



ERIE COUNTY WATER AUTHORITY

INTEROFFICE MEMORANDUM

September 1, 2023

To: Terrence D. McCracken, Secretary to the Authority

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

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

Subject: Rice Hill Tank Easement
Town of Boston
ECWA Project No. 199300453

Rice Hill Tank is located in at 8971 Zimmerman Road in the Town of Boston, which is within Boston Water District #2. The Erie County Water Authority (ECWA) is undertaking a project to install improvements to the communication system including underground conduit and wiring to improve with the instrumentation and control of the tank. In order to construct the improvements as well as to operate and maintain the conduits and wiring after completion of the project, the ECWA must execute a new easement with the property owner.

Over the past few months, the ECWA Law and Engineering Departments have negotiated the terms of this Easement and collectively are recommending that the Board review and approve attached Easement and authorize the Chairman to execute same. There is no cost associated with this Easement. In addition to the easement document, approval and execution of the associated Real Estate Tax Return Form (Form TP-584.2) is also required in order to file the easement at the Erie County Clerk's Office.

Attached find three copies of the Easement and one copy of the T584.2 form for execution by the Chairman. Thank you and please feel free to contact me if you have any questions.

MJQ:jmf

Attachments

cc: L.Kowalski

BOTN-326-9302-F

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

Contract: _____ **Project No.:** 199300453
Project Description: Rice Hill Tank Easement, Town of Boston

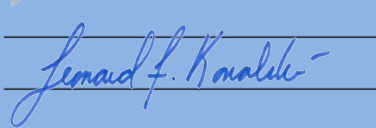

Item Description:

<input type="checkbox"/> Agreement	<input type="checkbox"/> Professional Service Contract	<input type="checkbox"/> Amendment	<input type="checkbox"/> Change Order
<input type="checkbox"/> BCD	<input type="checkbox"/> NYSDOT Agreement	<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 checked="" type="checkbox"/> Other <u>Easement</u>			


Action Requested:

<input checked="" type="checkbox"/> Board Authorization to Execute	<input checked="" type="checkbox"/> Legal Approval
<input type="checkbox"/> Board Authorization to Award	<input checked="" 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: <u>9/5/2023</u>
<input type="checkbox"/> Chief Operating Officer	_____	Date: _____
<input checked="" type="checkbox"/> Executive Engineer		Date: <u>09/08/2023</u>
<input type="checkbox"/> Director of Administration	_____	Date: _____
<input type="checkbox"/> Risk Manager	_____	Date: _____
<input type="checkbox"/> Chief Financial Officer	_____	Date: _____
<input checked="" type="checkbox"/> Legal		Date: <u>9/5/2023</u>

APPROVED FOR BOARD RESOLUTION:

<input checked="" type="checkbox"/> Secretary to the Authority		Date: <u>9/8/2023</u>
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Remarks: _____

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

TOWN OF BOSTON



COPY

TOWN OF BOSTON – RESOLUTION NO. 2023-73

EASEMENT AGREEMENT FOR WATER TANK OPERATION, MAINTENANCE, PIPING, CONDUIT, AND WIRING

WHEREAS, the Town of Boston (“Town”) and its Water District #2 are parties with the Erie County Water Authority (“ECWA”) to a Lease Management Agreement pursuant to which ECWA manages the Town’s water distribution system and sales and distribution of water to customers in Town water districts; and

WHEREAS, ECWA seeks to install a conduit and wiring to improve its ability for electronic communication with instrumentation in the Water District #2 water tank at 8971 Zimmerman Road, and has requested a permanent easement for its conduit and wiring and which further covers other operation and maintenance as well as ingress and egress; and

WHEREAS, a copy of the proposed easement is attached hereto and incorporated herein; and

WHEREAS, the Town Board, as lead agency, has given due consideration to the impact that the easement described herein may have on the environment and has determined that granting the easement, which involves installation of a communications wire conduit, is a Type II action and requires no further review pursuant to the State Environmental Quality Review Act (SEQRA), constituting Article 8 of the Environmental Conservation Law, and 6 N.Y.C.R.R., Regulations Part 617.5; and

WHEREAS, this Resolution shall be subject to a permissive referendum pursuant to Town Law Section 64(2);

NOW THEREFORE BE IT

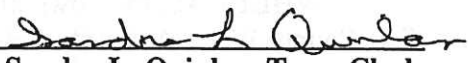
RESOLVED, subject to a permissive referendum, the Town Board of the Town of Boston hereby authorizes the Town Supervisor to execute on behalf of the Town of Boston Water District #2 the attached Easement Agreement for Erie County Water Authority to perform certain work and install water tank related equipment at 8971 Zimmerman Road, and to execute any other or further documents as may be required to evidence or record that easement.

CONTINUED ON NEXT PAGE

COPY

On August 2, 2023, the question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	Yes	No	Abstain	Absent
Councilmember Cartechine	[X]	[]	[]	[]
Councilmember Lucachik	[X]	[]	[]	[]
Councilmember Martin	[X]	[]	[]	[]
Councilmember Selby	[X]	[]	[]	[]
Supervisor Keding	[X]	[]	[]	[]


Sandra L. Quinlan, Town Clerk

JUL 21 2023 PM 2:58



Erie County Water Authority

295 Main Street • Room 350 • Buffalo, NY 14203-2494
716-849-8484 • Fax 716-849-8463

Legal Department

July 18, 2023

Jason Keding
Supervisor
Town of Boston
8500 Boston State Road
Boston, New York 14025

Re: Permanent Easement
Town of Boston Water District
8971 Zimmerman Road, Boston, NY

Dear Mr. Keding:

I have enclosed the Permanent Easement for the Town of Boston, Water District #2 located at 8971 Zimmerman Road. Please kindly execute and notarize this document and return it to the Erie County Water Authority, to my attention.

Very truly yours,

ERIE COUNTY WATER AUTHORITY

A handwritten signature in black ink, appearing to read "Mark S. Carney".

MARK S. CARNEY
General Counsel

MSC:mes

PERMANENT EASEMENT

THIS INDENTURE, made this _____ day of _____ 2023, by and between

TOWN OF BOSTON-WATER DISTRICT #2
Boston Town Hall
8500 Boston State Road
Boston, New York 14025

hereinafter referred to as the “Grantor(s)” and

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

hereinafter referred to as the “Grantee”

WHEREAS, the Grantor is a duly constituted Town of Boston Water District, located at 8971 Zimmerman Road in the Town of Boston, and whereas, the Grantor has agreed to grant a Permanent Easement to the Grantee for the subject premises,

NOW, THEREFORE, the parties agree as follows:

1. **GRANTING OF PERMANENT EASEMENT**: The Grantor does hereby grant and release unto the Grantee, its successors and assigns, a permanent easement, extending from Zimmerman Road to the area of the existing water tank, for the purpose of operating and maintaining the existing water storage tank and appurtenances including but not limited to the any existing and required underground piping and conduit and wiring for communications, as well as any and all structures and personalty contained on the map attached hereto as Exhibit A. Exhibit A is the map of the Town of Boston Water District No.2 Ext. lease area. Described as follows:

All that Tract or Parcel of Land situate in the Town of Boston, County of Erie, State

of New York, being part of Lot 18, Township 8, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

Commencing at a point in the centerline of Zimmerman Road (49.5 feet wide), a distance of 1,971.37 feet southerly from the intersection of the centerline of Zimmerman Road with the centerline of Polish Hill Road, said point also being the southwest corner of lands conveyed to Western New York Educational Television Association, Inc., by deed as recorded in the Erie County Clerk's Office in Liber 8422 of Deeds at Page 219;

Thence northerly along the centerline of Zimmerman Road, a distance of 193.00 feet, to the Point of Beginning;

Thence easterly at right angles to the centerline of Zimmerman Road, a distance of 130.00 feet to a point;

Thence northerly, parallel to the centerline of Zimmerman Road, a distance of 150.00 feet to a point;

Thence westerly, at right angles to the last described course, a distance of 130.00 feet, to a point in the centerline of Zimmerman Road;

Thence southerly along the centerline of Zimmerman Road, a distance of 150.00 feet to the Point of Beginning. Containing 0.45 acres of land, more or less.

2. **EXERCISE OF RIGHTS:** The Grantee shall have the right to construct, repair, maintain underground piping, conduits, wiring, water tank, valve housing, for the purpose of operating and maintaining the water tank, as well as any and all structures and personalty contained on Schedule A Map. Upon completion of the construction, maintenance and replacement, the Grantee will be responsible for returning the disturbed premises of the easement back to its former existing grade, as nearly as

possible to its original condition.

3. **ACCESS:** The Easement conveys to the grantee reasonable ingress and egress for the purpose of operating, maintaining and upgrading as necessary the existing water storage tank and appurtenances including underground piping, conduit and wiring as well as any and all structures and personalty contained on valve house along with any other work deemed necessary by the Erie County Water Authority to continue site operations.
2. **EASMENT MAP:** Attached hereto Exhibit A is the Easement Map identifying the easement granted herein.
3. **PROPERTY OF GRANTEE:** The underground conduit and wiring for communication shall be and remain the property of the Grantee, its successors and assigns forever.
4. **RESERVATION OF RIGHTS:** The Grantor will retain all rights not specifically conveyed by this Instrument, except not to construct a structure within the immediate limits of the easement once exercised by the Grantee.
5. **ASSUMPTION AND INDEMNIFICATION:** The Grantee assumes all risk of loss, damage or injury to persons or property occasioned by negligence or otherwise, and arising out of or in any way connected with the use of the easement rights.
6. **REPRESENTATION OF THE GRANTORS:** The Grantor covenants that the subject premises is leased and has the right and authority to convey the centerline easement herein granted.

IN WITNESS WHEREOF, the parties have caused this Instrument to be executed by the proper parties thereunto all as of the day and year first above written.

THE TOWN OF BOSTON

By  AUG-29th 2023
Jason Keding, Supervisor Town of Boston
Grantor

ERIE COUNTY WATER AUTHORITY

By _____
Jerome D. Schad, Chair
Grantee

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

On the 29 day of August, in the year 2023, before me, the undersigned, a Notary Public in and for the State, personally appeared Jason Keding, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

SANDRA L. QUINLAN
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
MY COMMISSION EXPIRES NOVEMBER 23, 2023

Sandra L. Quinlan
Notary Public

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

On the _____ day of _____, in the year _____, before me, the undersigned, a Notary Public in and for the State, personally appeared **JEROME D. SCHAD**, Chairman of the Erie County Water Authority, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

Notary Public

RECORDING
 NUMBER
 239843

LEGEND
 AC = ACRES
 APPROX = APPROXIMATE
 AVE = AVENUE

BIT = BITUMINOUS
 CB = CATCH BASIN
 CH = CHAIN
 CONC = CONCRETE
 COR = CORNER
 CTV = CABLE TV BOX

C = CENTERLINE
 D = DEED
 DIA = DIAMETER
 DIST = DISTANCE
 E = EAST
 ELD = ELECTRICAL
 JUNCTION BOX

ENC = ENCROACHMENT
 ESMT = EASEMENT
 EX = EXISTING
 FNC = FENCE
 GAR = GARAGE
 IP = IRON PIPE

L = LIBER
 MH = MANHOLE
 MP = MAP
 MS = MEASURED
 N = NORTH
 OH = OVERHEAD

OL = ONLINE
 PO = PORCH
 PP = POWER POLE
 P = PAGE
 P = PROPERTY LINE
 PAVT = PAVEMENT

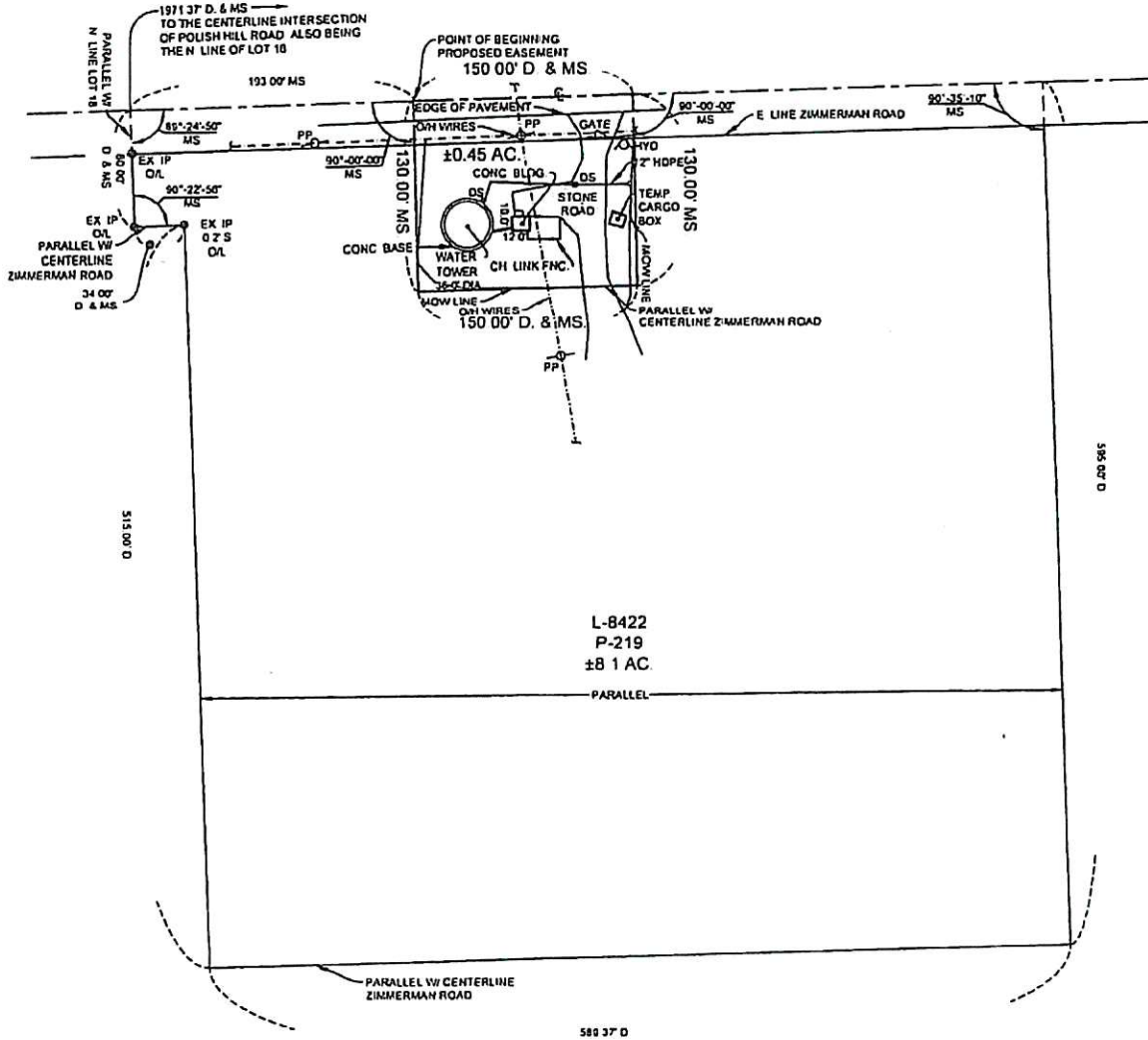
RD = ROAD
 S = SOUTH
 ST = STREET
 STY = STORY
 TJD = TELEPHONE
 JUNCTION BOX

TYP = TYPICAL
 W = WEST
 WI = WITH
 WO = WOOD
 WF = WOODFRAME



PROPOSED EASEMENT MAP

ZIMMERMAN ROAD (49.5')



TOWER AND ASSOCIATED BUILDINGS PURPOSELY OMITTED FOR CLARITY PURPOSES

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE AND IS SUBJECT TO ANY CHANGES THAT AN EXAMINATION OF SUCH MAY REVEAL

NOTES

ONLY COPIES FROM THE ORIGINAL OF THIS SURVEY MAP MARKED WITH THE SIGNATURE AND AN ORIGINAL OF THE LAND SURVEYOR'S EMBOSSED SEAL SHALL BE CONSIDERED TO BE VALID TRUE COPIES

UNAUTHORIZED ALTERATION OR ADDITION TO THIS SURVEY MAP IS A VIOLATION OF SECTION 7209 PROVISION 2 OF THE NEW YORK STATE EDUCATION

FRONTAGE SURVEY ONLY
 ANGLES AND ACREAGE ARE
 SUBJECT TO CHANGE BASED ON
 COMPLETION OF A FULL SURVEY



wendel
 Corporation Corporate Park • 315 Ellery Road Suite 200
 Wilkesville, New York 14231
 PHONE 716 669 0758 FAX 716 623 6623
 WEBSITE www.wendelcompanies.com

PART OF LOT	18	SEC	-	TWP	8	RNG	7
OF THE HOLLAND LAND COMPANY'S SURVEY							
TOWNSHIP	BOSTON			PROJECT NO.	239843		
COUNTY	ERIE, NY		TAX ID NO.	241 00-3-33		SCALE 1"=80'	



Recording Office Time Stamp

**Real Estate Transfer Tax Return
For Public Utility Companies'
and Governmental Agencies'
Easements and Licenses**

This form may only be used by public utility companies regulated by the Public Service Commission and governmental agencies for the recording of easements and licenses where the consideration for the grant of such easement or license is \$500.00 or less.

Name of grantee (public utility company or governmental agency)

Erie County Water Authority

Federal employer identification number
(if applicable) 16-6000337

Address of grantee

295 Main Street, Room 350, Buffalo, New York 14203-2494

Name and telephone number of person to contact
Michael Quinn (716) 685-8203

Name(s) of Grantor Of Easement or License	Address of Property	Consideration Given For Easement or License
1. Town of Boston, Boston, New York	8971 Zimmerman Road, Boston, NY 14025	\$1.00
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		

If more than fifteen conveyances are to be recorded, attach a schedule of such other conveyances.

Signature of Grantee

I certify that the grantee is a public utility regulated by the Public Service Commission or is a governmental agency and the grantee of the easements and/or licenses above; that it is true to the best knowledge of the grantee that the granting of each such easement and/or license is exempt from Real Estate Transfer Tax imposed by Article 31 of the Tax Law by reason that each such conveyance is for a consideration of five hundred dollars or less and/or the conveyance is being made to a governmental agency.

Jerome D. Schad

Name of grantee

Signature of partner, officer of corporation, governmental official, etc.

Chairman

Title