

AGREEMENT

Between

THE TOWN OF CHEEKTOWAGA

And

ERIE COUNTY WATER AUTHORITY

AGREEMENT made this 11th day of April, 2018 by and between the **TOWN OF CHEEKTOWAGA**, 3301 Broadway, Cheektowaga, New York 14227, hereinafter referred to as "Town", and the **ERIE COUNTY WATER AUTHORITY**, a public benefit corporation, having its offices and principal place of business at 295 Main Street, Room 350, Buffalo, New York 14203, hereinafter referred to as the "Authority".

WHEREAS, The Town has initiated plans to undertake the reconstruction of Woodbine Place, from Cherokee Drive to Clover Place and Evergreen Place, from Woodbine Place to Clover Place, in the Town of Cheektowaga, including pavement, drainage, and driveway approaches;

WHEREAS, The Authority intends to replace the existing water main presently located on Woodbine Place and Evergreen place during the reconstruction project by the Town;

WHEREAS, The Town and the Authority desire to enter into a cooperative agreement to coordinate and facilitate the water main project and the reconstruction project on Woodbine Place and Evergreen Place in order to achieve cost containment and efficiency;

WHEREAS, The Town and the Authority entered into an Agreement on September 7, 2017;

WHEREAS, The Town and the Authority understand that the project was rebid by the Town in accordance with 2018 cost; and

NOW, THEREFORE, The Parties agree as follows:

1. AGREEMENT

The Town and the Authority intend that this Agreement supersedes all previous Agreements with respect to its subject matter including the Agreement between the Town and the Authority of September 7, 2017 unless herein specified.

2. **WATER MAIN PROJECT**

In accordance with General Municipal Law § 103 the Town will install the water main and reconstruct the aforementioned road in accordance with Authority established standards and specifications, and as shown on Drawing No. W1, W2, W3, W4 and WI-1, WD-1, WD-2, WD-3 dated May 15, 2017, attached hereto.

The water main project will consist of installation of approximately 3,067 linear feet of water main pipe, valves, fire hydrants and residential and domestic water services along the project area. The Authority will provide the pipe, valves, hydrants and other necessary materials to construct the water main project. The Town will provide for the installation of water main and appurtenances including select fill. Associated trucking will be provided at Town expense. Sidewalk restoration and lawn restoration related to the service installations will also be performed by the Town.

3. **ROAD RECONSTRUCTION COST**

The road reconstruction including pavement, driveway approaches and any other lawn or sidewalk restoration shall be the responsibility of the Town as a part of the road reconstruction project.

4. **REIMBURSEMENT**

Upon completion by the Town's contractor of installation of the water main and appurtenances and associated restorations, the Town shall submit to the Authority an accounting setting forth reimbursement of the actual cost of related water main items and restoration related to services as depicted on the plans and specifications. The Authority shall reimburse the Town for water main related work and expenses for work performed in accordance with the Authority's standards, specifications and approved documents. Reimbursement by the Authority shall be the lesser amount of the actual cost of the Authority related portion of the project or an amount not to exceed \$440,000.00 subject to any Authority approved amendments and modifications made pursuant to Paragraph 8 herein. Payment will be made within forty-five (45) days from receipt of the invoice and approval by the Authority Board of Commissioners.

5. **INDEPENDENT STATUS**

Nothing contained in the agreement shall be construed to render either the Authority or the Town a partner, employee or agent of the other, nor shall either party have authority to bind the other in any matter, other than set forth in this agreement. It is intended that each party shall remain independent and separate from the other, and fully responsible for its own actions.

6. **INSURANCE**

The contractor which is awarded the bid shall secure and maintain such insurance necessary to protect itself from claims under the Workmen's Compensation Act; claims

for damages because of bodily injury, including personal injury, sickness or disease, or death of any of its employees or any person other than its employees; and from claims of damages because of injury to or destruction of property including loss of use resulting thereof in the amount as approved by the parties. The contractor shall provide and maintain insurance certifying that each party is insured under the policy. The issuance of the insurance policy shall not release the contractor from any claims in excess of the insurance coverage.

7. INDEMNIFICATION

The parties shall indemnify each other against any and all claims arising from the independent actions of each party, and shall defend and hold harmless the other party from and against all claims, suits, actions, costs, counsel fees, expenses, damages, judgment or decrees based upon or arising out of damaged property or injury to person or other tortious conduct caused or contributed to it by the other party or anyone under its direction or control or on its behalf in the course of its performance under this agreement.

8. AMENDMENTS AND MODIFICATIONS

No modification, amendment or changes in the water main portion of the construction project involving the Authority shall be valid unless the Authority is given prior written notice by the Town and the Authority gives the Town prior written approval of same.

9. ENTIRE AGREEMENT

This Agreement contains the entire Agreement between the parties relating to its subject matter. All prior or contemporaneous contracts, understandings and statements are merged herein.

10. APPROVAL

This Agreement is subject to approval by the respective parties in accordance with the authority granted to each party.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the date above written.

TOWN OF CHEEKTOWAGA

By 
Diane Benczkowski, Supervisor

ERIE COUNTY WATER AUTHORITY

By _____
Chairman