



ERIE COUNTY WATER AUTHORITY
INTEROFFICE MEMORANDUM

August 2, 2023

To: Terrence D. McCracken, Secretary to the Authority

From: Michael J. Quinn, PE, Senior Distribution Engineer

A handwritten signature in black ink, appearing to read "MJQ", is written over the "From:" line.

Subject: Large Culvert Replacements and Rehabilitation
Towns of West Seneca, Lewiston, Wheatfield, Alden, and Niagara
Erie and Niagara Counties
PIN 5814.20, D265055
ECWA Project No. 202300134

The above-referenced project has been developed by the New York State Department of Transportation (NYSDOT) due to planned roadway improvement work that will impact Authority's facilities. Four areas within the project limits have been identified with possible existing Authority's facilities involvement:

- Existing 8" Poly-Vinyl Chloride Water Line and 6" retired-in-place water line within the highway boundary of NY 277 (Union Road.) Work will involve protecting and supporting the water line during construction by the State's Contractor.
- Existing 8" Water Line within the highway boundary of NY 33 (Genesee Street.) presently located on NY State Right-of-Way as shown on the plans for the proposed transportation project are to be adjusted as follows: (describe type, size, capacity, location, etc.) Work will involve protecting and supporting the water line during construction by the State's Contractor.

Attached are four (4) copies of the NYSDOT HC-140, Utility Work Agreement form for the above-referenced project. A Certified Board Resolution (4 copies) signed by the appropriate Authority's official is required. All four copies of the HC-140 form and Certified Board Resolution are to be returned with original signatures and seals affixed to the NYSDOT per requirements stated in the cover letter.

Granting the State of New York authority to perform the adjustment for the owner" and "agreeing to maintain facilities adjusted via State-let contract." (The specific reference is identified in Section VI of the HC140, page 4 of 4.)

Please contact me if there are any questions.

MJQ:jmf
Attachment
cc: HWNY-492-2301



June 2, 2023

Leonard F. Kowalski, P.E., Executive Engineer
Erie County Water Authority
3030 Union Road
Cheektowaga, New York 14227

**RE: LARGE CULVERT REPLACEMENTS AND REHABILITATION
TOWNS OF WEST SENECA, LEWISTON, WHEATFIELD, ALDEN,
AND NIAGARA
ERIE AND NIGARA COUNTIES
PIN 5814.20, D265055**

Dear Mr. Kowalski:

Enclosed is an electronic copy of the proposed contract plans for the above-referenced project. The Erie County Water Authority has existing facilities within the project limits. The Erie County Water Authority's involvement in this project consists of protect and support water lines during construction by the state's contractor. The details of the required adjustments are shown in the project plans included with this letter.

Also enclosed are the Utility Work Agreement (HC-140) and the Coordination with the Utility Schedule Note for your approval. The Utility Work Agreement identifies the Erie County Water Authority's required adjustments for the subject project. **The required adjustments are included in the State's contract and will performed by the State contractor at no expense to the Erie County Water Authority.**

Please do the following: Provide certified resolutions. The HC-140 agreement requires four (4) copies of a Standard Certified Resolution by your governing body. The certified resolution must be in force before the agreement can be approved by the Erie County Water Authority's authorized representative. Each copy of the resolution must be signed and have a seal affixed to it. Enclosed is a sample of the Standard Certified Resolution for this agreement.

Please return the four (4) original (hard-copy) sets of the HC-140 agreement signed by an authorized representative of the Erie County Water Authority **no later than June 26, 2023** to:

Regional Utility Unit
NYSDOT – Region 5
100 Seneca Street
Buffalo, New York 14203.

Leonard F. Kowalski, P.E., Executive Engineer
PIN 5814.20, D265055
June 2, 2023
Page 2 of 2

Include in each agreement set the following: **the HC-140 agreement, Coordination with the Utility Schedule Note, and Standard Certified Resolution.** One (1) copy of the executed agreement will be returned to you for your records.

Any questions regarding the work to be done can be directed to Daniel Ludlow, Design Job Manager (DJM), at (716) 847-3222 or via e-mail at Daniel.Ludlow@dot.ny.gov. Questions regarding these forms can be directed to Ms. Ellen Carl, Assistant Regional Utility Engineer, at (716) 847-3572 or via e-mail at Ellen.Carl@dot.ny.gov.

Sincerely,

Scott C. McKay, P.E.
Assistant Regional Design Engineer

SCM/EJSC/AJP

Enclosures: Project Plans, Utility Work Agreement (HC-140), Coordination with the Utility Schedule Note, and Standard Certified Resolution Sample

**NEW YORK STATE DEPARTMENT OF TRANSPORTATION
UTILITY WORK AGREEMENT**

Since the construction, reconstruction, or maintenance of the transportation project described below, identified as:

Project Identification No.: 5814.20	F.A. Project No.:
ROW Declaration No.:	Map Nos.:
Parcel Nos.:	County of Erie, and Niagara
Contract No.: D265055	

Project Description: LARGE CULVERT REPLACEMENTS AND REHABILITATION
TOWNS OF WEST SENECA, LEWISTON, WHEATFIELD, ALDEN,
AND NIAGARA
ERIE AND NIGARA COUNTIES

State – Municipality, Reimbursable by Items and Labor Exchange (ILE)

necessitates the adjustment of utility facilities as hereinafter described, the owner, **Erie County Water Authority**, of said facilities herewith agrees with the State of New York acting through the Commissioner of Transportation that this agreement shall apply to the accommodation of these utility facilities. Any adjustment of said facilities will be accomplished under the terms of this agreement, in accordance with the Rules and Regulations Governing the Accommodation of Utilities within the State Highway Right-of-Way, in compliance with the attached Special Note, "Coordination with the Utility Schedule", and in accordance with the contract plans, specifications, proposal, amendment(s) or change order(s).

I. Existing Facilities (describe type, size, capacity, location, etc.)

Erie County Water Authority has existing facilities and their location(s) below:

Site 4 (Water): Existing 8" Poly-Vinyl Chloride Water Line and 6" retired-in-place water line within the highway boundary of NY 277 (Union Road.)

Site 5 (Water): Existing 8" Water Line within the highway boundary of NY 33 (Genesee Street.)

presently located on **NY State Right-of-Way** as shown on the plans for the proposed transportation project are to be adjusted as follows: (describe type, size, capacity, location, etc.)

Site 4 & 5: Protect and support water line during construction by the States Contractor.

per contract documents

for an estimated \$ N/A

**NEW YORK STATE DEPARTMENT OF TRANSPORTATION
UTILITY WORK AGREEMENT**

II. Financial Responsibility (check appropriate boxes):

- The facilities to be adjusted under the terms of this agreement are subject to Section 52 of the State Highway Law, and the cost of this adjustment is the sole responsibility of the owner.
- Subdivision 24 of Section 10 of the State Highway Law enables the Commissioner of Transportation to provide, at the expense of the State, for adjustment to a municipally owned utility when such work is necessary as a result of State highway work. (Municipal Agreement if required.)
- Subdivision 24-b of Section 10 of the State Highway Law enables the Commissioner of Transportation to participate in the necessary expenses incurred for adjustment of privately, publicly, or cooperatively owned facilities, municipal utility facilities, or facilities of a corporation organized pursuant to the State Transportation Corporations Law. (Privately Owned Property Agreement or Reimbursement Agreement required.)
- Subdivision 27 of Section 10 of the State Highway Law enables the Commissioner of Transportation, upon the request of a municipality, to perform for and at the expense of such municipality specified work to be included within a State-let contract. (Betterment Resolution required.)
- Subdivision 33 of Section 10 of the State Highway Law enables the Commissioner of Transportation, upon the request of a public utility corporation, to perform for and at the expense of such public utility corporation specified work to be included within a State-let contract.
- Subdivision 13 of Section 30 of the State Highway Law enables the Commissioner of Transportation to enter into an agreement to reimburse with public funds the owner for necessary expenses incurred as a result of this adjustment, or to replace the facilities in kind.
- The owner will develop and keep a record of costs in accordance with the New York State Department of Transportation (NYSDOT) Reimbursement Procedures, and when federal funds participate in the cost, the Federal Highway Administration (FHWA) Federal-Aid Policy Guide Part 645, or as indicated below:

**NEW YORK STATE DEPARTMENT OF TRANSPORTATION
UTILITY WORK AGREEMENT**

III. Physical Adjustment Method (check appropriate boxes):

The actual adjustment or design engineering will be performed by the following method (s):

- Contract let by the Commissioner.
- Contract let by the Owner. (check applicable statement, i.e., a or b)
 - a. Best Interests of State.
 - b. Utility not sufficiently staffed or equipped.
- By the Owner's forces.

IV. Betterment, Salvage, and Depreciation Credits Due the Project (check appropriate boxes):

- There will be no extension of service life, improved capacity, nor any other betterment of the facility (as defined by the NYSDOT Utility Reimbursement Procedures and by FHWA Federal-Aid Policy Guide Part 645) as a result of the adjustments made pursuant to this agreement.
- There is betterment described as follows:

- The owner will not claim reimbursement for that betterment portion of the work, but will duly account for it as required by applicable NYSDOT and FHWA procedures.
- The owner hereby agrees to deposit with the Comptroller of the State of New York the amount of \$_____ to cover the cost of the betterment as described above.
- The owner agrees to comply with the requirements of the NYSDOT Utility Reimbursement Procedure and FHWA Federal-Aid Policy Guide Part 645 with the respect to salvage and depreciation credits when applicable.

V. General Covenants

The owner hereby agrees to accept full title and responsibility for the adjusted facility in writing upon satisfactory completion of the work. Such acceptance will acknowledge the owner's responsibility to maintain the facility in accordance with all applicable codes, standards and regulations, including his obligation, where applicable, to remove any or all of the facility from the highway at the order of the Commissioner of Transportation, all in accordance with the Rules and Regulations Governing the Accommodation of Utilities within the State Highway Right-of-Way. All compensable claims covered by this agreement will be included in one of the following:

- A. Privately Owned Property Agreement executed prior to the performance of the work.
- B. Municipal Agreement executed prior to performance of the work.
- C. Reimbursement Agreement executed prior to performance of the work.
- D. Such other agreement as approved by NYSDOT Office of Legal Affairs.

**NEW YORK STATE DEPARTMENT OF TRANSPORTATION
UTILITY WORK AGREEMENT**

VI. References

The following documents are herewith incorporated in this agreement by reference (check appropriate boxes)

- Federal Highway Administration's Federal-Aid Policy Guide Part 645.
- Contract documents: Contract Number: D265055
PIN: 5814.20
Plan Sheets No.: Electronic copy of the proposed contract plans
- Owner's Plan Sheets _____
- Owner's Estimate Sheets Form No. FIN 223c _____
- Resolution dated _____, by _____
 - Granting the State of New York authority to perform the adjustment for the owner.
 - Agreeing to maintain facilities adjusted via State-let contract.
 - Authorizing deposit of funds by the owner.
- Certification by the owner or his agent that he has the legal authority to enter into this agreement.

(Print/Type Name) Owner or Agent	(Signature)	Title	Date
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Sherman Lane For the NYSDOT Commissioner of Transportation		Statewide Utility Engineer Title	Date
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SPECIAL NOTE**COORDINATION WITH THE UTILITY SCHEDULE**

The contractor must coordinate their schedule of operations with the various utility owners involved with the project and shall verify utility information found in the contract documents. Utility revisions required by the various utility owners in connection with this project include:

Erie County Water Authority**Utility Owner's Field Contact:**

Leonard F. Kowalski, P.E., Executive Engineer
Erie County Water Authority
3030 Union Road
Cheektowaga, New York 14227
D: (716) 685-8220
O: (716) 684-1510
C: (716) 341-1137
F: (716) 684-8397
lkowalski@ecwa.org

Erie County Water Authority has the following existing facilities at these locations:

Site 4 (Water): Existing 8" Poly-Vinyl Chloride Water Line and 6" retired-in-place water line within the highway boundary of NY 277 (Union Road.)

Site 5 (Water): Existing 8" Water Line within the highway boundary of NY 33 (Genesee Street.)

Reimbursable work to be done by the State's contractor:

The project requires the following work to be done at these locations, per details in the contract documents:

Site 4 & 5: Protect and support water line during construction by the States Contractor.

The work is to be done by the State's contractor and paid by contract items.

The State's Engineer-In-Charge, in coordination with the State's contractor, shall notify the Erie County Water Authority in writing 2 weeks before commencing work on their facilities at each location and for each occurrence of work.

The State's Engineer-In-Charge will provide record plans to the Erie County Water Authority.

Additional Notes

1. The Contractor is governed by and must adhere to the provisions of 16 NYCRR Part 753 (Protection of Underground Facilities).
2. The Standard Specifications shall apply to all utility facility adjustments.
3. The State's contractor shall refer to the "User's Guide to Safe Excavation Practices in New York State" found at <https://udignyny.org/resources/>
4. The State's contractor shall verify the stakeholder's facility information found in the details in the contract documents and provide any additional information as requested in the contract documents. The State's contractor shall notify the State's Engineer-In-Charge (EIC) of any discrepancies that are found.
5. If there will be incursion into a stakeholder's facilities' tolerance zone, notify the stakeholder's field contact at least three (3) business days prior to beginning work near the stakeholder's facilities.
6. Any unintentional contact with a stakeholder's facility must be immediately reported to the State's Engineer-In-Charge. The stakeholder's field contact must give approval before work can continue.
7. If additional adjustments become necessary beyond those detailed in the contract documents, then additional adjustments and time frames shall be coordinated by the State's Engineer-in-Charge. Such timeframes shall not be included within previously established time frames.

END OF COMBINED COORDINATION WITH THE UTILITY SCHEDULE

Revised 2023 February 23 – EJSC, AJP

Resolution Granting the State of New York Authority to Perform the Adjustment for the Owner and Agreeing to Maintain Facilities Adjusted Via State-let Contract

RESOLUTION

Resolution # _____

WHEREAS, the New York State Department of Transportation proposes the construction, reconstruction, or improvement of **state project name from cover letter** in the **name of municipality** located in **county name** county, PIN **enter PIN**, and

WHEREAS, the State will include as part of the construction, reconstruction, or improvement of the above mentioned project the **work to be done** pursuant to Section 10, Subdivision 24, of the State Highway Law, as shown on the contract plans relating to the project and meeting the requirements of the owner, and

WHEREAS, the service life of the relocated and or replaced utilities has not been extended, and

WHEREAS, the State will provide for the reconstruction of the above mentioned work, as shown on the contract plans relating to the above mentioned project.

NOW, THEREFORE,

BE IT RESOLVED: That the **name of municipality** approves of the **work to be done** and the above mentioned work performed on the project and shown on the contract plans relating to the project and that the **name of municipality** will maintain or cause to be maintained the adjusted facilities performed as above stated and as shown on the contract plans.

BE IT FURTHER RESOLVED: that **name** has the authority to sign, with the concurrence of the **board**, any and all documentation that may become necessary as a result of this project as it relates to the **name of municipality**, and

BE IT FURTHER RESOLVED: That the clerk of the **name of municipality** is hereby directed to transmit five (5) certified copies of the foregoing resolution to the New York State Department of Transportation.

Moved By:
Seconded By:
Vote:

I, _____, duly appointed and qualified _____, do hereby CERTIFY that the foregoing resolution was adopted at a meeting duly called and held in the office of _____, a quorum being present on the _____ day of _____, and that said copy is a true, correct and compared copy of the original resolution so adopted and that the same has not been revoked or rescinded.

WITNESSETH, my hand and seal this _____ day of _____

Name, title

Instructions: fill in the red prompts with information from the cover letter.

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

Contract: _____ **Project No.:** 202300134
Project Description: Large Culvert Replacements and Rehabilitation, Towns of West Seneca, Lewiston, Wheatfield, Alden, and Niagara; Erie and Niagara Counties; PIN 5814.20, D265055

Item Description:


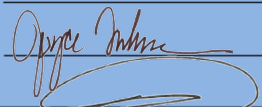
<input type="checkbox"/> Agreement	<input type="checkbox"/> Professional Service Contract	<input type="checkbox"/> Amendment	<input type="checkbox"/> Change Order
<input type="checkbox"/> BCD	<input checked="" type="checkbox"/> NYSDOT Agreement HC-140	<input type="checkbox"/> Contract Documents	<input type="checkbox"/> Addendum
<input type="checkbox"/> Recommendation for Award of Contract	<input type="checkbox"/> Recommendation to Reject Bids		
<input type="checkbox"/> Request for Proposals			
<input type="checkbox"/> Other _____			

Action Requested:

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

Approvals Needed:

APPROVED AS TO CONTENT:

<input checked="" type="checkbox"/> Sr. Distribution Engineer		Date: 8/4/2023
<input type="checkbox"/> Chief Operating Officer	_____	Date: _____
<input checked="" type="checkbox"/> Executive Engineer		Date: 08/07/2023
<input type="checkbox"/> Director of Administration	_____	Date: _____
<input type="checkbox"/> Risk Manager	_____	Date: _____
<input checked="" type="checkbox"/> Chief Financial Officer		Date: 08/07/2023
<input checked="" type="checkbox"/> Legal		Date: 8/7/2023

APPROVED FOR BOARD RESOLUTION:

<input checked="" type="checkbox"/> Secretary to the Authority		Date: 8/7/2023
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Remarks: _____

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