



ERIE COUNTY WATER AUTHORITY

INTEROFFICE MEMORANDUM

March 11, 2022

To: Terrence D. McCracken, Secretary to the Authority

From: Mark D. Jarmuz, Distribution Engineer *MJ*

Subject: On Call Repair Services Watermains and Related Facilities
September 1, 2019 through August 31, 2021
ECWA Project No. 201900083

The following documents are attached for processing of the Final Pay Application for the above referenced project.

- Blue Authorization Form - this form provides the project name and project number, the action that is being requested of the Board, and it provides a list of approvals that are required prior to being acted on by the Board.
- ECWA Final Payment Application Checklist and Packet.

The checklist indicates that the contractor, Russo Development, Inc., has provided all the proper documentation to close out the contract, including the required WMBE Utilization Report – Part D and Final Certified Payrolls, which were already reviewed and approved by Director of EEO (ECWA). The entire Final Pay Application package has to be reviewed by Risk Manager and Legal Department prior to Board action.

The amount certified for Final Payment is \$121,233.99 and includes all the previous retainage. The project was billed to Unit 2010 Line Maintenance - Item 15 and retention was withheld from progress payments per the contract requirements. The retention will be paid from the following budget line: General Ledger No 232003 Contract Retentions.

Attachment

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

Contract: 19-15-08 **Project No.:** 201900083
Project Description: On Call Repair Services Watermains and Related Facilities
September 1, 2019 through August 31, 2021

Item Description:








Agreement Professional Service Contract Amendment Change Order
 BCD NYSDOT Agreement Contract Documents Addendum
 Recommendation for Award of Contract Recommendation to Reject Bids
 Request for Proposals
 Other Final Pay Application

Action Requested:


Board Authorization to Execute Legal Approval
 Board Authorization to Award Execution by the Chairman
 Board Authorization to Advertise for Bids Execution by the Secretary to the Authority
 Board Authorization to Solicit Request for Proposals
 Other Board Approval

Approvals Needed:

APPROVED AS TO CONTENT:

Sr. Distribution Engineer  Date: 3/14/2022
 Chief Operating Officer  Date: 3/14/2022
 Executive Engineer  Date: 03/16/2022
 Director of Administration  Date: 03/14/2022
 Risk Manager  Date: 3/14/2022
 Chief Financial Officer  Date: 03/14/2022
 Legal  Date: 3/15/2022

APPROVED FOR BOARD RESOLUTION:

Secretary to the Authority  Date: 3-16-22

Remarks: Amount certified for Final Payment \$121,233.99

Resolution Date: _____ **Item No:** _____

Erie County Water Authority

Final Payment Application

CHECK LIST: Items to Accompany Final Payment Application

- 1. Blue Authorization Form
- 2. Statement by Consultant, if applicable, certifying that all work was performed in general conformance to plans and specifications and recommend that Final Payment be made. If no Consultant, ECWA Engineering should recommend the Final Payment be made.
- 3. Final Payment Application. The Amount Certified for Final Payment must be written on the Blue Authorization Form.

Insurance & Bond Requirements

- 4. Evidence that Insurance is in effect for two years. This is usually evident on the Certificates of Insurance that are issued. (Russo has current projects with ECWA – P202000017/P202100001/202100002)
- 5. Certification that Performance Bond is in effect for two years and Payment Bond is in effect for one year.

Release & AIA Forms

- 6. Form 507 Release by Corporation
- 7. AIA G706, Contractor's Affidavit of Payment of Debts and Claims
- 8. AIA G706A, Contractor's Affidavit of Release of Liens
- 9. AIA G707, Consent of Surety to Final Payment

EEO Requirements

- 10. M/WBE Utilization Report – Part D
- 11. Final Certified Payrolls (Previously submitted)

DISTRIBUTION:

To Accounts Payable

- After the Final Payment Application has been approved by the ECWA Board of Commissioners, a PDF copy can be emailed to accountspayable@ECWA.org

To ECWA Engineering

- A hard copy of the entire Final Payment Application should be placed in the files.
- A PDF copy of the Final Payment Application should be saved to the appropriate project folder on the network.

EEO:

- M/WBE Part D
- Certified Payrolls



ERIE COUNTY WATER AUTHORITY

3030 Union Road • Cheektowaga, New York 14227-1097
716-684-1510 • FAX 716-684-3937

January 25, 2022

Mr. Steven Leitten, Project Manager
Russo Development, Inc.
3710 Milestrip Road
Blasdell, New York 14219

Re: On Call Repair Services Watermains and
Related Facilities
September 1, 2019 through August 31, 2021
ECWA Project No. 201900083

Dear Mr. Leitten:

Please be advised that all work on the above referenced project has been completed in general conformance with the requirements of the Contract Documents. The final contract value is \$2,424,678.53 of which \$2,303,444.54 in payments have been previously made to you. The balance due is \$121,233.99, which is return of retention monies previously withheld and for work not previously paid.

Enclosed please find Estimate No. 25 and Final in the amount of \$121,233.99. Please sign and return this to our office for further processing. Please note that we also request the following:

1. Evidence the surety bond remains in effect throughout the warranty period. This shall be on the surety's or surety agent's letterhead. This is in accordance with Article 5.01 of the General Conditions, modified by 5.01A of the Supplementary Conditions, which states the payment bond shall remain in effect for one year and the performance bond shall remain in effect for two years after final payment becomes due. The bond shall be in the amount of \$2,424,678.53.

The surety or surety agent shall include the following statement in their letter:

Be advised that, in accordance with Article 5.01 of the General Conditions, modified by 5.01A of the Supplementary Conditions, the performance bond for the above captioned project will remain in full force and effect for two (2) years after final acceptance and the payment bond will remain in effect for one (1) year after the date of final acceptance.

2. As required per the Contract Documents, please furnish the following:
 - a. A general release (copy attached for your use, Form 507).
 - b. Evidence that all payrolls, amounts due to sub-contractors, etc. have been paid. Utilize AIA Form G706.

The following statement shall be included on the AIA Form G706:

The undersigned hereby certifies that, except as listed below, payment has been made in full and all obligations have otherwise been satisfied for all materials and equipment furnished, for all work, labor, and services performed, and for all known indebtedness and claims against the Contractor for damages arising in any manner in connection with the performance of the Contract referenced above for which the Owner or Owner's property might in any way be held responsible or encumbered.

In the event that the Contractor takes no exceptions, it should be stated in the space provided.

- c. A statement that all bills for labor and materials have been paid. Utilize AIA Form G706A.

The following statement shall be included on the AIA Form G706A:

The undersigned hereby certifies that to the best of the undersigned's knowledge, information and belief, except as listed below, the Releases or Waivers of Lien attached hereto include the Contractor, all Subcontractors, all suppliers of materials and equipment, and all performers of Work, labor or services who have or may have liens or encumbrances or the right to assert liens or encumbrances against any property of the Owner arising in any manner out of the performance of the Contract referenced above.

In the event that the Contractor takes no exceptions, it should be stated in the space provided.

- d. Consent of Surety to Final Payment. Utilize AIA Form G707.
- e. Copies of certified payrolls.
- f. Part D of the MWBE, and proof of payment to all MWBE's.

Upon receipt of all the above documentation, we will process the final payment application. If you have any questions, please do not hesitate to call.

Sincerely yours,
ERIE COUNTY WATER AUTHORITY



Mark D. Jarmuz
Distribution Engineer

Attachment



WORLD WIDE BONDING AGENCY

2846 WILLIAM STREET BUFFALO NEW YORK 14227
PH 888-681-7685 ~ FAX 716-681-7683
www.wwbagency.com

January 31st, 2022

Russo Development, Inc.
3710 Milestrip Road
Blasdell, NY 14219

RE: On Call Repair Services Watermains and Related Facilities September 1, 2019 through August 31, 2021 ECWA Project No. 201900083 Bond #EAIC177000015

To Whom it may concern,

In regards to the captioned performance bond #EAIC177000015, be advised that, in accordance with Article 5.01 of the General Conditions, modified by 5.01A of the Supplementary Conditions, the performance bond for the above captioned project will remain in full force and effect for two (2) years after final acceptance and the payment bond will remain in effect for one (1) year after the date of final completion.

Sincerely,



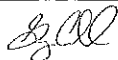
Gary A. Cardinale

Attorney-In-Fact/Endurance American Insurance Company
President/World Wide Agent Services, Inc. d/b/a World Wide Bonding Agency

The content above has been reviewed by:



Gary A Cardinale, President
World Wide Bonding Agency
Work Phone: Toll Free (888)-681-7685
Cell Phone: (716)-583-3968
gary@wwbagency.com



Independent Insurance Agent

*To all to Whom these Presents Shall Come,
or may concern*

Greeting: Know Ye, That Russo Development, Inc.

3710 Milestrip Road

Blasdell, New York 14219

NAME AND ADDRESS OF CORPORATION

For and in consideration of the sum of Two Million Four Hundred Twenty Four
Thousand Six Hundred Seventy Eight and 53/100 dollars

(\$ 2,424,678.53),

*lawful money of the United States of America to its duly authorized officer in hand paid by the
Erie County Water Authority,*

*the receipt whereof is hereby acknowledged, has remised, released, and forever discharged, and by
these presents does for itself, its successors and assigns, remise, release and forever discharge the
said **Erie County Water Authority,***

*heirs, executors, administrators, successors and assigns, of and from all, and all manner of action
and actions cause and causes of action, suits, debts, dues, sums of money, accounts, reckoning,
bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances,
trespasses, damages, judgments, extents, executions, claims and demands whatsoever, in law or in
equity, which against the said:*

Russo Development, Inc.

(NAME OF CORPORATION)

*ever had, now has or which it or its successors or assigns, hereafter can, shall or may have for, upon
or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of
the date of these presents.*

In Presence of

in witness Whereof, the

RUSSO DEVELOPMENT INC. has caused its

corporate seal to be hereunto affixed, and

these presents to be signed by its duly authorized

officer this 1st day of February

Two Thousand and 22

[Signature]

By JOSEPH L. RUSSO II

State of New York)

County of Erie ss.

_____ Of _____)

On this 1st day of February, Two Thousand and 22, before me personally came JOSEPH L. RUSSO II to

me personally known who, being by me duly sworn did depose and say that he/she resides in

HAMBURG that he/she is

the PRESIDENT of RUSSO DEVELOPMENT INC., the corporation

described in and which executed the above Instrument, that he/she knows the seal of said

corporation; that it was so affixed to said Instrument is such corporate seal; that it was so affixed by

order of the Board of Directors of said corporation, and he/she signed his/her name thereto by like

order.

[Signature]

Jennifer M Raduns
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01RA6414482
Qualified in Niagara County
Commission Expires 02/22/2025



AIA[®]

Document G706™ – 1994

Contractor's Affidavit of Payment of Debts and Claims

PROJECT: *(Name and address)*

ECWA Project No. 201900083
3030 Union Rd Buffalo NY 14227

ARCHITECT'S PROJECT NUMBER: 201900083

CONTRACT FOR: On Call Repair Services Watermains

OWNER

ARCHITECT

CONTRACTOR

TO OWNER: *(Name and address)*

Erie County Water Authority
3030 Union Rd
Buffalo, NY 14227

CONTRACT DATED: September 1, 2019

SURETY

OTHER

STATE OF: New York

COUNTY OF: Erie

The undersigned hereby certifies that, except as listed below, payment has been made in full and all obligations have otherwise been satisfied for all materials and equipment furnished, for all work, labor, and services performed, and for all known indebtedness and claims against the Contractor for damages arising in any manner in connection with the performance of the Contract referenced above for which the Owner or Owner's property might in any way be held responsible or encumbered.

EXCEPTIONS:

None

SUPPORTING DOCUMENTS ATTACHED HERETO:

- Consent of Surety to Final Payment. Whenever Surety is involved, Consent of Surety is required. AIA Document G707™, Consent of Surety, may be used for this purpose.

Indicate Attachment Yes No

The following supporting documents should be attached hereto if required by the Owner:

- Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
- Separate Releases or Waivers of Liens from Subcontractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.
- Contractor's Affidavit of Release of Liens (AIA Document G706A™).

CONTRACTOR: *(Name and address)*

Russo Development Inc
3710 Milestrip Rd
Blasdell, NY 14219

BY:

(Signature of authorized representative)

Joseph L. Russo II, President

(Printed name and title)

Subscribed and sworn to before me

on this date: February 1, 2022

Notary Public:

My Commission Expires:

NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01RA6414482
Qualified in Niagara County
Commission Expires 02/22/2025

Contractor's Affidavit of Release of Liens

PROJECT: <i>(Name and address)</i> ECWA Project No. 201900083 3030 Union Rd Buffalo NY 14227	ARCHITECT'S PROJECT NUMBER: 201900083	OWNER <input type="checkbox"/>
	CONTRACT FOR: On Call Repair Services Watermains	ARCHITECT <input type="checkbox"/>
		CONTRACTOR <input checked="" type="checkbox"/>
TO OWNER: <i>(Name and address)</i> Erie County Water Authority 3030 Union Rd Buffalo, NY 14227	CONTRACT DATED: September 1, 2019	SURETY <input type="checkbox"/>
		OTHER <input type="checkbox"/>

STATE OF: New York
COUNTY OF: Erie

The undersigned hereby certifies that to the best of the undersigned's knowledge, information and belief, except as listed below, the Releases or Waivers of Lien attached hereto include the Contractor, all Subcontractors, all suppliers of materials and equipment, and all performers of Work, labor or services who have or may have liens or encumbrances or the right to assert liens or encumbrances against any property of the Owner arising in any manner out of the performance of the Contract referenced above.

EXCEPTIONS:

None

SUPPORTING DOCUMENTS ATTACHED HERETO:

- Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
- Separate Releases or Waivers of Liens from Subcontractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.

CONTRACTOR: *(Name and address)*

Russo Development Inc
3710 Milestrip Rd
Blasdell, NY 14219

BY:



(Signature of authorized representative)

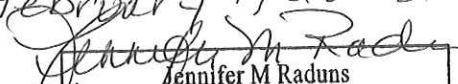
Joseph L. Russo II, President

(Printed name and title)

Subscribed and sworn to before me

on this date: February 1, 2022

Notary Public:



My Commission Expires:

NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01RA6414482
Qualified in Niagara County
Commission Expires 02/22/2025

AIA[®] Document G707[™] – 1994

Consent Of Surety to Final Payment

Bond No.: EAIC177000015

PROJECT: <i>(Name and address)</i> Erie County Water Authority on Call Repair Services Watermains and Related Facilities - September 1, 2019 through August 31, 2021 - ECWA Project No. 201900083	ARCHITECT'S PROJECT NUMBER: CONTRACT FOR: Construction	OWNER: <input checked="" type="checkbox"/> ARCHITECT: <input checked="" type="checkbox"/> CONTRACTOR: <input checked="" type="checkbox"/> SURETY: <input checked="" type="checkbox"/> OTHER: <input checked="" type="checkbox"/>
TO OWNER: <i>(Name and address)</i> Erie County Water Authority 295 Main Street, Room 350 Buffalo, NY 14203	CONTRACT DATED: 8/30/2019	

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the
(Insert name and address of Surety)

**ENDURANCE AMERICAN INSURANCE COMPANY
4 MANHATTANVILLE ROAD
PURCHASE, NY 10577**

, SURETY,

on bond of
(Insert name and address of Contractor)

**Russo Development, Inc.
3710 Milestrip Rd.
Blasdell, NY 14219**

, CONTRACTOR,

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the
Surety of any of its obligations to
(Insert name and address of Owner)

**Erie County Water Authority
295 Main Street, Room 350
Buffalo, NY 14203**

, OWNER,

as set forth in said Surety's bond.

IN WITNESS WHEREOF, the Surety has hereunto set its hand on this date: **January 31, 2022**
(Insert in writing the month followed by the numeric date and year.)

ENDURANCE AMERICAN INSURANCE COMPANY
(Surety)


(Signature of authorized Representative)

Gary A Cardinale, Attorney-in-Fact
(Printed name and title)

Attest:
(Seal): 
Joseph V Cardinale, witness

ACKNOWLEDGMENT OF PRINCIPAL

STATE OF _____)
) SS.:
COUNTY OF _____)

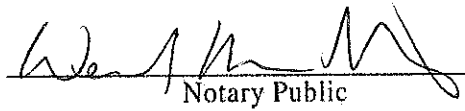
On the ____ day of _____ in the year ____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

ACKNOWLEDGMENT OF SURETY

STATE OF New York)
) SS.:
COUNTY OF Erie)

On the 31st day of January in the year 2022, before me, the undersigned, personally appeared Gary A. Cardinale, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

[Faint, illegible text, likely a notary seal or stamp]

POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS, that **Endurance Assurance Corporation**, a Delaware corporation, **Endurance American Insurance Company**, a Delaware corporation, **Lexon Insurance Company**, a Texas corporation, and/or **Bond Safeguard Insurance Company**, a South Dakota corporation, each, a "Company" and collectively, "**Sompo International**," do hereby constitute and appoint: **Gary A. Cardinale** as true and lawful Attorney(s)-in-Fact to make, execute, seal, and deliver for, and on its behalf as surely or co-surety; bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking so made, executed and delivered shall obligate the Company for any portion of the penal sum thereof in excess of the sum of **Forty Million Dollars (\$40,000,000.00)**.

Such bonds and undertakings for said purposes, when duly executed by said attorney(s)-in-fact, shall be binding upon the Company as fully and to the same extent as if signed by the President of the Company under its corporate seal attested by its Corporate Secretary.

This appointment is made under and by authority of certain resolutions adopted by the sole shareholder of each Company by unanimous written consent effective the 15th day of June, 2019, a copy of which appears below under the heading entitled "Certificate".

This Power of Attorney is signed and sealed by facsimile under and by authority of the following resolution adopted by the sole shareholder of each Company by unanimous written consent effective the 15th day of June, 2019 and said resolution has not since been revoked, amended or repealed:

RESOLVED, that the signature of an individual named above and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signature or seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, each Company has caused this instrument to be signed by the following officers, and its corporate seal to be affixed this 15th day of June, 2019.

Endurance Assurance Corporation
By: *Richard M Appel*
Richard Appel, SVP & Senior Counsel



Endurance American Insurance Company
By: *Richard M Appel*
Richard Appel, SVP & Senior Counsel



Lexon Insurance Company
By: *Richard M Appel*
Richard Appel, SVP & Senior Counsel



Bond Safeguard Insurance Company
By: *Richard M Appel*
Richard Appel, SVP & Senior Counsel



ACKNOWLEDGEMENT

On this 15th day of June, 2019, before me, personally came the above signatories known to me, who being duly sworn, did depose and say that he/she is an officer of each of the Companies; and that he executed said instrument on behalf of each Company by authority of his office under the bylaws of each Company.

By: *Amy Taylor*
Amy Taylor, Notary Public - My Commission Expires 5/9/23



CERTIFICATE

I, the undersigned Officer of each Company, DO HEREBY CERTIFY that:

1. That the original power of attorney of which the foregoing is a copy was duly executed on behalf of each Company and has not since been revoked, amended or modified; that the undersigned has compared the foregoing copy thereof with the original power of attorney, and that the same is a true and correct copy of the original power of attorney and of the whole thereof;
2. The following are resolutions which were adopted by the sole shareholder of each Company by unanimous written consent effective June 15, 2019 and said resolutions have not since been revoked, amended or modified:

"RESOLVED, that each of the individuals named below is authorized to make, execute, seal and deliver for and on behalf of the Company any and all bonds, undertakings or obligations in surety or co-surety with others: RICHARD M. APPEL, BRIAN J. BEGGS, CHRISTOPHER DONELAN, SHARON L. SIMS, CHRISTOPHER L. SPARRO, MARIANNE L. WILBERT

; and be it further

RESOLVED, that each of the individuals named above is authorized to appoint attorneys-in-fact for the purpose of making, executing, seating and delivering bonds, undertakings or obligations in surety or co-surety for and on behalf of the Company."

3. The undersigned further certifies that the above resolutions are true and correct copies of the resolutions as so recorded and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal this 31st day of January, 2022.

By: *Daniel S. Lurie*
Daniel S. Lurie, Secretary

NOTICE: U. S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC)

No coverage is provided by this Notice nor can it be construed to replace any provisions of any surety bond or other surety coverage provided. This Notice provides information concerning possible impact on your surety coverage due to directives issued by OFAC. Please read this Notice carefully.

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous foreign agents, front organizations, terrorists, terrorist organizations, and narcotics traffickers as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's website - <https://www.treasury.gov/resource-center/sanctions/SDN-List>.

In accordance with OFAC regulations, if it is determined that you or any other person or entity claiming the benefits of any coverage has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, any coverage will be considered a blocked or frozen contract and all provisions of any coverage provided are immediately subject to OFAC. When a surety bond or other form of surety coverage is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments may also apply.

Any reproductions are void.

Surety Claims Submission: LexonClaimAdministration@sompo-intl.com

Telephone: 615-553-9500 Mailing Address: Sompo International; 12890 Lebanon Road; Mount Juliet, TN 37122-2870

MINORITY BUSINESS ENTERPRISE UTILIZATION REPORT - PART D

FINAL CERTIFICATION OF EXPENDITURES TO MBE's

(to be completed by the prime CONTRACTOR and submitted with
the request for final payment)

CONTRACTOR: Russo Development Inc.

CONTRACT: On-Call Repair
#201900083

MBE	TOTAL AMOUNT EXPENDED
US Traffic Control	\$1,729.67


TOTAL OF ALL MBE
SUB-CONTRACTS \$ \$1,729.67

AMOUNT OF
CONTRACT \$2,424,678.53

FINAL MBE
PERCENTAGE 0.01%

I, Steven Leitten, as an official
representative of Russo Development Inc.,

do hereby certify that the information listed above is correct and complete.



 NAME
 Sr. Project Manager

 TITLE
 2/1/2022

 DATE