



ERIE COUNTY WATER AUTHORITY

INTEROFFICE MEMORANDUM

June 12, 2023

To: Terrence D. McCracken, Secretary to the Authority

From: Adam R. Massaro, Distribution Engineer *ARM*

Subject: Deer Springs Subdivisions Part 3 Phase 3
Town of Hamburg
ECWA File No.: BCD-22-01
EC #7260
ECWA Project No.: 202200068

The documents listed below have been reviewed and accepted by the Engineering Department and Legal Department, a part of the final Authority approval of the Builder-Contractor-Developer (BCD) watermain extension process. The above referenced project is located in a direct service area which requires the BCD process in order to design and construct a watermain extension that will be owned (direct service) by the ECWA. These documents are required by, and identified in, the BCD agreement previously executed by the developer and ECWA.

- ECWA Authorization Form
- Bill of Sale
- Schedule of Inventory
- Certificate of Construction Compliance
- Maintenance Bond
- Payment Bond

A resolution is requested for the final acceptance of the subject BCD project and adding it to the Authority's property records.

ARM:lal1

cc: L.Kowalski

M.Murphy

M.Quinn

J.Tomaka (w/Schedule of Inventory)

J.Brown (w/Schedule of Inventory)

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

Contract: BCD-22-01

Project No.: 202200068

Project Description: Install approximately 736 +/- LF of 8" PVC, two hydrants, two valves, and all necessary material for complete installation of Deer Springs Subdivision Part 3 Phase 3, Town of Hamburg

Item Description:



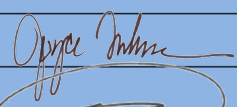

- | | | | |
|---|--|---|---------------------------------------|
| <input type="checkbox"/> Agreement | <input type="checkbox"/> Professional Service Contract | <input type="checkbox"/> Amendment | <input type="checkbox"/> Change Order |
| <input checked="" type="checkbox"/> BCD | <input type="checkbox"/> 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 type="checkbox"/> Other _____ | | | |

Action Requested:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Board Authorization to Execute | <input type="checkbox"/> Legal Approval |
| <input type="checkbox"/> Board Authorization to Award | <input checked="" 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 type="checkbox"/> Other _____ | |

Approvals Needed:

APPROVED AS TO CONTENT:

- | | | |
|---|---|-------------------------|
| <input checked="" type="checkbox"/> Sr. Distribution Engineer |  | Date: <u>7/10/2023</u> |
| <input type="checkbox"/> Chief Operating Officer | _____ | Date: _____ |
| <input checked="" type="checkbox"/> Executive Engineer |  | Date: <u>07/10/2023</u> |
| <input type="checkbox"/> Director of Administration | _____ | Date: _____ |
| <input type="checkbox"/> Risk Manager | _____ | Date: _____ |
| <input checked="" type="checkbox"/> Chief Financial Officer |  | Date: <u>07/10/2023</u> |
| <input checked="" type="checkbox"/> Legal |  | Date: <u>7/10/2023</u> |

APPROVED FOR BOARD RESOLUTION:

- | | | |
|--|--|------------------------|
| <input checked="" type="checkbox"/> Secretary to the Authority |  | Date: <u>7/10/2023</u> |
|--|--|------------------------|

Remarks: EC 7260

Resolution Date: _____

Item No: _____

**ERIE COUNTY WATER AUTHORITY
MAIN EXTENSION AGREEMENT
(Builder-Contractor-Developer)**

The **ERIE COUNTY WATER AUTHORITY**, a public benefit corporation created and existing under the laws of the State of New York, with its principal office at 295 Main Street, Room 350, Buffalo, New York, 14203, hereinafter called the "Authority", and **THE MARRANO/MARC-EQUITY CORPORATION**, 2730 Transit Road, West Seneca, New York 14224, (hereinafter "Developer - BCD Applicant) and **ON TRACK CONSTRUCTION**, 1553 Center Street, East Aurora, New York 14052, (hereinafter "Contractor - BCD Applicant," collectively with Developer-BCD Applicant as "BCD Applicants"). The BCD Applicants agree as follows:

1. This Agreement is made pursuant to Subdivision 10, Section 1054 of the Public Authorities Law and Title 10.00, "Extensions of Mains" of the Authority's Tariff.
2. The BCD Applicants desire to install water mains, hydrants and appurtenances as follows:

INSTALL approximately 736 +/- linear feet of 8" PVC water main in Deer Springs Subdivision Part 3, Phase 3, Town of Hamburg, under an Erie County Water Authority Builder, Contractor, Developer (BCD) Agreement.

INSTALL two (2) hydrants and two (2) line valves in Deer Springs Subdivision Part 3, Phase 3, Town of Hamburg, under an Erie County Water Authority Builder, Contractor, Developer (BCD) Agreement.

Pincherry Way

BEGINNING at the end of phase xx at approximate Station 10+50 along Pincherry Way, thence southerly and thence easterly approximately 736 +/- linear feet to connect into the end of phase xx at approximate Station 17+25 along Pincherry Way.

AS SHOWN and noted on William Schutt Associates drawing of Deer Springs Subdivision Part 3, Phase 3 dated February 28, 2022.

3. The BCD Applicants must be business entity registered with the New York Secretary of State to do business in the State of New York.
4. The BCD Applicants shall submit two (2) prints of subdivision drawings showing the proposed water main installation, hydrants, and appurtenances to the Authority's Plan Review Section for review. One (1) print will be returned either approved or marked for correction. If corrections are required, two (2) prints of the revised drawings shall be resubmitted to the Engineering Department for review and approval. The same procedure shall be followed until the drawings are approved.

5. If the Authority requires a main greater than eight (8") inches in diameter be installed in a subdivision for the Authority's convenience, the Authority will either install the main, or pay the BCD Applicants the cost difference between installing an eight (8") main and installing the larger main. If the Authority installs a main greater than eight (8") inches in diameter, the BCD Applicants will be required to pay the Authority only the cost for installing an eight-inch main. The Authority must receive payment in advance before the Authority will install any such main. This provision only applies when the Authority directs the installation of a main greater than 8" inches for reasons unrelated to the water needs and demands of the BCD Applicants' subdivision.
6. If the BCD Applicants require a main larger than an eight (8") inch to service the subdivision, the BCD Applicants shall install such main.
7. In the event a water main(s) is (are) required to reach the subdivision, the BCD Applicants will be required to submit a plan in compliance with provisions 10.02 through 10.10 of the Authority's Tariff subject to the approval of the Authority.
8. Vacant lots in new subdivisions which are to receive water service for an existing main appropriate to the service requested will not be included in this Main Extension Agreement. Applications for these services are to be made individually as each structure is erected. Those services will be installed by the Authority in accordance with the provisions of Section 4.00 of the Authority's Tariff in effect at the time the application is made.
9. After the Authority has approved the subdivision drawings, final approval of the subdivision drawings must be obtained from the town, city or other appropriate governmental body. Two reproducible approved drawings shall then be submitted to the Authority for signature of the Authority's Executive Engineer. Two reproducible signed drawings will be returned to the BCD Applicants upon execution of the Main Extension Agreement.
10. Prior to beginning installation of the water mains, hydrants and appurtenances, BCD Applicants shall provide the Authority with the following:
 - a. Names of all sub-contractor, if any, who will be installing water mains and appurtenances;
 - b. Shop drawings showing that all materials used in the construction of the water mains and appurtenances meet the Authority's specifications;
 - c. Name of engineer who will do the full-time inspection;
 - d. Five (5) days advance written notice of the starting date of construction;
 - e. A certified copy of the resolution of the town, city or other appropriate governing body authorizing and approving the installation of hydrants. Such

resolution shall set forth that the town, city or other appropriate governing body shall pay the annual rates for the hydrants to be installed as provided for in the Authority's Tariff.

11. The BCD Applicants shall arrange for water samples and bacterial tests to be taken and tested by an approved laboratory. The results shall be submitted to the Erie County Health Department for approval, and if all tests are satisfactory, the County Health Department shall submit a Certificate of Acceptance to the Authority.
12. Authority personnel shall direct the operation of valves on existing water mains during the required leakage and pressure tests and the disinfection of the water mains and appurtenances. If the mains and appurtenances should fail the pressure or leakage tests, the necessary corrective measures shall be taken, and the tests repeated until satisfactory results are obtained. Upon completion of these tests, the mains shall be shut off and not placed into service until the County Health Department issues a Certificate of Acceptance, all legal and administrative requirements have been satisfied, and the work has been accepted by resolution of the Authority. The Authority will then turn on the mains, which have been accepted by the Authority, and service can begin.
13. Within four (4) weeks of the date the Erie County Health Department Certificate of Acceptance is received, and prior to both acceptance by the Authority and the date water service is begun, BCD Applicants shall have the Contractor - BCD Applicant provide the Authority with the following:
 - a. Maintenance bond.
 - (1) A maintenance bond in form satisfactory to the Authority and issued by a carrier satisfactory to the Authority in an amount of one hundred (100%) percent of the actual construction cost of the water mains and appurtenances.
 - (2) Said bond shall cover a period of twenty-four (24) months following the completion of the installation of water mains and appurtenances. During this 24-month period, the Contractor – BCD Applicant agrees to maintain and repair the water mains and appurtenances accepted by the resolution of the Authority.
 - (3) The completion date shall be established as the date of the acceptance of the work by resolution of the Authority.
 - (4) If the Contractor – BCD Applicant defaults on its/his/her obligation, the Authority may seek to recover the cost of maintenance and repair from the carrier/surety of the maintenance bond.
 - b. Payment bond.
 - (1) A payment bond in form satisfactory to the Authority and issued by a

carrier satisfactory to the Authority in an amount of one hundred (100%) percent of the actual construction cost of the water mains and appurtenances.

- (2) The Contractor - BCD Applicant will provide said payment bond to insure all labor and materials supplied for the construction and installation of the water mains and appurtenances have been fully paid, ensuring the Authority accepts such water mains and appurtenances without liens or encumbrances.
 - (3) Said bond shall cover a period of twelve (12) months following completion of the installation of water mains and appurtenances.
 - (4) The completion date shall be established as the date of acceptance of the work by resolution of the Authority.
- c. The Authority may review and verify the actual construction cost of the mains and appurtenances. The actual cost will be used to determine the amount of the maintenance and payment bonds mentioned above, and for all other legal and administrative purposes. The actual cost shall include the furnishing and installing of the pipe, valves, hydrants, paving and other appurtenances required to be completed before the work is accepted by resolution of the Authority.
 - d. A statement, signed and sealed by the BCD Applicants' engineer, that all work involved in the installation of water mains and appurtenances was completed in accordance with drawings approved by the Authority and in accordance with the Authority's specifications, that all valves, hydrants and appurtenances are in satisfactory operating condition and that the BCD Applicants' engineer provided full time resident inspection of the work.
 - e. One (1) reproducible and electronic file AutoCad 2000 version on CD Rom or diskette record drawing, to a scale determined by the Authority, showing the constructed location of all mains with at least three readily identifiable ties to all fittings, valves and services. The record drawing shall be marked "As-Built" and bear the seal and license number of the BCD Applicants' engineer. The BCD Applicants' engineer shall certify by seal and signature that he has measured or has supervised the measurement of all dimensions shown on the "As-Built" drawing.
 - f. A cost estimate and bill of sale to the Authority for the water mains and appurtenances installed. A completed "Schedule of Inventory" shall be attached to bill of sale on the form provided by the Authority.
14. Water service connections will be installed by the Authority at the time requested by the BCD Applicants. The BCD Applicants shall make arrangements for the water service connection as well as meter installation and payment.

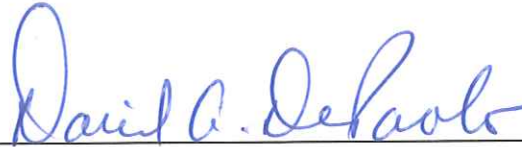
15. The BCD Applicants shall notify the Authority when customer service is desired at an individual premise so that a meter can be installed. If the BCD Applicants fail to notify the Authority that a meter should be installed, the BCD Applicants shall be required to pay three (3) times the monthly minimum charge for the size of meter to be installed for each month or part thereof that water has been used at the premise. This period of time will be calculated from the date of issue of the Certificate of Occupancy or the date of sale by the BCD Applicants of said premises, whichever is earlier, to the date the meter is installed. Meter installations will be in accordance with the provisions of Section 6.00 of the Authority's Tariff.
16. No hydrant shall be used for any purpose other than the extinguishing of fires, periodic tests of the fire protection system, or periodic drills by legally constituted fire companies, unless written authorization is given by the Authority. The Authority shall be notified in advance of the time of all tests and drills, so that if desired, the Authority may have a representative present.
17. At the completion of all the work, labor and service as well as installation of all materials and after all the conditions hereinabove set forth are complied with to the satisfaction of the Authority, the Authority agrees to accept said water mains, hydrants, services, and other appurtenances.
18. Title to all water mains, hydrants, services, and appurtenances shall vest in the Authority and the Authority shall provide service to BCD Applicants in the same manner as if the mains were originally installed by the Authority.
19. The Authority reserves the right at any time, without notice to shut off the water in its mains to make repairs, extensions or for other purposes, and it is expressly agreed that the Authority shall not be liable for deficiency or failure in the supply of water, water pressure or for any damage caused thereby or by the bursting or breaking of any main or service pipe or any attachment to the Authority's property, other than through the gross negligence of the Authority. In the interest of public health, the Authority will not permit its mains or services to be connected with any service pipe or piping which is connected with any other source of water supply not approved by the Department of Health of the State of New York.
20. It is mutually understood and agreed:
 - a. The mains laid or to be laid pursuant to this Agreement shall be and remain the property of the Authority, its successors and assigns, and the Authority retains and shall have the right to extend any mains installed by it pursuant to the terms of the Agreement in or to other lands, streets or avenues, but BCD Applicants shall not by reason thereof be entitled to any repayment.
 - b. Any authorized representative of the Authority shall have free access to the premises of the BCD Applicants at any reasonable time for the purpose of reading the meter or inspecting said construction.
 - c. Only a town, village or legally constituted water district is permitted to resell

water supplied by the Authority except as provided in Section 11.05 of the Authority's Tariff.

- d. Water Service may be disconnected for any of the reasons enumerated in the Authority's Tariff.
- e. This extension shall be made in accordance with provisions of the Authority's Tariff.


IN WITNESS WHEREOF, the parties hereto have duly caused their seals to be hereunto affixed and these presents to be signed by their duly authorized officers with the effective date of this Agreement to be the **18th** day of **August 2022**, the date of the Authority's resolution authorizing its execution.

THE MARRANO/MARC-EQUITY CORPORATION



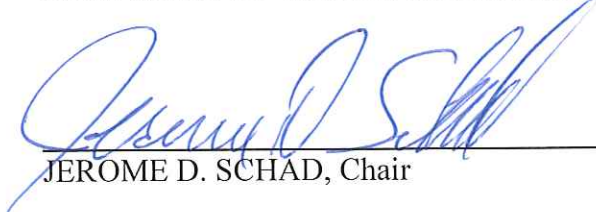
DAVID A. DEPAOLO, Executive Vice President

ON TRACK CONSTRUCTION



JESSE MILLEY, President

ERIE COUNTY WATER AUTHORITY



JEROME D. SCHAD, Chair

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

On this 26th day of August, 2022, before me personally came DAVID A. DEPAOLO, to me known, who being by me duly sworn, did depose and say that he/she resides at 249 San Fernando Ln. E. Amherst, NY; that he/she is Executive Vice President of THE MARRANO/MARC-EQUITY CORPORATION, the corporation described in, and which executed, the foregoing instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he/she signed his/her name thereto by like order.

Paula R. Grimm

Notary Public - State of New York

PAULA R. GRIMM
Notary Public, State of New York
No. 01GR6335890
Qualified in Erie County 2024
Commission Expires Jan. 19, 2024

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

On this 14TH day of SEPTEMBER, 2022, before me personally came JESSE MILLEY, to me known, who being by me duly sworn, did depose and say that he/she resides at 1553 Center Rd E. Aurora, NY; that he/she is President of ON TRACK CONSTRUCTION, the corporation described in, and which executed, the foregoing instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he/she signed his/her name thereto by like order.

Paula R. Grimm

Notary Public - State of New York

PAULA R. GRIMM
Notary Public, State of New York
No. 01GR6335890
Qualified in Erie County 2024
Commission Expires Jan. 19, 2024

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

On this 18th day of August, 2022, 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.

Patricia J Graffeo

Notary Public - State of New York

PATRICIA J GRAFFEO #01GR4957586
Notary Public, State of New York
Qualified in Erie County
My Commission Expires October 16, 2025

SCHEDULE OF INVENTORY TO BILL OF SALE

Erie County Water Authority
 350 Ellicott Square Building
 295 Main Street
 Buffalo, New York 14203

Date: February 28, 2023

This constitutes the schedule attached to a Bill of Sale to the Erie County Water Authority of All Water Mains and Appurtenances in the Subdivision known as:

Deer Springs Subdivision Part 3 Phase 3

and composed of the following inventory and cost to the Builder, Contractor, Developer, whose address is:

Marrano/Marc Equity Corp., 2730 Transit Rd. West Seneca, NY 14224

(Developer – BCD Applicant), and

On Track Construction, 1553 Center Street, East Aurora, NY 14052

(Contractor – BCD Applicant)

ITEM 1 - PIPE

<u>Length</u>	<u>Size</u>	<u>Material</u>	<u>Installed Cost</u>
731 LF	8"	PVC (AWWA C-900, DR-18)	\$66,521.00
16 LF	6"	DIP (CL 53)	\$2,632.00
		Total	\$69,153.00

ITEM 2 – HYDRANTS (Complete Assembly Including Valve Box)

<u>Quantity</u>	<u>Make and Type</u>	<u>Installed Cost</u>
2	KENNEDY GUARDIAN HYDRANTS	\$10,244.00
2	6" KENNEDY RESILIENT WEDGE VALVES	\$3,990.00
2	5/4", V620 BIBBY LAPERLE Valve Box	\$696.00
	Total	\$14,930.00

ITEM 3 – VALVES

A. Line Valves (Including Valve Boxes)

<u>Quantity</u>	<u>Make and Type</u>	<u>Size</u>	<u>Installed Cost</u>
2	KENNEDY RESILIENT WEDGE VALVES	8"	\$4,936.00
2	5¼", V620 BIBBY LAPERLE Valve Box	--	\$696.00
		Total	\$5,632.00

B. Tapping Sleeves and Valves (Including Valve Boxes)

<u>Quantity</u>	<u>Make and Type</u>	<u>Size</u>	<u>Installed Cost</u>

C. Tapping Saddles and Valves (Including Valve Boxes)

<u>Quantity</u>	<u>Make and Type</u>	<u>Size</u>	<u>Installed Cost</u>

ITEM 4 - DOMESTIC SERVICES

<u>Quantity</u>	<u>Size</u>	<u>Short</u>	<u>Long</u>	<u>Installed Cost</u>

ITEM 5 - FIRE SERVICES (Main to Property Line)


<u>Quantity</u>	<u>Size</u>	<u>Short</u>	<u>Long</u>	<u>Installed Cost</u>

ITEM 6 - MISCELLANEOUS (Paving, etc.; state other, if any)

Total Installation and Material Cost: \$89,715.00

* If more space is required, use additional sheets with particular items filled in and attach to original.

By: William E. Schutt, PE
Wm. Schutt Associates

Signed: 

Title: President



To: Members of the Authority.

I have reviewed the costs of figures provided, and find them reasonable and correct.

Signed: 
 Executive Engineer

Date: 06/29/2023

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, THAT

Marrano/Marc Equity Corporation, 2730 Transit Road, West Seneca, NY 14224 (the Developer - BCD Applicant) and On Track Construction, 1553 Center Street, East Aurora, NY 14054 (the Contractor- BCD Applicant)

party of the first part, for and in consideration of the sum of TWO AND 00/100 DOLLARS and other good and valuable consideration (\$2.00) lawful money of the United States, to the party of the first part in hand paid, by the **ERIE COUNTY WATER AUTHORITY, 350 Ellicott Square Building, 295 Main Street, Buffalo, New York 14203**, party of the second part, the receipt whereof is hereby acknowledged, has bargained and sold, and by these present does grant and convey unto the said party of the second part, the heirs, executors, administrators, successors and assigns thereof.

731 lf of 8-inch PVC (AWWA C-900, DR-18) waterline, 16 lf of 6-inch DIP (CL 53) waterline, two Kennedy Guardian Hydrants, two 6-inch Kennedy Resilient Wedge Valves with two 5 1/4-inch, V620 Bibby Laperle Valve Boxes and two 8-inch Kennedy Resilient Wedge Valves with two 5 1/4-inch, V620 Bibby Laperle Valve Boxes.

TO HAVE AND TO HOLD, the same unto the said party of the second part, the heirs, executors, administrators, successors and assigns thereof forever. And the party of the first part does covenant and agree to and with the said party of the second part, to **WARRANT AND DEFEND** the sale of the said goods and chattels hereby sold unto the said party of the second part, the heirs, executors, administrators, successors and assigns hereof, against all and every person and persons whosoever.

The party of the first part **FURTHER WARRANTS** that it is the sole and absolute owner of the property described in said Bill of Sale, and each and every part thereof, and it has the full right to sell and transfer the same.

That the said property, and each and every part thereof, is free and clear of any and all liens, mortgages, debts and other encumbrances or claims of whatsoever kind or nature.

That the party of the first part is not indebted to anyone and has no creditors in connection with said property.

That there are no judgments existing against said party, in any Court, nor are there any replevins, attachments, or executions issued against said party now in force; nor has any petition in bankruptcy been filed by or against it.

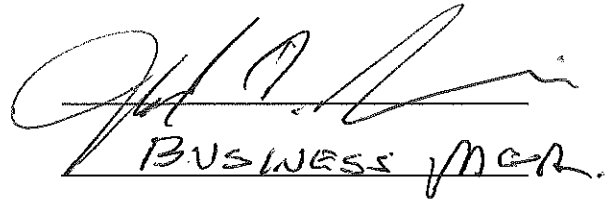
That this warrantee is given for the purpose and with the intent of inducing the party of the second part to purchase the property described in said Bill of Sale, knowing that such party will rely thereon and pay a good valuable consideration thereof.

The parties of the first part shall be responsible for any and all costs, disbursements and attorney fees incurred by the party of the second part in any litigation dispute or their legal proceeding relating to this Bill of Sale.

Whenever the text thereof required, the singular number used herein shall include the plural and all genders.

IN WITNESS WHEREOF, the party of the first part has duly executed this Bill of Sale on the 12th day of MAY, 2023.

In Presence of:


BUSINESS MGR.

STATE OF NEW YORK)

COUNTY OF ERIE) SS.:

On this 23rd day of May, 2023, before me personally came

John C. Eckis,

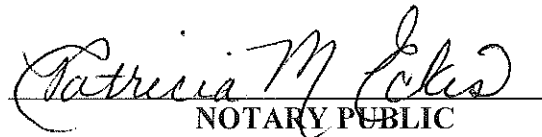
to me known and known to me to be the same person(s) described in and whom

executed the within instrument, and he (they severally) duly acknowledge to me

that he (they) executed the same.

PATRICIA M. ECKIS
NOTARY PUBLIC-STATE OF NEW YORK
No. 01EC4827811

Qualified in Erie County
My Commission Expires May 31, 2023


NOTARY PUBLIC

IN WITNESS WHEREOF, the party of the first part has duly executed this Bill of Sale on the 24th day of May, 2023.

In Presence of:

James H. Grant
CFo

STATE OF NEW YORK)

COUNTY OF ERIE) SS.:

On this 24th day of May, 2023, before me personally came
JAMES H. GRANT,

to me known and known to me to be the same person(s) described in and whom
executed the within instrument, and he (they severally) duly acknowledge to me
that he (they) executed the same.

Deborah E. Nicosia

NOTARY PUBLIC

DEBORAH E. NICOSIA
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Feb. 28, 2026

ERIE COUNTY DEPARTMENT OF HEALTH
Bureau of Potable Water
Engineering Section
95 Franklin Street Room 931
Buffalo, New York 14202

CERTIFICATE OF CONSTRUCTION COMPLIANCE

Project Description:

Name of Project: **Deer Springs Part 3 Phase 3 Waterline Extension BCD
Pincherry Drive**
Location: **Town of Hamburg, New York**

Description (If different, supervising engineer must clarify).

This APPROVAL is for installation of 688+/-lf of 8-inch PVC watermain and 16 lf of 6-inch DIP watermain along with 2 hydrants, 2 8-inch gate valves and appurtenances on Pincherry Way in the Town of Hamburg.

Approval Date 08/01/2022 Erie County Health Department
Permit Number RWIN-C55JHE

Construction of the above project must be under the supervision of a person or firm licensed to practice professional engineering in the State of New York, as required under the State Education Law. The person or firm supervising the above project must file a Certificate of Construction Compliance within 30 days for waterlines and 60 days for sewers after the completion of construction, with the Erie County Health Department at the above address.

Date of Start of Construction

Date of Completion

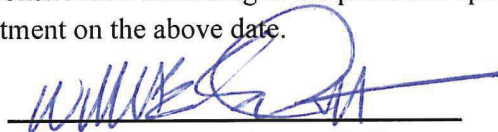
10/04/2022

01/19/2023

I hereby certify that the above project has been construction according to the plans and specifications which were approved by the Erie County Health Department on the above date.

01/23/2023

Date



William E. Schutt, P.E.

Signature of Supervising Engineer

Name of Firm or Office

Wm Schutt Associates

Address

37 Central Ave, Lancaster NY 14086

New York State License #

58840

Maintenance Bond

Bond No. EACX4005547
Executed in Duplicate

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

Jesse Milley, President
On Track Construction
1553 Center Street
East Aurora, New York 14052

SURETY (Name and Address of Principal Place of Business):

Endurance Assurance Corporation
4 Manhattanville Road, 3rd Floor
Purchase, NY 10577

OWNER (Name and Address):

Erie County Water Authority
295 Main St., Room 350
Buffalo NY 14203

CONTRACT

Project No: 202200068
Date: August 18, 2022
Amount: Eighty-nine Thousand Seven Hundred Fifteen &00/100 Dollars (\$89,715.00)
Description: Main Extension Agreement (Builder-Contractor-Developer)
Deer Springs Subdivision Part 3, Phase 3
Town of Hamburg
BCD: 22-01; EC # 7260
ECWA Project No.: 202200068

BOND

Date (Not earlier than Contract Date): May 25, 2023
Amount: Eighty-nine Thousand Seven Hundred Fifteen &00/100 Dollars (\$89,715.00)
Modifications to this Bond Form:
None

Surety and CONTRACTOR, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Performance Bond to be duly executed on its behalf by its authorized officer, agent or representative.

CONTRACTOR AS PRINCIPAL

Company: On Track Construction, Inc. (Corp. Seal)

Signature: Jesse Milley
Name and Title: Jesse Milley, Secretary

SURETY Endurance Assurance Corporation

Company: (Corp. Seal)

Signature: Timothy M. Toole
Name and Title: Timothy M. Toole, Attorney-in-Fact
(Attach Power of Attorney)

(Space is provided below for signatures of additional parties, if required.)

CONTRACTOR AS PRINCIPAL

Company: (Corp. Seal)

Signature: _____
Name and Title:

SURETY

Company: (Corp. Seal)

Signature: _____
Name and Title:

1. The CONTRACTOR and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the OWNER for the performance of the Contract, which is incorporated herein by reference.

2. If the CONTRACTOR performs the Contract, the Surety and the CONTRACTOR have no obligation under this Bond, except to participate in conferences as provided in paragraph 3.1.

3. If there is no OWNER Default, the Surety's obligation under this Bond shall arise after:

3.1. The OWNER has notified the CONTRACTOR and the Surety at the addresses described in paragraph 10 below, that the OWNER is considering declaring a CONTRACTOR Default and has requested and attempted to arrange a conference with the CONTRACTOR and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Contract. If the OWNER, the CONTRACTOR and the Surety agree, the CONTRACTOR shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive the OWNER'S right, if any, subsequently to declare a CONTRACTOR Default; and

3.2. The OWNER has declared a CONTRACTOR Default and formally terminated the CONTRACTOR'S right to complete the Contract. Such CONTRACTOR Default shall not be declared earlier than twenty days after the CONTRACTOR and the Surety have received notice as provided in paragraph 3.1; and

3.3. The OWNER has agreed to pay the Balance of the Contract Price to:

3.3.1. The Surety in accordance with the terms of the Contract; or

3.3.2. Another contractor selected pursuant to paragraph 4.3 to perform the Contract.

4. When the OWNER has satisfied the conditions of paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

4.1. Arrange for the CONTRACTOR, with consent of the OWNER, to perform and complete the Contract; or

4.2. Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or

4.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the OWNER for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by the OWNER and the contractor selected with the OWNER'S concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the Bonds issued on the Contract, and pay to the OWNER the amount of damages as described in paragraph 6 in excess of the Balance of the Contract Price incurred by the OWNER resulting from the CONTRACTOR Default; or

4.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances;

4.4.1. After investigation, determine the amount for which it may be liable to the OWNER and, as soon as practicable after the amount is determined, tender payment therefor to the OWNER; or

4.4.2. Deny liability in whole or in part and notify the OWNER citing reasons therefor.

5. If the Surety does not proceed as provided in paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the OWNER to the Surety demanding that the Surety perform its obligations under this Bond, and the OWNER shall be entitled to enforce any remedy available to the OWNER. If the Surety proceeds as provided in paragraph 4.4, and the OWNER refuses the payment tendered or the Surety has denied liability, in whole or in part, without

further notice the OWNER shall be entitled to enforce any remedy available to the OWNER.

6. After the OWNER has terminated the CONTRACTOR'S right to complete the Contract, and if the Surety elects to act under paragraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the OWNER shall not be greater than those of the CONTRACTOR under the Contract, and the responsibilities of the OWNER to the Surety shall not be greater than those of the OWNER under the Contract. To a limit of the amount of this Bond, but subject to commitment by the OWNER of the Balance of the Contract Price to mitigation of costs and damages on the Contract, the Surety is obligated without duplication for:

6.1. The responsibilities of the CONTRACTOR for correction of defective Work and completion of the Contract;

6.2. Additional legal, design professional and delay costs resulting from the CONTRACTOR'S Default, and resulting from the actions or failure to act of the Surety under paragraph 4; and

6.3. Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of the CONTRACTOR.

7. The Surety shall not be liable to the OWNER or others for obligations of the CONTRACTOR that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the OWNER or its heirs, executors, administrators, or successors.

8. The Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders and other obligations.

9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located and shall be instituted within two years after CONTRACTOR Default or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

10. Notice to the Surety, the OWNER or the CONTRACTOR shall be mailed or delivered to the address shown on the signature page.

11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted here-from and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

12. Definitions.

12.1. Balance of the Contract Price: The total amount payable by the OWNER to the CONTRACTOR under the Contract after all proper adjustments have been made, including allowance to the CONTRACTOR of any amounts received or to be received by the OWNER in settlement of insurance or other Claims for damages to which the CONTRACTOR is entitled, reduced by all valid and proper payments made to or on behalf of the CONTRACTOR under the Contract.

12.2. Contract: The agreement between the OWNER and the CONTRACTOR identified on the signature page, including all Contract Documents and changes thereto.

12.3. CONTRACTOR Default: Failure of the CONTRACTOR, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.

12.4. OWNER Default: Failure of the OWNER, which has neither been remedied nor waived, to pay the CONTRACTOR as required by the Contract or to perform and complete or comply with the other terms thereof.

ACKNOWLEDGMENT OF PRINCIPAL

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

On the 26th day of May in the year 2023, before me, the undersigned, personally appeared Jesse Milley, 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.

PATRICIA M. ECKIS
NOTARY PUBLIC-STATE OF NEW YORK
No. 01EC4827811
Qualified in Erie County
My Commission Expires May 31, 2023

Patricia M. Eckis
Notary Public

ACKNOWLEDGMENT OF SURETY

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

On the 25th day of May in the year 2023, before me, the undersigned, personally appeared Timothy M. Toole, 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.

Carl Henry Boizaire
Notary Public

Carl Henry Boizaire
NOTARY PUBLIC, STATE OF NEW YORK
Registration No.
Qualified in Erie County
Commission Expires October 4, 2025



POWER OF ATTORNEY

11967

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: Victoria Rivera, Tracy A. Alessi, Christopher D. Ross, Timothy M. Toole, Monique Kocienski, Carl Bellzair as true and lawful Attorney(s)-In-Fact to make, execute, seal, and deliver for, and on its behalf as surety 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 ONE HUNDRED MILLION Dollars (\$100,000,000.00).

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 by-laws 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, sealing 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 25th day of May, 2023

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

ENDURANCE ASSURANCE CORPORATION
FINANCIAL STATEMENT SUMMARY - STATUTORY BASIS
As of December 31, 2022

ASSETS:	
Bonds	\$ 7,059,123,973
Stocks	\$ 2,392,618,615
Other Invested Assets	\$ 341,410,213
Cash, Cash Equivalents and Short-Term Investments	\$ 1,094,982,499
Receivable for Securities	\$ 5,040,617
Total Cash and Invested Assets	\$ 10,893,175,916
Agents' Balances or Uncollected Premiums	\$ 3,995,122,766
Reinsurance Recoverable on Loss and Loss Adjustment Expense Payments	\$ 1,021,522,572
Funds Held By or Deposited With Reinsurance Companies	\$ 395,751,229
Federal & Foreign Income Tax Recoverable & Interest Thereon	\$ -
Net Deferred Tax Assets	\$ 191,852,444
Receivables From Parent, Subsidiaries & Affiliates	\$ 39,365,910
Aggregate Write-Ins for Other Than Invested Assets	\$ 68,569,185
Investment Income Due and Accrued	\$ 39,919,379
Total Admitted Assets	\$ 16,645,279,402
LIABILITIES:	
Losses	\$ 5,067,053,293
Loss Adjustment Expenses	\$ 636,551,682
Reinsurance Payable on Paid Loss and Loss Adjustment Expenses	\$ 1,648,120,859
Taxes Licenses and Fees	\$ 20,735,383
Current Federal & Foreign Income Taxes	\$ 11,753,591
Unearned Premiums	\$ 2,693,071,589
Advance Premium	\$ 3,969,846
Ceded Reinsurance Premiums Payable	\$ 1,222,920,283
Funds Held Under Reinsurance Treaties	\$ 121,763,218
Commissions Payable, Contingent Commissions and Similar Items	\$ 10,761,501
Amounts Withheld or Retained by Company for Account of Others	\$ 727,804,830
Remittances and Items Not Allocated	\$ 108,020,240
Other Expenses Payable	\$ 32,218,055
Payable to Parents, Subsidiaries and Affiliates	\$ 53,587,180
Payable for Securities	\$ 30,889,634
Provision for Reinsurance	\$ 77,480,646
Other Liabilities	\$ 94,352,512
Total Liabilities	\$ 12,561,054,342
CAPITAL AND SURPLUS:	
Special Surplus Funds - Retroactive Reinsurance Gain	\$ 1,669,252
Common Capital Stock	\$ 5,000,000
Surplus Notes	\$ 350,000,000
Gross Paid In and Contributed Surplus	\$ 3,480,137,280
Unassigned Funds (Surplus)	\$ 247,418,528
Total Capital and Surplus	\$ 4,084,225,060
Total Liabilities and Capital and Surplus	\$ 16,645,279,402

I, Entela Hana, Treasurer of Endurance Assurance Corporation (the "Company") do hereby certify that to the best of my knowledge and belief, the foregoing is a full and true Statutory Statement of Admitted Assets, Liabilities, Capital and Surplus of the Company as of December 31, 2022 prepared in conformity with accounting practices prescribed or permitted by the State of Delaware Department of Insurance. The foregoing statement should not be taken as a complete statement of financial condition of the Company. Such a statement is available upon request at the Company's office located at 4 Manhattanville Road, 3rd Floor; Purchase, NY 10577.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Company at Purchase, New York:

Entela Hana, Treasurer

Subscribed and sworn to before me this 15th day of March, 2023:


Notary Public & Seal
DARLENE A. GIBSON
NOTARY PUBLIC-STATE OF NEW YORK
No. 01GI6114191
Qualified in Westchester County
My Commission Expires 08-09-2024

Payment Bond

Bond No. EAIC4004233
Executed in Duplicate

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

Jesse Milley, President
On Track Construction
1553 Center Street
East Aurora, New York 14052

SURETY (Name and Address of Principal Place of Business):

Endurance American Insurance Company
4 Manhattanville Road, 3rd Floor
Purchase, NY 10577

OWNER (Name and Address):

Erie County Water Authority
295 Main St., Room 350
Buffalo, NY 14203

CONTRACT

Project No.: 202200068
Date: August 18, 2022
Amount: Eighty-nine Thousand Seven Hundred Fifteen &00/100 Dollars (\$89,715.00)
Description: Main Extension Agreement (Builder-Contractor-Developer)
Deer Springs Subdivision Part 3, Phase 3
Town of Hamburg
BCD: 22-01; EC # 7260
ECWA Project No.: 202200068

BOND

Date (Not earlier than Contract Date): May 25, 2023
Amount: Eighty-nine Thousand Seven Hundred Fifteen &00/100 Dollars (\$89,715.00)
Modifications to this Bond Form:
None


Surety and CONTRACTOR, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Payment Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

Company: On Track Construction, Inc. (Corp. Seal)

Signature: 
Name and Title: Jesse Milley, Secretary

SURETY Endurance American Insurance Company
Company: (Corp. Seal)

Signature: 
Name and Title: Timothy M. Toole, Attorney-in-Fact
(Attach Power of Attorney)

(Space is provided below for signatures of additional parties, if required.)

CONTRACTOR AS PRINCIPAL

Company: (Corp. Seal)

Signature: _____
Name and Title:

SURETY

Company: (Corp. Seal)

Signature: _____
Name and Title:

1. The CONTRACTOR and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the OWNER to pay for labor, materials and equipment furnished for use in the performance of the Contract, which is incorporated herein by reference.

2. With respect to the OWNER, this obligation shall be null and void if the CONTRACTOR:

- 2.1. Promptly makes payment, directly or indirectly, for all sums due Claimants, and
- 2.2. Defends, indemnifies and holds harmless the OWNER from all claims, demands, liens or suits by any person or entity who furnished labor, materials or equipment for use in the performance of the Contract, provided the OWNER has promptly notified the CONTRACTOR and the Surety (at the addresses described in paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the CONTRACTOR and the Surety, and provided there is no OWNER Default.

3. With respect to Claimants, this obligation shall be null and void if the CONTRACTOR promptly makes payment, directly or indirectly, for all sums due.

4. The Surety shall have no obligation to Claimants under this Bond until:

- 4.1. Claimants who are employed by or have a direct contract with the CONTRACTOR have given notice to the Surety (at the addresses described in paragraph 12) and sent a copy, or notice thereof, to the OWNER, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
- 4.2. Claimants who do not have a direct contract with the CONTRACTOR:
 1. Have furnished written notice to the CONTRACTOR and sent a copy, or notice thereof, to the OWNER, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and
 2. Have either received a rejection in whole or in part from the CONTRACTOR, or not received within 30 days of furnishing the above notice any communication from the CONTRACTOR by which the CONTRACTOR had indicated the claim will be paid directly or indirectly; and
 3. Not having been paid within the above 30 days, have sent a written notice to the Surety and sent a copy, or notice thereof, to the OWNER, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the CONTRACTOR.

5. If a notice required by paragraph 4 is given by the OWNER to the CONTRACTOR or to the Surety, that is sufficient compliance.

6. When the Claimant has satisfied the conditions of paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:

- 6.1. Send an answer to the Claimant, with a copy to the OWNER, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
- 6.2. Pay or arrange for payment of any undisputed amounts.

7. The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

8. Amounts owed by the OWNER to the CONTRACTOR under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any Performance Bond. By the CONTRACTOR furnishing and the OWNER accepting this Bond, they agree that all funds earned by the CONTRACTOR in the performance of the Contract are dedicated to satisfy obligations of the CONTRACTOR and the Surety under this Bond, subject to the OWNER's priority to use the funds for the completion of the Work.

9. The Surety shall not be liable to the OWNER, Claimants or others for obligations of the CONTRACTOR that are unrelated to the Contract. The OWNER shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10. The Surety hereby waives notice of any change, including changes of time, to the Contract or to related Subcontracts, purchase orders and other obligations.

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by paragraph 4.1 or paragraph 4.2.3. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the OWNER or the CONTRACTOR shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, the OWNER or the CONTRACTOR, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is, that this Bond shall be construed as a statutory Bond and not as a common law bond.

14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, the CONTRACTOR shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15. DEFINITIONS

15.1. Claimant: An individual or entity having a direct contract with the CONTRACTOR or with a Subcontractor of the CONTRACTOR to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of the CONTRACTOR and the CONTRACTOR's Subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

15.2. Contract: The agreement between the OWNER and the CONTRACTOR identified on the signature page, including all Contract Documents and changes thereto.

15.3. OWNER Default: Failure of the OWNER, which has neither been remedied nor waived, to pay the CONTRACTOR as required by the Contract or to perform and complete or comply with the other terms thereof.

ACKNOWLEDGMENT OF PRINCIPAL

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

On the 26th day of May in the year 2023, before me, the undersigned, personally appeared Jess. Milley, 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.

PATRICIA M. ECKIS
NOTARY PUBLIC-STATE OF NEW YORK
No. 01EC4827811
Qualified in Erie County
My Commission Expires May 31, 2023

Patricia M. Eckis
Notary Public

ACKNOWLEDGMENT OF SURETY

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

On the 25th day of May in the year 2023, before me, the undersigned, personally appeared Timothy M. Toole, 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.

Carl Henry Belizaire
Notary Public

Carl Henry Belizaire
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. :
Qualified in Erie County
Commission Expires October 4, 2025