

MINUTES of the **MEETING** of the **ERIE COUNTY WATER AUTHORITY**
held in the office, 350 Ellicott Square Building, Buffalo, New York, on the 12th day of
September, 2007.

PRESENT: **Frank E. Swiatek, Chairman**
Robert J. Lichtenthal, Jr., Vice Chairman
Francis G. Warthling, Treasurer
Robert A. Mendez, Executive Director
Matthew J. Baudo, Secretary to the Authority
Edward J. Kasprzak, Deputy Director (Part-Time)
Wesley C. Dust, Executive Engineer
Mark J. Fuzak, Attorney
Ronald P. Bennett, Associate Attorney
Paul H. Riester, Director of Administration
Daniel J. NeMoyer, Public Affairs Officer
Albert J. Meaney, Comptroller
Susan L. Rinaldo, Cash Manager
Anthony Alessi, Claims Representative/Risk Manager

ATTENDEES: **Michael Rosich**
Timothy Cashmore

CALL TO ORDER

PLEDGE TO THE FLAG

I. - ROLL CALL

II. - READING OF MINUTES

Motion by Mr. Lichtenthal seconded by Mr. Warthling and carried to waive the reading of the Minutes of the Meeting held on Tuesday, August 28, 2007.

III. - APPROVAL OF MINUTES

Motion by Mr. Lichtenthal seconded by Mr. Warthling and carried to approve the Minutes of the Meeting held on Tuesday, August 28, 2007.

IV. - REPORTS (See "Report" Minutes for Details)

- A) **SECRETARY/PERSONNEL**
- B) **LEGAL**
- C) **FISCAL**
- D) **OPERATIONS**
- E) **HUMAN RESOURCES**

V. - COMMUNICATIONS AND BILLS

ITEM 1 - CREATION OF MASTER PURCHASE ORDERS:

Motion by Mr. Lichtenthal seconded by Mr. Warthling and carried to approve the creation of Master Purchase Order Nos. as listed on the attached sheet page 1 not to exceed the amount of \$9,000.00 and that the Director of Administration be authorized to execute the above and all associated documents after certifying that they are in conformity with applicable laws and the Authority's By-Laws and Purchasing Guidelines, Policies and Procedures.

ITEM 2 - MASTER PURCHASE ORDERS:

Motion by Mr. Lichtenthal seconded by Mr. Warthling and carried to approve for payment of Master Purchase Order Nos. as listed on the attached sheets pages 1-19 after certification by the Comptroller that the orders are in accordance with the quotations and that the Director of Administration be authorized to execute the above and all associated documents after certifying that they are in conformity with applicable laws and the Authority's By-Laws and Purchasing Guidelines, Policies and Procedures.

VI. - UNFINISHED BUSINESS (NONE)

VII. - NEW BUSINESS (RESOLUTIONS 3-26)

ITEM 3 - FINAL ACCEPTANCE OF PROJECT WITH NICHOLS, LONG & MOORE CONSTRUCTION CORP. FOR SMALL SERVICES CONTRACT, AREA NO. 2 FOR THE PERIOD FEBRUARY 1, 2005 THROUGH JANUARY 31, 2007, PROJECT NO. 200500004, CONTRACT NO. 05-03-01 - \$33,904.17

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, Heretofore and on the 13th day of January 2005, the Erie County Water Authority ("Authority") entered into a contract with Nichols, Long & Moore Construction Corp. for small services contract, Area No. 2 for the period February 1, 2005 through January 31, 2007, identified as Contract No. 05-03-01; and

WHEREAS, Nichols, Long & Moore Construction Corp. submitted the maintenance bond required to complete the contract; and

WHEREAS, Nichols, Long & Moore Construction Corp. has submitted a final invoice dated August 30, 2007 in the amount of \$33,904.17; and

WHEREAS, Wesley C. Dust, P.E., Executive Engineer, and Robert A. Mendez, Executive Director, recommend acceptance of said project;

NOW, THEREFORE, BE IT RESOLVED:

That the above project is hereby accepted by the Authority as of the date hereof.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling
Noes: None

ITEM 4 - FINAL ACCEPTANCE OF PROJECT WITH NICHOLS, LONG & MOORE CONSTRUCTION CORP. FOR LARGE SERVICES CONTRACT FOR THE PERIOD FEBRUARY 1, 2005 THROUGH JANUARY 31, 2007, PROJECT NO. 200500002, CONTRACT NO. 05-01-01 - \$66,823.67

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, Heretofore and on the 13th day of January, 2005, the Erie County Water Authority ("Authority") entered into a contract with Nichols, Long & Moore Construction Corp. for large services contract for the period February 1, 2005 through January 31, 2007, identified as Contract No. 05-01-01; and

WHEREAS, Nichols, Long & Moore Construction Corp. submitted the maintenance bond required to complete the contract; and

WHEREAS, Nichols, Long & Moore Construction Corp. has submitted a final invoice dated August 30, 2007 in the amount of \$66,823.67; and

WHEREAS, Wesley C. Dust, P.E., Executive Engineer, and Robert A. Mendez, Executive Director, recommend acceptance of said project;

NOW, THEREFORE, BE IT RESOLVED:

That the above project is hereby accepted by the Authority as of the date hereof.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling

Noes: None

ITEM 5 - RATIFICATION OF THE INVESTMENT OF FUNDS FROM THE MANUFACTURERS & TRADERS TRUST COMPANY, DEBT SERVICE FUND FOURTH RESOLUTION REFUNDING WATER REVENUE BONDS, SERIES 1992 - \$439,583.33

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, Susan Rinaldo, Cash Manager, advised under date of August 29, 2007 that there was available on August 31, 2007 the following amounts in the Debt Service Fund Fourth Resolution Refunding Water Revenue Bonds, Series 1992:

Accreted Value \$439,583.33

and has recommended that the Manufacturers & Traders Trust Company, as Fiscal Agent, be authorized to invest from the Bond Fund in the amount of \$33,333.33 to mature in time for the June 1, 2008 Capital Appreciation Bond Maturity at the highest yield to 1992 Bondholders and invest from the Bond Fund in the amount of \$406,250.00 to mature in time for the December 1, 2007 Capital Appreciation Bond Maturity at the highest yield to 1992 Bondholders; and

WHEREAS, Inasmuch as the Authority does not have adequate safekeeping facilities for the aforementioned securities, the Comptroller recommends that the Manufacturers & Traders Trust Company be authorized to maintain possession of the securities, in trust, for the Authority for safekeeping purposes;

NOW, THEREFORE, BE IT RESOLVED:

That the action of Albert Meaney, Comptroller, in authorizing the Manufacturers & Traders Trust Company to invest from the Bond Fund in the amount of \$33,333.33 to mature in time for the June 1, 2008 Capital Appreciation Bond Maturity at the highest yield to 1992 Bondholders and invest from the Bond Fund in the amount of \$406,250.00 to mature in time for the December 1, 2007 Capital Appreciation Bond Maturity at the highest yield to 1992 Bondholders, is hereby approved and ratified; and be it further

RESOLVED: That the Manufacturers & Traders Trust Company be and it hereby is authorized to retain possession of the securities, in trust, for the Authority until further direction by the Authority's Comptroller.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling
 Noes: None

**ITEM 6 - RATIFICATION OF THE INVESTMENT OF FUNDS FROM THE
 MANUFACTURERS & TRADERS TRUST COMPANY, DEBT SERVICE
 FUND WATER WORKS SYSTEM REVENUE BONDS, SERIES 1993A -
 \$120,083.33**

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, Susan Rinaldo, Cash Manager, advised under the date of August 29, 2007 that there was available on August 24, 2007 the following amounts in the Debt Service Fund Water Works System Revenue Bonds, Series 1993A:

Secondary Interest Account	\$85,317.80
Payment Account	\$34,765.53

and has recommended that the Manufacturers and Traders Trust Company, as Fiscal Agent, be authorized to invest the Secondary Interest Account in the amount of \$85,317.80 and Payment Account in the amount of \$34,765.53 in the Guaranteed Investment Contract to mature in time for the December 1, 2007 Interest Payment to bondholders and Swap Payment to AIG at the highest yield to maturity; and

WHEREAS, Inasmuch as the Authority does not have adequate safekeeping facilities for the aforementioned securities, the Comptroller recommends that the Manufacturers & Traders Trust Company be authorized to maintain possession of the securities, in trust, for the Authority for safekeeping purposes;

NOW, THEREFORE, BE IT RESOLVED:

That the action of Albert Meaney, Comptroller, in authorizing the Manufacturers & Traders Trust Company to invest from the Secondary Interest Account the amount of \$85,317.80 and Payment Account in the amount of \$34,765.53 in the Guaranteed Investment Contract to mature in time for the December 1, 2007 Interest Payment to bondholders and Swap Payment to AIG at the highest yield to maturity, is hereby approved and ratified; and be it further

RESOLVED: That the Manufacturers & Traders Trust Company be and it hereby is authorized to retain possession of the securities, in trust, for the Authority until further direction by the Authority's Comptroller.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling
 Noes: None

ITEM 7 - RATIFICATION OF THE INVESTMENT OF FUNDS FROM THE MANUFACTURERS & TRADERS TRUST COMPANY, DEBT SERVICE FUND WATER WORKS SYSTEM REVENUE BONDS, SERIES 1993B - \$73,625.00

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, Susan Rinaldo, Cash Manager, advised under the date of August 29, 2007 that there was available on August 24, 2007 the following amounts in the Debt Service Fund Water Works System Revenue Bonds, Series, 1993B:

Secondary Interest Account	\$46,536.98
Payment Account	\$27,088.02

and has recommended that the Manufacturers & Traders Trust Company, as Fiscal Agent, be authorized to invest the Secondary Interest Account in the amount of \$46,536.98 and Payment Account in the amount of \$27,088.02 in the Guaranteed Investment Contract to mature in time for the December 1, 2007 Interest Payment to bondholders and Swap Payment to AIG at the highest yield to maturity; and

WHEREAS, Inasmuch as the Authority does not have adequate safekeeping facilities for the aforementioned securities, the Comptroller recommends that the Manufacturers & Traders Trust Company be authorized to maintain possession of the securities, in trust, for the Authority for safekeeping purposes;

NOW, THEREFORE, BE IT RESOLVED:

That the action of Albert Meaney, Comptroller, in authorizing the Manufacturers & Traders Trust Company to invest from the Secondary Interest Account the amount of \$46,536.98 and Payment Account in the amount of \$27,088.02 in the Guaranteed Investment Contract to mature in time for the December 1, 2007 Interest Payment to bondholders and Swap Payment to AIG at the highest yield to maturity, is hereby approved and ratified; and be it further

RESOLVED: That the Manufacturers & Traders Trust Company be and it hereby is authorized to retain possession of the securities, in trust, for the Authority until further direction by the Authority's Comptroller.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling
Noes: None

ITEM 8 - RATIFICATION OF THE INVESTMENT OF FUNDS FROM THE MANUFACTURERS & TRADERS TRUST COMPANY, DEBT SERVICE FUND WATER WORKS SYSTEM REVENUE REFUNDING BONDS, SERIES 1998A - \$50,840.41

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, Susan Rinaldo, Cash Manager advised under date of August 29, 2007 that there was available on August 31, 2007 the following amounts in the Debt Service Fund Water Works System Revenue Refunding Bonds, Series 1998A:

Principal Account	\$30,833.33
Interest Account	\$20,007.08

and has recommended that the Manufacturers & Traders Trust Company, as Fiscal Agent, be authorized to invest from the Interest Account, in the amount of \$20,007.08 to mature in time for the December 15, 2007 Interest Payment at the highest yield to maturity and invest from the Principal Account in the amount of \$30,833.33 to mature in time for the December 15, 2007 Principal Payment at the highest yield to maturity; and

WHEREAS, Inasmuch as the Authority does not have adequate safekeeping facilities for the aforementioned securities, the Comptroller recommends that the Manufacturers & Traders Trust Company be authorized to maintain possession of the securities, in trust, for the Authority for safekeeping purposes;

NOW, THEREFORE, BE IT RESOLVED:

That the action of Albert Meaney, Comptroller, in authorizing the Manufacturers & Traders Trust Company to invest from the Interest Account in the amount of \$20,007.08 to mature in time for the December 15, 2007 Interest Payment at the highest yield to maturity and to invest from the Principal Account in the amount of \$30,833.33 to mature in time for the December 15, 2007 Principal Payment at the highest yield to maturity, is hereby approved and ratified; and be it further

RESOLVED: That the Manufacturers & Traders Trust Company be and it hereby is authorized to retain possession of the securities, in trust, for the Authority until further direction by the Authority's Comptroller.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling
Noes: None

**ITEM 9 - RATIFICATION OF THE INVESTMENT OF FUNDS FROM THE
MANUFACTURERS & TRADERS TRUST COMPANY, DEBT SERVICE
FUND WATER WORKS SYSTEM REVENUE REFUNDING BONDS,
SERIES 1998B - \$112,761.56**

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, Susan Rinaldo, Cash Manager advised under date of August 29, 2007 that there was available on August 31, 2007 the following amounts in the Debt Service Fund Water Works System Revenue Refunding Bonds, Series 1998B:

Interest Account	\$50,261.56
Principal Account	\$62,500.00

and has recommended that the Manufacturers & Traders Trust Company, as Fiscal Agent, be authorized to invest from the Interest Account, in the amount of \$50,261.56 to mature in time for the October 15, 2007 Interest Payment at the highest yield to maturity to 1998B Bondholders and invest from the Principal Account in the amount of \$62,500.00 to mature in time for the October 15, 2007 Principal Payment at the highest yield to maturity to 1998B Bondholders; and

WHEREAS, Inasmuch as the Authority does not have adequate safekeeping facilities for the aforementioned securities, the Comptroller recommends that the Manufacturers & Traders Trust Company be authorized to maintain possession of the securities, in trust, for the Authority for safekeeping purposes;

NOW, THEREFORE, BE IT RESOLVED:

That the action of Albert Meaney, Comptroller, in authorizing the Manufacturers & Traders Trust Company to invest from the Interest Account in the amount of \$50,261.56 to mature in time for the October 15, 2007 Interest Payment at the highest yield to maturity to 1998B Bondholders and invest from the Principal Account in the amount of \$62,500.00 to mature in time for the October 15, 2007 Principal Payment at the highest yield to maturity to 1998B Bondholders, is hereby approved and ratified; and be it further

RESOLVED: That the Manufacturers & Traders Trust Company be and it hereby is authorized to retain possession of the securities, in trust, for the Authority until further direction by the Authority's Comptroller.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling

Noes: None

**ITEM 10 - RATIFICATION OF THE INVESTMENT OF FUNDS FROM THE
MANUFACTURERS & TRADERS TRUST COMPANY, DEBT SERVICE
FUND WATER WORKS SYSTEM REVENUE REFUNDING BONDS,
SERIES 2003F - \$92,860.49**

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, Susan Rinaldo, Cash Manager advised under date of August 29, 2007 that there was available on August 31, 2007 the following amounts in the Debt Service Fund Water Works System Revenue Refunding Bonds, Series 2003F:

Interest Account \$40,777.16

Principal Account \$52,083.33

and has recommended that the Manufacturers & Traders Trust Company, as Fiscal Agent, be authorized to invest from the Interest Account, in the amount of \$40,777.16 to mature in time for the January 15, 2007 Interest Payment at the highest yield to maturity to 2003F Bondholders and to invest from the Principal Account in the amount of 52,083.33 to mature in time for the July 15, 2008 Principal Payment at the highest yield to maturity to 2003F Bondholders; and

WHEREAS, Inasmuch as the Authority does not have adequate safekeeping facilities for the aforementioned securities, the Comptroller recommends that the Manufacturers & Traders Trust Company be authorized to maintain possession of the securities, in trust, for the Authority for safekeeping purposes;

NOW, THEREFORE, BE IT RESOLVED:

That the action of Albert Meaney, Comptroller, in authorizing the Manufacturers & Traders Trust Company to invest from the Interest Account in the amount of 40,777.16 to mature in time for the January 15, 2007 Interest Payment at the highest yield to maturity to 2003F Bondholders and to invest from the Principal Account in the amount of \$52,083.33 to mature in time for the July 15, 2008 Principal Payment at the highest yield to maturity to 2003F Bondholders, is hereby approved and ratified; and be it further

RESOLVED: That the Manufacturers & Traders Trust Company be and it hereby is authorized to retain possession of the securities, in trust, for the Authority until further direction by the Authority's Comptroller.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling
Noes: None

ITEM 11 - AUTHORIZATION TO RENEW THE AGREEMENT WITH CAPITOL PARTNERS, INC. IN CONNECTION WITH LOBBYING SERVICES AT THE FEDERAL LEVEL IN WASHINGTON, D.C.

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, Heretofore and on the 1st day of September, 2006 the Erie County Water Authority ("Authority") entered into an agreement with Capitol Partners, Inc. in connection with lobbying services at the Federal level in Washington, D.C.; and

WHEREAS, The Agreement was for a one year period subject to a one year renewal at the option of the Authority; and

WHEREAS, The United States House of Representatives passed an earmarked appropriation of \$500,000 for the Ball Pump Station Emergency Power Generation project of the Authority on June 27, 2007; and

WHEREAS, The Senate Subcommittee passed a resolution authorizing the earmarked appropriation on June 21, 2007; and

WHEREAS, The full Senate will now work on passing bills including the earmarked appropriation of \$500,000 for the Authority; and

WHEREAS, The Authority deems it in the best interest of the Authority to renew the agreement with Capitol Partners, Inc. until the end of the fiscal year December 31, 2007 to continue working on finalizing the appropriation for the Authority and seeking additional funding;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority is hereby authorized to take all steps necessary to renew the agreement with Capitol Partners, Inc. in connection with lobbying services at the Federal level in Washington, D.C. until the end of the fiscal year December 31, 2007.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling

Noes: None

ITEM 12 - AUTHORIZATION TO EXECUTE GENERAL RELEASE IN CONNECTION WITH COST OF RELOCATING MUNICIPALLY OWNED FACILITIES MAINTAINED FOR PUBLIC USE (SUBDIVISION 24, SECTION 10, OF THE HIGHWAY LAW) FOR WALDEN AVENUE SH 9411, REFERENCE ROUTE 952Q, CONRAIL OVERPASS TO CR 341, CEMETERY ROAD, VILLAGES OF DEPEW AND LANCASTER, ERIE COUNTY, IDENTIFIED AS PIN NO. 5753.77, PROJECT NO. 199800173 - \$995.38

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, By resolution identified as Item No. 6 of the Minutes of the Meeting of March 2, 2000, the Erie County Water Authority ("Authority"), a public benefit corporation in the County of Erie and State of New York, entered into a Preliminary Utility Work Agreement with the New York State Department of Transportation ("NYSDOT") acting by and through Adele Cannarozzi, Main Office Utilities Engineer for the Commissioner of Transportation, for the Walden Avenue, SH 9411, reference Route 952Q, Conrail Overpass to CR 341, Cemetery Road, Villages of Depew and Lancaster, Town of Lancaster, Erie County, identified as PIN No. 5753.77 at an amount not to exceed \$5,493.00; and

WHEREAS, By resolution identified as Item No. 13 of the Minutes of the Meeting of May 4, 2000, the Authority entered into an Agreement in Connection with Cost of Relocating Municipally Owned Facilities Maintained for Public Use (Subdivision 24, Section 10 of the Highway Law) in an amount not to exceed \$5,493.00; and

WHEREAS, All the work under said Agreements has been performed by the employment of the forces and the use of the equipment of the Authority or by contract between the Authority and others and accepted by the State of New York; and

WHEREAS, The NYSDOT under date of August 24, 2007, submitted a Utility Field Audit Report for costs incurred in the relocation of the Authority's facilities in the adjusted amount of \$995.38 and has requested the execution of a General Release in said amount; and

WHEREAS, Wesley C. Dust, P.E., Executive Engineer and Albert J. Meaney, Comptroller have verified the Summary of Costs and recommended executing the General Release in the adjusted amount of \$995.38;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority hereby authorizes the Chairman to execute a General Release to the State of New York in consideration of the sum of \$995.38 to it previously paid in part, the balance of which is to be duly paid by the State of New York, the receipt whereof is to be confessed and acknowledged and which sum is in complete and full reimbursement for the work

performed by the said Authority, which does for itself, its successors and assigns, in all things give full release and discharges the said State of New York, its officers, agents and employees, from all claims, demands and liabilities of every kind and nature, legal or equitable, occasioned by or arising out of the work performed by the Authority under said Agreement; and be it further

RESOLVED: That the Secretary be and he hereby is authorized to forward the original and three copies of the executed General Release to Scott McKay, Regional Utilities Engineer, New York State Department of Transportation, 100 Seneca Street, Buffalo, New York, 14203.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling
Noes: None

ITEM 13 - AWARD OF CONTRACT TO E&R GENERAL CONSTRUCTION FOR CONTRACT NO. DA-006, LARGE VALVE REPLACEMENTS, PROJECT NO. 200700321 - \$631,450.00

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, The Erie County Water Authority ("Authority") heretofore advertised in the Dodge Reports and Front Page on the 8th day of August, 2007, and in Business First on the 10th day of August, 2007, a notice inviting sealed bids or proposals in accordance with Section 1069 of the Public Authorities Law for Contract No. DA-006, large valve replacements; and

WHEREAS, Sealed bids or proposals were opened in the office of the Authority on the 28th day of August, 2007, at 11:00 a.m., local time, and were as follows:

BIDDERS	AMOUNT
E&R General Construction	\$ 631,450.00
Sergi Construction	658,600.00
Mar-Wal Construction Co., Inc.	857,700.00
C. Destro Development Co., Inc.	890,000.00
Villager Construction, Inc.	991,510.00
Kandey Company, Inc.	1,084,700.00
Man O Trees, Inc.	1,193,170.00*

*Corrected Figure; and

WHEREAS, The bid bonds have all been approved by Anthony Alessi, Claims Representative/Risk Manager; and

WHEREAS, Tamekia Hall, Director of Equal Employment Opportunity, has advised that the low bidder, E&R General Construction has complied with the Authority's Affirmative Action Requirements and recommends that they be allowed to proceed with their contract based on that fact; and

WHEREAS, DiDonato Associates, P.E., P.C., Consulting Engineers, Wesley C. Dust, P.E., Executive Engineer and Robert A. Mendez, Executive Director have reviewed the specifications and bids and determined that E&R General Construction is the lowest bidder qualified to perform the project and have recommended that a contract be awarded to that firm for the abovementioned project;

NOW, THEREFORE, BE IT RESOLVED:

That it is hereby determined that E&R General Construction is the lowest responsible bidder for the abovementioned project, and that the Chairman be and he hereby is authorized and directed to execute a contract with said contractor for Contract No. DA-006, large valve replacements in the total amount of \$631,450.00; and be it further

RESOLVED: Pursuant to New York State Finance Law §§139-j and 139-k and the Authority's Purchasing Guidelines, Policies and Procedures with the award and execution by the Authority of this contract, the Restricted Period will cease; and be it further

RESOLVED: That the Secretary be and he hereby is authorized to return to the unsuccessful bidders their deposit submitted with their bid to the Authority for the abovementioned project; and be it further

RESOLVED: That the Director of Administration is hereby authorized and directed to create a Master Purchase Order for the abovementioned contract.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling
Noes: None

ITEM 14 - AUTHORIZATION TO ADVERTISE FOR BIDS FOR THE FURNISHING AND DELIVERING OF FLUOSILICIC ACID TO THE ERIE COUNTY WATER AUTHORITY FOR USE IN THE TREATMENT OF WATER FOR ONE YEAR FROM OCTOBER 1, 2007 THROUGH SEPTEMBER 30, 2008, PROJECT NO. 200700497

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, Wesley C. Dust, P.E., Executive Engineer and Robert A. Mendez, Executive Director recommend that the Erie County Water Authority ("Authority") publish a notice inviting sealed bids or proposals pursuant to Section 1069 of the Public Authorities Law

for the furnishing and delivering of fluosilicic acid to the Authority for use in the treatment of water for one year from October 1, 2007 through September 30, 2008; and

WHEREAS, The work, labor and services for the abovementioned project is estimated to cost an amount in excess of \$10,000.00 and

WHEREAS, The Advertisement for Bids for the furnishing and delivering of fluosilicic acid to the Authority for use in the treatment of water for one year from October 1, 2007 through September 30, 2008 will be conducted pursuant to the newly enacted legislation, New York State Finance Law §§ 139-j and 139-k and the Authority's Purchasing Guidelines, Policies and Procedures; and

WHEREAS, John Mogavero, Chemist & Chief WTPO will be the designated contact person for the project with the adoption of this resolution;

NOW, THEREFORE, BE IT RESOLVED:

That the plans and specifications and form of bid be prepared for the furnishing and delivering of fluosilicic acid to the Authority for use in the treatment of water for one year from October 1, 2007 through September 30, 2008 and upon completion be made available for inspection by bidders in the office of the Authority; and be it further

RESOLVED: That the Secretary be and he hereby is authorized and directed to publish a notice inviting sealed bids or proposals pursuant to Section 1069 of the Public Authorities Law for the abovementioned project.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling
Noes: None

ITEM 15 - APPROVAL OF CREDIT CHANGE ORDER NO. 1 OF TRIPLE R DEVELOPMENT OF WNY, INC. FOR CONTRACT NO. EA-007, WATER SYSTEM IMPROVEMENTS IN THE TOWN OF AMHERST AND CITY OF LACKAWANNA, PROJECT NO. 200600179, CONTRACT NO. 07-12-02 - \$2,033.00

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, Heretofore and on the 16th day of February, 2007, the Erie County Water Authority ("Authority") entered into a contract with Triple R Development of WNY, Inc. for Contract No. EA-007, water system improvements in the Town of Amherst and City of Lackawanna, identified as Contract No. 07-12-02; and

WHEREAS, Said contractor has submitted Credit Change Order No. 1 in the sum of \$2,033.00 to provide for a credit for the installation of 1-1/2" asphalt top course in Section 2 in

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lieu of the specified 2" asphalt section. Area for which the credit applies is 2,675 SY of pavement on Majestic Circle in the Town of Amherst, NY; and

WHEREAS, The reason for said change is because the existing asphalt thickness in the roadways in this section of the watermain project varied. In an effort to minimize compromising the integrity of the existing asphalt that is to remain, it has been decided to decrease the thickness of the mill/overlay process on the watermain side of the roadways; and

WHEREAS, Erdman Anthony, Consulting Engineers, Wesley C. Dust, P.E., Executive Engineer and Robert A. Mendez, Executive Director recommend approval of said Credit Change Order No. 1;

NOW, THEREFORE, BE IT RESOLVED:

That Credit Change Order No. 1 of Triple R Development of WNY, Inc. in the amount of \$2,033.00 to provide for the abovementioned change be approved; and be it further

RESOLVED: That the Chairman be and he hereby is authorized to execute said Credit Change Order No. 1 on behalf of the Authority.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling

Noes: None

ITEM 16 - AUTHORIZATION TO INSTALL A WATERMAIN EXTENSION ALONG TRANSIT ROAD AND SHERIDAN DRIVE IN THE TOWN OF AMHERST, NEW YORK, PROJECT NO. 200700578, EC NO. 5725

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, The Erie County Water Authority ("Authority") desires to install a watermain extension along Transit Road and Sheridan Drive in the Town of Amherst, New York under the Authority's annual large service contract; and

WHEREAS, This watermain extension installation has been assigned Work Authorization No. EC 5725 and Project No. 200700578;

NOW, THEREFORE, BE IT RESOLVED:

That a watermain extension be installed along Transit Road and Sheridan Drive in the Town of Amherst, New York under the Authority's annual large service contract.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling

Noes: None

09/12/07

**ITEM 17 - AUTHORIZATION TO GRANT A ONE-TIME COURTESY REVERSAL
OF DELINQUENT CHARGES FOR WEST SENECA ROTARY
FOUNDATION - \$883.90**

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, Heretofore and on the 6th day of May, 2004 the Erie County Water Authority ("Authority") adopted a One-Time Courtesy Delinquent Charge Reversal Policy; and

WHEREAS, Said Policy states that if the Authority receives a request to waive a late fee over \$500, the request must be approved by the Board of Commissioners of the Authority; and

WHEREAS, Albert J. Meaney, Comptroller, advised the Authority that he has received a request to waive the delinquent charges for West Seneca Rotary Foundation; and

WHEREAS, Mr. Meaney advised that this customer has never received a waiver of late fees in the past; and

WHEREAS, Said request has complied with all one-time courtesy delinquent charge reversal requirements; and

WHEREAS, Albert J. Meaney, Comptroller, recommends granting the above request; and

WHEREAS, Edward J. Kasprzak, Deputy Director, concurs with said recommendation;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority grant the one-time courtesy delinquent charge reversal request to the abovementioned customer; and be it further

RESOLVED: That the Comptroller is hereby authorized and directed to adjust the account of the abovementioned customers.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling

Noes: None

**ITEM 18 - AUTHORIZATION TO AMEND THE ERIE COUNTY WATER
AUTHORITY'S ANNUAL BUDGET FOR FISCAL YEAR 2007**

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, In a resolution dated November 20, 2006 the Erie County Water Authority (the "Authority") adopted its Annual Budget for the fiscal year 2007; and

WHEREAS, From time to time, due to changes in spending priorities, availability of funds, or changes in other circumstances the Authority finds it proper to amend its Budget to reflect such changes; and

WHEREAS, The Authority has determined that it is advisable to delete the position of Senior Stenographer in the Water Quality Unit, and add the position of Account Clerk Typist in this unit; and

WHEREAS, The annual salary at Step A for Account Clerk Typist, salary grade 5, is \$35,691, while the corresponding Step A salary for Senior Stenographer, salary grade 6, is \$36,843; and

WHEREAS, Robert A. Mendez, Executive Director, Edward J. Kasprzak, Deputy Director, Matthew J. Baudo, Secretary to the Authority, and Wesley Dust, Executive Engineer, recommend approval of said amendment;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority's Annual Budget for the fiscal year 2007 be amended by deleting the position of Senior Stenographer in the Water Quality Unit, and adding the position of Account Clerk Typist in the Water Quality Unit.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling
Noes: None

**ITEM 19 - AUTHORIZATION TO AMEND THE ERIE COUNTY WATER
AUTHORITY'S ANNUAL BUDGET FOR FISCAL YEAR 2007**

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, In a resolution dated November 20, 2006 the Erie County Water Authority (the "Authority") adopted its Annual Budget for the fiscal year 2007; and

WHEREAS, From time to time, due to changes in spending priorities, availability of funds, or changes in other circumstances the Authority finds it proper to amend its Budget to reflect such changes; and

WHEREAS, The Authority has determined that it is advisable to add a position of Water Treatment Plant Operator at its Sturgeon Point facility; and

WHEREAS, The funding for this additional position, amounting to \$16,420, can be obtained from idle, and expected to be unspent in 2007, funds in the vacant line item position of Assistant Instrumentation Technician; and

WHEREAS, Robert A. Mendez, Executive Director, Matthew J. Baudo, Secretary to the Authority, and Wesley Dust, Executive Engineer, recommend approval of said amendment;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority's Annual Budget for the fiscal year 2007 be amended by adding the position of Water Treatment Plant Operator, and transferring \$16,420 to fund this additional position, from the vacant line item position of Assistant Instrumentation Technician.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling

Noes: None

ITEM 20 - AUTHORIZATION TO AMEND THE ERIE COUNTY WATER AUTHORITY'S ANNUAL BUDGET FOR FISCAL YEAR 2007

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, In a resolution dated November 20, 2006 the Erie County Water Authority (the "Authority") adopted its Annual Budget for the fiscal year 2007; and

WHEREAS, From time to time, due to changes in spending priorities, availability of funds, or changes in other circumstances the Authority finds it proper to amend its Budget to reflect such changes; and

WHEREAS, The Authority has been advised by Richard Rosenberry, Senior Distribution Engineer, that construction work on Contract DA-6, entitled "Large Valve Replacements", Capital Budget Item 100600, was advanced to 2007 due to the Holland Avenue Betterment project being postponed by Erie County until 2008; and

WHEREAS, In order to fund the construction work for Contract DA-6, it will be necessary to transfer \$380,000 from Capital Budget Item 100605 entitled "Holland Avenue Betterment Project", to Capital Budget Item 100600, Contract DA-6, entitled "Large Valve Replacements"; and

WHEREAS, Robert A. Mendez, Executive Director, Edward J. Kasprzak, Deputy Director(P.T.), and Wesley Dust, Executive Engineer, recommend approval of said amendment;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority's Annual Budget for the fiscal year 2007 be amended by transferring \$380,000 from Capital Budget Item 100605 entitled "Holland Avenue Betterment Project", to Capital Budget Item 100600, Contract DA-6, entitled "Large Valve Replacements".

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling
Noes: None

ITEM 21 - AUTHORIZATION TO REFUND \$63,752.33 TO THE TOWN OF ORCHARD PARK

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, The Erie County Water Authority ("the Authority") is a non-profit public benefit corporation and is required by its Charter and Tariff to sell water, water services, facilities and commodities, and to set rates that cover its costs; and

WHEREAS, Section 8.00 of the Authority's Tariff, entitled "Public Fire Protection", as well as Sections 13.04 and 13.05, covering Service Classifications Number 3 and 3A, respectively, provide for billing of Public Fire Protection Service; and

WHEREAS, In June of 2007, a review of the Authority's billing for Public Fire Protection was initiated by the Business Office and the Engineering Department, the result of which review indicated an overbilling, occurring over multiple years, of \$63,752.33, to the Town of Orchard Park; and

WHEREAS, Robert A. Mendez, Executive Director, Edward J. Kasprzak, Deputy Director(P.T.), Albert J. Meaney, Comptroller, and Wesley Dust, Executive Engineer, recommend refunding \$63,752.33 to the Town of Orchard Park, which amount represents overbilling of Public Fire Protection Service;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority's Comptroller is directed to disburse \$63,752.33 to the Town of Orchard Park, which amount represents overbilling of Public Fire Protection Service.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling
Noes: None

ITEM 22 - BRETT STOCKDALE, ASSISTANT INSTRUMENTATION/ELECTRIC AND ELECTRONICS TECHNICIAN - MILITARY LEAVE OF ABSENCE

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, Brett Stockdale, Assistant Instrumentation/Electronic and Electronics Technician has been ordered from the Department of the Air Force to serve Military Service for the period of September 27, 2007 to January 28, 2008; and

WHEREAS, Policy No. 61.0 (Leave of Absence-Leave for Military Service) of the Erie County Water Authority's Human Resources Policies/Procedures Manual states the following:

"The Authority shall grant a leave of absence with pay pursuant to the provisions of the Military Law of the State of New York and the Uniform Service Employment and Reemployment Act (USERRA) of 1994. The employee shall make written application to the Authority in advance of such leave.

The Authority will pay full salary for 30 days or 22 working days per each calendar year whichever is greater. If the employee is ordered to serve for a period beyond 30 days or 22 working days, whichever is greater, the Authority will pay the difference between the employee's daily military rate and the employee's daily salary rate until such time as the employee returns from active duty or a period of six months has elapsed, whichever comes first."; and

WHEREAS, Based on the above, the Authority is obligated to pay full salary to Brett Stockdale for the periods of September 27, 2007 to October 12, 2007 and January 1, 2008 to January 28, 2008 and to pay the difference between Brett Stockdale's daily military rate and daily salary rate from October 13, 2007 to December 31, 2007; and

WHEREAS, Karla L. Thomas, Director of Human Resources and Robert Mendez, Executive Director recommend payment as noted above;

WHEREAS, Brett Stockdale has submitted a leave of absence without pay form for the

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period of September 27, 2007 to January 28, 2008 which was approved by the Authority's Executive Director and Deputy Director;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority hereby authorizes the Military Leave for Brett Stockdale, Assistant Instrumentation/Electronic and Electronics Technician for the period September 27, 2007 through January 28, 2008; and be it further

RESOLVED: That the Authority pay full salary to Brett Stockdale, Assistant Instrumentation/Electronic and Electronics Technician for the periods of September 27, 2007 to October 12, 2007 and January 1, 2008 to January 28, 2008 and to pay the difference between Brett Stockdale's daily military rate and daily salary rate from October 13, 2007 to December 31, 2007 pursuant to the provisions of the Military Law of the State of New York and the Uniform Services Employment and Reemployment Act (USERRA) of 1994.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling

Noes: None

ITEM 23 - AMENDMENT OF SUPPLEMENTAL RESOLUTION AUTHORIZING THE ISSUANCE OF UP TO \$35,000,000 FOURTH RESOLUTION WATER REVENUE BONDS, SERIES 2007

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, the Erie County Water Authority (hereinafter sometimes referred to as the "Authority") on August 16, 2007, adopted that certain Supplemental Resolution Authorizing the Issuance of up to \$35,000,000 Fourth Resolution Water Revenue Bonds, Series 2007 (as amended hereby, the "Series 2007 Resolution"), for the purpose of paying the Cost of Acquisition and Construction of certain improvements and extensions to the Water Works System, as more fully described therein; and

WHEREAS, the Authority wishes to ratify the establishment and creation of a special trust fund to serve as the construction fund under the Series 2007 Resolution and to provide for the use of funds deposited therein;

NOW, THEREFORE, BE IT RESOLVED, by the Authority, pursuant to the Fourth General Water Revenue Bond Resolution of the Authority adopted on July 9, 1992, as amended and supplemented to the date hereof (the "General Resolution"), and the Series 2007 Resolution, as follows:

1. Definitions. Unless otherwise defined herein, all capitalized terms used herein shall have the meanings set forth in the General Resolution or the Series 2007 Resolution.

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2. Amendment of Article IV of Series 2007 Resolution. A new Section 4.10 is hereby added to Article IV of the Series 2007 Resolution, to read as follows:

“SECTION 4.10 Construction Fund, Series 2007. There is hereby created and established in accordance with Section 6.7 of the General Resolution a separate special trust fund to be known as the “Construction Fund, Series 2007”. Moneys on deposit in the Construction Fund, Series 2007, shall be used to pay the Cost of Acquisition and Construction of certain improvements and extensions to the Water Works System as determined by the Authority and to pay certain Costs of Issuance of the Series 2007 Bonds. The Authority will request advances from the Construction Fund, Series 2007, by means of requisitions substantially in the form attached to this Amendment as Exhibit A.”

3. Application of Bond Proceeds. Pursuant to Section 2.8 of the Series 2007 Resolution, the sum of \$34,778,838.00, which includes the good faith deposit of \$350,000.00 heretofore received from the purchaser of the Series 2007 Bonds, and which represents the net sale proceeds from the sale of the Series 2007 Bonds less the underwriter’s discount in connection therewith, shall be deposited in the Construction Fund, Series 2007.

4. Effective Date. This Amendment of the Series 2007 Resolution shall be fully effective immediately upon its adoption.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling
Noes: None

EXHIBIT A
ERIE COUNTY WATER AUTHORITY
FOURTH RESOLUTION WATER REVENUE BONDS, SERIES 2007
FORM OF REQUISITION

Manufacturers and Traders Trust Company, as Trustee
One M&T Plaza
Buffalo, New York 14240

Re: Erie County Water Authority
Fourth Resolution Water Revenue Bonds, Series 2007

Ladies and Gentlemen:

Pursuant to Section 4.10 of the Supplemental Resolution Authorizing the Issuance of up to \$35,000,000 Fourth Resolution Water Revenue Bonds, Series 2007 adopted by the Erie County Water Authority (the “Authority”) on August 16, 2007, as amended by a Resolution adopted by the Authority on September 12, 2007 (collectively, the “Series 2007 Resolution”), we hereby request disbursement in the amount of \$_____ for Cost of Acquisition and Construction and/or Costs of Issuance, as

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defined in the Fourth General Water Revenue Resolution adopted by the Authority on July 9, 1992 (the "General Resolution"). Capitalized terms used but not defined herein have the meanings set forth in the General Resolution and the Series 2007 Resolution. In connection with this requisition the undersigned does hereby represent and certify the following:

1. This requisition is requisition number _____.
2. Payments aggregating \$_____ have been incurred by the Recipient for Cost of Acquisition and Construction or Costs of Issuance as shown on the attached schedule.
3. The amount of this requisition, together with all prior requisitions, does not exceed the amount of the available proceeds in the Construction Fund, Series 2007.
4. All amounts requisitioned hereunder are for eligible Cost of Acquisition and Construction of Costs of Issuance which have not been included in any previous disbursement from the Construction Fund, Series 2007.
5. The undersigned is duly authorized to execute and deliver this requisition on behalf of the Recipient.

Date: _____

ERIE COUNTY WATER AUTHORITY

By: _____

Name:

Title:

ITEM 24 - PURCHASE ORDERS:

Motion by Mr. Lichtenthal seconded by Mr. Warthling and carried to approve for payment of Purchase Order Nos. as listed on the attached sheets pages 20-29 after certification by the Comptroller that the orders are in accordance with the quotations and that the Director of Administration be authorized to execute the above and all associated documents after certifying that they are in conformity with applicable laws and the Authority's By-Laws and Purchasing Guidelines, Policies and Procedures.

ITEM 25 - PURCHASE ORDER AMENDMENTS:

Motion by Mr. Lichtenthal seconded by Mr. Warthling and carried to approve for payment of Purchase Order Amendments as listed on the attached sheet page 30 after certification by the Comptroller that the orders are in accordance with the quotations and that the Director of Administration be authorized to execute the above and all associated documents after certifying that they are in conformity with applicable laws and the Authority's By-Laws and Purchasing Guidelines, Policies and Procedures.

ITEM 26 - SERVICE CONNECTION WORK ORDER LIST:

Motion by Mr. Lichtenthal seconded by Mr. Warthling and carried to approve Service Connection Work Order Nos. 07-36, to C. Destro Development Co., Inc. for Service Area No. 1 under Contract No. 07-04-01 and to C. Destro Development Co., Inc. for Service Area No. 2 under Contract No. 07-05-01 and large services under Contract No. 07-03-01 to Kandey Company, Inc.

VIII. - ADJOURNMENT

Meeting adjourned until the next regular meeting to be held on Wednesday, September 26, 2007 at 9:00 a.m.

Matthew J. Baudo
Secretary to the Authority

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