

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

**Contract:** NC-039 **Project No.:** 201900073  
**Project Description:** Water System Improvements, Towns of Amherst and Cheektowaga

**Item Description:**

Agreement     Professional Service Contract     Amendment     Change Order  
 BCD     NYSDOT Agreement     Contract Documents     Addendum  
 Recommendation for Award of Contract     Recommendation to Reject Bids  
 Request for Proposals  
 Other \_\_\_\_\_

**Action Requested:**

Board Authorization to Execute     Legal Approval  
 Board Authorization to Award     Execution by the Chairman  
 Board Authorization to Advertise for Bids     Execution by the Secretary to the Authority  
 Board Authorization to Solicit Request for Proposals  
 Other \_\_\_\_\_

**Approvals Needed:**

**APPROVED AS TO CONTENT:**

<input checked="" type="checkbox"/> Sr. Distribution Engineer	<u><i>Bill M.</i></u>	Date: <u>5/5/2021</u>
<input checked="" type="checkbox"/> Chief Operating Officer	<u><i>Russell J. Stoll</i></u>	Date: <u>5/5/21</u>
<input checked="" type="checkbox"/> Executive Engineer	<u><i>Leonard F. Koralik</i></u>	Date: <u>05/05/2021</u>
<input checked="" type="checkbox"/> Director of Administration	<u><i>Janeyna L. Estes</i></u>	Date: <u>05/05/2021</u>
<input checked="" type="checkbox"/> Risk Manager	<u><i>Molly Jo Musarra</i></u>	Date: <u>05/05/2021</u>
<input checked="" type="checkbox"/> Chief Financial Officer	<u><i>Karen A. Bendegast</i></u>	Date: <u>05/05/2021</u>
<input checked="" type="checkbox"/> Legal	<u><i>Margaret A. Murphy</i></u>	Date: <u>05/05/2021</u>

**APPROVED FOR BOARD RESOLUTION:**

<input checked="" type="checkbox"/> Secretary to the Authority	<u><i>[Signature]</i></u>	Date: <u>05/05/21</u>
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**Remarks:** Amendment #2.

**Resolution Date:** \_\_\_\_\_ **Item No:** \_\_\_\_\_




# ERIE COUNTY WATER AUTHORITY

## INTEROFFICE MEMORANDUM

May 5, 2021

To: Terrence D. McCracken, Secretary to the Authority

From: Michael J. Quinn, Senior Distribution Engineer 

Subject: Contract NC-039 Amendment #2  
Water System Improvements  
Towns of Amherst and Cheektowaga  
ECWA Project No. 201900073

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Attached are the following documents:

1. ECWA Authorization Form for processing Professional Service Contract Amendment #2 with Nussbaumer and Clarke.
2. Three original copies of Professional Service Contract Amendment #2 for the above referenced project.

The Amendment is to increase General Services for the above referenced project.

On April 8, 2019 the Authority and the Consultant entered into a professional services contract for engineering and consulting services relating to the design and construction of approximately 6,500 linear feet of new distribution waterline to replace undersized waterlines on various streets in the Towns of Amherst and Cheektowaga. During the construction phase of the project, the Consultant provided additional consulting services over and above that which was anticipated. As outlined more fully a letter from the Consultant to the Authority dated May 3, 2021 and included as Appendix A to Amendment the additional work included the following general tasks:

- Reconfiguration of the new water main alignment to account for an underground storm sewer that was not previously identified by the Town of Amherst or easily identifiable in the field due to the fact that the associated structures were paved over.
- Identification and reconfiguration of the water main alignment to account for a section of concrete encased pipe at the interconnection at Rosedale and Crosby in the Town of Amherst.
- Evaluation and coordination of alternate road crossing methods proposed by the contractor at Kensington Avenue.
- Evaluation of the impact on the project of a temporary sewer main installed by the Town of Cheektowaga which required developing alternative plans and construction sequencing to avoid significant project delays. The temporary sewer installation impacted the contractor's ability to perform the work as originally designed.
- Evaluating and making a recommendation for review by the Engineering and Legal Departments on a change order request by the contractor for additional compensation for various house services reconnections.

The increased amount to General Services is reflected in the following table and provides the original contract cost, proposed amendment cost and total contract cost.

	Original Contract	Amendment No. 1	Amendment No. 2	Original Contract + All Amendments
Survey	\$33,328	\$0	\$0	\$33,328
Design	\$59,168	\$0	\$0	\$59,168
General Services	\$41,698	\$0	\$5,000	\$46,698
Estimated Resident Inspection	\$145,000	\$0	\$0	\$145,000
Record Drawings	\$9,636	\$0	\$0	\$9,636
Estimated Special Services	\$15,000	\$12,000	\$0	\$27,000
Direct Non-Salary Cost	\$6,000	\$0	\$0	\$0
<b>TOTALS</b>	<b>\$309,740</b>	<b>\$12,000</b>	<b>\$5,000</b>	<b>\$326,740</b>

This work is within the original scope of the Professional Services Contract dated April 8, 2019 and funds for the amendment are available in Unit 2590 Eng/Const Distribution Mains, Item 101410 NC-039 Waterline Replacement. Also, the Engineering Department is in the process of obtaining all required documentation to complete the closeout of the construction contract.

MJQ:jmf  
 Attachments  
 cc: R.Stoll  
     L.Kowalski  
     L.Lester  
     CONT-NC-039-1901-I-011

**AMENDMENT NO. 2  
PROFESSIONAL SERVICES CONTRACT**

AMENDMENT, effective May 13, 2021 (“Amendment No. 2”) to the Professional Services Contract (Contract No. NC-039), entered on April 8, 2019, by and between:

**ERIE COUNTY WATER AUTHORITY**  
295 Main Street, Room 350  
Buffalo, New York 14203

hereinafter referred to as the “Authority,” and

**NUSSBAUMER & CLARKE, INC.**  
3556 Lake Shore Road, Suite 500  
Buffalo, New York 14219

hereinafter referred to as the “Consultant.”

**WHEREAS**, on April 8, 2019, the Authority and the Consultant entered into a professional services contract for engineering and consulting services relating to the replacement of existing waterlines on multiple streets in the Towns of Amherst and Cheektowaga (the “Contract”); and

**WHEREAS**, on September 5, 2019, the Authority authorized Amendment No. 1 to the Contract and increased the amount of Special Services allowable to \$27,000.00; and

**WHEREAS**, during the construction phase of the project, the Consultant provided redesign alternatives and made additional analysis and recommendations to the Authority regarding several conditions encountered by the contractor in the course of construction as outlined in the Consultant’s letter to the Authority dated May 3, 2021 and attached to and incorporated in this Amendment No. 2 as Appendix A; and

**WHEREAS**, the Consultant has requested additional compensation of \$5,000 for the General Services phase of the Contract relative to the additional services it provided to the Authority as set forth in Appendix A; and

**WHEREAS**, the Authority’s Chief Operating Officer and Executive Engineer recommend that the Authority amend the Contract by increasing the compensation to the Consultant by \$5,000 for the General Services phase of the Contract; and

**WHEREAS**, in accordance with paragraph 5 of the Contract, no modification or variation from the terms of the Contract shall be effective unless it is in writing and authorized

by a resolution of the Board of Commissioners of the Authority (the "Board") and signed by all parties;

**NOW THEREFORE**, in consideration of the mutual promises herein set forth, the parties agree to the following:

- (1) The parties agree to amend paragraph 3, subparagraph D (1) to increase the lump sum for General Services by \$5,000, changing the current figure of \$41,698 to \$46,698;
- (2) The parties agree all other terms and conditions of the Contract shall remain without change or amendment; and
- (3) This Amendment by be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement.

**IN WITNESS WHERETO**, the parties have caused this Amendment No. 2 to be signed by their respective duly constituted officers, attested and sealed pursuant to proper authority.

**ERIE COUNTY WATER AUTHORITY**

By \_\_\_\_\_  
Jerome D. Schad, Chair

**NUSSBAUMER & CLARKE, INC.**

By \_\_\_\_\_  
Michael T. Marino, PE, Chief Executive Officer

**STATE OF NEW YORK    )**  
**COUNTY OF ERIE        ) ss:**

On the \_\_\_\_\_ day of May, in the year 2021, before me personally came Jerome D. Schad, to me known, who, being by me duly sworn, did depose and say that he resides in Amherst, New York, that he is the Chair of the Board of Commissioners for the Erie County Water Authority described in the above instrument; and that he signed his name thereto by order of the Board of Commissioners.

\_\_\_\_\_  
Notary Public

**STATE OF NEW YORK        )**  
**COUNTY OF ERIE            ) ss:**

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 2021, before me personally came Michael T. Marino, PE, to me known, who, being by me duly sworn, did depose and say that he resides in \_\_\_\_\_, New York, that he is the Chief Executive Officer 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.

\_\_\_\_\_  
Notary Public

**APPENDIX A**

**Letter dated May 3, 2021**

May 3, 2021

Mr. Michael Quinn, P.E.  
Sr. Distribution Engineer  
Erie County Water Authority  
3030 Union Road  
Cheektowaga, NY 14227

RE: Contract NC-039  
Water System Improvements  
Towns of Amherst and Cheektowaga  
ECWA Project No. 201900073  
Amendment No. 2  
File No. 19J1-0021

Dear Mr. Quinn:

Nussbaumer & Clarke, Inc. (Nussbaumer) has completed the "General Services" phase of the referenced project during 2020 and 2021. Pursuant to our correspondence with you and emails over the past several months, Nussbaumer hereby submits Amendment No. 2 for items that were addressed which required immediate attention, and were outside of the original scope of work. These are as follows.

1. At the beginning of the project, the contractor (New Frontier) encountered a storm sewer line near the intersection of Crosby and Endicott in the Town of Amherst. The existence of this storm sewer line was unknown during design due to a mix up by the Town of Amherst, and therefore, not provided to Nussbaumer. Additionally, it was not marked out by the Town of Amherst prior to construction. Consequently, a redesign was required to avoid this storm sewer and other underground utilities along the new alignment. Nussbaumer provided two (2) redesign alternatives and attended site meetings to resolve the conflict and realignment. A change order was submitted by New Frontier for this work, which required Nussbaumer's review, comment and preparation of a recommendation to the Erie County Water Authority (ECWA).
2. New Frontier encountered a conflict at Interconnection 5 at Rosedale and Crosby in the Town of Amherst. Upon excavating the pipe for the interconnection, it was discovered that the pipe was encased in concrete and did not allow the interconnection to be made in that location. This condition was noted in historical documents. Additional site visits and redesign (multiple alternatives were evaluated) were required to change the interconnection to avoid the conflict. No change order for this work was submitted by New Frontier.
3. New Frontier asked if it was possible to bore beneath Kensington Avenue to avoid an open cut at interconnection 20 and abandonment 3. At ECWA's request, Nussbaumer evaluated this alternative, discussed with Erie County Department of Public Works – Division of Highways and presented recommendations to ECWA. New Frontier found that there were too many hurdles to make this adjustment and continued with the installation as designed.
4. At Anna Court in the Town of Cheektowaga, shortly before interconnections 18 and 19 and abandonment 2 were to be completed, the Town of Cheektowaga installed a bypass storm sewer to perform work on the Town of Cheektowaga sewer system. Nussbaumer was required to determine who installed this bypass and evaluate alternatives with ECWA to avoid a significant delay completing these items.
5. New Frontier submitted a change order to treat all services as far side services rather than breaking them out as near side and far side services per the contract documents. At ECWA's request, Nussbaumer evaluated this request and provide an analysis and recommendation to ECWA.



In light of our additional effort required to address the aforementioned out of scope items, Nussbaumer respectfully requests additional compensation for the General Services phase of this contract in the amount of \$5,000.

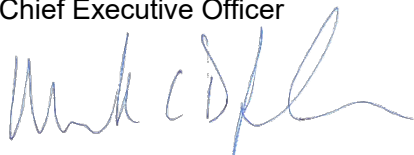
If you should have any questions or require additional information regarding this matter, please do not hesitate to contact us.

Sincerely,

NUSSBAUMER & CLARKE, INC.



Michael T. Marino, P.E.  
Chief Executive Officer



Mark C. DiPasquale, P.E.  
Project Manager

MTM/mdc

c: File - 01