




ERIE COUNTY WATER AUTHORITY

INTEROFFICE MEMORANDUM

November 30, 2023

To: Terrence D. McCracken, Secretary to the Authority

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

Subject: Union Road/Rte 277 Waterline Replacement/NYSDOT HC-140
Towns of Cheektowaga and West Seneca, Erie County
PIN 5131.41
ECWA Project No.: 202200057 (GP-011)

On August 17, 2023, the Authority executed a Betterment Agreement with the NYSDOT for the construction of a portion of the above referenced contract. The Betterment Agreement included a payment to the NYSDOT of \$381,500.00 for the estimated cost of the work which will be completed by the NYSDOT's contractor. As required, the Authority made the associated payment to the NYSDOT on August 21, 2023. Following the bidding process, the Authority was notified that the actual cost for the work would be \$399,192.16 resulting in a shortfall of \$17,692.16. Attached find a copy of the project bid tabulation listing the actual bid prices for the Authority share of the work and the above-referenced Betterment Agreement. After reviewing the bid prices, the Engineering Department believes that the savings associated with this betterment will still be significant and therefore recommends that the Board approve the payment of the additional costs and execute the attached HC-140. This method was at the direction of the NYSDOT in lieu of a new or amended Betterment Agreement.

Attached are four (4) copies of the NYSDOT HC-140 Utility Work Agreement form for the above-referenced project. A Certified Board Resolution (4 copies) signed by the appropriate Authority's official is required. All four copies of the HC-140 form and Certified Board Resolution are to be returned with original signatures and seals affixed to the NYSDOT per requirements stated in the cover letter.

Granting the State of New York authority to perform the adjustment for the owner", agreeing to maintain facilities adjusted via State-let contract" and "authorizing the deposit of funds by the owner" (The specific reference is identified in Section VI of the HC140, page 4 of 4.).

Budget information:

Funds are available for this Betterment as follows:

- Unit 2590 – Engineering/Construction Distribution Mains
- Item 101675 – Distribution System Upgrades – Union Road Corridor.

If there are any questions, please contact me.

MJQ:jmf

Attachments

cc: W.Wheeler

CONT-GP-011-2201

5131.41 ROUTE 277, UNION ROAD (WOODWARD DRIVE TO WALDEN AVENUE)
TOWNS OF CHEEKTOWAGA & WEST SENECA, ERIE COUNTY
PIN 5131.41, D265088
Stakeholder: Erie County Water Authority (ECWA) 12B - Betterment

SHARE	EST ITEM	DESCRIPTION	UNITS	QTY	E PRICE	E EXT AMT	BID PRICE	BID EXT AMT	DIFFERENCE
0004	203.07	SELECT GRANULAR FILL	CY	250.00	59.00	14,750.00	75.00	18,750.00	4,000.00
0004	204.01	CONTROLLED LOW STRENGTH MATERIAL (CLSM)	CY	60.00	600.00	36,000.00	200.00	12,000.00	-24,000.00
0004	206.0201	TRENCH AND CULVERT EXCAVATION	CY	500.00	40.00	20,000.00	50.00	25,000.00	5,000.00
0004	206.05	TEST PIT EXCAVATION	EACH	10.00	1,000.00	10,000.00	25.00	250.00	-9,750.00
0004	304.15200	Subb Cour Opt Type (rap Except)	CY	75.00	60.00	4,500.00	150.00	11,250.00	6,750.00
0004	404.19890	19 F9 BINDER ASPH, 80 SERIES COMPACTION	TON	100.00	120.00	12,000.00	130.00	13,000.00	1,000.00
0004	404.37890	37.5 F9 BASE COUR ASPH 80 SERIES COMPACT	TON	130.00	120.00	15,600.00	175.00	22,750.00	7,150.00
0004	407.0102	DILUTED TACK COAT	GAL	33.00	5.50	181.50	5.50	181.50	0.00
0004	608.0101	CONCRETE SIDEWALKS AND DRIVEWAYS	CY	15.00	750.00	11,250.00	850.00	12,750.00	1,500.00
0004	608.02010	ASP SIDE W, DRVWAY, BICY PATH, VEG CON S	TON	14.00	350.00	4,900.00	300.00	4,200.00	-700.00
0004	609.0401	CAST-IN-PLACE CONCRETE CURB TYPE VF6	LF	10.00	75.00	750.00	100.00	1,000.00	250.00
0004	610.1402	TOPSOIL - ROADSIDE	CY	10.00	120.00	1,200.00	200.00	2,000.00	800.00
0004	610.1601	TURF ESTABLISHMENT - ROADSIDE	SY	70.00	10.00	700.00	10.00	700.00	0.00
0004	619.01	BASIC WORK ZONE TRAFFIC CONTROL	LS	1.00	10,000.00	10,000.00	18,850.98	18,850.98	8,850.98
0004	623.11	CRUSHED GRAVEL (IN-PLACE MEASURE)	CY	150.00	70.00	10,500.00	65.00	9,750.00	-750.00
0004	627.50140	CUTTING PAVEMENT	LF	1,500.00	3.00	4,500.00	6.00	9,000.00	4,500.00
0004	663.0106	DUCT IR CEM LND WTR PIPE, 6"	LF	100.00	75.00	7,500.00	200.00	20,000.00	12,500.00
0004	663.0108	DUCT IR CEM LND WTR PIPE, 8"	LF	20.00	100.00	2,000.00	200.00	4,000.00	2,000.00
0004	663.0116	DUCT IR CEM LND WTR PIPE, 16"	LF	20.00	250.00	5,000.00	300.00	6,000.00	1,000.00
0004	663.0603	COPPER WATER SERVICE PIPE 3/4"	LF	200.00	30.00	6,000.00	25.00	5,000.00	-1,000.00
0004	663.0604	COPPER WATER SERVICE PIPE 1"	LF	150.00	40.00	6,000.00	40.00	6,000.00	0.00
0004	663.0606	COPPER WATER SERVICE PIPE 1 1/2"	LF	200.00	75.00	15,000.00	45.00	9,000.00	-6,000.00
0004	663.1006	RESILIENT WEDGE VALVE & VALVE BOX, 6"	EACH	1.00	2,500.00	2,500.00	2,500.00	2,500.00	0.00
0004	663.1301	HYDRANT	EACH	1.00	6,500.00	6,500.00	7,000.00	7,000.00	500.00
0004	663.16200	TAP SLV, VLV& VLV BX ASSEM,20" X 6"	EACH	2.00	20,000.00	40,000.00	12,000.00	24,000.00	-16,000.00
0004	663.2001	IRN WTR MN FITTNG (3"- 8")	LB	550.00	14.00	7,700.00	12.00	6,600.00	-1,100.00
0004	663.2002	IRN WTR MN FITTNG (10"- 16")	LB	1,600.00	18.00	28,800.00	10.00	16,000.00	-12,800.00
0004	663.2106	WDG TYP MECH REST GLANDS, 6"	EACH	20.00	100.00	2,000.00	125.00	2,500.00	500.00
0004	663.2108	WDG TYP MECH REST GLANDS, 8"	EACH	1.00	120.00	120.00	130.00	130.00	10.00
0004	663.2116	WDG TYP MECH REST GLANDS, 16"	EACH	7.00	225.00	1,575.00	600.00	4,200.00	2,625.00
0004	663.2306	POLY ENCASM WTR PIPE, 6"	LF	100.00	5.00	500.00	5.00	500.00	0.00
0004	663.2308	POLY ENCASM WTR PIPE, 8"	LF	20.00	7.00	140.00	5.00	100.00	-40.00
0004	663.2316	POLY ENCASM WTR PIPE, 16"	LF	30.00	10.00	300.00	5.00	150.00	-150.00
0004	663.2320	POLY ENCASM WTR PIPE, 20"	LF	20.00	10.00	200.00	10.00	200.00	0.00
0004	663.2503	WATER SERVICE CONNECTION, 3/4"	EACH	3.00	1,500.00	4,500.00	8,000.00	24,000.00	19,500.00
0004	663.2504	WATER SERVICE CONNECTION, 1"	EACH	2.00	1,750.00	3,500.00	8,000.00	16,000.00	12,500.00
0004	663.2506	WATER SERVICE CONNECTION, 1 1/2"	EACH	3.00	2,500.00	7,500.00	8,000.00	24,000.00	16,500.00
0004	663.40	DISCONNECT AND CAP EXISTING WATER MAIN	EACH	4.00	1,500.00	6,000.00	4,000.00	16,000.00	10,000.00
0004	663.4106	R&D EXIST WTR MIAN, 6"	LF	10.00	55.00	550.00	100.00	1,000.00	450.00
0004	663.4108	R&D EXIST WTR MIAN, 8"	LF	10.00	55.00	550.00	100.00	1,000.00	450.00
0004	663.4116	R&D EXIST WTR MIAN,16"	LF	40.00	100.00	4,000.00	60.00	2,400.00	-1,600.00
0004	663.42	R & D EXIST WTR VALVE & VALVE BX	EACH	4.00	300.00	1,200.00	1,000.00	4,000.00	2,800.00
0004	663.46	REMOVE AND STORE EXISTING HYDRANT	EACH	1.00	1,500.00	1,500.00	500.00	500.00	-1,000.00
0004	697.03	FIELD CHANGE PAYMENT	DC	20,000.00	1.00	20,000.00	1.00	20,000.00	0.00
0004	698.04	ASPHALT PRICE ADJUSTMENT	DC	500.00	1.00	500.00	1.00	500.00	0.00
0004	698.05	FUEL PRICE ADJUSTMENT	DC	500.00	1.00	500.00	1.00	500.00	0.00
0004	699.04000	MOBILIZATION	LS	1.00	13,558.66	13,558.66	13,979.68	13,979.68	421.02
								399,192.16	
								381,500.00	
								17,692.16	

**NEW YORK STATE DEPARTMENT OF TRANSPORTATION
BETTERMENT REQUEST:
Betterment Worksheet and Design Deposit Estimate**

6/27/23

**5131.41 ROUTE 277, UNION ROAD (WOODWARD DRIVE TO WALDEN AVENUE)
TOWNS OF CHEEKTOWAGA & WEST SENECA
ERIE COUNTY
PIN 5131.41, D265088**

The purpose of this document is to verify the betterment work and betterment share cost estimate agreed to by Erie County Water Authority and the New York State Department of Transportation.

Stakeholder: Erie County Water Authority (ECWA)

Stakeholder Contact Information:

Bill Wheeler, Distribution Engineer
3030 Union Road, Cheektowaga, NY 14227
716-685-8251
wwheeler@ecwa.org

Federal Tax ID number: 16-6000337

Designer: NYSDOT, Mohammad A. Haque, P.E.

Type of DOT Project: Highway Project

Brief description of the DOT capital project:

Mill and pave existing road on NY 277 Union Rd, clean and repair drainage structures, spot repair culvert C530073 near Holland Ave, curb widening on Indian Church Rd, lane addition on Race St at intersection with Union Rd, replacing non-ADA compliant curb ramps, replacing signs, and traffic signal work at various intersections.

The reason for the betterment request:

NYSDOT informed ECWA that Union Road was scheduled to be resurfaced 2024/25. ECWA, to not interfere with NYSDOT project and to limit future disturbance of the roadway is developing a waterline replacement project. ECWA's project extents are Union Road (between East and West Road and Woodward Drive), Union Road (between Willowdale Drive and Seneca Street), Union Road (between NYS RT 400 and 1801 Union Rd), Union Road (between 2163 Old Union Road and 2449 Union Road), and Union Road (between William Street and Bennett Road). As part of a design review meeting with the North Residency, the NYSDOT suggested that due to traffic

**NEW YORK STATE DEPARTMENT OF TRANSPORTATION
BETTERMENT REQUEST:
Betterment Worksheet and Design Deposit Estimate**

congestion between William Street and Bennett Road ECWA should consider a betterment.

Brief description of the betterment work to be included in this project:

Between William Street and Bennett Road there are two existing waterlines (16" and 20"). ECWA plans to retire the existing 16" main and transfer all existing services to the 20" main. A total of 8 small services (2" and smaller), 1 large service (6" diameter), and 1 hydrant will be transferred. The existing main will be retired in place by cutting, dewatering, filling with flowable fill, and capping. The existing pipeline along Bennett Road and Union South of William Street will be interconnected with the existing 20" main as part of the retirement process.

For each of the service transfers 2" and smaller the new service lines will be pushed (trenchless installation) from the right-of-way to an open receiving pit (5'x10') near the existing 20" main to complete the service installation. Services larger than 2" and hydrant branches will be open cut from the right-of-way to the 20" main. All retirement and interconnections will be completed utilizing open-cut construction methods. The roadway will be restored to NYSDOT standards.

The work limits (stations) of the betterment are:

Between reference marker 277 5301 1148 and reference marker 277 5301 1151

The work length of the betterment is:

The segment of roadway between William Street and Bennett Road is approximately 1,200 feet in length.

The responsibilities of the various stakeholders:

The betterment design work is to be done by: GPI

The standards being used are: NYSDOT details, ECWA will supply supplemental notes on the drawings as required for supplemental information to bidders.

The items are being supplied by: The NYSDOT by items in the contract.

The inspection will be done by: ECWA inspector working with NYSDOT EIC.

**NEW YORK STATE DEPARTMENT OF TRANSPORTATION
BETTERMENT REQUEST:
Betterment Worksheet and Design Deposit Estimate**

The betterment is to be processed as: Items and Labor in the contract
 Fixed Price Lump Sum

Betterment Share Design Deposit Estimate

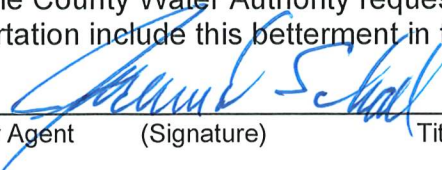
1. Engineer's Estimate (See attached. Includes 619.01, 697.03)**	*	\$350,000.00
2. Work Zone Traffic Control Cost, Item 619.04		\$0.00
3. Field Change Payment, Item 697.03		\$0.00
4. Total of Items 1 to 3		\$350,000.00
5. Mobilization (contractor's startup costs), Item 699.040001 (4% of Item 1)	*	\$14,000.00
6. DOT Design Engineering Services Cost ECWA provided the design.		\$0.00
7. DOT Construction Supervision (5% of Item 1)		\$17,500.00
8. Total (Items 1 through 4)		\$381,500.00
9. Less amount paid		\$0.00
Balance Due		\$381,500.00

* Include these costs in the betterment share in the Estimator.
** Consultant included these items in the Engineer's Estimate.

Stakeholder, Please Complete

Betterment Resolution dated August 17, 2023, Resolution # 1

The betterment work and deposit estimate information provided by the New York State Department of Transportation in this document has been verified by the Erie County Water Authority. The Erie County Water Authority requests the New York State Department of Transportation include this betterment in their capital project.

Jerome D. Schad  Chair 08/17/2023
(Print/Type Name) Owner or Agent (Signature) Title Date

To be Filled Out When Deposit is Made by the Stakeholder

Date sent to the Office of the State Comptroller:

Check Number: **Total:**

**NEW YORK STATE DEPARTMENT OF TRANSPORTATION
BETTERMENT REQUEST:
Betterment Worksheet and Design Deposit Estimate
Item and Labor Cost Estimate**

ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	UNIT PRICE	TOTAL COST
203.07	Select Granular Fill	CY	250	\$59.00	\$14,750.00
204.01	Furnish and Install Controlled Low Strength Material (CLSM)	CY	60	\$600.00	\$36,000.00
206.0201	Trench and Culvert Excavation	CY	500	\$40.00	\$20,000.00
206.05	Test Pit Excavation	EA	10	\$1,000.00	\$10,000.00
304.15200005	Subbase Course, Optional Type (Rap Exception)	CY	75	\$50.00	\$3,750.00
404.190901	19 F9 Binder Course Asphalt, 80 Series Compaction	TON	100	\$120.00	\$12,000.00
404.378901	37.5 F9 Base Course Asphalt, 80 Series Compaction	TON	130	\$120.00	\$15,600.00
407.0102	Diluted Tack Coat	GAL	33	\$6.00	\$198.00
608.0101	Concrete Sidewalks and Driveways	CY	15	\$750.00	\$11,250.00
608.020102	Asphalt Sidewalks, Driveways, Bicycle Paths, and Vegetation Control Strips	TON	14	\$500.00	\$7,000.00
609.0401	Cast-in-Place Concrete Curb Type VF6	LF	10	\$75.00	\$750.00
610.1402	Topsoil - Roadside	CY	10	\$120.00	\$1,200.00
610.1601	Turf Establishment - Roadside	SY	70	\$10.00	\$700.00
619.01	Basic Work Zone Traffic Control	LS	1	\$10,000.00	\$10,000.00
623.11	Crushed Gravel (In-Place Measure)	CY	150	\$70.00	\$10,500.00
627.50140008	Cutting Payment	LF	1500	\$3.00	\$4,500.00
663.0106	Ductile Iron Cement Lined Water Pipe (6")	LF	100	\$75.00	\$7,500.00
663.0108	Ductile Iron Cement Lined Water Pipe (8")	LF	20	\$100.00	\$2,000.00
663.0116	Ductile Iron Cement Lined Water Pipe (16")	LF	20	\$250.00	\$5,000.00
663.0603	Copper Water Service Pipe (3/4")	LF	200	\$30.00	\$6,000.00
663.0604	Copper Water Service Pipe (1")	LF	150	\$40.00	\$6,000.00
663.0606	Copper Water Service Pipe (1-1/2")	LF	200	\$75.00	\$15,000.00
663.1006	Resilient Wedge Valve & Valve Box (6")	EA	1	\$2,500.00	\$2,500.00
663.1301	Hydrant	EA	1	\$6,500.00	\$6,500.00
663.162006	Tapping Sleeve, Valve & Valve Box Assembly (20"x6")	EA	2	\$20,000.00	\$40,000.00
663.2001	Iron Water Main Fittings (3-8 inch diameter)	LB	550	\$14.00	\$7,700.00
663.2002	Iron Water Main Fittings (10-16 inch diameter)	LB	1600	\$18.00	\$28,800.00
663.2106	Wedge Type Mechanical Restrain Glands (6" diameter)	EA	20	\$100.00	\$2,000.00
663.2108	Wedge Type Mechanical Restrain Glands (8" diameter)	EA	1	\$120.00	\$120.00
663.2116	Wedge Type Mechanical Restrain Glands (16" diameter)	EA	7	\$225.00	\$1,575.00
663.2306	Polyethylene Encasement for Water Pipe (6")	LF	100	\$5.00	\$500.00
663.2308	Polyethylene Encasement for Water Pipe (8")	LF	20	\$7.00	\$140.00
663.2316	Polyethylene Encasement for Water Pipe (16")	LF	30	\$10.00	\$300.00
663.2320	Polyethylene Encasement for Water Pipe (20")	LF	20	\$10.00	\$200.00
663.2503	Water Service Connection (3/4")	EA	3	\$1,500.00	\$4,500.00
663.2504	Water Service Connection (1")	EA	2	\$1,750.00	\$3,500.00
663.2506	Water Service Connection (1-1/2")	EA	3	\$2,500.00	\$7,500.00
663.40	Disconnect and Cap Existing Water Main	EA	4	\$1,500.00	\$6,000.00
663.4106	Remove and Dispose of Existing Water Main (6")	LF	10	\$55.00	\$550.00
663.4108	Remove and Dispose of Existing Water Main (8")	LF	10	\$55.00	\$550.00
663.4116	Remove and Dispose of Existing Water Main (16")	LF	40	\$100.00	\$4,000.00
663.42	Remove and Dispose of Existing Water Valve and Valve Box	EA	4	\$300.00	\$1,200.00
663.46	Remove and Store Existing Hydrant	EA	1	\$1,500.00	\$1,500.00
697.03	Field Change Payment (FVP)	DC	16150	\$1.00	\$16,150.00
698.04	Asphalt Price Adjustments	DC	500	\$1.00	\$500.00
698.05	Fuel Price Adjustment	DC	500	\$1.00	\$500.00
TOTAL OF NON ALTERNATE ITEMS =					\$336,483.00
CONTINGENCY (4%) =					\$13,459.32
TOTAL WITH 4% CONTINGENCY =					\$349,942.32
TOTAL ENGINEERING SHARE 0004 - BETTERMENT ECWA =					\$350,000.00

ESTIMATE BASED ON NYS DOT-ECWA BETTERMENT PLANS - 7/7/2023

**SCHEDULE A
DESCRIPTION OF PROJECT, FUNDING AND DEPOSIT REQUIREMENTS.**

**NY ROUTE 277 (Union Rd) (S.H. 9215, S.H. 1733, S.H. 1733A, S.H. 1965, S.H. 1626)
Towns of Cheektowaga & West Seneca,
Erie County
PIN 5131.41, D 265088; AGREEMENT No. _____**

Is the project linked to a State project in the area? YES

If linked to a State project, describe the State project:

The State-let project is for the construction of Mill and pave on NY 277 Union Rd from Woodward Dr to Walden Ave, Lane addition at Race St & widening curb radius on Indian Church Rd, Spot repair culvert C530073 near Holland Ave, Clean and repair drainage structures as needed, Replacing non-ADA compliant curb ramps, Traffic signal work.

Description of the work to be performed on local facilities:

Erie County Water Authority by Resolution No. 1 adopted on the 17th day of August, 2023, requested and authorized Erie County Water Authority to proceed with the necessary arrangements to incorporate the construction of a betterment of retire-in-place the existing 16" water main and transfer all existing services to the 20" water main. A total of 8 small services (2" and smaller), 1 large service (6" diameter), and 1 hydrant, Between William Street and Bennett Road (work length=1200') with the work of PIN 5131.41 as set forth in the plans and specifications for said project.

Engineer's Estimate*	\$ <u>0.00</u>
Federal Aid Eligible	No
State Share (in dollars)	\$ <u>0.00</u> , <u>0.0</u> %
Federal Share (in dollars)	\$ <u>0.00</u> , <u>0.0</u> %
Local Share (in dollars)	\$ <u>381,500.00</u> , <u>100.00</u> %

* Estimate from the "Betterment Share Design Deposit Estimate"

CERTIFICATION

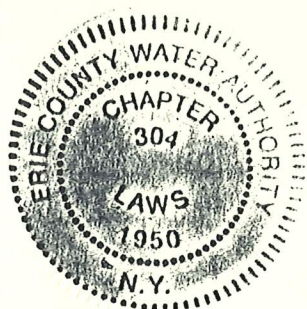
I, **TERRENCE D. McCracken**, the duly elected and qualified **SECRETARY TO THE AUTHORITY** to the **ERIE COUNTY WATER AUTHORITY**, a corporation existing under the Laws of the State of New York, do hereby certify that I have compared the annexed resolution which is an extract from the Minutes of the Meeting of the Authority held in the office, 295 Main Street, Room 350, Buffalo, New York, on the 17th day of August 2023 a quorum being present and that said resolution is a true and correct copy of the resolution so adopted and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said corporation this 17th day of August 2023.



Terrence D. McCracken
Secretary to the Authority

(SEAL)



**EXTRACT FROM THE MINUTES OF THE MEETING OF THE
ERIE COUNTY WATER AUTHORITY
AUGUST 17, 2023**

At a regular meeting of the Erie County Water Authority held in the office, 295 Main Street, Room 350, Buffalo, New York, on the 17th day of August 2023, a quorum being present, the following resolution was adopted:

WHEREAS, the New York State Department of Transportation (“NYSDOT”) is undertaking a transportation project described as NY Route 277 (Union Rd) (S.H. 9215, S.H. 1733, S.H. 1733A, S.H. 1965, S.H. 1626), Towns of Cheektowaga and West Seneca, Erie County, PIN 5131.41, D265088 (the “Project”); and

WHEREAS, on February 10, 2022, the Erie County Water Authority (the “Authority”) awarded a Professional Services Agreement to Greenman-Pederson for the design of improvements to the water distribution system along the Union Road Corridor in the Towns of Cheektowaga and West Seneca; and

WHEREAS, the design is nearing completion with the construction schedule yet to be determined based on budget considerations; and

WHEREAS, the Authority’s Engineering Department identified a section of the project that would be well suited to be completed by the NYSDOT as betterment work; and

WHEREAS, the Authority approves the plans of this betterment work and desires to have this work included with the Project; and

WHEREAS, State of New York (the “State”) has estimated the cost of the betterment work and has agreed to include this betterment work with the Project identified above provided the Authority agrees to pay the cost of such betterment;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority approves the cost estimate of the Project to be performed by the State; and be it further

RESOLVED: That the Authority shall maintain or cause to be maintained such highway betterment; and be it further

RESOLVED: That the Authority will deposit with the State Comptroller in a project escrow account the full amount of the estimate for the cost of the betterment for payments by the State Comptroller for the municipal work prior to contract letting; and be it further

RESOLVED: The Authority will also deposit with the State Comptroller in a project

escrow account the full amount of the contract bid price for the cost of the betterment (less any amounts already deposited for purposes thereof) for payments by the Comptroller on account of Project costs within ten days after the lowest-bidder or best-value proposer eligible for award has been identified; and be it further

RESOLVED: In the event the cost exceeds the amount of the deposit the Authority shall within 90 days of the receipt of notice from the Commissioner pay the amount of such deficiency to the State Comptroller; and any excess of the deposit shall be paid to the Authority on the warrant of the State Comptroller on vouchers approved by the Commissioner after project close out; and be it further

RESOLVED: That the Authority hereby authorizes the Chairman to enter into an agreement with the State of New York and through the Commissioner of Transportation to commit the Authority to maintain at its own expense the betterment on the above-referenced project; and that such agreement provides that maintenance shall include the repair and replacement of equipment and the operation of such betterment; and be it further

RESOLVED: That the Chairman has the authority to sign, with the concurrence of the Authority, any and all documentation that may become necessary as a result of this project as it relates to the Authority; and be it further

RESOLVED: That the Secretary to the Authority is hereby directed to transmit five certified copies of the foregoing resolution to Regional Utility Engineer Unit, New York State Department of Transportation – Region 5, 100 Seneca Street, Buffalo, New York, 14203.

A motion was made by Ms. LaGree, seconded by Ms. Iannello and carried to adopt the foregoing resolution.



November 20, 2023

Leonard F. Kowalski, P.E., Executive Engineer
Erie County Water Authority
3030 Union Road
Cheektowaga, New York 14227

**RE: NY ROUTE 277 (UNION RD) WOODWARD DRIVE TO WALDEN AVENUE,
PAVEMENT REHABILITATION WITH SIGNALS, SIGNS, CURB RAMPS,
DRAINAGE REPAIRS, INTERSECTION IMPROVEMENTS, AND
LARGE CULVERT REHABILITATION
TOWNS OF CHEEKTOWAGA & WEST SENECA,
ERIE COUNTY
PIN 5131.41, D265088**

Dear Mr. Kowalski:

Subject: Betterment Share Price Increase and Utility Work Agreement

Erie County Water Authority has proposed a betterment be included in the subject project. Erie County Water Authority's betterment work consists of retiring-in-place the existing 16" water main and transfer all existing services, including hydrants, to the 20" water main. The details of the betterment adjustments are shown in the project plans that accompany this letter.

This letter is notice that the betterment share bid price for the betterment work to be done in the subject project is greater than the design deposit estimate currently in the betterment's escrow account. The betterment share bid price is **\$399,192.16** which exceeds the approved estimate of **\$381,500.00**. **Expenses for the requested betterment work included in the State's contract and performed by the State's contractor are the sole responsibility of Erie County Water Authority.**

Accompanying this letter is the bid prices for your betterment share. For your information a copy of the approved Betterment Request package has been included with this letter.

Also accompanying this letter is the Utility Work Agreement (HC-140) BET package for your approval. See the enclosure list for the package contents. The Utility Work Agreement identifies adjustments to Erie County Water Authority's facilities for the subject project.

Review and approve the documents. An authorized representative of Erie County water Authority is required for the approval to be valid. Please see the "Sign Here" tab(s). Sign with ink only.

Leonard F. Kowalski, P.E., Executive Engineer
PIN 5131.41, D265088
November 20, 2023
Page 2 of 2

Please make a deposit of **\$17,692.16** to the State of New York Comptroller for the increase in the cost of the betterment share over the design deposit estimate. **Payment is required by December 22, 2023.** For payment instructions see "Guidance for Betterment Deposit Payment" included in this package.

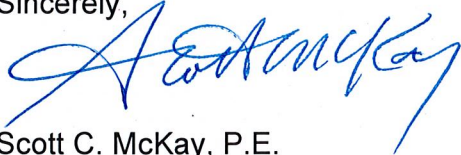
Return the entire document package **no later than December 04, 2023.** The document package contents can be found at the end of this letter in the enclosure list. A hard copy may be return by USPS to:

Regional Utility Unit
NYSDOT – Region 5
100 Seneca Street
Buffalo, New York 14203.

Or the documents can be scanned at 300 dpi and returned to Utility.Unit.R05@dot.ny.gov and cc Austin.Pilley@dot.ny.gov . One (1) copy of the executed document package will be returned to you for your records.

Any questions regarding the work to be done can be directed to Mohammad Haque, Design Job Manager (DJM), at (716) 847-7953 or via e-mail at Mohammad.Haque3@dot.ny.gov. Questions regarding these forms can be directed to Ms. Ellen Carl, Assistant Regional Utility Engineer, at (716) 847-3572 or via e-mail at Ellen.Carl@dot.ny.gov.

Sincerely,



Scott C. McKay, P.E.
Assistant Regional Design Engineer
SCM/EJSC/AJP

Enclosures:

Documents to be returned:

- Utility Work Agreement (HC-140) BET
- Coordination with the Utility Schedule Note

Information sheets for you to keep:

- Project Plans,
- Copy of the current Certified Resolution
- Copy of the approved Betterment Request: Betterment Worksheet and Design Deposit Estimate
- Copy of the Schedule A
- Betterment Payment Guidance.

**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.: 5131.41	F.A. Project No.:
ROW Declaration No.:	Map Nos.:
Parcel Nos.:	County of Erie
Contract No.: D265088	

Project Description: **NY ROUTE 277 (UNION RD) WOODWARD DRIVE TO WALDEN AVENUE, PAVEMENT REHABILITATION WITH SIGNALS, SIGNS, CURB RAMPS, DRAINAGE REPAIRS, INTERSECTION IMPROVEMENTS, AND LARGE CULVERT REHABILITATION TOWNS OF CHEEKTOWAGA & WEST SENECA, ERIE COUNTY**

Betterment prior to Letting

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.)

Erie County Water Authority has two existing waterlines (16" and 20") within the highway boundary of NY 277 (Union Road), between William Street and Bennet Road.

presently located on **New York State Right-of-Way** as shown on the plans for the proposed transportation project are to be adjusted as follows: (describe type, size, capacity, location, etc.)

1. Retire-in-Place the existing 16" water main.
2. Transfer all existing services, including hydrants, to the 20" water main.

per contract documents

for an estimated **\$399,192.16** Betterment Share Bid Price

\$381,500.00 was the Betterment Share Design Deposit Estimate. A difference of \$17,692.16.

**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:

**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):

- Contract let by the Commissioner.
- 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.

IV. Betterment, Salvage, and Depreciation Credits Due the Project (check appropriate boxes):

- 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: as discussed on page 1 of this agreement under Section 1.

- 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 **\$399,192.16** 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 be reference (check appropriate boxes)

Federal Highway Administration's Federal-Aid Policy Guide Part 645.

Contract documents: Contract Number: D265088

PIN: 5131.41

Plan Sheets No.: Electronic copy of the proposed contract plans

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.

(Print/Type Name) Owner or Agent (Signature) Title Date

Sherman Lane Statewide Utility Engineer Title Date
For the NYSDOT Commissioner of Transportation

SPECIAL NOTE**COORDINATION WITH THE UTILITY SCHEDULE**

The contractor must coordinate their schedule of operations with the various stakeholders involved with the project and shall verify facility information found in the contract documents. Facility adjustments required by the various stakeholders in connection with this project include:

The Erie County Water Authority**Stakeholder's Field Contact:**

Michael Quinn, Sr. Distribution Engineer
Erie County Water Authority
3030 Union Road
Cheektowaga, NY 14227-1097
O: (716) 685-8203
C: (716) 392-1758
mquinn@ecwa.org

Erie County Water Authority has requested a betterment be incorporated into the State's capital project. The work is to be done by the State's contractor and paid for by Erie County Water Authority

Erie County Water Authority has existing facilities at this location:

Erie County Water Authority has two existing waterlines (16" and 20") within the highway boundary of NY 277 (Union Road), between William Street and Bennet Road.

Betterment work to be done by the State's contractor:

The project includes the following betterment work to be done, per details in the contract documents:

1. Retire-in-Place the existing 16" water main.
2. Transfer all existing services, including hydrants, to the 20" water main.

Erie County Water Authority has the option to monitor and inspect their existing facilities and the adjustments made to those facilities for the duration the State's contractor is performing work on the facilities specified above.

The State's Engineer-In-Charge, in coordination with the State's contractor, shall notify Erie County Water Authority in writing 2 weeks before commencing work on Erie County

**NEW YORK STATE DEPARTMENT OF TRANSPORTATION (NYDOT),
REGION 5
GUIDANCE FOR BETTERMENT DEPOSIT PAYMENT**

as of 2023 November 15, EJSC

Expenses for the requested betterment work included in the State’s contract and performed by the State’s contractor are the sole responsibility of stakeholder who requested the betterment.

Full payment for the Betterment Share Design Deposit Estimate must be received by the Office of the State Comptroller no later than ten (10) business days before letting. If the monies are not received by this date, the betterment share may be removed from the project. The monies may be sent to the State Comptroller any time after the betterment share estimate is agreed to. All received monies will be deposited into an escrow account and receive interest.

If the contract bid price for the cost of the betterment share exceeds the design deposit estimate, the difference must be paid to the comptroller within twenty-five (25) business days after letting. Notice of the need for additional deposit will be given. If the contract bid price for the cost of the betterment share is less than the deposit, the difference will remain in escrow. The balance will be reconciled upon completion of the project. If after completion of the project, if money is owed to the State, an invoice will be sent to the stakeholder for reimbursement. The invoice must be paid within ninety (90) days of the receipt of notice from the Commissioner of Transportation. Any remaining monies will be returned to the stakeholder.

Checks are to be made payable to “Comptroller, State of New York”. The correspondence should include the project title, the project identification number (PIN), contract number (D number), the stakeholder’s name and Federal Tax ID Number.

Checks are to be mailed to:

State of New York
Office of the State Comptroller Remittance Control Unit
110 State Street
2nd Floor Attn.: Remittance Control
Albany, New York 12236

A courtesy copy of the correspondence is to be sent to:

Regional Utility Unit
NYSDOT – Region 5
100 Seneca Street
Buffalo, New York 14203.

Questions regarding payment can be directed to Ms. Ellen Carl, Assistant Regional Utility Engineer, at (716) 847-3572 or via e-mail at Ellen.Carl@dot.ny.gov.

Water Authority's facilities.

The State's Engineer-In-Charge will provide record plans to Erie County Water Authority.

Additional Notes

1. The Contractor is governed by and must adhere to the provisions of 16 NYCRR Part 753 (Protection of Underground Facilities).
2. The Standard Specifications shall apply to all utility facility adjustments.
3. The State's contractor shall refer to the "User's Guide to Safe Excavation Practices in New York State" found at <https://udignny.org/resources/>
4. The State's contractor shall verify the stakeholder's facility information found in the details in the contract documents and provide any additional information as requested in the contract documents. The State's contractor shall notify the State's Engineer-In-Charge (EIC) of any discrepancies that are found.
5. If additional adjustments become necessary beyond those detailed in the contract documents, then additional adjustments and time frames shall be coordinated by the State's EIC. Such timeframes shall not be included within previously established time frames.

END OF COORDINATION WITH THE UTILITY SCHEDULE

Revised 2023 November 10 – EJSC, AJP