

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

Contract: _____	Project No.: _____
Project Description:	Authorization to Settle with New York State for damage caused by Department of Transportation - Claim 2017-053

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>Stipulation of Settlement and Discontinuance</u>			

Action Requested:

<input checked="" type="checkbox"/> Board Authorization to Execute	<input type="checkbox"/> Legal Approval
<input type="checkbox"/> Board Authorization to Award	<input 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 checked="" type="checkbox"/> Other <u>Board Authorization to Approve and execute</u>	

Approvals Needed:

APPROVED AS TO CONTENT:

<input checked="" type="checkbox"/> General Counsel	<u>Margaret A. Murphy</u>	Date: <u>10/21/19</u>
<input checked="" type="checkbox"/> Chief Financial Officer	<u>Donna A. Pendergast</u>	Date: <u>10/21/19</u>
<input type="checkbox"/> Chief Operating Officer	_____	Date: _____
<input type="checkbox"/> Risk Manager	_____	Date: _____

APPROVED AS TO FORM AND SUBSTANCE:

<input checked="" type="checkbox"/> Legal	<u>Margaret A. Murphy</u>	Date: <u>10/21/19</u>
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APPROVED FOR BOARD RESOLUTION:

<input checked="" type="checkbox"/> Secretary to the Authority	<u>[Signature]</u>	Date: <u>10/23/19</u>
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Remarks: _____

Resolution Date:	October 31, 2019	Item No.: _____
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STATE OF NEW YORK :

COURT OF CLAIMS

ERIE COUNTY WATER AUTHORITY

Claimant,

**STIPULATION OF
SETTLEMENT &
DISCONTINUANCE**

-against-

CLAIM NO. 131642

STATE OF NEW YORK

JUDGE MICHAEL E. HUDSON

Defendant.

WHEREAS, the parties hereto have agreed to settle this claim pursuant to the provisions of Section 20-a of the Court of Claims Act; and

WHEREAS, no party hereto is an infant or incompetent person for whom a committee has been appointed, and no person not a party has an interest in the subject matter of the above-entitled action and the same hereby is discontinued on the merits, with prejudice, without costs to either party as against the other; and

WHEREAS, the **NEW YORK STATE DEPARTMENT OF TRANSPORTATION**, as the Agency having supervision of the officers or employees alleged to have caused the injuries herein, has approved settlement of the claim under the terms and conditions set forth below; and

WHEREAS, the parties hereto have entered into this Stipulation of Settlement and Discontinuance, in connection with the settlement of this action; and

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, the attorneys of record for all of the parties in the above-entitled action as follows:

1. That no person not a party has an interest in the subject matter, the above-entitled action be, and the same hereby is, settled upon payment of the sum of **TWELVE THOUSAND AND FIVE HUNDRED DOLLARS (\$12,500.00)**, discontinued with prejudice pursuant to Section 20-a of the Court of Claims Act. Payment shall be made by check payable to the order of the claimant, **ERIE COUNTY WATER AUTHORITY** in the sum of **TWELVE THOUSAND AND FIVE HUNDRED DOLLARS (\$12,500.00)** and sent to the claimant's attorney, **Timothy D. Gallagher, Esq., at 295 Main Street, Suite 350, Buffalo, New York 14203.**

2. The payment of the amounts referenced in paragraph 1 hereto will be made in accordance with the provisions of CPLR5003-a(c) after the approval of this Stipulation of Settlement by the Court and receipt by defendant's counsel of a copy of the so-ordered stipulation along with any other documents as required under paragraphs 7 and 8 hereof. Furthermore, if the payment hereunder constitutes "funds of a convicted person" under Executive Law § 632-a, the payment period shall be extended by an additional thirty (30) days to allow for compliance with that law.

3. That each party shall bear its own costs and fees relating to this proceeding and the costs and fees shall be hereby waived by the parties against each other.

4. That the claimant shall execute a full Release to the defendant, **STATE OF NEW YORK and NEW YORK STATE DEPARTMENT OF TRANSPORTATION.**

5. I, the attorney, for the claimant do hereby release and waive our lien for services upon the above-named claimant's causes of action, claim, verdict, report, judgment, determination, or settlement in favor of said claimants which we have thereon under and by virtue of Section 475 of the Judiciary Law or otherwise.

6. I, the attorney for the claimant, do further represent that there are no other attorneys having a lien for services rendered to claimant's pursuant to the provisions of Section 475 of the Judiciary Law or otherwise.

7. Claimant represents the damages are for property damage only and further warrants the claim was for property damage only. Claimant, Erie County Water Authority is a public entity and not a Medicare recipient, and/or Medicare eligible, has never been on Medicare or Social Security Disability Insurance (SSDI) that no conditional payments have been made on the Authority's behalf by Medicare, and further that it does not expect to be Medicare eligible and/or a recipient within the next thirty (30) months of this settlement.

8. That claimant agrees that the **STATE OF NEW YORK** and **NEW YORK STATE DEPARTMENT OF TRANSPORTATION** shall not be responsible for any liens of any kind which may have attached to the proceeds from this settlement and further that claimant **ERIE COUNTY WATER AUTHORITY** and their attorney agrees that he will defend, indemnify and hold harmless the **STATE OF NEW YORK** and **NEW YORK STATE DEPARTMENT OF TRANSPORTATION**, its officers, agents and employees for the satisfaction of any such liens.

9. In confirmation of the agreement herein, the undersigned attorney for the parties to this action set their signatures below.

Dated: October , 2019
Buffalo, New York

ERIE COUNTY WATER AUTHORITY
295 Main Street, Suite 350
Buffalo, New York 14202

By: _____
JEROME D. SCHAD, Chairman

Dated: _____, 2019
Buffalo, New York

LETITIA JAMES
Attorney General of the
State of New York
Attorney for the Defendant
New York State Office of the
Attorney General
Main Place Tower
350 Main Street, Suite 300A

By: _____
WENDY E. MORCIO
Assistant Attorney General

APPROVED AND
SO ORDERED:

HON. MICHAEL E. HUDSON
Judge of the Court of Claims

Dated: _____, 2019
Buffalo, New York

STATE OF NEW YORK :

COURT OF CLAIMS

ERIE COUNTY WATER AUTHORITY

Claimant,

RELEASE

-against-

CLAIM NO. 131642

STATE OF NEW YORK

Defendant.

(THIS RELEASE WILL NOT BECOME BINDING UPON
CLAIMANT(S) UNTIL CLAIM IS APPROVED AND PAID)

I _____, am the _____ and the undersigned on behalf of the **ERIE COUNTY WATER AUTHORITY**, in consideration of the sum of **TWELVE THOUSAND AND FIVE HUNDRED DOLLARS (\$12,500.00)** to me in hand, paid by the **STATE OF NEW YORK**, the receipt whereof is hereby acknowledged, do for myself, my heirs, executors, administrators and assigns, release and discharge the **STATE OF NEW YORK, and NEW YORK STATE DEPARTMENT OF TRANSPORTATION**, its officers, agents and employees, from all claims, demands and liability of every kind and nature, legal or equitable, occasioned by or arising out of the facts set forth in the foregoing claim, and in case any claim shall have been filed by me with the Clerk of the Court of Claims for said damages at any time prior to the date of this release. I consent and stipulate, that an order may be made by the Court of Claims without notice to me dismissing said claim upon the merits.

Payment is to be made to the order of the claimant, **ERIE COUNTY WATER AUTHORITY** in the sum of **TWELVE THOUSAND AND FIVE HUNDRED DOLLARS (\$12,500.00)** sent to the Claimants' attorney, **Timothy D. Gallagher, Esq. located at 295 Main Street, Suite 350, Buffalo, New York 14203.**

IN WITNESS WHEREOF, I have hereunto set my hand and seal this ____ day of
October 2019.

ERIE COUNTY WATER AUTHORITY

Jerome D. Schad, Chairman

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

On this ___ day of _____, 2019, 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 Chairman of the ERIE COUNTY WATER AUTHORITY, the corporation named in the foregoing indenture; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by a duly adopted resolution of the said Authority and that he signed his name thereto by like resolution.

Notary Public - State of New York