



TOWN OF WEST SENECA

MATTHEW D. ENGLISH
SUPERINTENDENT OF
HIGHWAY DEPARTMENT

TOWN SUPERVISOR
SHEILA M. MEEGAN
TOWN COUNCIL
EUGENE P. HART
JOHN M. RUSINSKI

April 11, 2012

To: Honorable Town Board

From: Matthew D. English

Re: ADA Compliance Project SFY 2011/2012
Utility Work Agreement on State Highways

Dear Honorable Town Board Members:

Kindly approve the attached agreement between the Town and New York State Department of Transportation (NYSDOT) regarding utility work on State highways and authorize the Supervisor to sign the necessary form.

The agreement allows the NYSDOT to reimburse the Town for the light pole removal and light fixture relocation at the corner of Seneca Street and Wildwood Avenue.

Sincerely,

Matthew D. English
Superintendent of Highways

Cc: S. Martin (w/attach.)
R. Henry (w/attach.)
File (w/attach.)



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NEW YORK STATE DEPARTMENT OF TRANSPORTATION REF. #9A
UTILITY WORK AGREEMENT

Since the construction, reconstruction, or maintenance of the transportation project described below, identified as:

Project Identification No.: 5808.25	F.A. Project No.:
ROW Declaration No.:	Map Nos.:
Parcel Nos.:	County of: Erie
Contract No.:	

Project Description: ADA Compliance Project SFY 2010/2011; Various Locations
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necessitates the adjustment of utility facilities as hereinafter described, the owner, **Town of West Seneca**, 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.)

West Seneca: Seneca St. & Wildwood Ave. – Pole with luminaire

presently located on **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.)

Remove pole and relocate luminaire to signal pole in NE quad of Seneca & Wildwood intersection

for an estimated \$ 987.60

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 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:

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:
- 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.

VI. References

The following documents are herewith incorporated in this agreement by reference (check appropriate boxes)

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

X Contract documents : Contract number D0261805
PIN 5808.25
Plan sheets No. _____

X Owner's plan sheets _____

X 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.

X Certification by the owner or his agent that he has the legal authority to enter into this agreement.

Steven R. Tenner, P.E. [Signature] Town Engineer 4/4/12
(Print/Type Name) Owner of Agent (Signature) Title Date

_____ Main Office Utilities Engineer _____
For NYSDOT Commissioner of Transportation Title Date