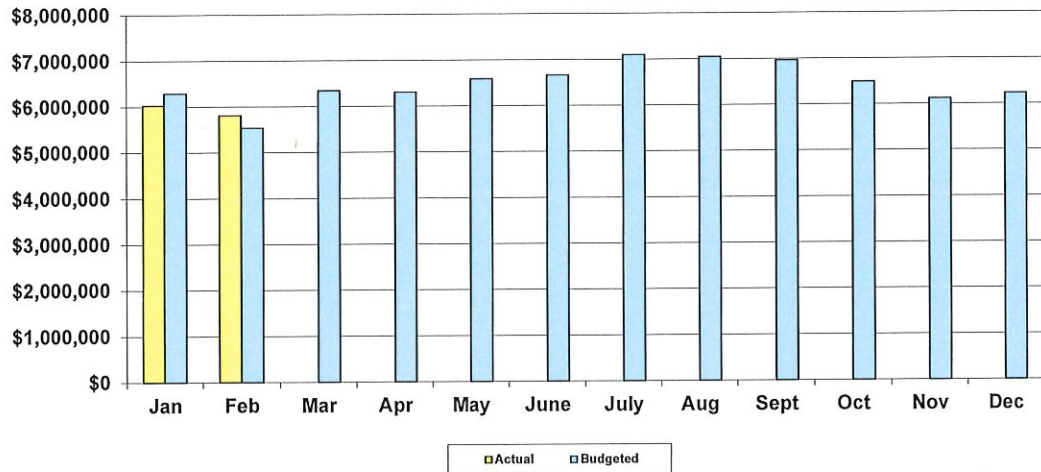
	<u>2019</u>	<u>2018</u>
Month of February:	\$936,000	\$777,000
Year-to-date at February 28:	\$1,565,000	\$1,154,000

Attached are charts showing actual revenues and expenses for the first two months of this year, budgeted expectations for the remainder of the year, as well as a “number-based” financial statement analysis through February 28, 2019.

** Income is shown on a GAAP basis, which takes OPEB expense and other non-cash items into account.

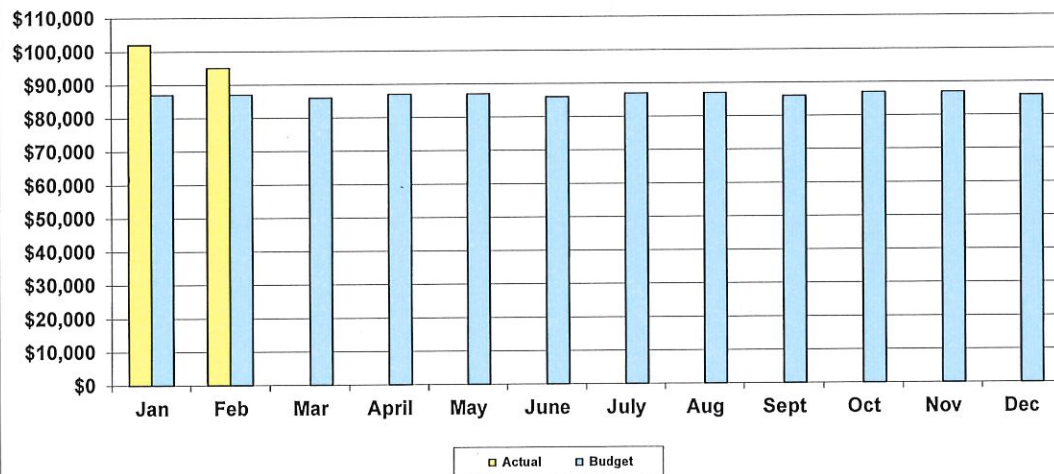
cc: R. Lichtenthal

**2019 Operating Revenue
Actual to Budget**



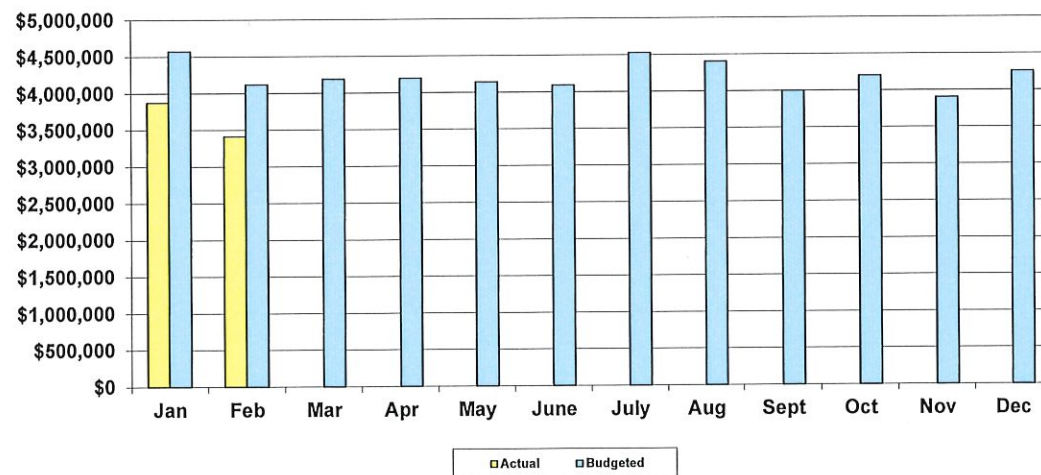
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Actual	\$6,029,000	\$5,811,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Budgeted	\$6,288,000	\$5,539,000	\$6,344,000	\$6,302,000	\$6,586,000	\$6,661,000	\$7,102,000	\$7,047,000	\$6,963,000	\$6,490,000	\$6,114,000	\$6,227,000

**2019 Investment Income
Actual to Budget**



	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Actual	\$102,000	\$95,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Budget	\$87,000	\$87,000	\$86,000	\$87,000	\$87,000	\$86,000	\$87,000	\$87,000	\$86,000	\$87,000	\$87,000	\$86,000

**2019 Operating Expense
Actual to Budget**



	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Actual	\$3,875,000	\$3,413,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Budgeted	\$4,572,000	\$4,120,000	\$4,192,000	\$4,196,000	\$4,140,000	\$4,094,000	\$4,529,000	\$4,404,000	\$4,000,000	\$4,201,000	\$3,907,000	\$4,258,000

**Financial Statement Analysis
through month ending February 28, 2019**

Cash Charges:	Actual Amount	Budget Amount	Variance from Budget	Variance as % of Budget
Operating Revenue	11,841,000	11,827,000	14,000	0.1%
Operating Expense:	7,289,000	8,691,000	1,402,000	16.1%
Net Operating Income	4,552,000	3,136,000	1,416,000	45.2%
Other Income: Interest on Investments	197,000	173,000	24,000	13.9%
Misc Non-Operating Revenue	88,000	89,000	(1,000)	-1.1%
Income Deductions - Interest During Const.	-	-	-	0.0%
Net Income Before Debt Service and Non-Cash Charges	4,837,000	3,398,000	1,439,000	42.3%
Debt Service: Bond Interest Payments	392,000	392,000	-	
Bond Principal Payments	701,000	701,000	-	
Net Funds Available for Capital Budget	3,744,000	2,305,000	1,439,000	62.4%
Non-Cash Charges (GAAP Basis):				
Less: Depreciation	2,318,000	2,211,000	(107,000)	-4.8%
Amortization	(41,000)	(65,000)	(24,000)	36.9%
Other Interest Charges	-	-	-	0.0%
OPEB Expense	602,000	623,000	21,000	3.4%
Total Non-Cash Charges	2,879,000	2,769,000	(110,000)	-4.0%
Add: Bond Principal Payments	701,000	701,000	-	0.0%
Net GAAP Income	1,566,000	237,000	1,329,000	560.8%

See Note 1 *

See Note 2 **

Debt Service Coverage Ratio (Cash Basis)	4.34	3.03	See Note 3 ***
---	-------------	-------------	----------------

Cash Items are in Green

Non-Cash Items are in Yellow

* **NOTE 1:** Bond Interest Payments reflect adjustment for EFC Loan Subsidy

** **NOTE 2:** Funds Available for Capital Budget do not include other resources for the Capital Budget

Per 2019 Adopted Capital Budget	Total Budgeted for Year	
Funds Available from 2019 O&M Budget	\$ 22,265,193	
Other Resources: Cash Restricted for Future Construction	\$ 19,321,160	
	\$ 41,586,353	Total Capital Budgeted for 2019

*** **NOTE 3:** Debt Service Coverage Ratio = (Net Operating Income + Interest on Investments)/(Bond Interest + Bond Principal)



ERIE COUNTY WATER AUTHORITY

INTEROFFICE MEMORANDUM

March 18, 2019

To: Commissioners Schad, Carney and Jones

From: Robert J. Lichtenthal, Jr., Deputy Director *RJL*

Subject: National Grid Substation Replacement at ECWA Service Center
ECWA Project No. 201800181

The outstanding issues relating to the proposed replacement of the National Grid Substation located at the ECWA Service Center, 3030 Union Road, Cheektowaga, NY need to be dealt with and should not be delayed further. I have attached previous memos written by Mr. Scott A. Aiple, Electrical Engineer to Mr. Russell J. Stoll, Executive Engineer and from Mr. Stoll to Terrence D. McCracken, Secretary to the Authority. Both of these memos were presented as Staff Items by Mr. Stoll at the Board of Commissioner's meeting on September 20, 2018.

I have had an opportunity to re-review these memos and to re-interview a number of staff members regarding this issue. What I have detected from both these interviews and my recollection of the discussion at the Board meeting mentioned above is how does this decision impact future plans for utilization or redevelopment on the Union Road footprint.

It is my opinion that any of the perceived improvements to traffic flow or building utilization that may be gained by the relocation of this substation from its current location to the northwest corner of the property will be overtaken by the expense to the Authority of relocating Authority electrical infrastructure (emergency generators, service panels, etc.), the impingement on current and future Line Maintenance operations at this site and security issues related to moving a private installation within the security fence at this location. The aforementioned perceived improvements are in concept only at this time. Major decisions as to whether or not the Authority will ever consolidate its operations currently located at the Ellicott Square Building in downtown Buffalo with the Service Center in Cheektowaga have never been finalized. Planning, renovation and construction would take 3-5 years. The current lease at the Ellicott Square runs into the second quarter of 2022. Given all the other issues facing the Authority and the infrastructure needs at this time, a major building project rather than a systematic renovation of the current Service Center may not be feasible nor prudent. And, any perceived gains to traffic flow or building utilization can be still be realized through a modified approach to Service Center improvements.

National Grid Substation 66 appears to be in very poor condition and any refurbishment in place or replacement has been delayed several years due to indecision. Therefore, Commissioners, I am asking that the Authority notify National Grid that there is no further interest in the relocation of this electrical substation and that they may commence the proposed replacement of Substation 66 within its current easement.



ERIE COUNTY WATER AUTHORITY INTEROFFICE MEMORANDUM

September 11, 2018

To: Terrence D. McCracken, Secretary to the Authority
From: Russell J. Stoll, Executive Engineer *RJ Stoll*
Subject: National Grid Substation Replacement at ECWA Service Center
ECWA Project No. 201800181

National Grid is proposing to replace their electrical substation located at ECWA Service Center. This substation is located inside the security fence in an existing easement adjacent to the truck/vehicle entrance alongside the building (see attached Figure 1). The existing easement is 45ft x 28ft and the replacement substation, if completed at this location, will fit the existing space. It is the opinion of the engineering staff that this is the preferred location for the substation. Alternative locations will require additional space as codes have changed requiring a larger area for the equipment. In addition, an alternative site will require an easement that does not currently exist.

The current substation is adjacent to other electrical equipment including the Service Center generator, transformer and switch gear. Replacing the electrical equipment in the current location will result in existing electrical equipment be clustered in the same general area. The supporting technical memorandum from Scott A. Aiple describes these considerations in more detail.

The current substation is proposed for replacement by National Grid because it has utility poles that are in poor condition and misaligned. These poles with equipment mounted on them deflect in normal wind condition. In addition, the electrical equipment is in aging and poor condition, and in need of upgrading. The upgrade/replacement costs will be the responsibility of National Grid.

RJS:jmf
Attachments
cc: L.Kowalski
M.Haendiges
S.Aiple
SCWA-639-1801

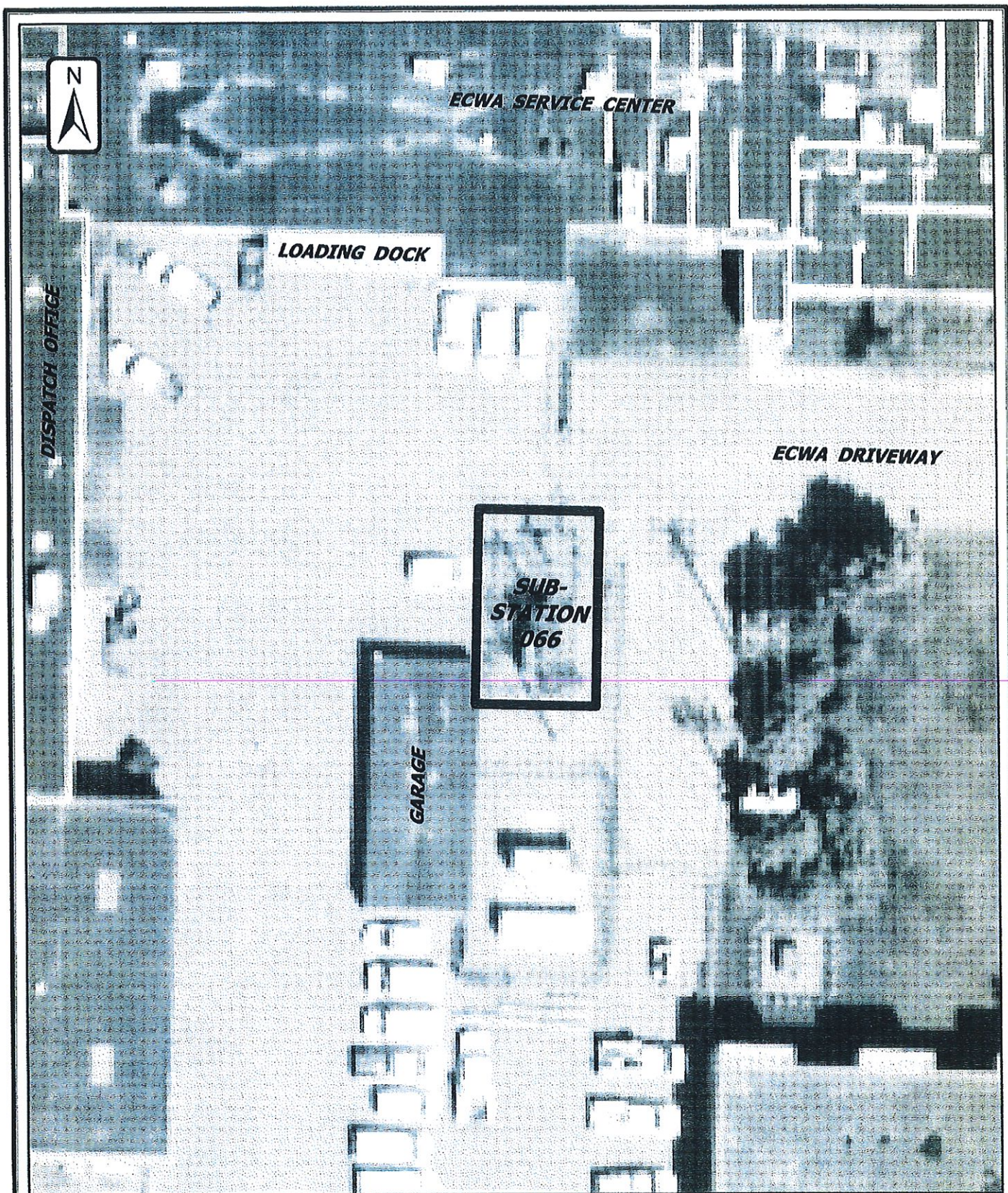


Figure 1

**Location Of Existing National Grid
Substation 066**

September 12, 2018
Scale: 1"=30'





ERIE COUNTY WATER AUTHORITY INTEROFFICE MEMORANDUM

August 16, 2018

To: Russell J. Stoll, Executive Engineer
From: Scott A. Aiple, Electrical Engineer *SAA*
Subject: National Grid Station 66 Replacement
ECWA Project No. 201800181

National Grid is proposing to replace their electrical substation (Station 66) located on ECWA property at the Service Center. The current National Grid design standards for a substation of this type and rating will require a larger footprint than the area of the existing Station 66 (45 feet x 28 feet). A re-build of Station 66 would be permitted on the existing footprint because this would be "grandfathered" under current National Grid regulations.

As such, National Grid has proposed three possible locations for the proposed substation as follows:

- Existing location outside ECWA East Security Fence – Exhibit A & Photograph 1
- Median area in the Service Center North Parking Lot – Exhibit B
- North-West Corner of Service Center Property – Exhibit C

After reviewing these options with Len Kowalski and Mike Haendiges, we recommend that National Grid reconstruct the proposed substation in the existing location. Our recommendation is based on the following:

- There is an easement for the existing National Grid Station 66; any alternate location will require a new easement.
- The existing Station 66 is located outside the ECWA Security Fence.
- The existing Station 66 is visible from ECWA Dispatch, allowing monitoring of activity at this site.
- The existing Station 66 has available area on the West side of the existing easement, allowing National Grid space for construction with minimal impact to ECWA operations.
- The existing Station 66 is located adjacent to the ECWA Substation/Generator, providing infrastructure synergy between the two substations. This results in the reduction of the number of utility poles and space required to serve both substations.
- The proposed alternate location in the ECWA North parking lot (Exhibit B) would limit real estate available to increase future parking capacity.
- Construction activity for the proposed alternate location in the ECWA North parking lot would disrupt available parking for ECWA employees and could create a safety hazard.
- The proposed alternate location in the North-West corner of the ECWA property (Exhibit C) would limit real estate available for ECWA Line Crew activities.
- Construction activity for the proposed alternate location in the North-West corner of the ECWA property would disrupt available area for Line Crew activities and could create a safety hazard.
- The proposed alternate location in the North-West corner of the ECWA property would be located inside the ECWA Security Fence, presenting possible security and access issues.

SAA:jmf

Attachments

cc: L.Kowalski

M.Haendiges

SCWA-639-1801

EXHIBIT A

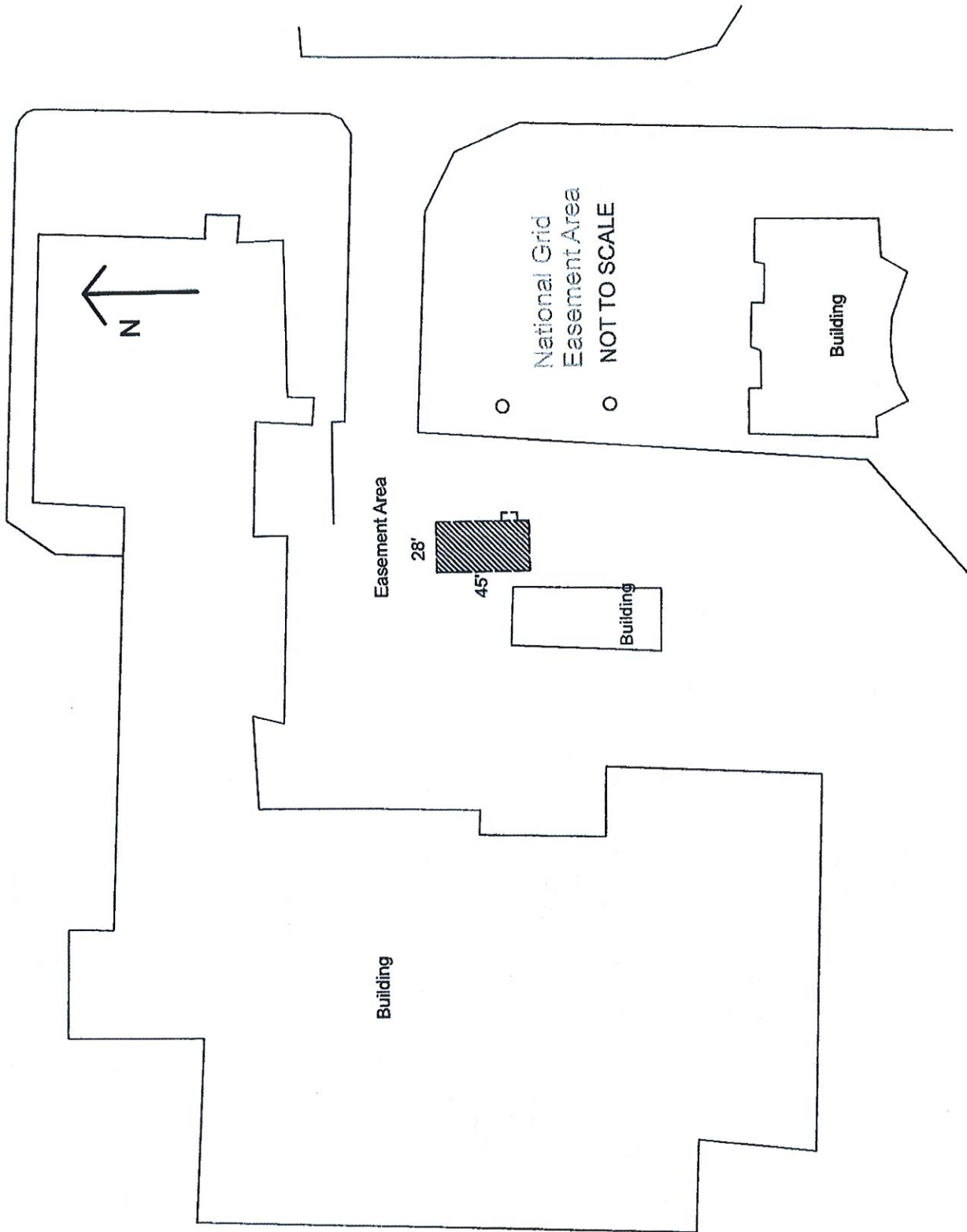
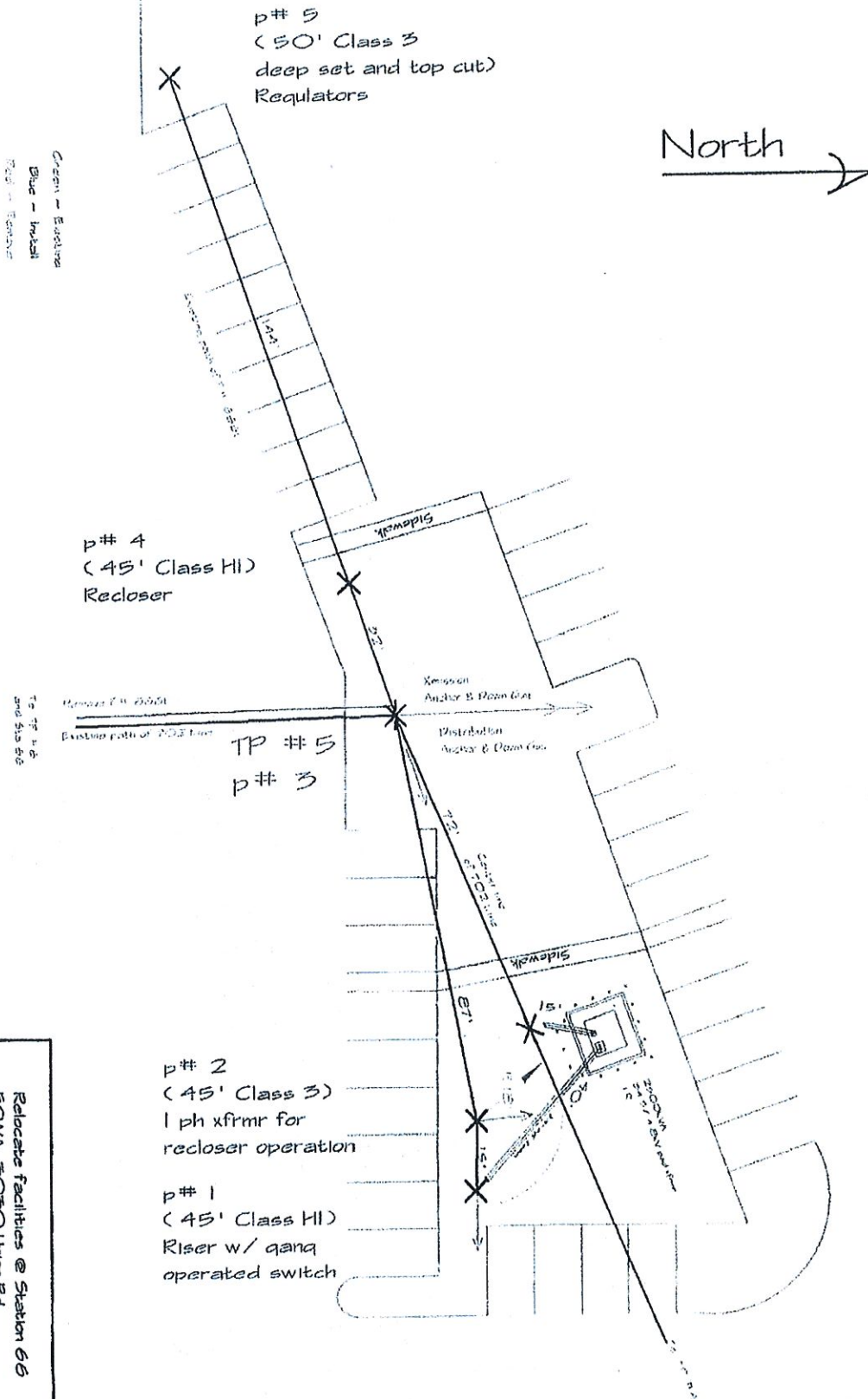


EXHIBIT B

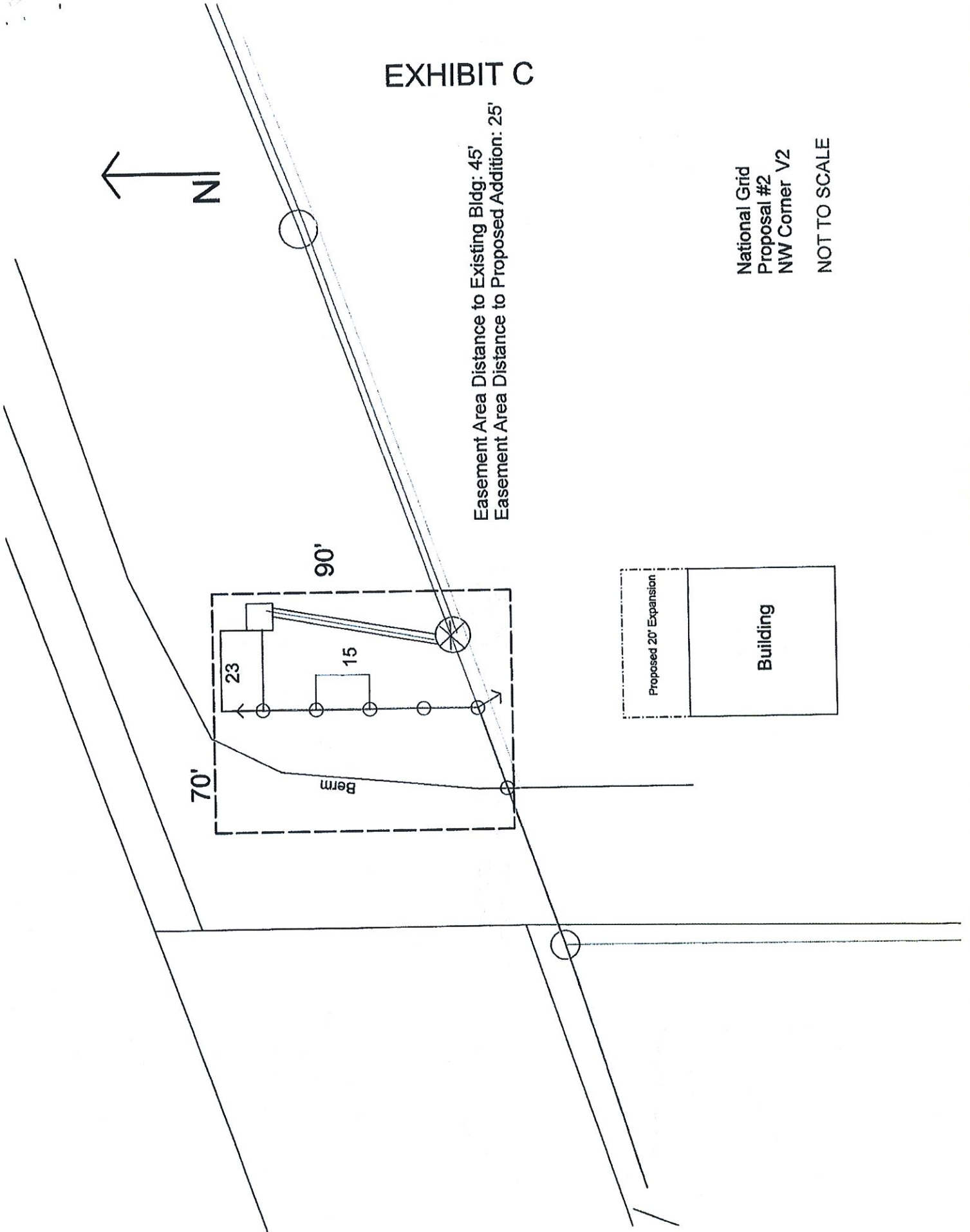


Relocate Facilities @ Station 65
ECWA, 3030 Union Rd
23578835 CNW075
Drawn: P Williams, March, 2017

EXHIBIT C

Easement Area Distance to Existing Bldg: 45'
Easement Area Distance to Proposed Addition: 25'

National Grid
Proposal #2
NW Corner V2
NOT TO SCALE



PHOTOGRAPH 1

