

## ITEM NO. 33-4

**AUTHORIZATION TO ACQUIRE PROPERTY RIGHTS FOR MILL RACE REAL TIME CONTROL PROJECT**

- WHEREAS: The Buffalo Sewer Authority has committed to the construction of the Mill Race Real Time Control Project (the "Project") in order to retain combined sewage within the existing system which would otherwise overflow during wet weather events to the Buffalo River; and
- WHEREAS: The location for construction of this facility is land in an area located within 236 Larkin Street (the "Property"); and
- WHEREAS: Based on examination of public records for this area, ownership of the land Property is held by AGC, Inc.; and
- WHEREAS: In order to implement the Project, it is necessary for Real Property to be acquired from said owner within the 236 Larkin Street parcel for use by the Buffalo Sewer Authority; and
- WHEREAS: The New York State Public Authorities Law Sections 1178(7) and 1182 authorizes the Buffalo Sewer Authority to acquire lands, or any right, title, interest, or easement therein in the name of the City of Buffalo, and upon such acquisition, any such fee, right, title, interest, or easement shall become dedicated to the uses and purposes of the Buffalo Sewer Authority; and
- WHEREAS: AGC, Inc. and the Buffalo Sewer Authority through Outside Counsel and in concurrence with the Corporation Counsel of the City of Buffalo, the Buffalo Sewer Authority and the City of Buffalo have negotiated a Purchase and Sale Agreement (Attachment D) for the land which is required for permanent use by the Authority for this project; and
- WHEREAS: The Principal Sanitary Engineer and staff have reviewed the Purchase and Sale Agreement and recommends its approval by the Buffalo Sewer Authority's Board and the submittal of this Purchase and Sale Agreement to the Common Council of the City of Buffalo for their approval at a cost not-to-exceed forty thousand dollars (\$40,000.00) and an additional cost of survey of twenty-five hundred dollars (\$2,500.00) ; and

NOW THEREFORE

BE IT RESOLVED: That the Board of the Buffalo Sewer Authority hereby authorizes the General Manager and any other representative or agent of the Buffalo Sewer Authority including, but not limited to, the Corporation Counsel of the City of Buffalo and Outside Counsel, to execute and deliver the Purchase and Sale Agreement with AGC, Inc. at a cost not-to-exceed \$40,000.00 and an additional cost of \$2,500.00 for survey fees in furtherance of the Mill Race Real Time Control Project. The cost of this agreement will be funded from account no. 00110106-444101.

MOTION TO \_\_\_\_\_

MADE BY \_\_\_\_\_

2<sup>ND</sup> BY \_\_\_\_\_

AYES \_\_\_\_\_ NOES \_\_\_\_\_

Board Meeting of April 5, 2023

STATE OF NEW YORK    )  
                                  ) SS.:  
COUNTY OF ERIE        )

I, the undersigned Secretary of the Buffalo Sewer Authority (the “Authority”), DO HEREBY CERTIFY that I have compared the annexed extract of the minutes of the meeting of the Authority, including the resolution contained therein, held the 5<sup>th</sup> day of April, 2023, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Authority and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY that, as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or rescinded.

I FURTHER CERTIFY that all members of said Authority Board had due notice of said meeting, said meeting was duly held, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and public notice of the time and place of said meeting was duly given in accordance with such Article 7, and there was a quorum of the members of the Authority Board present throughout said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 5<sup>th</sup> day of April, 2023.

\_\_\_\_\_  
Eleanor C. Wilson DiVincenzo  
Secretary of the Board

(SEAL)