

AMENDMENT NO. 2

AMENDMENT NO. 2 made this ___ day of October, 2018, by and between

ERIE COUNTY WATER AUTHORITY

295 Main Street, Room 350
Buffalo, New York 14202-2494

a public benefit corporation hereinafter referred to as the “Authority,” and

TOWN BOARD OF THE TOWN OF BENNINGTON

905 Old Alleghany Road
Attica, New York 14011

a municipal corporation hereinafter referred as the “Town,”

WHEREAS, the Authority and the Town, acting as Water Commissioners on behalf of the duly constituted Cowlesville Water District of the Town of Bennington, County of Wyoming and State of New York, entered into a Bulk Sales Agreement on June 21, 2006; and

WHEREAS, on or about July 7, 2011, the Authority and the Town amended the Bulk Sales Agreement, extending its terms until July 7, 2021; and

WHEREAS, pursuant to the Bulk Sales Agreement, as amended, the parties agreed water supplied by the Authority would not be sold, furnished or supplied to any person or corporation, outside of the territorial limits of the Town and Cowlesville Water District, without the express written permission of the Authority; and

WHEREAS, pursuant to the Bulk Sales Agreement, as amended, the Town agreed “any additional extension . . . beyond its present territorial limits leading to the service of water by the Town to a new area represents a modification of this [Bulk Sales Agreement] and required both the consent of the Authority and an addendum to the contract; and

WHEREAS, on October 13, 2017, the Town Supervisor sent a letter to the Authority, requesting a second amendment to the Bulk Sales Agreement allowing the Town to supply water to the Highland Glens community, an area outside of the territorial limits of the Cowlesville Water District; and

WHEREAS, Highland Glens, Inc. operates a community water district, whose operations are overseen by the Public Service Commission, and which currently supplies water to the Highland Glen community from eight public wells; and

WHEREAS, the shares of Highland Glens, Inc. are owned by residents of the Highland Glens community; and

WHEREAS, the Authority has the capacity to supply 10,000 gpd of additional water to the Town;

NOW, THEREFORE, in consideration of the mutual covenants herein set forth, the parties agree as follow:

1. The Authority and the Town agree to amend the Bulk Sales Agreement allowing the Town to supply water to the Highland Glen community;
2. The Town shall provide the Authority with a certified copy of the Town Board resolution authorizing this Amendment No. 2;
3. This Amendment No. 2 is subject to all provisions, rules and regulations of the Authority Tariff, as it may be amended from time to time
4. The parties agree the Bulk Sales Agreement shall be extended and will remain in full force and effect until October 4, 2028, subject to further extension as mutually agreed upon by both parties.

IN WITNESS WHEREOF, the respective parties hereto set their hands and seal the day and year first above written.

ERIE COUNTY WATER AUTHORITY

By _____
Jerome D. Schad, Chairman

TOWN BOARD OF THE TOWN OF BENNINGTON

By _____
Ellen M. Grant, Supervisor

STATE OF YORK)
COUNTY OF ERIE) ss:

On the ___ day of October, in the year 2018, before me personally came Jerome D. Schad, to me known, who, being by me duly sworn, did depose and say that he resides in the Town of Amherst, New York, that he is the Chairman of the Board of Commissioners for the Erie County Water Authority described in the above instrument, and he signed his name thereto by the authorization of the Board of Commissioners for the Erie County Water Authority.

Notary Public

STATE OF YORK)
COUNTY OF WYOMING) ss:

On the ___ day of October, in the year 2018, before me personally came Ellen M. Grant, to me known, who, being by me duly sworn, did depose and say that she resides in the Town of Bennington, New York, that she is the Supervisor of the Town of Bennington, County of Wyoming and State of New York described in the above instrument, and she signed her name thereto by the authorization of the Town Board for the Town of Bennington.

Notary Public