

MINUTES of the **MEETING** of the **ERIE COUNTY WATER AUTHORITY** held in the office, 350 Ellicott Square Building, Buffalo, New York, on the 26th 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
Karla L. Thomas, Director of Human Resources
Albert J. Meaney, Comptroller
Susan L. Rinaldo, Cash Manager
Anthony J. Alessi, Claims Representative/Risk Manager

ATTENDEES: Joseph Matteliano

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 Wednesday, September 12, 2007.

III. - APPROVAL OF MINUTES

Motion by Mr. Lichtenthal seconded by Mr. Warthling and carried to approve the Minutes of the Meeting held on Wednesday, September 12, 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 - 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 1-27 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 2-22)

ITEM 2 - AUTHORIZATION TO ENTER INTO A PROFESSIONAL CONTRACTING SERVICE AGREEMENT WITH ROY TEITSWORTH, INC. FOR AUCTIONEER SERVICES IN CONNECTION WITH THE ERIE COUNTY WATER AUTHORITY'S VEHICULAR AUCTION FOR THE YEARS 2007, 2008 AND 2009, IDENTIFIED AS CONTRACT NO. RT-003, PROJECT NO. 200700622

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, The Erie County Water Authority's ("Authority") Board of Commissioners authorized the issuance of a Request for Proposals ("RFP") for auctioneer services in connection with the Authority's Vehicular Auction for the years 2007, 2008 and 2009 on August 16, 2007; and

WHEREAS, A copy of the RFP was sent to seven auction firms in the region and four firms replied to the RFP (Auctions International, Roy Teitsworth, Inc., R.W. Bronstein and Cash Realty); and

WHEREAS, The RFP process was conducted pursuant to the enacted state legislation (New York State Finance Law §§ 139-j and 139-k) and the Authority's Purchasing Guidelines, Policies and Procedures; and

WHEREAS, Upon evaluating the response to the RFP, the Authority deems it advisable to have Roy Teitsworth, Inc. render professional auctioneer services on behalf of the Authority; and

WHEREAS, Roy Teitsworth, Inc. is the most qualified, lowest, responsible RFP respondent to perform the specific services required; and

WHEREAS, Under the date of September 20, 2007, Roy Teitsworth, Inc. submitted three copies of the proposed agreement between the Authority and them consisting of 14 typewritten pages outlining services to be performed as follows:

SECTION 1 - QUALIFICATION OF CONSULTANT

SECTION 2 - SCOPE OF SERVICES

SECTION 3 - PAYMENT FOR SERVICES

SECTION 4 - SUBCONTRACT AND ASSIGNMENT

SECTION 5 - AMENDMENTS

SECTION 6 - RIGHT TO TERMINATE

SECTION 7 - INDEMNIFICATION

SECTION 8 - CONFIDENTIAL INFORMATION

SECTION 9 - INSURANCE

SECTION 10 - COPYRIGHTS, TRADEMARKS, AND LICENSING

SECTION 11 - NEW YORK LAW AND JURISDICTION

SECTION 12 - CONFLICTS OF INTEREST

SECTION 13 - ADDITIONAL CONDITIONS

SECTION 14 - ENTIRE AGREEMENT

SECTION 15 - INDEPENDENT STATUS

SECTION 16 - COMPLIANCE

SECTION 17 - GRATUITIES

SECTION 18 - NOTICE

SECTION 19 - SEVERABILITY

SECTION 20- BUYER IDENTIFICATION; and

WHEREAS, The Authority agrees to pay Roy Teitsworth, Inc. for services described in said proposal in accordance with the terms as outlined in Section 3 of said proposal entitled Payment for Services; and

WHEREAS, Paul H. Riester, Director of Administration, Wesley C. Dust, P.E., Executive Engineer and Robert A. Mendez, Executive Director recommend acceptance of said proposal by the Authority;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority accepts the proposal of Roy Teitsworth, Inc. to render professional auctioneer services on behalf of the Authority under the terms and conditions set forth in said proposal; 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 agreement, the Restricted Period will cease; and be it further

RESOLVED: That the Chairman be and he hereby is authorized to execute said agreement on behalf of the Authority; and be it further

RESOLVED: That the Secretary be and he hereby is authorized to forward an executed copy of said Agreement together with a certified copy of this resolution to Roy Teitsworth, Inc.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling

Noes: None

ITEM 3 - AUTHORIZATION TO SOLICIT REQUEST FOR PROPOSALS FOR AN INSURANCE-PROTECTION PROGRAM

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, Pursuant to Article V, Title 3, Section 1053 of the Public Authorities Law, the Erie County Water Authority ("Authority") has the authority to contract for expert professional services; and

WHEREAS, Article III, Section 6 of the Authority's By-Laws grants to the Authority the right to contract for expert professional services; and

WHEREAS, The Authority deems it necessary to issue a Request for Proposal ("RFP") to qualified firms to provide the Authority with an insurance-protection program; and

WHEREAS, The proposals received by the Authority will be evaluated in accordance with the terms of the RFP, and a professional services contract will be negotiated and executed with the successful offerer; and

WHEREAS, The RFP for an insurance-protection program 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, Anthony J. Alessi, Claims Representative/Risk Manager, will be the designated contact person for the RFP with the adoption of this resolution;

NOW, THEREFORE BE IT RESOLVED:

The Authority is hereby authorized to issue a RFP to qualified firms to provide the Authority with an insurance-protection program.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling

Noes: None

ITEM 4 - CONCLUSION OF THE RESTRICTED PERIOD FOR THE PRINTING OF CUSTOMER BILL INSERTS

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, On January 11, 2007, the Board of Commissioners of the Erie County Water Authority ("Authority") authorized the issuance of a Request for Proposal ("RFP") for the printing of customer bill inserts; and

WHEREAS, Matthew J. Baudo, Secretary to the Authority advised that money budgeted for this RFP was needed for a different project, and, therefore never solicited; and

WHEREAS, Due to the above information, Matthew J. Baudo, Secretary to the Authority advises that the Authority deems that the restricted period for the above RFP, as prescribed in the New York State Finance Law §§ 139-j and 139-k and referred to in the Authority's Purchasing Guidelines, Policies and Procedures, is now concluded ; and

WHEREAS, Robert A. Mendez, Executive Director concurs with said recommendation;

NOW, THEREFORE BE IT RESOLVED:

RESOLVED, That the Board of Commissioners, with the adoption of this resolution, deems that the restricted period for the RFP for the printing of customer bill inserts, as prescribed in the New York State Finance Law §§ 139-j and 139-k and referred to in the Authority's Purchasing Guidelines, Policies and Procedures, is now concluded.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling

Noes: None

ITEM 5 - AUTHORIZATION TO ACCEPT THE CONSTRUCTION AND INSTALLATION OF 2,480 LINEAR FEET OF EIGHT (8") INCH PVC WATERMAIN, 50 LINEAR FEET OF EIGHT (8") DUCTILE IRON PIPE, FIVE (5) HYDRANTS, SIX (6) LINE VALVES AND APPURENTANCES IN STRICKLER ESTATES PHASE 1, TOWN OF CLARENCE, PROJECT NO. 200400458, EC NO. 5548

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, The Erie County Water Authority ("Authority"), by resolution dated December 15, 2005, identified as Item No. 6, of the Minutes of that meeting, accepted the proposal of 5700 Strickler Road, LLC for the construction and installation of approximately 350 linear feet of eight (8") inch PVC watermain, 50 linear feet of eight (8") inch ductile iron

watermain, five (5) hydrants and appurtenances in Strickler Estates Phase 1, Town of Clarence, New York, identified by Work Authorization No. EC No. 5548; and

WHEREAS, The Bill of Sale dated July 30, 2004 and the Schedule of Inventory dated July 24, 2007 have been approved by Wesley C. Dust, Executive Engineer and Mark J. Fuzak, Counsel and the construction of 2,480 linear feet of eight (8") inch PVC watermain, 50 linear feet of eight (8") ductile iron pipe, five (5) hydrants, six (6) line valves and appurtenances in Strickler Estates Phase 1, Town of Clarence have been installed in accordance with the specifications of the Authority as certified to by Greenman-Pedersen, Inc.; and

WHEREAS, The Division of Environmental Health of the Health Department of the County of Erie has approved the completed works for public water supply improvement for Strickler Estates Phase 1, Town of Clarence; and

WHEREAS, Albert J. Meaney, Comptroller has reviewed the costs of the main and hydrants and finds them reasonable and correct; and

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

NOW, THEREFORE, BE IT RESOLVED:

That the Authority accept the construction and installation of 2,480 linear feet of eight (8") inch PVC watermain, 50 linear feet of eight (8") ductile iron pipe, five (5) hydrants, six (6) line valves and appurtenances in Strickler Estates Phase 1, Town of Clarence, and said main, hydrants and valves be added to the property records of the Authority.

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

ITEM 6 - 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 GARDENVILLE-WILLIAMSVILLE, PTS. 1A & 2, SH 1965 & 1626 NY ROUTE 277, UNION ROAD (COMO PARK BLVD./VERN LANE TO GEORGE URBAN BLVD., NO JCT.), WALDEN AVENUE, SH 9411, NY REF. ROUTE 952Q (I-90, NYS THRUWAY TO NY ROUTE 277, UNION ROAD), ERIE COUNTY, PROJECT NO. 199900028, IDENTIFIED AS PIN NO. 5131.23 - \$26,550.17

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, By resolution identified as Item No. 6 of the Minutes of the Meeting of October 23, 2003, 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 Cannarozzo, Main Office Utilities Engineer for the Commissioner of Transportation, for the Gardenville-Williamsville, Pts. 1A & 2, SH 1965 & 1626 NY Route 277, Union Road (Como Park Blvd./Vern Lane to George Urban Blvd., No Jct.), Walden Avenue, SH 9411, NY Ref. Route 952Q (I-90, NYS Thruway to NY Route 277, Union Road), Erie County, identified as Pin No. 5131.23 at an amount not to exceed \$36,987.00; and

WHEREAS, By resolution identified as Item No. 11 of the Minutes of the Meeting of January 16, 2004, 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 \$36,987.00; 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 September 13, 2007, submitted a Utility Field Audit Report for costs incurred in the relocation of the Authority's facilities in the adjusted amount of \$26,550.17 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 \$26,550.17;

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 \$26,550.17 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; Comms. Swiatek, Lichtenthal and Warthling

Noes: None

ITEM 7 - 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 GENESEE STREET, PART 1, SH 1212, REFERENCE ROUTE 952A, GENESEE STREET, CR 317, DICK ROAD AND CR 245, CAYUGA ROAD TO ROUTE NY 33, KENSINGTON EXPRESSWAY ROUTE NY 33, GENESEE STREET, ROUTE NY 33, KENSINGTON EXPRESSWAY TO BUFFALO-NIAGARA INTERNATIONAL AIRPORT EAST ENTRANCE, ERIE COUNTY, NEW YORK, PROJECT NO. 199900371, IDENTIFIED AS PIN NO. 5512.39 - \$5,226.34

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, By resolution identified as Item No. 10 of the Minutes of the Meeting of January 16, 2004, 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 Cannarozzo, Main Office Utilities Engineer for the Commissioner of Transportation, for the Genesee Street, Part 1, SH 1212, Reference Route 952A, Genesee Street, CR 317, Dick Road and CR 245, Cayuga Road to Route NY 33, Kensington Expressway Route NY 33, Genesee Street, Route NY 33, Kensington Expressway to Buffalo-Niagara International Airport East Entrance, Erie County, New York, identified as Pin No. 5512.39 at an amount not to exceed \$2,390.00; and

WHEREAS, By resolution identified as Item No. 13 of the Minutes of the Meeting of March 25, 2004, 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 \$2,390.00; and

WHEREAS, A Supplemental Agreement in Connection with Cost of Relocating Municipally Owned Facilities Maintained for Public Use was executed by the Authority by resolution identified as Item No. 9 of the Minutes of the Meeting of July 17, 2007; 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 September 13, 2007, submitted a Utility Field Audit Report for costs incurred in the relocation of the Authority's facilities in the adjusted amount of \$5,226.34 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 \$5,226.34;

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 \$5,226.34 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 8 - AUTHORIZATION TO ADVERTISE FOR BIDS FOR FILTER MEDIA REPLACEMENT AT THE VAN DE WATER WATER TREATMENT PLANT, PROJECT NO. 200700568

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 filter media replacement at the Van de Water Water Treatment Plant; 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 filter media replacement at the Van de Water Water Treatment Plant 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, Jay F. Meyers, P.E., Production Engineer 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 filter media replacement at the Van de Water Water Treatment Plant 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 9 - APPROVAL OF CHANGE ORDER NO. 1 OF JCI JONES CHEMICALS, INC. FOR CAUSTIC SODA (50% SOLUTION) TO THE ERIE COUNTY WATER AUTHORITY FOR USE IN THE TREATMENT OF WATER FOR TWO YEARS FROM NOVEMBER 1, 2005 THROUGH OCTOBER 31, 2007, PROJECT NO. 200500246, CONTRACT NO. 05-30-11 - \$310,965.80

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, Heretofore and on the 6th day of October, 2005, the Erie County Water Authority ("Authority") entered into a contract with JCI Jones Chemicals, Inc. for the furnishing and delivering of caustic soda (50% solution) to the Erie County Water Authority for use in the treatment of water for two years from November 1, 2005 through October 31, 2007, identified as Contract No. 05-30-11; and

WHEREAS, Paragraph 15 (Grounds for Renewal of Contract) of the Agreement Section of the contract states that if the Authority and the Supplier mutually agree to continue the contract after the 31st day of October, 2007, the contract shall be extended for the term of one year on the same terms and conditions provided for in the contract; and

WHEREAS, JCI Jones Chemicals, Inc. has submitted a letter dated June 5, 2007 requesting a one year extension under the same terms and conditions; and

WHEREAS, Said contractor has submitted Change Order No. 1 in the sum of \$310,965.80 to extend the contract for a one year period; and

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

NOW, THEREFORE, BE IT RESOLVED:

That Change Order No. 1 of JCI Jones Chemicals, Inc. in the amount of \$310,965.80 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 Change Order No. 1 on behalf of the Authority.

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

ITEM 10 - APPROVAL OF AMENDMENT NO. 2 OF CLOUGH, HARBOUR & ASSOCIATES, LLP TO RENDER PROFESSIONAL ENGINEERING SERVICES FOR THE DESIGN AND CONSTRUCTION OF LARGE VALVE REPLACEMENTS, IDENTIFIED AS CONTRACT NO. CH-002, PROJECT NO. 200600163 - \$26,875.00

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, Heretofore and on the 25th day of May, 2006, the Erie County Water Authority ("Authority") entered into an agreement with Clough, Harbour & Associates, LLP for professional services rendered for the design and construction of large valve replacements, identified as Contract No. CH-002; and

WHEREAS, Said consultant has submitted Amendment No. 2 in the sum of \$26,875.00 to provide for the following changes:

1. The additional valve was not part of the original Scope of Services.
2. The Contractor performed extra work which was not part of the original Scope of Services resulting in additional cost Engineering Services; and

WHEREAS, The reason for the changes are:

1. Add line item for Harlem and Clinton Valve: \$3,875.00
2. Add line item for additional Engineering: 23,000.00; and

WHEREAS, Wesley C. Dust, P.E., Executive Engineer and Robert A. Mendez, Executive Director recommend approval of said Amendment No. 2;

NOW, THEREFORE, BE IT RESOLVED:

That Amendment No. 2 of Clough, Harbour & Associates, LLP in the amount of \$26,875.00 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 Amendment No. 2 on behalf of the Authority.

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

ITEM 11 - REFUND FOR NEW SERVICE INSTALLATIONS - \$16,267.48

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, The Erie County Water Authority ("Authority") has installed new services identified on its records by OWIP numbers; and

WHEREAS, Said new services have been completed and the actual cost thereof ascertained; and

WHEREAS, The entire actual cost thereof is less than the estimated cost of the new services; and

WHEREAS, Edward J. Kasprzak, Deputy Director, under the date of September 18, 2007, has recommended that the following refunds on attached Schedule "A" be made.

NOW, THEREFORE, BE IT RESOLVED:

That the Authority repay the difference between the estimated cost of said new services and the entire actual costs thereof to the parties and in the amounts hereinafter set forth on attached Schedule "A".

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling

Noes: None

ITEM 12 - AUTHORIZATION FOR WESLEY DUST, EXECUTIVE ENGINEER, ROBERT NIEDERPRUEM, SR. PRODUCTIONENGINEER AND RICHARD ROSENBERY, SR. DISTRIBUTION ENGINEER TO ATTEND THE NEW YORK SECTION AWWA 2007 JOINT WATER RESOURCES SYMPOSIUM IN SYRACUSE, NEW YORK

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, The Erie County Water Authority deems it advisable for Wesley Dust, Executive Engineer, Robert Niederpruem, Sr. Production Engineer and Richard Rosenberry, Sr. Distribution Engineer to attend the New York Section AWWA 2007 Joint Water Resources Symposium in Syracuse, New York at a total estimated cost of \$2,000.00;

NOW, THEREFORE, BE IT RESOLVED:

That Wesley Dust, Executive Engineer, Robert Niederpruem, Sr. Production Engineer and Richard Rosenberry, Sr. Distribution Engineer be and they are hereby authorized to travel to Syracuse, New York from November 13, 2007 to November 15, 2007 to attend the New York Section AWWA 2007 Joint Water Resources Symposium at a total estimated cost of \$2,000.00.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling

Noes: None

ITEM 13 - 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, In a resolution dated August 16, 2007, as amended, the Authority approved the issuance of up to \$35,000,000 Fourth Resolution Water Revenue Bonds, Series 2007; and

WHEREAS, The issuance of the \$35,000,000 Fourth Resolution Water Revenue Bonds, Series 2007, requires the Authority's Debt Service payments, as well as its Investment Income accounts, to be accordingly adjusted in the 2007 Budget; and

WHEREAS, The additional debt service interest payment for 2007 amounts to \$490,452, covering the period from September 13 thru December 31, 2007, the additional debt service principal payment is \$24,583, and the additional investment income is estimated to be \$498,000; and

WHEREAS, In order to adequately fund the additional debt service payments, it will also be necessary to transfer \$17,035 from the line item for Power Purchased - Sturgeon Point; and

WHEREAS, Robert A. Mendez, Executive Director, Edward J. Kasprzak, Deputy Director, Matthew J. Baudo, Secretary to the Authority, and James M. Byron, Budget Director, 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 the following amounts:

Increase Debt Service Interest Payments:	\$490,452
Increase Debt Service Principal Payments:	<u>24,583</u>
	<u>\$515,035</u>
Increase: Investment Income:	\$498,000
Decrease: Power Purchased - Sturgeon Point	<u>17,035</u>
	<u>\$515,035</u>

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

**ITEM 14 - 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 Edward Kuwik, Senior Distribution Engineer, that, due to extraordinary expenses incurred in 2007 for emergency repairs by outside contractors, it will be necessary to transfer \$200,000 into the line item for Payments to Contractors - Repair; and

WHEREAS, The funds for this transfer can be obtained from idle and expected to be unspent funds in the line items for Power Purchased in the Sturgeon Point unit, \$100,000, the Van de Water unit, \$50,000, and the Control unit, \$50,000; and

WHEREAS, Robert A. Mendez, Executive Director, Albert J. Meaney, Comptroller, 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 \$200,000 into the line item for Payments to Contractors - Repair in the Line Maintenance unit, from the line items for Power Purchased in the Sturgeon Point unit, \$100,000, the Van de Water unit, \$50,000, and the Control unit, \$50,000.

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling

Noes: None

ITEM 15 - RESOLUTION AUTHORIZING DESIGNATED PERSONS TO EXECUTE REQUISITIONS FROM SERIES 2007 CONSTRUCTION FUND

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, pursuant to the Fourth General Water Revenue Bond Resolution adopted by the Erie County Water Authority (the "Authority") on July 9, 1992 (the "General Resolution") and the Supplemental Resolution Authorizing the Issuance of up to \$35,000,000 Fourth Resolution Water Revenue Bonds, Series 2007 adopted by the Authority on August 16, 2007, as amended by Resolution adopted by the Authority on September 12, 2007 (collectively, the "Series 2007 Resolution", the Authority established with Manufacturers and Traders Trust Company, as Trustee (the "Trustee"), that certain Construction Fund, Series 2007 (the "Series 2007 Construction Fund"); and

WHEREAS, pursuant to Section 2.3 of the General Resolution, the Authority may by resolution authorize a person or persons to execute requests, directions and other instruments under the General Resolution; and

WHEREAS, the Authority wishes to designate and authorize certain officers of the Authority to execute requisitions from the Series 2007 Construction Fund;

NOW, THEREFORE, BE IT RESOLVED:

1. Robert A. Mendez, Executive Director of the Authority, and, in his absence, Mark J. Fuzak, Attorney to the Authority, are hereby authorized to execute requisitions from the Series 2007 Construction Fund in accordance with the General Resolution and Series 2007 Resolution and to deliver same to the Trustee.
2. The Trustee is hereby authorized to rely on the actual or purported signatures of any of the persons authorized by these resolutions until the Trustee has received and had a reasonable time to act on written notice from the Authority revoking such authority.

3. The Secretary of the Authority is hereby authorized and directed to execute and deliver to the Trustee a Certificate of Incumbency certifying as to the incumbency of the foregoing persons in their respective offices and as to their genuine signatures.

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

CERTIFICATE OF INCUMBENCY

I hereby certify that I am the Secretary of the Erie County Water Authority (the "Authority") and that in that capacity, I am authorized to execute and deliver this Certificate of Incumbency in the name and on behalf of the Authority. I further certify that each of the following individuals is the duly appointed, qualified and acting incumbent of the office set forth opposite his or her name, and the specimen signature below is the genuine signature of such person:

<u>Name</u>	<u>Title</u>	<u>Signature</u>
<u>Robert A. Mendez</u>	<u>Executive Director</u>	_____
<u>Mark J. Fuzak</u>	<u>Attorney</u>	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, I have executed this Certificate of Incumbency this 26th day of September, 2007.

Matthew J. Baudo, Secretary

ITEM 16 - AUTHORIZATION TO AMEND THE ERIE COUNTY WATER AUTHORITY'S SKILLED WATER UTILITY WORKER TRAINING POLICY

Motion by Mr. Lichtenthal seconded by Mr. Warthling

WHEREAS, Heretofore and on the 25th day of April, 2002, by Resolution Item No. 20, the Erie County Water Authority ("Authority") adopted a Skilled Water Utility Worker Training Policy ("Policy"); and

WHEREAS, Heretofore and on the 17th day of May, 2004, by Resolution Item No. 3, the Authority amended this Policy; and

WHEREAS, Matthew J. Baudo, Secretary to the Authority advises that it is in the best interest of the Authority to update, and therefore, amend this Policy to read as per Schedule "A" attached; and

WHEREAS, Karla L. Thomas, Director of Human Resources and Matthew J. Baudo, Secretary to the Authority recommend amending the Authority's Skilled Water Utility Worker Training Policy as per attached Schedule "A"; and

WHEREAS, Robert A. Mendez, Executive Director concurs with said recommendation;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority amend the Authority's Skilled Water Utility Worker Training Policy as per attached Schedule "A".

Ayes: Three; Commrs. Swiatek, Lichtenthal and Warthling

Noes: None

ITEM 17 - EMPLOYMENT CONTRACT, INCLUDING SEVERANCE AGREEMENT FOR THE EXECUTIVE DIRECTOR

Motion by Mr. Warthling seconded by Mr. Swiatek

WHEREAS, During recent years, the Erie County Water Authority ("ECWA") has expanded its service area with the takeover of the Village of Depew, Village of Lancaster, the Town of Clarence and City of Tonawanda water systems and continues to expand its service areas; and

WHEREAS, ECWA has committed resources to work with the County of Erie and other

local governments to determine the feasibility and potential costs of serving areas not served by ECWA, or to address problems communities are experiencing in obtaining a reliable source of potable water, through cooperative efforts of the Southtowns Regional Water Planning Consortium; and

WHEREAS, The ECWA is in the process of consolidation of the Town of Evans Bulk Service Area to an ECWA lease managed area; and

WHEREAS, While ECWA continues to expand its customer base, the total number of employees has decreased over the years; and

WHEREAS, Also, during recent years, a number of management improvements were implemented to help stabilize water rates, finance capital needs and keep costs down; and

WHEREAS, The ECWA's independent auditors have made recommendations regarding the appropriate level of personnel on observing that certain key employees, are at or nearing retirement age and that the Authority formulate an appropriate succession plan; and

WHEREAS, The Board of Commissioners of the Erie County Water Authority has made a determination that qualified, senior staff personnel are essential to the mission of the Authority and to the continued success of serving the public good; and

WHEREAS, In order to maintain the continuity of professional management for the ECWA during a period of dynamic growth, it is desirable and appropriate to offer an employment contract, with a severance agreement contained therein, to the Executive Director; and

WHEREAS, Mark J. Fuzak, Attorney for the ECWA, has reviewed the employment contract, including the severance agreement, and has approved the same as to form;

NOW, THEREFORE, BE IT RESOLVED:

That the Chairman of the Erie County Water Authority is authorized to execute an employment contract, including a severance agreement, with the Executive Director.

Ayes: Two; Commrs. Swiatek and Warthling (Commissioner Lichtenthal abstained)
Noes: None

ITEM 18 - APPOINTMENT OF DEPUTY DIRECTOR OF THE ERIE COUNTY WATER AUTHORITY

Motion by Mr. Swiatek seconded by Mr. Warthling

WHEREAS, Pursuant to Article V, Title 3, Section 1053 of the Public Authorities Law, the Erie County Water Authority has the authority to appoint officers and employees as it may require for the performance of its duties, fix and determine their qualifications, duties and compensation, subject to the provisions of the Civil Service Law of the State of New York and such rules as the Personnel Officer of the County of Erie may adopt and make applicable to such Authority; and

WHEREAS, Article V, Section 6 of the By-Laws of the Erie County Water Authority grants to the Authority the right to name and appoint from time to time officers and employees as it may require for the performance of its duties, fix and determine their qualifications, duties and compensation, subject to the provisions of the Civil Service Law of the State of New York; and

WHEREAS, Over time, management is confronted with changing operational conditions due to, but not limited to, an increase in the number of customers served and the geographical area of coverage, staffing changes, the acquisition of other water systems and the need to react to competitive market forces; and

WHEREAS, The Authority finds that now is an appropriate time to realign staffing duties and responsibilities to better address workload-related problems, create and maintain career ladder opportunities for individuals in order to insure that the future needs of the Authority are provided for, and to position the Authority to absorb additional growth as the Authority continues to "regionalize" in Western New York;

NOW, THEREFORE, BE IT RESOLVED:

That, effective October 1, 2007, Robert J. Lichtenthal, Jr. is appointed to the position of Deputy Director.

Ayes: Two; Commrs. Swiatek and Warthling (Commissioner Lichtenthal abstained)
Noes: None

ITEM 19 - AUTHORIZATION TO AMEND ITEM NO. 20 OF THE DECEMBER 30, 2003 MEETING OF THE AUTHORITY RELATIVE TO THE DELEGATION OF RESPONSIBILITIES TO THE EXECUTIVE DIRECTOR AND DEPUTY DIRECTOR OF THE ERIE COUNTY WATER AUTHORITY

Motion by Mr. Warthling seconded by Mr. Swiatek

WHEREAS, Heretofore and on the 11th day of July, 1996 the Board of Commissioners of the Erie County Water Authority (“Authority”) authorized the Comptroller and the Executive Director of the Authority subject to the general direction, approval, and control of the Commissioners of the Authority the authority to concurrently, hire, fire, promote and/or demote Authority personnel except those personnel directly employed by the Commissioners; and

WHEREAS, Heretofore and on the 19th day of June, 1997, the Board of Commissioners amended the July 11, 1996 resolution stating that the above shall remain in full force and effect until further action by the Board of Commissioners; and

WHEREAS, Heretofore and on the 30th day of December, 2003, the Board of Commissioners amended the June 19, 1997 resolution stating that the Executive Director and Deputy Director subject to the general direction, approval, and control of the Commissioners of the Authority have the authority to concurrently, hire, fire, promote and/or demote Authority personnel except those personnel directly employed by the Commissioners and that the resolution shall remain in full force and effect until further action by the Board of Commissioners; and

WHEREAS, It is in the best interest of the Authority to amend Item No. 20 of the Minutes of the Meeting of the Authority held on December 30, 2003 and have said resolution state that the Board of Commissioners authorize the Executive Director and the Deputy Director, and in their respective absences the Secretary to the Authority and the Director of Administration, subject to the general direction, approval, and control of the Commissioners of the Authority the authority to concurrently, hire, fire, promote and/or demote Authority personnel except those personnel directly employed by the Commissioners and that this resolution shall remain in full force and effect until further action by the Board of Commissioners;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority amend Item No. 20 of the Minutes of the Meeting of the Authority held on December 30, 2003 to read as follows.... That the Board of Commissioners authorize the Executive Director and the Deputy Director, and in their respective absences the Secretary to the Authority and the Director of Administration, subject to the general direction, approval, and control of the Commissioners of the Authority the authority to concurrently, hire, fire, promote and/or demote Authority personnel except those personnel directly employed by the Commissioners and that this resolution shall remain in full force and effect until further action by the Board of Commissioners.

Ayes: Two; Commrs. Swiatek and Warthling (Commissioner Lichtenthal abstained)

Noes: None

ITEM 20 - 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 28-39 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 21 - 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 sheets pages 40-41 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 22 - SERVICE CONNECTION WORK ORDER LIST:

Motion by Mr. Lichtenthal seconded by Mr. Warthling and carried to approve Service Connection Work Order Nos. 07-37, 07-38 and 07-39, 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.

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Comments: Commissioner Lichtenthal announced that effective at midnight September 30, 2007 he will be resigning as Commissioner of the Erie County Water Authority. He expressed his thanks and appreciation to the other Commissioners and staff.

VIII. - ADJOURNMENT

Meeting adjourned until the next regular meeting to be held on Thursday, October 11, 2007 at 9:00 a.m.

Matthew J. Baudo
Secretary to the Authority

PF

09/26/07