




# ERIE COUNTY WATER AUTHORITY

## INTEROFFICE MEMORANDUM

June 12, 2023

To: Terrence D. McCracken, Secretary to the Authority

From: Michael J. Quinn, Senior Distribution Engineer 

Subject: Contract EA-012 Amendment #1  
Replacement of Undersized Distribution Mains  
Town of Cheektowaga and West Seneca, and Village of Depew  
Village of Depew  
ECWA Project No. 202000065

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Attached are the following documents:

1. ECWA Authorization Form for processing Professional Service Contract Amendment #1 with Erdman Anthony & Associates, Inc. (Erdman Anthony).
2. Three original copies of Professional Service Contract Amendment #1 for the above referenced project.

The Amendment is to increase the Construction Phase Services and Resident Inspection (RI) services for the above referenced project.

On February 13, 2020, the Authority and the Consultant entered into a professional services contract for engineering and consulting services relating to the design and construction of replacement of existing undersized distribution mains in the Town of West Seneca, the Town of Cheektowaga, and the Village of Depew with minimum 8-inch diameter waterlines. The total length of the project is approximately 8,950 linear feet of watermain. The project also includes transfer of existing services.

Additional funding is required to account for additional engineering services (Construction Administration and Resident Inspection). Additional services were required due to the fact that construction of the improvements took significantly longer than anticipated. During the RFP process for engineering services and the negotiation of the associated contract, Engineering Department staff estimated that construction would take approximately nine months and require 1,500 hours of resident inspection services. A number of factors encountered during the project resulted in a construction duration of more than 12 months including the COVID pandemic, identification of petroleum contaminated soils and multiple work locations as well as some contractor inefficiencies. As with many other contracts, the pandemic slowed construction progress significantly due to supply chain delays and manpower shortages. In addition, during the installation of a section of main, an area of petroleum contaminated soil was encountered which delayed the construction while a determination was made as to how to properly identify the limits of the area, amount of material and the proper disposal methods. Finally, with regard to the scope

of work, the fact that work was required on thirteen separate streets, the level of effort was underestimated in the first place and multiple inspectors were required to cover different areas of work at the same time. These factors not only resulted in the need for additional inspection efforts but also additional construction administration costs over and above what was anticipated.

	Original Contract	Amendment No.1	Original Contract + All Amendments
Survey	\$56,245	\$0	\$56,245
Design	\$115,050	\$0	\$115,050
General Services	\$23,320	\$29,735.09	\$53,055.09
Estimated Resident Inspection	\$164,000	\$153,659.80	\$317,659.80
Record Drawings	\$27,940	\$0	\$27,940
Estimated Special Services	\$50,000	\$0	\$50,000
TOTALS	\$436,555	\$183,394.89	\$619,949.89

This work is within the original scope of the Professional Services Contract dated February 13, 2020, and funds for the amendment will be made available through a budget transfer from the 2023 capital budget (Distribution Project C) as part of a separate Board approval request on the agenda for the June 22, 2023 meeting.

MJQ:jmf

Attachments

cc: R.Stoll

L.Kowalski

L.Lester

CONT-EA-012-2001-011

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

**Contract:** EA-012 **Project No.:** 202000065

**Project Description:** Replacement of Undersized Distribution Mains,  
Town of Cheektowaga and West Seneca, and Village of Depew.

**Item Description:**


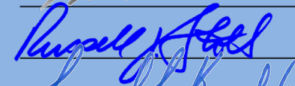
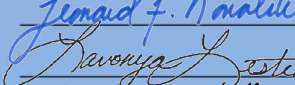



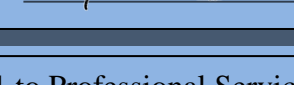
- |   |  |   |                                       |
|---|--|---|---------------------------------------|
| <input type="checkbox"/> Agreement                            | <input type="checkbox"/> Professional Service Contract | <input checked="" type="checkbox"/> Amendment | <input type="checkbox"/> 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 type="checkbox"/> Other _____                          |  |   |                                       |

**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>6/12/2023</u>  |
| <input checked="" type="checkbox"/> Chief Operating Officer    |  | Date: <u>6/12/2023</u>  |
| <input checked="" type="checkbox"/> Executive Engineer         |  | Date: <u>06/13/2023</u> |
| <input checked="" type="checkbox"/> Director of Administration |  | Date: <u>06/12/2023</u> |
| <input checked="" type="checkbox"/> Risk Manager               |  | Date: <u>6/12/2023</u>  |
| <input checked="" type="checkbox"/> Chief Financial Officer    |  | Date: <u>06/13/2023</u> |
| <input checked="" type="checkbox"/> Legal                      |  | Date: <u>6/12/2023</u>  |

**APPROVED FOR BOARD RESOLUTION:**

- |  |  |                      |
|--|--|----------------------|
| <input checked="" type="checkbox"/> Secretary to the Authority |  | Date: <u>6/13/23</u> |
|--|--|----------------------|

**Remarks:** Amendment No. 1 to Professional Services Agreement.

Pending receipt of updated insurance prior to 6/22/2023 Board meeting

**Resolution Date:** \_\_\_\_\_

**Item No:** \_\_\_\_\_

**AMENDMENT NO. 1  
PROFESSIONAL SERVICES CONTRACT**

AMENDMENT, effective June 22, 2023 (“Amendment No. 1”) to the Professional Services Contract (Contract No. EA-012), entered on February 13, 2020, by and between:

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

hereinafter referred to as the “Authority,” and

**ERDMAN ANTHONY & ASSOCIATES, INC.**  
8608 Main Street  
Buffalo, New York 14221

hereinafter referred to as the “Consultant.”

**WHEREAS**, on February 13, 2020, the Authority and the Consultant entered into a professional services contract for engineering and consulting services relating to the design and construction of approximately 8,950 linear feet of replacement water distribution mains in the Towns of Cheektowaga and West Seneca and the Village of Depew (the “Contract”); and

**WHEREAS**, several changes to the scope of work occurred during the construction phase of the project as outlined in the Consultant’s letter to the Authority dated May 31, 2023 and attached to and incorporated in this Amendment No. 1 as Appendix A; and

**WHEREAS**, the Consultant has requested additional compensation of \$183,394.89 for 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 \$183,394.89; 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 \$29,735.09, changing the current figure of \$23,320 to \$53,055.09; and
- (2) The parties agree to amend paragraph 3, subparagraph D(2) to increase the total not to exceed for Resident Inspection Services by \$153,659.80, changing the current figure of \$164,000 to \$317,659.80; and
- (3) The parties agree all other terms and conditions of the Contract shall remain without change or amendment; and
- (4) This Amendment may 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. 1 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

**ERDMAN ANTHONY & ASSOCIATES, INC.**

By \_\_\_\_\_  
Daniel J. Ziemianski, P.E.  
Vice President

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

On the \_\_\_\_\_ day of June, in the year 2023, 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 2023, before me personally came Daniel J. Ziemianski, to me known, who, being by me duly sworn, did depose and say that he resides in \_\_\_\_\_, that he is the Vice President 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 31, 2023**

May 31, 2023

Michael J. Quinn, P.E.  
Senior Distribution Engineer  
Erie County Water Authority  
3030 Union Road  
Cheektowaga, New York 14227

Subject: Water System Improvements Cheektowaga, West Seneca, & Depew – Contract EA-012  
**Request for Change Order**

Mr. Quinn:

In the progression of the above referenced project, Erdman Anthony has completed several tasks which were over and above that envisioned during the proposal phase of this project. These items are as follows:

**Construction Inspection**

Conversations at the onset of the project with the contractor, 4<sup>th</sup> Generation, revealed that they intend to utilize three crews to complete the project. With three crews working in three locations it would be impossible to inspect the project with the accuracy and documentation required by the Authority without three inspectors to cover the active operations. Therefore, as directed, Erdman Anthony provided additional inspection staff on this project in order to monitor the haphazard operations of the contractor and their multiple crews working on multiple streets. We were as judicious and efficient as possible in this effort. This included rotating different staff, utilizing lower level staff when possible, reducing staff when the operations allowed and monitoring multiple sites with a single inspector. These efforts had been completed in order to provide the Authority the resident inspection service it requires in as cost-effective a manner as possible.

Prior to the project, it was assumed by the Authority and Erdman Anthony the contractor would complete the work with one crew in one area at a time so it could be covered by one inspector. That was even an assumption in our proposal. However, this contractor worked in sometimes three or four locations at a time with operations that required oversight. It was hoped and believed by the Authority and Erdman Anthony that having them work with multiple crews would have allowed them to finish in a more timely manner. As you know, even though they worked with multiple crews, they needed additional time to finish.

As noted, we tried to be as efficient as possible in our construction inspection. In fact, after the winter shut down, our inspection staff did not work full time in order to reduce your costs. We were only on the job as needed to monitor construction activities that warranted our presence, nevertheless, that time was excessive. Our costs for this effort are based on actual charges by our staff and are detailed below:



### **Construction Inspection**

Through July 9, 2022 our inspection total billings =	\$321,307.80
Contract limit =	<u>\$164,000.00</u>
	\$157,307.80
Deduction =	<u>\$ 3,648.00</u>
<b>Overage =</b>	<b>\$153,659.80</b>

### **Construction General Services**

In addition to the additional inspection fees, Erdman Anthony has expended an extremely extensive amount of time on General Services during construction. The haphazard nature of the Contractor's operations, failure to work to a schedule and general lack of compliance with required Authority paperwork resulted in the need to expend far greater efforts in construction administration than would typically be needed on a project such as this. However, this work was necessary to hold the contractor accountable. This effort included extensive contractor coordination over and above anything that could have been anticipated, efforts to resolve material issues with NYSDEC, additional efforts to control the contractor schedule and an extraordinary effort in coordination, paperwork and time to track down and obtain the required NYSDOT permits. These items are in addition to the extra efforts spent in project initiation in order to attempt to get the contractor to submit paperwork and materials acceptable to the Authority.

Furthermore, prior to the project even beginning construction, we completed a significant amount of coordination with Avalon and prospective bidders in order to get internal assurances for Authority Staff. Most of these issues involved the fact that this was the Authority's first experience with Avalon. Nevertheless, these efforts were not considered in our estimate of hours for the general services portion of the contract because the Authority typically handles this effort. This included the effort to create Addendum Number 2 and the extensive coordination with Avalon to complete the bid process.

The total General Service extra efforts during the initial phases of construction can be summarized as follows:

Senior Engineer – 28 hours @ \$75.75 / hr X 2.80 multiplier = \$5,938.80  
Senior Designer – 128 hours @ \$42.35 / hr x 2.80 multiplier = \$15,178.24  
CADD Drafter – 12 hours @ \$31.75 / hr x 2.80 multiplier = \$1,066.80  
Misc. expenses including travel and printing = \$500.00

**Subtotal = \$22,683.84**

This original request included efforts expended through the anticipated contract life and the expected 37.5 weeks of construction in 2021. However, we did not anticipate the excessive additional efforts required to close out the contract and complete the work in 2022 and 2023.

The period of time near the end of the project in fact required more attention than other periods. This is because the contractor was working or had worked in an increasing number of locations. This placed more and more locations in the work zone as he was not pro-active in completely finishing project areas after the pipeline was installed. This resulted in an ever-increasing number of complaints from residents to be dealt with on an

almost daily basis. Many of these came through your office but many others were received and handled by this office directly and then through our inspector. In addition, late in the project there was additional time spent on reviewing repair work to the damaged tunnel on Calumet as well as work on the extensive project punch list.

Our efforts have been similar to those defined above. The items in question needed to be handled by personnel who had been involved with the project and were familiar with its particulars. That was myself and Mike Galley in the office. Our accounting records of the charges during the time period are as follows:

10924	Galley, Michael	5/14/2022	2.00
10924	Galley, Michael	6/25/2022	2.00
10924	Galley, Michael	7/9/2022	1.00
10924	Galley, Michael	8/6/2022	3.00
10924	Galley, Michael	8/20/2022	2.00
10924	Galley, Michael	9/3/2022	2.00
10924	Galley, Michael	9/17/2022	2.00
10924	Galley, Michael	10/1/2022	2.00
10924	Galley, Michael	10/15/2022	18.00
10924	Galley, Michael	2/4/2023	<u>4.00</u>

38 hours Senior Designer @ \$42.35 / hr x 2.80 multiplier = \$4,506.04

10921	Ziemianski, Daniel	6/25/2022	4.00
10921	Ziemianski, Daniel	7/9/2022	1.00
10921	Ziemianski, Daniel	8/6/2022	2.00
10921	Ziemianski, Daniel	9/17/2022	1.00
10921	Ziemianski, Daniel	10/1/2022	1.00
10921	Ziemianski, Daniel	10/15/2022	<u>3.00</u>

12 hours Senior Engineer @ \$75.75 / hr X 2.80 multiplier = \$2,545.20

**Subtotal \$7,051.25**

**Total Construction General Services Cost = \$29,735.09**

Therefore, Erdman Anthony respectfully requests the completion of a change order to our contract in the amount of **\$183,394.89**.

It should be noted that the bid for this project was almost \$300,000 less than expected. It was known at the time of award by the Authority and Erdman Anthony, that 4<sup>th</sup> Generation was physically capable of completing the project but that their management, coordination and clerical capabilities were severely lacking. It was known additional efforts on our part would be necessary to ensure a successful completion of the project.

The enormity of these tasks could not have been envisioned at the onset of the project. However, they were absolutely essential in progressing the project to the point where it could be successfully completed.

Michael Quinn, PE  
EA-12 Extra Work Request  
May 31, 2023  
Page 4 of 4



Thank you for your anticipated cooperation and please contact the undersigned if you have any questions or comments.

Very truly yours,  
ERDMAN ANTHONY

A handwritten signature in black ink, appearing to read 'D. J. Ziemianski', written in a cursive style.

Daniel J. Ziemianski, P.E.  
Vice President