

**MINUTES*****DRAFT – Subject to and Pending Monroe County Water Authority Board approval.*****MONROE COUNTY WATER AUTHORITY  
REGULAR MEETING****THURSDAY, July 14, 2022 @ 9:00 a.m.****AV Conference Room****General Offices, 475 Norris Drive, Rochester, New York**

9:00 a.m. The Chairman called this Regular Meeting to order.

**Roll Call of the membership of the Board and determination that a quorum was present.****Members Present (5):** S. Nasca, S. Mason, A. Bernstein, M. Van Vechten, J. Rulison**Absent:** M. Fero, S. Volpe

**Staff present:** N. Noce, Executive Director; D. Hendrickson, Director of Human Resources; L. Magguilli, Assistant to the Executive Director; A. Molinari, Director of Finance & Business Services; C. LaManna, Director of Production & Transmission; S. Trotta, Director of Operations; K. Sharp, Communications

**General Counsel present:** Andrew Dean, Esq. – Harter, Secrest & Emery

Packets containing detailed information on Agenda items were distributed in advance of the meeting date to each Member, Executive Staff, and Counsel for their prior review.

**Pledge of Allegiance** – Lead by Chairman Nasca**#22-123** Approve minutes of the Authority's Regular Meeting held on June 9, 2022.

On a motion made by Mr. Rulison, seconded by Mrs. Van Vechten, the foregoing resolution #22-123 was put to a voice vote and unanimously carried. AYES: 5; NAYS: 0

**#22-124** Approve list of disbursements on check registers dated June 1, June 8, June 15, June 22, and June 29, 2022, which were forwarded to the Authority Members for their review.

On a motion made by Mr. Rulison, seconded by Mr. Bernstein, the foregoing resolution #22-124 was put to a voice vote and unanimously carried. AYES: 5; NAYS: 0

**#22-125** Accept Purchase Order List of materials and supplies for the period June 1, 2022 through July 1, 2022 in the amount of \$471,770.54.

On a motion made by Mr. Rulison, seconded by Mrs. Van Vechten, the foregoing resolution #22-125 was put to a voice vote and unanimously carried. AYES: 5; NAYS: 0

**COMMUNICATIONS/NOTIFICATIONS**

Mr. Noce informed the Board that RFP/Q's will be solicited for cathodic protection and corrosion services along with Lee Road system improvements.

Mr. Noce and Ms. Molinari proposed dates for the MCWA Budget Workshop, to which the Board agreed upon a date of Wednesday, August 31, at 3:00 p.m.

Mr. Noce directed the Board to an invitation in their folders for MCWA's "Flip the Switch Ceremony" in celebration of the completion of the Authority's new solar array in Penfield. He

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noted that the ceremony will be held on August 11 at 10:30 a.m. and will include the Penfield Town Board and local elected officials.

- #22-126** Confirm the following personnel appointment pending approval and pursuant to the Rules and Regulations of the Monroe County Civil Service Commission:  
Appointment of Victor Bugenhagen to the title of Laborer, effective July 18, 2022 at an hourly rate of \$18.73.

On a motion made by Mr. Rulison, seconded by Mr. Bernstein, the foregoing resolution #22-126 was put to a roll call vote and unanimously carried. AYES: 5 (S. Nasca, S. Mason, A. Bernstein, M. Van Vechten, J. Rulison); NAYS: 0

- #22-127** Confirm the following personnel appointment pending approval and pursuant to the Rules and Regulations of the Monroe County Civil Service Commission:  
Appointment of Shane Pease to the title of Laborer, effective July 25, 2022 at an hourly rate of \$18.73.

On a motion made by Mrs. Van Vechten, seconded by Mr. Rulison, the foregoing resolution #22-127 was put to a roll call vote and unanimously carried. AYES: 5 (S. Nasca, S. Mason, A. Bernstein, M. Van Vechten, J. Rulison); NAYS: 0

- #22-128** Confirm the following personnel appointment pending approval and pursuant to the Rules and Regulations of the Monroe County Civil Service Commission:  
Appointment of Frederick Yager IV to the title of Automotive Mechanic, effective July 18, 2022 at an hourly rate of \$25.05.

On a motion made by Mrs. Van Vechten, seconded by Mrs. Mason, the foregoing resolution #22-128 was put to a roll call vote and unanimously carried. AYES: 5 (S. Nasca, S. Mason, A. Bernstein, M. Van Vechten, J. Rulison); NAYS: 0

- #22-129** Confirm the following personnel appointment pending approval and pursuant to the Rules and Regulations of the Monroe County Civil Service Commission:  
Provisional Appointment of Brendan Mulcahy to the title of Engineering Technician, effective August 8, 2022 at an hourly rate of \$28.39.

On a motion made by Mr. Rulison, seconded by Mrs. Van Vechten, the foregoing resolution #22-129 was put to a roll call vote and unanimously carried. AYES: 5 (S. Nasca, S. Mason, A. Bernstein, M. Van Vechten, J. Rulison); NAYS: 0

- #22-130** Confirm the following personnel appointment pending approval and pursuant to the Rules and Regulations of the Monroe County Civil Service Commission:  
Promotional Appointment of Megan Pieper to the title of Office Clerk III, effective July 18, 2022 at an hourly rate of \$25.78.

On a motion made by Mr. Rulison, seconded by Mrs. Mason, the foregoing resolution #22-130 was put to a roll call vote and unanimously carried. AYES: 5 (S. Nasca, S. Mason, A. Bernstein, M. Van Vechten, J. Rulison); NAYS: 0

**For Item #22-131**, Mr. Trotta sought Board authorization in the award of a contract for dumpster services to be utilized at the East Side Operations Center, Meter Shop and both water treatment plants. He noted that the contract price is comparative to previous years.

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**#22-131** Authorize the award of a contract for **Dumpster Service** at Water Authority Facilities from the low responsive, responsible bidder, **Waste Management** in the estimated annual amount of \$20,000. This is a one-year contract with option to renew for up to four additional one-year terms upon mutual consent.

On a motion made by Mr. Rulison, seconded by Mr. Bernstein, the foregoing resolution #22-131 was put to a roll call vote and unanimously carried. AYES: 5 (S. Nasca, S. Mason, A. Bernstein, M. Van Vechten, J. Rulison); NAYS: 0

**For Item #22-132**, Mr. LaManna briefed the Board for authorization in the purchase of electrical equipment, primarily variable frequency drives, under the terms of Monroe County Contract No. 0509-21. He stated that MCWA has utilized the contract for several years and that it has proven successful in garnering significant discounts.

**#22-132** Authorize the purchase of various **Square D™ by Schneider Electric electrical equipment and materials** from **Kaman Automation, Inc.** under the terms of Monroe County Contract No. 0509-21 for Square D Products, for an estimated total amount of \$200,000 through the contract term ending May 31, 2023.

On a motion made by Mrs. Van Vechten, seconded by Mrs. Mason, the foregoing resolution #22-132 was put to a roll call vote and unanimously carried. AYES: 5 (S. Nasca, S. Mason, A. Bernstein, M. Van Vechten, J. Rulison); NAYS: 0

**For Item #22-133**, Mr. LaManna requested Board authorization to award a contract for the **Shoremont West 1 Water Treatment Plant Phase 2 Improvements**. He stated that the work includes improvements to the filter equipment, most of which is approximately 45 years old. Mr. LaManna noted that we have worked with this vendor in the past and then he responded to a follow-up question posed by a Board member.

**#22-133** Authorize the award of the **Shoremont West 1 Water Treatment Plant Phase 2 Improvements** contract to the low responsive, responsible bidder **Crane-Hogan Structural Systems Inc.** for the bid amount of \$5,078,000.

On a motion made by Mr. Rulison, seconded by Mr. Bernstein, the foregoing resolution #22-133 was put to a roll call vote and unanimously carried. AYES: 5 (S. Nasca, S. Mason, A. Bernstein, M. Van Vechten, J. Rulison); NAYS: 0

**For Items #22-134**, Mr. Magguilli addressed the Board for authorization in entering into a professional services agreement for professional engineering services concerning the Service Line Material Inventory Services Project. He briefed the Board on the project, which he stated will provide the Authority with an inventory of its water service line material for compliance with the United States Environmental Protection Agency (USEPA) Lead and Copper Rule Revisions. He noted that water utilities are required to post a public inventory on their websites by October of 2024. Mr. Magguilli responded to a follow-up question from a Board member.

**#22-134** Authorize the Executive Director to enter into a professional services agreement with **Arcadis** of New York for the **Service Material Inventory Services Project** for the budget amount of \$300,000.

On a motion made by Mrs. Van Vechten, seconded by Mr. Rulison, the foregoing resolution #22-081 was put to a roll call vote and unanimously carried. AYES: 5 (S. Nasca, S. Mason, A. Bernstein, M. Van Vechten, J. Rulison); NAYS: 0

**For Item #22-135**, Ms. Molinari sought Board authorization in awarding a unit price contract for 1" and 2" bronze lead-free RPZ's to be used in temporary hydrant sets. She noted that VP Supply Corp. was the low responsive, responsible bidder.

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**#22-135** Authorize the award of a unit price contract for **Watts 1” and 2” Bronze Lead-Free RPZ’s** to the low responsive, responsible bidder, **VP Supply Corp.** for a one year term with the option to renew for up to four additional one-year periods upon mutual consent.

On a motion made by Mr. Rulison, seconded by Mr. Bernstein, the foregoing resolution #22-135 was put to a roll call vote and unanimously carried. AYES: 5 (S. Nasca, S. Mason, A. Bernstein, M. Van Vechten, J. Rulison); NAYS: 0

**For Item #22-136**, Ms. Hendrickson briefed the Board for authorization to enter into a professional service agreement for annual on-site medical exams, pulmonary function tests, fit tests, respiratory medical exams, and self-contained breathing apparatus exams. She summarized the proposals received and indicated this firm has successfully performed these services for the Authority in the past.

**#22-136** Authorize a Professional Service agreement with **Occupational Safety On Site Inc.** to provide annual on-site medical exams, pulmonary function tests, fit tests, respiratory medical exams and self-contained breathing apparatus exams at an estimated annual cost of \$7,795. The agreement is for two (2) years, with the option to extend up to three (3) one-year terms upon mutual consent.

On a motion made by Mr. Bernstein, seconded by Mrs. Mason, the foregoing resolution #22-136 was put to a roll call vote and unanimously carried. AYES: 5 (S. Nasca, S. Mason, A. Bernstein, M. Van Vechten, J. Rulison); NAYS: 0

**For Item #22-137**, Mr. Dean from Harter, Secrest & Emery summarized and outlined the minor changes in the MCWA Prohibited Contractor List for 2022, as issued by the MCWA Ethics Board.

**#22-137** Adopt MCWA Prohibited Contractor List, updated 6/3/2022, as issued by MCWA Ethics Board

On a motion made by Mrs. Van Vechten, seconded by Mr. Rulison, the foregoing resolution #22-137 was put to a roll call vote and unanimously carried. AYES: 5 (S. Nasca, S. Mason, A. Bernstein, M. Van Vechten, J. Rulison); NAYS: 0

**For Item #22-138**, Mr. Trotta addressed the Board for authorization of a settlement agreement with Monroe Tractor & Implement Co. for reimbursement for damage to a rental excavator. Mr. Dean from Harter, Secrest & Emery noted that the agreement solely covers repair costs and no other consequential damages.

**#22-138** This Settlement Agreement and General Release of All Claims (“Agreement”) dated as of July \_\_, 2022 (the “Effective Date”), is made and entered into by and between **MONROE TRACTOR & IMPLEMENT CO., INC.**, a New York corporation with offices at 1001 Lehigh Station Rd., Henrietta, NY 14467 (“Settlor”) and the **MONROE COUNTY WATER AUTHORITY**, a public benefit corporation with offices at 475 Norris Dr., Rochester, NY 14610 (the “Authority”). Settlor and the Authority may each hereafter be referred to as a “Party,” and collectively as the “Parties.”

#### RECITALS

**WHEREAS**, the Authority rented from Settlor a Case CX350D excavator (the “Excavator”) for use by the Authority; and

**WHEREAS**, an employee of the Authority operated the Excavator in performing an Authority project, and the bucket of the Excavator folded into the cab of the Excavator, damaging the Excavator (the “Incident”); and

**WHEREAS**, Settlor has requested that the Authority pay to repair the Excavator, but not any other damages or consequential damages concerning the Incident, such as lost rental value of the

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Excavator during the period of its repair, such repair (including but not limited to parts, labor, shipping and handling, and crating) totaling \$31,841.05 (the “Claim”); and

**WHEREAS**, the Parties wish to settle and release the Claim and any other claims Settlor may have against the Authority.

**NOW, THEREFORE**, in consideration of the foregoing recitals and mutual covenants set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Settlor and the Authority agree as follows:

1. **PAYMENT OF SETTLEMENT FUNDS.** Within thirty (30) days of the full execution of this Agreement, the Authority shall pay Settlor the sum of **Thirty-One Thousand Eight-Hundred and Forty-One and 05/100 Dollars (\$31,841.05)** in consideration for entering into this Agreement, to settle the Claim in full, and to release all claims of Settlor against the Authority.

2. **RELEASE OF THE AUTHORITY BY SETTLOR.** Settlor, on behalf of itself and its former, current, and future officers, employees, members, affiliated corporations, agents, attorneys, heirs, and devisees and any successors and/or assigns of any of the foregoing, hereby releases and forever discharges the Authority, its former, current, and future officers, employees, members, affiliated corporations, agents, attorneys, heirs, and devisees and any successors and/or assigns of any of the foregoing, from any and all actions, claims, causes of action, counterclaims, liabilities, damages, and demands whatsoever, and any claims past or present, whether known or unknown, asserted or unasserted, foreseen or unforeseen, liquidated or unliquidated, in tort, contract, or otherwise, arising from or relating to any and all matters, facts, events, occurrences, causes, or any other things whatsoever, from the beginning of time to the Effective Date, including, without limitation, all claims, whether known or unknown, and whether asserted or not, causes of action, and counterclaims which were alleged, which could have been alleged or which were at issue either directly or indirectly in connection with the Claim.

3. **NO ADMISSION OF LIABILITY.** The undersigned acknowledge and agree that the matters set forth in this Agreement constitute a settlement and compromise of disputed claims and that this Agreement is not an admission or evidence of any liability regarding any claim. The Authority specifically disclaims and denies any liability or wrongdoing whatsoever with respect to the Claim and enters into this Agreement solely to avoid the further expense, inconvenience, burden and uncertainty of litigation.

4. **CONFIDENTIALITY.** Settlor agrees that neither it nor its successors, assigns, attorneys, agents, heirs, employees, and devisees will disclose the existence or terms of this Agreement except to its attorneys or as required by law. Settlor acknowledges that confidentiality is a material part of this the Agreement, notwithstanding any disclosure that may be required by the Authority by law, and any disclosure by Settlor in violation of this confidentiality clause shall be deemed an automatic breach of this Agreement.

5. **AUTHORITY.** Each Party represents and warrants to the other Party that the person executing this Agreement on its behalf has full authority and capacity to execute this Agreement and to give the releases and other promises contained herein.

6. **GOVERNING LAW; VENUE AND WAIVER OF TRIAL BY JURY; AND PREVAILING PARTY FEES.** THIS AGREEMENT SHALL BE INTERPRETED AND CONSTRUED ACCORDING TO THE LAWS OF THE STATE OF NEW YORK, EXCLUSIVE OF ITS CONFLICTS OF LAWS PRINCIPLES (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW). WITH RESPECT TO ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT, EACH PARTY IRREVOCABLY SUBMITS TO THE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK LOCATED IN MONROE COUNTY AND THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK, AND EACH PARTY HEREBY IRREVOCABLY WAIVES ANY CLAIM THAT SUCH A FORUM IS IMPROPER OR INCONVENIENT. IN THE EVENT A PARTY BRINGS AN ACTION TO ENFORCE THIS AGREEMENT, THE LOSING PARTY SHALL PAY THE PREVAILING PARTY ITS REASONABLE ATTORNEYS’ FEES AND COSTS.

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7. **JOINT DRAFTING.** This Agreement shall be deemed to have been jointly drafted by the Parties, and in construing and interpreting this Agreement, no provision shall be construed and interpreted for or against either Party because such provision or any other provision of the Agreement is purportedly prepared or requested by such Party.

8. **AMENDMENTS.** This Agreement may be amended or modified only by a written instrument signed by both Settlor and the Authority.

9. **SEVERABILITY.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such provision shall be construed so as to render it enforceable and effective to the maximum extent possible in order to effectuate the intent of this Agreement; and if such provision shall be wholly invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

10. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute one and the same instrument.

On a motion made by Mr. Rulison, seconded by Mrs. Mason, the foregoing resolution #22-138 was put to a roll call vote and unanimously carried. AYES: 5 (S. Nasca, S. Mason, A. Bernstein, M. Van Vechten, J. Rulison); NAYS: 0

#22-139      The Members of the Authority expressly make the following determination for all awards of Procurement Contracts made during this meeting: (i) the proposed awardee has been found to be responsible; (ii) the proposed awardee complied with the State Finance Law provisions regarding Permissible Contacts (as defined in the Authority's Procurement Disclosure Policy); (iii) the proposed awardee has (or will prior to the final award being effective) complied with the State Finance Law provisions that require disclosure of all information required to be in the Authority's Solicitation Materials (as such term is defined in the Authority's Procurement Disclosure Policy); and (iv) the procurement process did not involve conduct that is prohibited by the Public Officers Law, the Authority's Procurement Disclosure Policy, and the Authority's Code of Ethics and Conflict of Interest Policies.

On a motion made by Mr. Rulison, seconded by Mrs. Van Vechten, the foregoing resolution #22-139 was put to a roll call vote and unanimously carried. AYES: 5 (S. Nasca, S. Mason, A. Bernstein, M. Van Vechten, J. Rulison); NAYS:

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**In Board folders for review:**

- Routine monthly informational updates

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There being no further business to come before the Authority, Chairman Nasca adjourned this Regular Meeting at 9:25 a.m.

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Diane L. Hendrickson, Recording Secretary

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Scott D. Nasca, Chairman