



ERIE COUNTY WATER AUTHORITY
INTEROFFICE MEMORANDUM

February 4, 2019

To: Terrence D. McCracken, Secretary to the Authority
Legal Department

From: Russell J. Stoll, Executive Engineer

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

Subject: Milling and Resurfacing along Route 75
From US 20 to NY5 and from South of Sunset Drive to I-90
In the Town and Village of Hamburg
PIN 5813.54
ECWA Project No. 201900034

The attached referenced documents are prepared by the New York State Department of Transportation (NYSDOT) because they will be performing roadway improvements that will impact ECWA facilities. NYSDOT will be adjusting valve box elevations on Route 75 in Hamburg as a part of this project. The NYSDOT will perform the identified adjustments to ECWA facilities at no cost to the Authority. The HC140 and Certified Resolution will confirm the process.

Attached are four (4) copies of the NYSDOT HC140 form for the above project. A Certified Resolution (4 copies) by the Board and signature of the appropriate Authority Official are required. Four (4) copies of the HC140 and Certified Resolution are to be returned with original signatures and seals affixed to the NYSDOT per cover letter. The NYSDOT is requesting return of the documents by February 20, 2019.

The HC 140 references two items that must be included in the ECWA Board 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.”

(The specific reference is identified in Section VI of the HC140, page 4 of 4.)

If there are any questions, please contact me.

RJS:jmf
Attachments
cc: HWNY-761-1901



**Department of
Transportation**

ANDREW M. CUOMO
Governor

PAUL A. KARAS
Acting Commissioner

FRANK P. CIRILLO, SR/WA
Regional Director

January 17, 2019

Russell Stoll, Executive Engineer
3030 Union Road
Cheektowaga, New York 14227

**RE: NY 75; SOUTH OF SUNSET DRIVE TO
FROM US 20 TO NY 5
TOWN OF HAMBURG, ERIE COUNTY
PIN 5813.54, D263934, BIN 1029910**

Dear Mr. Stoll:

Enclosed is an electronic copy of the proposed contract plans for the above-referenced project. The Erie County Water Authority (ECWA) has existing water lines within highway boundaries of NY 75. The ECWA's involvement in this project consists of adjustment of water valve box elevations per contract documents. The details of the adjustment are shown on the project plans included with this letter.

Also enclosed are four (4) sets of documents which include the Utility Work Agreement (HC-140) and the Special Note. Each of the four (4) HC-140 forms must be duly executed by an authorized representative of the ECWA.

Work included in the State's contract and performed by the State contractor will be done at no expense to the ECWA. No further action related to this work is required at this time.

The agreement requires four (4) copies of a Certified Resolution by your governing body as stated in Section VI – References, of the Utility Work Agreement (HC-140). Each copy must be signed and have a seal affixed to it.

Enclosed is an example of a Certified Resolution granting the State of New York authority to perform the facility adjustments, agreeing to maintain facilities, and authorizing a municipal official to enter agreements with the State of New York.

Please return four (4) original sets of the signed Agreements, Special Note, and Certified Resolution to Mr. Ronald W. Rolling, Regional Utilities Engineer, at 100 Seneca Street, Buffalo, NY 14203 by **February 20, 2019**. One (1) copy of the fully executed agreement will be returned to you for your records.

Any questions regarding work to be done may be directed to Mr. Mark R. Castonguay, Design Job Manager, at (716) 847-3021 or via e-mail at Mark.Castonguay@dot.ny.gov. Questions regarding these forms can be directed to Mr. Ronald W. Rolling, Regional Utilities Engineer, at (716) 847-3954 or via e-mail at Ronald.Rolling@dot.ny.gov.

Russell Stoll, Executive Engineer
PIN 5813.54
January 17, 2019
Page 2 of 2

Sincerely,

William P. Zimmerman, P.E.
Engineering Support Unit Manager

By: _____
Ronald W. Rolling, P.E.
Regional Utilities Engineer

WPZ/RWR/EJC/ME/htd

Enclosures: Project Plans, Utility Work Agreement (HC-140), Special Note, and 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.: 5813.54	F.A. Project No.:
ROW Declaration No.:	Map Nos.:
Parcel Nos.:	County of: Erie
Contract No.: D263934	

Project Description: NY 75; South of Sunset Drive to BIN 1029910 and from US 20 to NY 5. Hamburg, Erie.

necessitates the adjustment of utility facilities as hereinafter described, the owner, **Erie County Water Authority (ECWA)**, 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.)

ECWA has the following existing facilities water lines within highway boundaries of NY75.

As shown on the plans for the proposed transportation project are to be adjusted as follows: (describe type, size, capacity, location, etc.)

adjustment of water valve box elevations per contract documents 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.
- X 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.
- X 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. (If the municipality or their contractor is doing the work unselect this.)
- 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. (If the municipality or their contractor is doing the work select this.)

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 _____
PIN: 5813.54
Plan sheets No. _____

Owner's plan sheets _____

Owner's estimate sheets form No. _____

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
----------------------------------	-------------	-------	------

Cathy Nusca, P.E., For the NYSDOT Commissioner of Transportation,		Statewide Utilities Engineer Title	Date
--	--	---------------------------------------	------

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 (ECWA)**Utility Field Contact:**

Russell Stoll, Executive Engineer
3030 Union Road
Cheektowaga, New York 14227
O: (716) 685-8276
F: (716) 684-3937
rstoll@ecwa.org

ECWA has existing water lines within highway boundaries of Route 75.

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

The project requires adjustment of water valve box elevations per contract documents.

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

The State's contractor must give two (2) full working days notice to utility owner before commencing work on their facilities.

The State's Engineer-In-Charge will provide record plans to ECWA.

The contractor should be aware that overhead and underground lines may be in close proximity to the work site. The New York State Department of Transportation (NYSDOT) has reviewed the site and has determined that the site can be constructed without relocating utility facilities other than those that have already been identified as needing adjustment.

The utility relocation time frame(s), as stated above, have been mutually established by NYSDOT and the utility companies based upon the recommended sequence of construction. Alterations to the recommended sequence of construction may affect the time schedules for relocating utility facilities. The contractor should expect that additional time may be required for planning and material procurement.

In addition to the above-itemized revisions, other relocations may become necessary during the construction phase as a result of more precise location data or other changes that might develop. These relocations are to be performed by the utility owners and/or the State contractor with coordination by the State Engineer-In-Charge and the contractor.

Suitable time frames for these additions shall be coordinated between the contractor and the utility companies. Such time frames are not to be included within previously established time frames.

The contractor is reminded that he is governed by and must adhere to the provisions of 16 NYCRR Part 753 (Protection of Underground Facilities).

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.

**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.: 5813.54	F.A. Project No.:
ROW Declaration No.:	Map Nos.:
Parcel Nos.:	County of: Erie
Contract No.: D263934	

Project Description: NY 75; South of Sunset Drive to BIN 1029910 and from US 20 to NY 5. Hamburg, Erie.

necessitates the adjustment of utility facilities as hereinafter described, the owner, **Erie County Water Authority (ECWA)**, 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.)

ECWA has the following existing facilities water lines within highway boundaries of NY75.

As shown on the plans for the proposed transportation project are to be adjusted as follows: (describe type, size, capacity, location, etc.)

adjustment of water valve box elevations per contract documents 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. (If the municipality or their contractor is doing the work unselect this.)
- 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. (If the municipality or their contractor is doing the work select this.)

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 _____
PIN: 5813.54
Plan sheets No. _____

Owner's plan sheets _____

Owner's estimate sheets form No. _____

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
----------------------------------	-------------	-------	------

Cathy Nusca, P.E., For the NYSDOT Commissioner of Transportation,		Statewide Utilities Engineer Title	Date
--	--	---------------------------------------	------

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 (ECWA)**Utility Field Contact:**

Russell Stoll, Executive Engineer
3030 Union Road
Cheektowaga, New York 14227
O: (716) 685-8276
F: (716) 684-3937
rstoll@ecwa.org

ECWA has existing water lines within highway boundaries of Route 75.

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

The project requires adjustment of water valve box elevations per contract documents.

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

The State's contractor must give two (2) full working days notice to utility owner before commencing work on their facilities.

The State's Engineer-In-Charge will provide record plans to ECWA.

The contractor should be aware that overhead and underground lines may be in close proximity to the work site. The New York State Department of Transportation (NYSDOT) has reviewed the site and has determined that the site can be constructed without relocating utility facilities other than those that have already been identified as needing adjustment.

The utility relocation time frame(s), as stated above, have been mutually established by NYSDOT and the utility companies based upon the recommended sequence of construction. Alterations to the recommended sequence of construction may affect the time schedules for relocating utility facilities. The contractor should expect that additional time may be required for planning and material procurement.

In addition to the above-itemized revisions, other relocations may become necessary during the construction phase as a result of more precise location data or other changes that might develop. These relocations are to be performed by the utility owners and/or the State contractor with coordination by the State Engineer-In-Charge and the contractor.

Suitable time frames for these additions shall be coordinated between the contractor and the utility companies. Such time frames are not to be included within previously established time frames.

The contractor is reminded that he is governed by and must adhere to the provisions of 16 NYCRR Part 753 (Protection of Underground Facilities).

