

City of Cortland  
Fire Department



Wayne C. Friedman  
Deputy Fire Chief

21 Court Street  
Cortland, New York 13045

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TO: Mayor Tobin, Members of the Common Council  
FROM: Chief Friedman  
DATE: May 21, 2020  
RE: Agenda Items for June 2, 2020

The following items are listed for the agenda:

1- *Consideration of a resolution that Brian Tobin, Mayor of the City of Cortland, is hereby authorized and directed to accept funds from the New York State Office of Parks, Recreation and Historic Preservation in accordance with the provisions of Title 9 of the Environmental Protection Act of 1993, in an amount of \$443,445 and enter into and execute a project agreement with the State for such financial assistance to the City of Cortland for Fire Station Window Restoration-Project EPF #93513 and, if appropriate, a conservation easement/preservation covenant to the deed of the assisted property.*

This is the second grant that has been awarded to the City from NYS Parks and Historic Preservation specifically for the window project. A total of \$621,750 of state funding has been awarded to this project. The council has previously committed the matching funds in the 2020-2024 Capital plan. The NYS Parks and Historic Preservation group look favorably upon the investment in this building that the city has undertaken over the years and recognize the fulfillment of the mission to preserve it as a viable structure.

2 – *Consideration of a Resolution to lift the hiring freeze to fill an anticipated vacancy in the Fire Department. (Chief Friedman)*

3 – *Consideration of a Resolution to commence with the hiring process to fill an anticipated firefighter position vacancy subsequent to the promotional process specific to a Captain retirement. (Chief Friedman)*

Captain Jensen has now officially retired effective May 29, 2020. He was serving as the Municipal Training Officer. A replacement in the training office is needed, which requires a firefighter promotion and subsequent backfill of a firefighter.

**RESOLUTION**

(To be made on official letterhead of Municipality)

RESOLVED, that the City of Cortland applied for financial assistance from the New York State Office of Parks, Recreation and Historic Preservation (“OPRHP”) under the Title 9 of the Environmental Protection Act of 1993, for the purpose of funding the Fire Station Window Project:

RESOLVED, that the City of Cortland is authorized and directed to accept these grant funds in an amount not to exceed \$443,445.00 for the project described in the grant application;

RESOLVED, that the City of Cortland is authorized and directed to agree to the terms and conditions of the Master Contract with OPRHP for such Fire Station Window Project;

RESOLVED, that the City of Cortland is authorized and directed to agree to the terms and conditions of any required deed of easement granted to OPRHP that affects title to real property owned by the municipality and improved by the grant funds, which may be a duly recorded public access covenant, conservation easement, and/or preservation covenant; and

RESOLVED, that the governing body of the municipality delegates signing authority to execute the Master Contract and any amendments thereto, any required deed of easement, and any other certifications to the individual(s) who hold(s) the following elected or appointed municipal office(s) or employment position title(s): Mayor, Director of Finance and Administration.

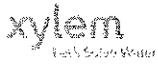
**CERTIFIED TRUE COPY**

I, Ray Parker, Clerk of the City of Cortland, hereby certify that the foregoing is a full, true, and accurate copy of a resolution duly and regularly adopted by the governing body of the municipality, at a meeting duly and regularly held on [date], at which quorum was present throughout, and the required majority of the governing body voted in favor of this resolution. I further certify that this resolution is still in full force and effect and has not been revoked or modified.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature:  
Clerk

Affix Seal of Municipality Here



## Unilateral Non-Disclosure Agreement

This Non-Disclosure Agreement (the "Agreement"), dated as of April 28, 2020 ("Effective Date"), is between City of Cortland, located at 251 Port Watson St. Cortland, NY 13045, and Xylem Water Solutions U.S.A., Inc. located at 9333 N 49th St. Brown Deer, WI 53223.

1. In connection with OUR Pilot Study Proposal (the "Purpose"), Xylem Water Solutions U.S.A., Inc. ("Disclosing Party") may disclose Confidential Information (as defined below) to City of Cortland ("Recipient"). Recipient shall use the Confidential Information solely for the Purpose and, subject to Section 3, shall not disclose such Confidential Information other than to its affiliates and its or their authorized agents, employees, officers, attorneys, accountants, and financial advisors (collectively, "Representatives") who: (a) need access to such Confidential Information for the Purpose; (b) are informed of its confidential nature; and (c) are bound by confidentiality obligations no less protective of the Confidential Information than the terms contained herein. Recipient shall safeguard the Confidential Information from unauthorized use, access, or disclosure using no less than a commercially reasonable degree of care. Recipient will be responsible for any breach of this Agreement caused by its Representatives. Recipient agrees to notify Disclosing Party in writing within 10 days of any misuse or misappropriation of the Confidential Information of Disclosing Party that comes to Recipient's attention.

2. "Confidential Information" means all non-public proprietary or confidential information of Disclosing Party, in oral, visual, written, electronic, or other tangible or intangible form, and all notes, analyses, summaries, and other materials prepared by Recipient or any of its Representatives that contain, are based on, or otherwise reflect, to any degree, any of the foregoing ("Notes"); provided, however, that Confidential Information does not include any information that: (a) is or becomes generally available to the public other than as a result of Recipient's or its Representatives' breach of this Agreement; (b) is obtained by Recipient or its Representatives on a non-confidential basis from a third-party that was not legally or contractually restricted from disclosing such information; (c) was in Recipient's or its Representatives' possession prior to Disclosing Party's disclosure hereunder; or (d) Recipient establishes by documentary evidence, was or is independently developed by Recipient or its Representatives without using any Confidential Information. Confidential Information also includes (x) the facts that the Parties are in discussions regarding the Purpose (or, without limitation, any termination of such discussions) and that Confidential Information has been disclosed; and (y) any terms, conditions, or arrangements discussed.

3. If Recipient or any of its Representatives is required by applicable law or a valid legal order to disclose any Confidential Information, Recipient shall notify Disclosing Party of such requirements so that Disclosing Party may seek, at Disclosing Party's expense, a protective order or other remedy. If Recipient remains legally compelled to make such disclosure, it shall: (a) only disclose that portion of the Confidential Information that it is required to disclose; and (b) use reasonable efforts to ensure that such Confidential Information is afforded confidential treatment.

4. On Disclosing Party's written request, Recipient shall, at Disclosing Party's discretion, promptly return to Disclosing Party or destroy all Confidential Information in its and its Representatives' possession other than Notes, and destroy all Notes; provided, however, that Recipient may retain copies of Confidential Information that are stored on Recipient's IT backup and disaster recovery systems until the ordinary course deletion thereof. Recipient shall continue to be bound by the terms and conditions of this Agreement with respect to such retained Confidential Information.

5. No party is obligated to disclose any Confidential Information or to pursue the Purpose. Disclosing Party makes no representation or warranty, expressed or implied, as to the accuracy or completeness of the Confidential Information, and will have no liability with respect to anyone's use of any of the Confidential Information or any errors therein or omissions therefrom.

6. Disclosing Party retains its entire right, title, and interest in and to all Confidential Information, and no disclosure of Confidential Information hereunder will be construed as a license, assignment, or other transfer of any such right, title, and interest to Recipient or any other person.

## Unilateral Non-Disclosure Agreement

7. The rights and obligations of the Parties under this Agreement expire five (5) year after the Effective Date; provided that with respect to Confidential Information that constitutes a trade secret under applicable law, such rights and obligations will survive such expiration until, if ever, such Confidential Information loses its trade secret protection other than due to an act or omission of Recipient or its Representatives.

8. Each Party shall comply with all applicable laws, rules and regulations, including, without limitation, the United States Export Administration Regulations relating to the export or re-export of technical data and products produced as a result of the use of such data (collectively, the "Regulations"), insofar as they relate to the information disclosed under this Agreement. Each Party agrees not to export or re-export, directly or indirectly, any Confidential Information or technical data provided by the other Party, or the direct product of such Confidential Information or data, to any country to which export is prohibited by the Regulations.

9. Recipient acknowledges and agrees that any breach of this Agreement will cause irreparable harm and injury to Disclosing Party for which money damages would be an inadequate remedy and that, in addition to remedies at law, Disclosing Party is entitled to equitable relief as a remedy for any such breach. Recipient waives any claim or defense that Disclosing Party has an adequate remedy at law in any such proceeding. Nothing herein shall limit the equitable or available remedies at law for Disclosing Party.

10. This Agreement and all matters relating hereto are governed by, and construed in accordance with, the laws of the State of New York ("jurisdiction"), without regard to the conflict of law provisions of such Jurisdiction. Any legal suit, action, or proceeding relating to this Agreement must be instituted in the appropriate court located in the Jurisdiction. Each Party irrevocably submits to the exclusive jurisdiction of such court in any suit, action, or proceeding.

11. This Agreement constitutes the entire agreement of the Parties with respect to its subject matter, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, whether written or oral, with respect to such subject matter. Both parties consent to the use of an electronic signature in lieu of a written signature. This Agreement may only be amended, modified, waived, or supplemented by an agreement signed by both Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date hereof.

City of Cortland

Xylem Water Solutions U.S.A., Inc

By \_\_\_\_\_

By 

Name \_\_\_\_\_

Name MICHAEL S. MAIERLE

Title \_\_\_\_\_

Title DIRECTOR



## OUR Pilot Study Proposal

[www.xylem.com](http://www.xylem.com)

Xylem Water Solutions USA, Inc.  
Sanitaire Products

9333 N. 49<sup>th</sup> St.  
Brown Deer, WI 53223  
414-365-2207

May 18, 2020

Cortland Wastewater Treatment Plant  
251 Port Watson St.  
Cortland, NY 13045

Attention: Bruce Adams

Subject: OUR Pilot Study

Dear Bruce:

Xylem is currently developing a biological process control system. The development process includes pilot facilities that allow Xylem to confirm and optimize control logic. The Cortland WWTP has expressed interest in participating in the pilot program. Xylem believes the site is well suited to pilot test a proprietary control system called OUR which was developed to improve total nitrogen (TN) removal and minimize energy consumption.

### Testing Agreement

The following agreement for pilot equipment and services by Xylem for evaluating treatment of wastewater treatment is:

between: Xylem Water Solutions USA, Inc. – Sanitaire Products  
9333 N. 49th St.  
Brown Deer, WI 53223  
(hereinafter referred to as "XYLEM")

and: City of Cortland  
25 Court Street  
Cortland, NY 13045  
(hereinafter referred to as "CLIENT")

#### **1. Type and scope of the conditions to be created by Xylem**

- Testing methodology and objectives of OUR process control.
- Defined input required from CLIENT throughout life of pilot.
- Scientific and procedural advice/review of testing results and assistance with review of the report upon CLIENT's request.

### **1.A Background on OUR**

The OUR control is a proprietary Xylem process control used to dynamically control WWTP operation. A baseline data required for OUR control has been collected at Cortland since 2019.

Since late December 2019, tanks 2A, 3A, and 4A have aeration on/off every 40/20 minutes in order to accumulate OUR data. Since end of April 2020, tanks 2B, 3B, and 4B have aeration on/off every 40/20 minutes in order to accumulate OUR data.

Main assumptions for OUR Control

- When COD & TKN load are high,  $OUR_T$  is also high.
- Ratio of  $OUR_C$  (respiration of heterotroph to oxidize organic COD) and  $OUR_N$  (respiration of autotroph to oxidize  $NH_3$ ) is determined by influent COD and TKN.
- When  $OUR_T$  is low, a shorter aeration time is advantageous, as to allow more time for denitrification.
- Shorter aeration time will increase  $OUR_T$ .

### **1.B OUR Test Methodology**

XYLEM plans to conduct side-by-side comparison to demonstrate the TN removal improvement and energy saving of an OUR control system. XYLEM plans to use the OUR data from 2,3,4A and 2,3,4B to control tank 1B, and compare with 1A .

### **1.C Study Objectives**

- Document TN removal improvement between OUR operated trains, AvN controlled trains, and conventionally operated train.
- Document energy saving between OUR operated trains, AvN controlled trains, and conventionally operated train.
- Based on test results and mathematical modelling, calculate the TN removal improvement if OUR were to control the whole plant.
- Based on test results and mathematical modelling, calculate the energy saving if OUR were to control the whole plant.
- Gain experience with the OUR control system and refine the system to improve performance

### **1.D Extra Lab Testing Required**

During the OUR test, no additional lab testing will be required.

### **1.E Data Needed from CLIENT**

The CLIENT has already established automated data collection for XYLEM's use in the AvN pilot. This data collection should continue for OUR study. During the OUR testing, XYLEM also requests the following data throughout the duration of the pilot study:

- Influent VSS, COD, soluble COD
- MLSS, MLVSS
- Sludge wasting and SRT estimation
- SV/SVI
- Information of the blowers

### **1.F Sub-contract Work**

XYLEM will perform all necessary OUR control programming, PLC programming and SCADA modifications. Should any computing or networking hardware be required, the costs for the material and installation are the responsibility of XYLEM.

XYLEM will be responsible for any costs relating to required 3<sup>rd</sup> party lab analysis.

### **1.G OUR control logic programming**

XYLEM will use internal employees to conduct the PLC and PC programming. During the test, the OUR controller will control one process train. CLIENT or its subcontractors will not make any modification to this OUR control program without obtaining prior written approval from Xylem. Routine operation and maintenance of blowers, air control valves, and other existing equipment is and remains the responsibility of the CLIENT. XYLEM's PLC will provide signals for blower demand and valve positioning. These will not override any existing protections or safety interlocks.

### **1.H Data Sharing**

During this project, CLIENT agrees to share the process related data with and without OUR control. After telephone permission, XYLEM engineers can have remote access to SCADA to observe, not control, plant operation. CLIENT agrees to set-up a program to automatically email process related data files to XYLEM engineers on a daily basis.

If the OUR test is successful, CLIENT plant agrees to publish the results together with XYLEM.

### **1.I Schedule and Duration**

1. Phase I: Install OUR computer, program PLC, establish SCADA connectivity (~6 weeks)
2. Phase II: Engage OUR (6 weeks)
  - a. Side-by-side comparison test.
  - b. Daily check-up and adjustment.
  - c. Site visit when necessary
3. Phase III: Final data analysis and final report. (1~2 weeks)
4. Phase IV: Shut off OUR control and decommission OUR computer.

## **2. Warranty**

All parts installed as part of the OUR test are covered under XYLEM's warranty, which shall last the duration of the piloting period. If a part is damaged or destroyed through no fault of XYLEM during the OUR test, the cost to replace this part will be borne by the CLIENT.

## **3. Additional service**

Any additional required field service that is not covered under warranty or outside of the scope of the pilot program will be requested by and paid for by the CLIENT. The additional field service will be provided at an hourly or daily rate plus travel and living expenses. Travel and living expenses will be billed according to actual cost.

## **4. Terms of delivery and CLIENT scope of supply**

The following site and other requirements must be met in order to install and operate the pilot system at the test site:

- Electricity and connections
- All sampling and analyses, as described in 1.E Data Needed from CLIENT section above
- Day-to-day operations

## **5. General conditions**

- XYLEM shall have the right to enter CLIENT's premises during normal working hours upon reasonable notice with proper PPE as required based on mutual agreement.
- XYLEM shall have access to the testing results, lab analysis and other engineering parameters arising from use of XYLEM's equipment. XYLEM must receive prior consent from CLIENT to transmit or discuss the results and data with any third party. XYLEM shall be named as a contributor in any reports or papers arising from this pilot.
- XYLEM reserves the right to review and approve prior to the dissemination by the CLIENT of any information related to the piloting activities as scoped in this proposal.

## **6. Liability**

The liability for damage caused deliberately or by negligence falls upon the party or parties responsible for the damage as determined by legal stipulations.

If the CLIENT suffers any damage as a consequence of the tests then XYLEM shall be liable for compensation in accordance with their contractual liability only if their co-workers or their legal representatives have caused such damage wilfully or through negligence or if any deficiencies concerning supplies made or services rendered by XYLEM are the result of negligence attributable to XYLEM.



## **7. Maintenance and operation**

The CLIENT shall maintain equipment in accordance to the operations and maintenance manual and use it only for the described purposes within the project scope. Costs that arise due to improved treatment are borne by the CLIENT, as well as the cost for necessary repairs and spare parts.

## **8. Confidentiality**

XYLEM shall keep all operation-related data marked as confidential by the CLIENT, insofar as they refer to the piloting scope, secret toward third parties except to the extent that:

- 1) At the time of disclosure is or thereafter becomes publicly known through no fault of XYLEM;
- 2) Is lawfully received by XYLEM from a third party that has no obligation of confidentiality to the discloser or an affiliate of the discloser regarding such information;
- 3) Is already known by XYLEM before receipt hereunder, as shown by its prior written records;
- 4) Is independently developed by or for XYLEM without use or benefit of the discloser's information; or,

In the event XYLEM is required by applicable law or a valid legal order to disclose any of CLIENT'S confidential information, XYLEM shall notify CLIENT of such requirements so that CLIENT may seek, at CLIENT'S expense, a protective order or other remedy. If XYLEM remains legally compelled to make such disclosure, it shall; (a) only disclose that portion of the confidential information that is required to disclose; and (b) use reasonable efforts to ensure that such confidential information is afforded confidential treatment.

The parties acknowledge that XYLEM'S confidential and proprietary information and know-how shall be protected as provided for in the Unilateral Non-Disclosure Agreement between XYLEM and CLIENT dated April 28, 2020.

## **9. Patent and Intellectual Property Rights**

XYLEM shall retain all ownership rights in the XYLEM'S Intellectual Property. To the extent the Goods (and/or related documents/data) under this Agreement contain XYLEM Intellectual Property, XYLEM hereby grants CLIENT (and its successors and assigns) a worldwide, royalty-free, non-exclusive license to use the XYLEM Intellectual Property (and related documents/data) in connection with the use, operation and maintenance of the Goods under this Agreement.

## **10. Ownership**

Ownership of the equipment, rights and title shall remain with XYLEM at all times.

**11. Legal Venue**

This Agreement and all matters relating hereto are governed by, and construed in accordance with, the laws of the State of New York ("Jurisdiction"), without regard to the conflict of law provisions of such Jurisdiction. Each party irrevocably submits to the exclusive jurisdiction of such court in any suit, action or proceeding

**12. Mutual Waiver and Limitation of Liability**

CLIENT and XYLEM waive against each other, and against the other's officers, directors, members, partners, and employees any and all claims for or entitlement to special, incidental, indirect, punitive and consequential damages, loss of use, loss of profits and revenue and loss of reputation arising out of, resulting from, or related to this pilot study. The CLIENT also agrees that except for claims by CLIENT for the following: (a) costs, losses, or damages asserted by third parties for destruction of tangible property, bodily injury, sickness, disease, or death or (b) negligence or willful misconduct, XYLEM shall have no further liability at law, in equity or otherwise.

**13. Entire Agreement**

This Agreement and the Unilateral Non-Disclosure Agreement referenced herein, constitutes the entire agreement of the parties with respect to its subject matter, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, whether written or oral, with respect to such subject matter. Both parties consent to the use of an electronic signature in lieu of a written signature. This Agreement may only be amended, modified, waived, or supplemented by an agreement signed by both parties.

[www.xylem.com](http://www.xylem.com)

XYLEM: (authorized party to bind company)

MICHAEL S. MAIERLE

Printed Name

DIRECTOR - GLOBAL EXECUTION

Title

[Signature]

Signature

5/20/2020

Date

CLIENT: (authorized party to bind company)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date