



## ERIE COUNTY WATER AUTHORITY INTEROFFICE MEMORANDUM

February 27, 2019

TO: Terrence McCracken, Secretary to the Authority  
Margaret Murphy, Esq., Attorney

FROM: Steven W. Denzler, P.E., LEED BD&C *SMD*

SUBJECT: ADA Compliance and Pedestrian Signal Upgrades, Various Routes  
Erie and Niagara Counties  
PIN 5810.75  
ECWA File No.: HWNY-005-1901  
ECWA Proj. No.: 201900062

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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 water valve box elevations on Route 33 in Cheektowaga and Route 240 in Colden as a part of this project. The NYSDOT will do the identified adjustments to ECWA facilities at no cost to the Authority. The HC 140 and Certified Resolution will confirm the process.

Attached are four (4) copies of the NYSDOT HC 140 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 HC 140 and Certified Resolution are to be returned with original signatures and seals affixed to the NYSDOT per the cover letter. The NYSDOT is requesting return of the documents by March 27, 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.

SWD: med

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## Department of Transportation

**ANDREW M. CUOMO**  
Governor

**PAUL A. KARAS**  
Acting Commissioner

**FRANK P. CIRILLO, SR/WA**  
Regional Director

February 19, 2019

Russell J. Stoll, P.E., Executive Engineer  
Erie County Water Authority  
3030 Union Road  
Cheektowaga, NY 14227

**RE: ADA COMPLIANCE AND PEDESTRIAN SIGNAL UPGRADES ON VARIOUS ROUTES  
ERIE AND NIAGARA COUNTIES  
PIN 5810.75, D263949**

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 facilities on the southeast corner of NY 33 at Harmony Lane and south west corner of NY240 at Boston Colden Road. The ECWA's involvement in this project consists of adjustment of water valve box elevations. 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, Certified Resolution, to Ronald Rolling, Regional Utilities Engineer, 100 Seneca Street, Buffalo, NY 14203 **by March 27, 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 Ms. Alisia Vilonen, Design Job Manager, at (716) 847-3582 or via e-mail at [Alisia.Vilonen@dot.ny.gov](mailto:Alisia.Vilonen@dot.ny.gov). Questions

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regarding these forms can be directed to Mr. Ronald Rolling, Regional Utilities Engineer, at (716) 847-3954 or via e-mail at [Ronald.Rolling@dot.ny.gov](mailto:Ronald.Rolling@dot.ny.gov).

Sincerely,

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

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

WPZ/RWR/EJC/ME/bjh

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.: 5810.75	F.A. Project No.:
ROW Declaration No.:	Map Nos.:
Parcel Nos.:	County of: Erie and Niagara
Contract No.:	

Project Description: ADA Compliance and Pedestrian Signal Upgrades on Various Routes  
Erie and Niagara Counties

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 existing facilities on the southwest corner of NY240 at Boston Colden Road.

Facilities presently located 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 elevation 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:

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**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):

- ☒ **X** 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):

- ☒ **X** 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: 5810.75  
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.

<u>Jerome D. Schad</u>	<u>Chairman 3/26/.19</u>
(Print/Type Name) Owner or Agent	(Signature) Title Date

<u>Cathy Nusca, P.E.,</u>	<u>Statewide Utilities Engineer</u>
For the NYSDOT Commissioner of Transportation,	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 waterline at Site 5 – NY 240 at Boston Colden.

**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).

ECWA's Utility Authority (ECWA)

Utility Field Contact

Russell Hill, Executive Engineer  
3000 Union Road  
Greenwich, New York 14232  
O: (716) 885-8376  
F: (716) 884-6237  
rhill@ecwa.org

ECWA has existing waterlines at Site 5 - NY 240 at Boston/Cohasset

Reimburseable work to be done by the State's contractor

The project requires adjustment of water valve box elevations per certified documents

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

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 necessary forms 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 to adjacent lots. The contractor should be aware that the site has been identified as needing adjustment.

The utility relocation time (see table) as stated above, has been mutually established by NYSDOT and the utility companies based upon the recommended use of a construction site. The recommended sequence of construction may affect the time schedule for relocating utility. The contractor should expect that additional time may be required for plan and material procurement.

In addition to the above items, other relocation may become necessary during the construction process as a result of more precise location data or other factors that develop. The contractor should be aware that the utility owner, under the terms of the contract, is responsible for the relocation of the utility lines and the contractor should be aware that the contractor is responsible for the relocation of the utility lines.

Utility companies' 8-hour time frame is not to be exceeded with any delays. The contractor should be aware that the contractor is responsible for the relocation of the utility lines.