

RESOLUTION –WATER BOND REDEMPTION

At a meeting of the Rensselaer County Water and Sewer Authority, held at 1600 Seventh Avenue, Troy, New York, on the 21st day of September, 2017, at 3:00 p.m. local time, the following Members of the Authority were:

	PRESENT:	ABSENT:
Robert Pasinella, Jr.	X	
Kenneth M. Harting	X (via phone)	
John Mooney		X
John Fetscher	X	

ALSO PRESENT:

John J. Bonesteel, Chief Executive Officer
Jay H. Sherman, Secretary
Philip H. Dixon, Authority Counsel
Henry V. LaBarba, P.E., Authority Consulting Engineer

After the meeting had been duly called to order, the following Resolution was offered by Mr. Pasinella, and seconded by Mr. Fetscher, to wit:

WHEREAS, the Rensselaer County Water and Sewer Authority (the “Authority”), on or about June 26, 2008, issued \$8,005,000 in Water Service Agreement Revenue Bonds (the “Bonds”) to fund improvements to the Joint Water System serving the Town of East Greenbush (the “Town”) and the City of Rensselaer (the “City”) (the “Water Facilities”); and

WHEREAS, the Water Facilities funded by the Bonds have been completed; and

WHEREAS, the Official Statement and other documents relating to the issuance of the Bonds expressly recognized that some or all of the Bonds might be redeemed prior to maturity by the Authority upon receipt by the Authority of payment from the Town and/or the City pursuant to funding from the New York State Environmental Facilities Corporation (“EFC”); and

WHEREAS, the Authority has previously transferred Forty-Six and Seven Hundred Seventy-Two Ten Thousandths percent (46.0772%) of its interest in the Water Facilities to the City in exchange for a payment by the City to defease that percentage of the Bonds; and

WHEREAS, the Authority currently is the owner of an undivided Fifty-Three and Nine Thousand Two Hundred Twenty-Eight Ten Thousandths (53.9228%) interest in the Water Facilities; and

WHEREAS, the Town has applied to the EFC for a loan in an amount sufficient to defease the remaining Bonds prior to maturity and for the Town to acquire the Authority’s remaining interest in the Water Facilities (the “EFC Financing”); and

WHEREAS, the Authority and the Town wish to enter into an Acquisition Agreement by which the Authority will convey its remaining interest in the Water Facilities to the Town in exchange for a payment by the Town sufficient to allow the Authority to defease the remaining Bonds, in addition to transaction costs of the Bond Trustee and the Authority; and

WHEREAS, the conveyance of an undivided partial interest in the Water Facilities to the Town is authorized by Article 9, Title 5-A of the Public Authorities Law.

NOW, THEREFORE, it is hereby

RESOLVED, that the Chairman and/or Chief Executive Officer are hereby authorized to execute an Acquisition Agreement, in substantially the form annexed hereto, as well as any other documents necessary or desirable to facilitate the transactions contemplated herein, including the execution of instructions to the Bond Trustee to redeem the remaining outstanding portion of the Bonds.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Robert Pasinella, Jr.	voting _____
Kenneth M. Harting	voting _____
John Mooney	voting _____
John Fetscher	voting _____

The foregoing Resolution was thereupon declared duly _____.

ACQUISITION AGREEMENT – WATER FACILITIES

THIS ACQUISITION AGREEMENT – WATER FACILITIES is dated as of September ____, 2017 (the “Agreement”) and is made by and between the **TOWN OF EAST GREENBUSH**, a municipal corporation with an address for the transaction of business at 225 Columbia Turnpike, Rensselaer, New York 12144 (the “Town”) and the **RENSSELAER COUNTY WATER AND SEWER AUTHORITY**, a New York public benefit corporation having an address for the transaction of business at Rensselaer County Government Center, 1600 7th Avenue, Troy, New York 12180 (the “Authority”) (the Town and the Authority are hereinafter referred to as the “Parties”).

WHEREAS, on June 26, 2008 the Authority issued \$8,005,000 Water Service Agreement Revenue Bonds, 2008 (the “Bonds”), at the request of the Town, to: (1) finance the construction of a portion of the water supply and distribution system for the Town, including certain components used for the supply and distribution of water to certain districts in the Town (the “Water Facilities”); (ii) fund a capitalized interest account; (iii) fund the Debt Service Reserve Fund for the Bonds; and (iv) pay the costs of issuance of the Bonds; and

WHEREAS, the Bonds were issued under and are secured by the Authority’s 2008 Water Facilities General Revenue Bond Resolution dated as of June 1, 2008 (the “General Resolution”), as supplemented by a First Supplemental Resolution dated as of June 1, 2008 (the “First Supplemental Resolution” and, collectively with the General Resolution, the “Resolutions”); and

WHEREAS, contemporaneously with the issuance of the Bonds, the Authority and the Town entered into a Water Service Agreement dated as of June 1, 2008 (the “Service Agreement”), pursuant to which the Town agreed to make quarterly payments in amounts sufficient to pay, when due, all installments of principal of, premium, if any, and interest on the Bonds and all Water Facilities Operating Expenses of the Authority (as defined in the Service Agreement); and

WHEREAS, contemporaneously with the issuance of the Bonds, the Town entered into a Ground Lease dated as of June 1, 2008 (the “Ground Lease”) with the Authority and the City of Rensselaer (the “City”) for the lease of the land necessary for the construction, operation and maintenance of the Water Facilities, which Ground Lease has a term of forty (40) years; and

WHEREAS, the Authority constructed the Water Facilities on land owned by the Town and/or the City; and

WHEREAS, the Authority previously transferred Forty-Six and Seven Hundred Seventy-Two Ten Thousandths percent (46.0772%) of its interest in the Water Facilities to the City; and

WHEREAS, the Authority currently is the owner of an undivided Fifty-Three and Nine Thousand Two Hundred Twenty-Eight Ten Thousandths (53.9228%) interest in the Water Facilities; and

WHEREAS, the Water Facilities are operated and maintained for the Authority by the Town pursuant to an operating agreement dated as of June 1, 2008 (the “Operating Agreement”); and

WHEREAS, the Resolutions provide that the Bonds are subject to special mandatory redemption prior to maturity at any time at a redemption price equal to 100% of the principal amount thereof, without premium, together with accrued interest to the date of redemption, at the direction of the Authority upon the Authority notifying the Trustee that the Authority has decided to redeem the Bonds with the proceeds of monies received by the Authority from the Town, which monies the Town received pursuant to a financing with the New York State Environmental Facilities Corporation (“EFC”) (the “EFC Redemption Provision”); and

WHEREAS, the General Resolution provide that the Bonds shall, prior to the maturity or redemption date thereof, be deemed to have been paid within the meaning and with the effect expressed in the General Resolution if (1) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Authority shall have given to the Trustee in form satisfactory to it irrevocable instructions to give notice of redemption of such Bonds on said date as provided in the General Resolution, (2) there shall have been deposited with the Trustee either money in an amount which shall be sufficient, or non-callable Investment Securities (as defined in the General Resolution) of the type listed in subparagraphs (a), (b), or (n) of the definition of Investment Securities, the principal of and the interest on which when due will provide money which, together with the money, if any, deposited with the Trustee at the same time, shall be sufficient to pay when due the principal, premium, if applicable, and interest due and to become due on said Bonds on and prior to the redemption date or maturity date thereof, as the case may be (the “Defeasance Amount”), and (3) if said Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days and such Bonds are to be redeemed, the Authority shall have given the Trustee in form satisfactory to the Trustee irrevocable instructions to give notice to the Registered Owners of such Bonds that the deposit required by (2) above has been made in accordance with this Section and stating such maturity or redemption date upon which money is to be available for the payment of the principal and premium, if applicable, on said Bonds; and

WHEREAS, the Town has applied to EFC for a loan in an amount sufficient to defease the Bonds prior to maturity and for the Town to acquire the Water Facilities from the Authority (the “EFC Financing”); and

WHEREAS, the Town desires to authorize the Authority to issue the notice required pursuant to the Resolutions to Wells Fargo Bank, National Association, as trustee under the Resolutions (the “Trustee”) so that the Trustee may issue a notice to the bondholders of the election to redeem the Bonds pursuant to the EFC Redemption Provision of the Resolutions (the “Redemption”);

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is acknowledged, the Town and the Authority agree as follows:

1. Notice. The Parties agree that this Agreement shall constitute notice to the Authority of the Town's intent to cause the special mandatory redemption of the Bonds pursuant to the EFC Redemption Provision of the Resolutions. The Town authorizes the Authority to provide written notice to the Trustee so that the Trustee will undertake a redemption of the Bonds on _____, 2017 (the "Redemption Date").

2. Defeasance Amount. As of the date hereof, the Parties agree that the Defeasance Amount is \$ _____, which amount has been calculated as follows: principal (\$ _____), premium (\$0.00) and interest due and to become due on the Bonds on and prior to the Redemption Date (\$ _____). The Parties acknowledge that the Defeasance Amount will change if there is a change in the Redemption Date and the Parties agree that, upon any change in the Redemption Date, the Defeasance Amount shall be calculated by the Trustee. The Parties further acknowledge and agree that as of the Redemption Date all monies held by the Trustee pursuant to the terms of the Resolutions (the "Available Funds Amount") shall be credited against the Defeasance Amount.

3. Contingency. The Authority's obligation to undertake and complete the redemption of the Bonds shall be subject to receipt by the Trustee of the proceeds from the EFC Financing in an amount equal to the Defeasance Amount less the Available Funds Amount.

4. Authority and Trustee Expenses. The Town shall be responsible for the payment of the costs incurred by the Authority and the Trustee in connection with the Redemption.

5. Ownership of Water Facilities. On the date of the closing of the EFC Financing and subject to the satisfaction of the contingency set forth in Section 3 hereof and the payment of the expenses of the Authority and the Trustee by the Town as required by Section 4 hereof, (1) the Authority shall transfer its ownership interest in the Water Facilities to the Town pursuant to a deed, the form of which is attached hereto as Exhibit A; and (2) the Ground Lease, the Service Agreement and the Operating Agreement shall terminate and be of no further force or effect.

6. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument..

7. Applicable Law. This Agreement shall be governed exclusively by the laws of the State of New York.

8. Reliance. It is acknowledged and agreed that EFC is relying upon the certifications, representations and warranties made by the Authority and the Town in this Agreement. The Parties expressly acknowledge and agree that EFC is a third party beneficiary of this Agreement.

IN WITNESS WHEREOF, the parties have hereunto executed and delivered this Agreement as of the day and year written above.

TOWN OF EAST GREENBUSH

By: _____
John J. Conway, Town Supervisor

**RENSSELAER COUNTY WATER AND
SEWER AUTHORITY**

By: _____
Robert Pasinella, Jr., Chairman

STATE OF NEW YORK)
) ss.:
COUNTY OF RENSSELAER)

On the ____ day of _____, 2017, before me the undersigned, a Notary Public in and for said State, personally appeared JOHN J. CONWAY, 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
) ss.:
COUNTY OF RENSSELAER)

On the ____ day of _____, 2017, before me the undersigned, a Notary Public in and for said State, personally appeared ROBERT PASINELLA, JR., 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

Notary Public

DEED

THIS INDENTURE, made as of the _____ day of _____, 2017

BETWEEN

THE RENSSELAER COUNTY WATER AND SEWER AUTHORITY, a public benefit corporation having its offices at 1600 Seventh Avenue, Troy, New York 12180 (the “Authority”), and

THE TOWN OF EAST GREENBUSH, a municipal corporation with an address for the transaction of business at 225 Columbia Turnpike, Rensselaer, New York 12144 (the “Town”).

WITNESSETH, that the Authority issued Water Service Agreement Revenue Bonds, 2008 (the “Bonds”) to fund, *inter alia*, certain improvements to the water supply system jointly serving the Town of East Greenbush (the “Town”) and the City of Rensselaer (the “City”), as more fully described in Schedule A, annexed hereto and made a part hereof (the “Water Facilities”); and

WITNESSETH, that the Authority previously transferred Forty-Six and Seven Hundred Seventy-Two Ten Thousandths percent (46.0772%) of its interest in the Water Facilities to the City; and

WITNESSETH, that the Authority currently is the owner of an undivided Fifty-Three and Nine Thousand Two Hundred Twenty-Eight Ten Thousandths (53.9228%) interest in the Water Facilities; and

WITNESSETH, that the Town has paid a sum to the Authority sufficient to redeem the Bonds and acquire the Authority’s interests in the Water Facilities; and

WITNESSETH, that the Authority, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration paid by the Town, does hereby grant and release unto the Town all of the Authority’s interests in the Water Facilities.

IN WITNESS WHEREOF, THE RENSSELAER COUNTY WATER AND SEWER AUTHORITY has duly executed this deed as of the day and year first above written.

**RENSSELAER COUNTY WATER AND
SEWER AUTHORITY**

By: _____
Robert Pasinella, Jr., Chairman

STATE OF NEW YORK)
) ss.:
COUNTY OF RENSSELAER)

On the ____ day of _____, 2017, before me the undersigned, a Notary Public in and for said State, personally appeared ROBERT PASINELLA, JR., 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

Notary Public

SCHEDULE A

DESCRIPTION OF THE WATER FACILITIES

Grandview Drive Water Tanks

Two Five Million (5,000,000) gallon concrete water tanks constructed on real property on Grandview Drive in the Town of East Greenbush that is jointly owned by the Town of East Greenbush and the City of Rensselaer (Tax Parcel No. 155.17-20-6).

Cross Street Pump Station

Emergency by-pass pumps, controls and back-up generators at the Cross Street Pump Station in the City of Troy, the installation of new variable frequency drives for three pumps, and the building expansion within which such equipment is located, on real property that is jointly owned by the Town of East Greenbush and the City of Rensselaer (Tax Parcel No. 111.68-4-1).

Thomson Hill Master Water Metering Station

Third Avenue Water Metering Station

Couse Corners Water Line

Water line replaced during construction of traffic roundabout.

