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Project No: 201500291

PROFESSIONAL SERVICES CONTRACT

AGREEMENT made this 14 day of August, 2015; by and between the **ERIE COUNTY WATER AUTHORITY**, with an office at 295 Main Street, Rm. 350, Buffalo, New York 14203 (Hereinafter referred to as the "Authority"), and **ZEPPELIN COMMUNICATIONS, LLC dba ZeppCom** with an office at 578 Main Street, East Aurora, New York 14052 (Hereinafter referred to as the "Consultant").

The Authority desires to contract with the Consultant to render professional services upon the terms and for the consideration hereinafter stated.

The Consultant represents that it is properly qualified to render such services, and the parties desire to set forth herein the terms and conditions under which the said professional services will be furnished.

Now therefore, in consideration of mutual promises herein set forth, the parties agree as follows:

1. QUALIFICATION OF CONSULTANT:

The Consultant shall perform its services under this agreement in a skillful and competent manner in accordance with the prevailing standards of the consulting profession. The Consultant will be responsible to the Authority for errors or omissions in the performance of its services and failure to perform thereof.

2. SCOPE OF SERVICES:

Consultant will be responsible for:

- Developing and implementing proactive public relations programs on behalf of the Authority. Potential program areas would include, but not be limited to: media relations, customer communications/education; public affairs/advocacy; issues/crisis management; water quality initiatives; public awareness and community events programming; and web site/social media content management.

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- Providing strategic consultation and planning on Authority public relations programs and matters.
- Providing strategic consultation and planning to assist the Authority in managing crises and issues as they arise.
- Writing and/or editing of public relations materials, such as press releases, media alerts and statements, opinion pieces and letters to the editor, issue and advocacy advertisements, annual report and annual water quality report, customer communications, and additional communications materials as requested.
- Consult and advise on ECWA website content and design.
- Monitoring, tracking, researching and distributing media reports related to the Authority, drinking water issues/regulations, etc.
- Providing the Authority with routine graphic design services for placement of issues advertisements in print publications as well as assist in the design and layout of Authority's annual report, annual water quality report and additional publications and materials as needed.
- Attend meetings with Commissioners to discuss ongoing public relations opportunities and challenges, as requested by the Secretary to the Authority.
- Other public relations activities as requested by ECWA.
- Develop communication with ECWA employees.

3. DURATION OF SERVICES

The initial term ("Initial Term") of this Agreement shall be three (3) years commencing **September 1, 2015**. The Authority has the option to renew the agreement for two additional one (1) year periods ("Renewal Terms"), on the same terms and conditions provided for herein, upon thirty (30) days notice to Consultant prior to the end of the Initial Term or any Renewal Term, of its intention to renew this Agreement.

4. PAYMENT FOR SERVICES:

The Authority will retain the Consultant at a rate of \$125 per hour for work performed by the Managing Director who will act as senior counselor to the Authority, and \$65.00 per hour for work performed by the Account Executive who will execute the account, manage all projects of the Authority, and be a front line responder to the Authority's needs. Notwithstanding the foregoing, both the

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Managing Director and Account Executive will respond to Authority crises regardless of the number of hours worked in a month with total compensation that shall not exceed \$5,000.00 per month in the aggregate. The fee does not include out of pocket costs for expenses that might be incurred by the Consultant. These costs could include but are not limited to: media tracking services, production of collateral material, delivery services. Out of pocket expenses are billed at cost with no Consultant mark-up. For the duration of the term of this Agreement, Consultant shall submit a monthly invoice to the Authority immediately following the month in which the services/expenses were incurred.

5. SUBCONTRACT AND ASSIGNMENT:

The Consultant may not subcontract or delegate any of the work, services, and/or other obligations of the Consultant without the express written consent of the Authority. The Authority and the Consultant bind themselves and their successors, administrators and assigns to the terms of this Agreement. The Consultant shall not assign, sublet or transfer its interest in the Agreement without the written consent of the Authority.

6. AMENDMENTS:

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

7. RIGHT TO TERMINATE:

The Authority reserves the right to terminate the Consultant's services at any time, without cause, based on thirty (30) days' written notice. Consultant shall not be entitled to lost profit and shall perform only such services, after notification of termination, as the Authority directs.

8. INDEMNIFICATION:

The Consultant shall indemnify the Authority against any and all claims arising from the services performed by the Consultant herein and shall defend and hold harmless the Authority from and against all claims, suits, actions, costs, counsel fees, expenses, damages, judgments or decrees based upon or arising out of damage to property or injury to persons or other tortuous conduct caused or contributed to it by the Consultant or anyone under its direction or control or on its behalf in the course of its performance under this Agreement. The Consultant further agrees to indemnify, defend and hold harmless the Authority from any and all claims in reference to the services performed by the Consultant hereunder which may infringe on a patent, copyright, trade secret or other proprietary right of any third party.

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9. CONFIDENTIAL INFORMATION:

In order to assist the Consultant in the performance of this Agreement, the Authority may provide the Consultant with confidential information including, but not limited to information relative to the services to be performed. All information received by the Consultant in any fashion and under any conditions resulting from the rendering of the services in consideration of this agreement, is considered confidential. The Consultant shall hold in confidence and not disclose to any person or any entity, any information regarding information learned during the performing of services including but not limited to information relative to the services to be performed.

The Consultant shall use at least the same degree of care to protect and prevent unauthorized disclosure of any confidential information as it would use to protect and prevent unauthorized disclosure of its own proprietary information. The Consultant shall use confidential information only in the performance of this Agreement. No other use of the confidential information whether for the consultant's benefit or for the benefit of others shall be permitted.

In no event is the Consultant authorized to disclose confidential information without the prior written approval of the Authority. The terms of this paragraph shall be binding during and subsequent to the termination of this agreement.

10. INSURANCE: As set forth in Exhibit "A".**11. COPYRIGHTS, TRADEMARKS, AND LICENSING:**

All materials produced under this Agreement, whether produced by the Consultant alone or with others, and whether or not produced during regular working hours, shall be considered work made for hire and the property of the Authority. The Consultant shall, during and subsequent to the terms of this Agreement, assign to the Authority, without further consideration, all right, title and interest in all material produced under this Agreement. All material produced under this Agreement shall be and remain the property of the Authority whether or not registered.

12. NEW YORK LAW AND JURISDICTION:

Notwithstanding any other provision of this Agreement, any dispute concerning any question of fact or law arising under this Agreement which is not disposed of by agreement between the Consultant and the Authority shall be governed, interpreted and decided by a Court of competent jurisdiction of the State of New York in accordance with the laws of the State of New York.

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20. SEVERABILITY:

If any provision of this agreement shall be held invalid or unenforceable, in whole or in part, such provision shall be modified to the minimum extent necessary to make it valid and enforceable, and the validity and enforceability of all other provisions of this agreement shall not be affected thereafter.

ERIE COUNTY WATER AUTHORITY

By Earl L. Jann
Earl L. Jann, Chairman

ZEPPELIN COMMUNICATIONS, LLC

By Michael R. Caputo
Michael R. Caputo, Managing Director

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

On the 20th day of August, in the year 2015, before me personally came Earl L. Jann to me known, who, being by me duly sworn, did depose and say that he resides in New York State, that he is the Chairman of the Erie County Water Authority described in the above instrument; and that he signed his name thereto by order of the Board of Commissioners of the Erie County Water Authority

Patricia Fabozzi
Notary Public
PATRICIA FABOZZI #4957586
Notary Public, State of New York
Qualified in Erie County
My Commission Expires October 16, 2017

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

On the 14 day of August, in the year 2015, before me personally came Michael R. Caputo, to me known, who, being by me duly sworn, did depose and say that he resides in New York State, that he is the Managing Director of the Corporation described in the above instrument; and that he signed his name thereto by order of the Board of Directors of said Corporation.

ELLEN P. RATZ
Notary Public - State of New York
No. 01RA6046447
Qualified in Erie County
My Commission Expires Aug. 14, 2018

Ellen P. Ratz
Notary Public