

**MINUTES** of the **MEETING** of the **ERIE COUNTY WATER AUTHORITY** held in the office, 350 Ellicott Square Building, Buffalo, New York, on the 5th day of June, 2008.

**PRESENT:** Frank E. Swiatek, Chairman  
Kelly M. Vacco, Vice Chair  
Francis G. Warthling, Treasurer  
Robert A. Mendez, Executive Director  
Matthew J. Baudo, Secretary to the Authority  
Robert J. Lichtenthal, Jr., Assistant Secretary  
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  
Daniel J. NeMoyer, Public Affairs Officer  
Steven V. D'Amico, Budget and Financial Analyst  
Susan L. Rinaldo, Cash Manager  
Daniel NeMoyer, Public Affairs Officer

**ATTENDEES:** Timothy Cashmore

**CALL TO ORDER**

**PLEDGE TO THE FLAG**

**I. - ROLL CALL**

**II. - READING OF MINUTES**

Motion by Mr. Warthling seconded by Mrs. Vacco and carried to waive the reading of the Minutes of the Meeting held on Thursday, May 29, 2008.

**III. - APPROVAL OF MINUTES**

Motion by Mr. Warthling seconded by Mrs. Vacco and carried to approve the Minutes of the Meeting held on Thursday, May 29, 2008.

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

- A) SECRETARY/PERSONNEL**
- B) LEGAL**

- C) FISCAL**
- D) OPERATIONS**
- E) HUMAN RESOURCES**
- F) AUDIT COMMITTEE**
- G) GOVERNANCE COMMITTEE**

**V. - COMMUNICATIONS AND BILLS**

**ITEM 1 - CREATION OF MASTER PURCHASE ORDERS:**

Motion by Mr. Warthling seconded by Mrs. Vacco 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 \$10,000.00 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. Warthling seconded by Mrs. Vacco and carried to approve for payment of Master Purchase Order Nos. as listed on the attached sheets pages 1-11 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 3-7)**

**ITEM 3 - SUPPLEMENTAL RESOLUTION AUTHORIZING THE ISSUANCE OF UP TO \$50,000,000 FOURTH RESOLUTION REFUNDING WATER REVENUE BONDS, SERIES 2008**

Motion by Mr. Warthling seconded by Mrs. Vacco

**WHEREAS**, the Erie County Water Authority (hereinafter sometimes referred to as the "Authority") has determined that it is desirable at this time to issue its Bonds under the Act to refund certain outstanding bonds of the Authority, as more fully described below;

**NOW, THEREFORE, BE IT RESOLVED**, by the Erie County Water 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”), as follows:

## ARTICLE I

### DEFINITIONS AND AUTHORITY

SECTION 1.1. Definitions. (a) Capitalized terms used herein and not otherwise defined shall have the respective meaning accorded such terms in the General Resolution.

(b) The following terms shall have the following meanings herein unless the context otherwise requires:

“AIG-FP” shall mean AIG Financial Products Corp., a corporation organized and existing under the laws of the State of Delaware.

“Beneficial Owner” shall mean, so long as the Series 2008 Bonds are exclusively in book-entry form as provided in Article II hereof, the owner of a beneficial interest in any Series 2008 Bond through a participant in DTC.

“Bond Payment Date” shall mean each date on which interest on or both principal of and interest on any outstanding Series 2008 Bonds shall be due and payable according to their respective terms.

“Certificate of Award” shall mean the Certificate of Award as described in Section 3.2 hereof.

“Chairman” shall mean the Chairman of the Authority or his or her agent, deputy or attorney-in-fact.

“Costs of Issuance” shall mean all items of expense directly or indirectly related to the authorization, issuance, offering and sale of Series 2008 Bonds, including, but not limited to, printing costs, costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of any fiduciary, legal fees and charges, fees and disbursements of consultants and professionals, the premium for municipal bond insurance policy, if any, costs of credit ratings, fees and charges for preparation, execution, transportation and safekeeping of Series 2008 Bonds, or any other cost, charge or fee in connection with the original issuance of Series 2008 Bonds.

“DTC” shall mean The Depository Trust Company or its successor or successors.

“Moody’s” means Moody’s Investors Service, Inc.

“1990 Resolution” shall mean the resolution adopted by the Authority on April 6, 1990, entitled “WATER WORKS SYSTEM REVENUE BOND RESOLUTION,” and all resolutions amendatory or supplemental thereto.

“1993 Supplemental Resolution” shall mean the resolution adopted by the Authority on February 18, 1993, entitled “THIRD SUPPLEMENTAL RESOLUTION AUTHORIZING THE ISSUANCE OF \$27,500,000 WEEKLY ADJUSTABLE/FIXED RATE WATER WORKS SYSTEM REVENUE BONDS, SERIES 1993A and \$15,000,000 WEEKLY ADJUSTABLE/FIXED RATE WATER WORKS SYSTEM REVENUE BONDS, SERIES 1993B of the ERIE COUNTY WATER AUTHORITY”.

“Official Statement” shall mean the final official statement of the Authority relating to the Series 2008 Bonds.

“Owner” shall mean, with respect to any Series 2008 Bond or Bonds, the registered owner of such Series 2008 Bond or Bonds as set forth on the books of registry.

“Purchase Contract” shall mean the Bond Purchase Agreement to be entered into by and between the Authority and the Underwriter for the purchase by the Underwriter of the Series 2008 Bonds from the Authority substantially in the form of Exhibit B hereto, with such changes as the Chairman, Vice Chairman or Treasurer may approve as provided in Section 3.2 hereof.

“Resolutions” means collectively the General Resolution and this Series 2008 Resolution.

“Secretary” shall mean the Secretary of the Authority or his or her agent, deputy or attorney-in-fact.

“Series 1993 Bonds” shall mean collectively the Weekly Adjustable/Fixed Rate Water Works System Revenue Bonds, Series 1993A and the Weekly Adjustable/Fixed Rate Water Works System Revenue Bonds, Series 1993B issued by the Authority pursuant to the 1990 Resolution and the 1993 Supplemental Resolution.

“Series 1993 Swap Agreements” shall mean collectively (a) the Interest Rate Swap Agreement between the Authority and AIG-FP dated as of February 18, 1993, relating to the Erie County Water Authority Weekly Adjustable/Fixed Rate Water Works System Revenue Bonds, Series 1993A and (b) the Interest Rate Swap Agreement between the Authority and AIG-FP

dated as of February 18, 1993, relating to the Erie County Water Authority Weekly Adjustable/Fixed Rate Water Works System Revenue Bonds, Series 1993B.

“Series 2008 Bonds” shall mean the up to \$50,000,000 Water Revenue Refunding Bonds, Series 2008, of the Authority authorized by this Series 2008 Resolution.

“Series 2008 Resolution” shall mean this Supplemental Resolution Authorizing the Issuance of up to \$50,000,000 Water Revenue Refunding Bonds, Series 2008, as adopted on June 5, 2008.

“Standard & Poor’s” means Standard & Poor’s Rating Services, a Division of The McGraw-Hill Companies, Inc.

“Tax Requirements” means those provisions of (i) the Code, and (ii) the temporary, proposed or final regulations promulgated thereunder by the United States Treasury Department which are applicable to the Series 2008 Bonds and which must be complied with in order that the interest in the Series 2008 Bonds not be, and continue not to be, includable in the gross income of the owners thereof for Federal income tax purposes.

“Treasurer” shall mean the Treasurer of the Authority or his or her agent, deputy or attorney-in-fact.

“Underwriter” shall mean DEPFA First Albany Securities LLC.

“Vice Chairman” shall mean the Vice Chairman of the Authority or his or her agent, deputy or attorney-in-fact.

SECTION 1.2. Authority for this Supplemental Resolution. This Series 2008 Resolution is adopted pursuant to the provisions of the General Resolution and the Act.

## ARTICLE II

### THE SERIES 2008 BONDS

SECTION 2.1. Principal Amount, Designation and Series. Pursuant to the provisions of the General Resolution, a Series of Bonds of up to FIFTY MILLION DOLLARS (\$50,000,000) in aggregate principal amount due at maturity and entitled to the benefit, protection and security of the provisions of the Resolutions is hereby authorized. The aggregate principal amount of the Series 2008 Bonds and the aggregate principal amount of the Series 2008 Bonds due upon each maturity of the Series 2008 Bonds shall be as determined pursuant to the provisions of Article III hereof and as set forth in the Certificate of Award. Such Bonds shall be designated as, and shall be distinguished from the Bonds of all other Series, by the title, “Water Revenue Refunding Bonds, Series 2008”.

SECTION 2.2. Purposes. The Series 2008 Bonds are being issued for the purpose of providing moneys which will be used (i) to refund on a current basis all outstanding Series 1993 Bonds, (ii) to fund the Reserve Account, Series 2008 in an amount sufficient to satisfy the Reserve Account Requirement for the Series 2008 Bonds, (iii) to pay the amounts due under the Series 1993 Swap Agreements with respect to the early termination thereof, and (iv) to pay Costs of Issuance of the Series 2008 Bonds.

SECTION 2.3. Maturities and Interest. The Series 2008 Bonds shall mature on December 1 in each of the years and in the principal amounts determined pursuant to the provisions of Article III hereof and as set forth in the Certificate of Award, and shall bear interest at the rates determined pursuant to the provisions of Article III hereof and as set forth in the Certificate of Award, payable semiannually on June 1 and December 1 of each year (commencing December 1, 2009), until maturity or prior redemption.

SECTION 2.4. Form, Denominations, Numbers and Letters. (a) In accordance with Sections 3.3 and 4.1 of the General Resolution, the Series 2008 Bond shall be issued exclusively in “book-entry” form. The initial owner of the Series 2008 Bonds shall be Cede & Co., on behalf of DTC, which shall hold one or more immobilized certificates representing each maturity of the Series 2008 Bonds for the benefit of the Beneficial Owners of the Series 2008 Bonds; provided that if DTC shall request that the Series 2008 Bonds be registered in the name of a different nominee, the Trustee shall exchange all or a portion of the Series 2008 Bonds for an equal aggregate principal amount of Series 2008 Bonds registered in the name of such other nominee or nominee of DTC. All transfers of Series 2008 Bonds shall be effected as set forth in Section 4.6 of the General Resolution; provided that the Authority understands and agrees that DTC shall establish procedures with its participants for recording and transferring the ownership of beneficial interests in the Series 2008 Bonds. The Authority has entered into a blanket issuer letter of representations and other documentation necessary and desirable to effectuate the use of book-entry only form for the Series 2008 Bonds. In no event shall the Trustee be liable or responsible for the performance or failure to perform of DTC.

(b) Neither DTC nor Cede & Co. shall consent or vote with respect to the Series 2008 Bonds. DTC and Cede & Co. shall assign their consenting or voting rights to those participants of the DTC system to whose accounts Beneficial Owners are credited on the record date.

(c) For purposes of determining the consents of owners of the Series 2008 Bonds under Article IX, X or XI of the General Resolution, (i) the Trustee shall establish a record date for determination of beneficial ownership of such Series 2008 Bonds and shall give to DTC at least fifteen (15) calendar days’ notice of any record date so established and (ii) the Trustee shall treat the consents of the Beneficial Owners as reported to the Trustee by DTC as consents of Owners of Series 2008 Bonds. In addition, for purposes of determining beneficial ownership,

the Trustee may conclusively rely on DTC with respect to the identity of the Beneficial Owners.

SECTION 2.5. Dating of Series 2008 Bonds. The Series 2008 Bonds shall be dated as of the date of their original delivery and shall bear interest from such date.

SECTION 2.6. Place and Payment of Paying Agent. The Series 2008 Bonds shall be payable at the Office of the Trustee and Paying Agent, Manufacturers and Traders Trust Company, in Buffalo, New York.

SECTION 2.7. Optional Redemption Upon a Change of Control. To the extent permitted by law, upon the occurrence of a Change of Control, the Series 2008 Bonds shall be subject to redemption prior to maturity as a whole, upon the affirmative vote, taken within sixty (60) days of the occurrence of the Change of Control, of a majority of the members of the Authority who were members of the Authority immediately prior to the occurrence of the Change of Control, on any date prior to maturity selected by a majority of such members of the Authority, at a redemption price equal to 110% of the principal amount thereof plus interest accrued thereon to such redemption date. Notwithstanding any other provision contained in the Resolutions, and to the extent permitted by law, any rescission, annulment, cancellation, or other modification of a redemption of Bonds pursuant to this Section 2.7, and any amendment of this Section 2.7 subsequent to a Change of Control, may only be effected upon the vote, in addition to any other required approval, of a majority of the members of the Authority who were members of the Authority immediately prior to the occurrence of the Change of Control.

SECTION 2.8. Application of Bond Proceeds. The Authority hereby irrevocably directs that simultaneously with the delivery of the Series 2008 Bonds, from the proceeds of the sale thereof together with other legally available funds of the Authority (including without limitation any funds held under the 1990 Resolution in the Secondary Reserve Account, Series 1993A and Series 1993B, of the Secondary Bond Fund), (i) the amount, if any, received upon delivery of the Series 2008 Bonds as accrued interest shall be paid to the Trustee for deposit into the Interest Account in the Bond Fund, (ii) the amount of \$42,500,000, representing the outstanding principal amount of the Series 1993 Bonds, shall be paid to the Trustee for deposit into the Secondary Bond Retirement Account established under the 1990 Resolution, (iii) an amount equal to the difference between (A) the accrued interest on the Series 1993 Bonds through the date of redemption thereof and (B) the amount then on deposit in the Secondary Interest Account of the Secondary Bond Fund established under the 1990 Resolution, shall be paid to the Trustee for deposit into said Secondary Interest Account, (iv) an amount equal to the difference between (A) the amounts due upon termination of the Swap Agreements to AIG-FP thereunder and (B) the amount then on deposit in the Payment Account of the Secondary Bond Fund established under the 1990 Resolution, shall be paid to the Trustee for deposit into said Payment Account, and (v) the balance of the proceeds of the sale of the Series 2008 Bonds in such amount as may be determined by the Chairman, Vice Chairman or Treasurer, shall be applied, pursuant to the provisions of Article III hereof, as set forth in the Certificate of Award for the purposes set forth

in Section 2.2 hereof, including payment of the Costs of Issuance of the Series 2008 Bonds.

**SECTION 2.9. Form of Series 2008 Bonds and Registrar's Certificate of Authentication.**

Subject to the provisions of the General Resolution, the form of the Series 2008 Bonds and the form of the Trustee's Certificate of Authentication with respect thereto shall be substantially as follows, with such changes (i) as may be necessary to comply with the requirements of DTC, or (ii) as may be approved by the Chairman, and not inconsistent with this Series 2008 Resolution, the Chairman's signature on such Bonds to constitute conclusive evidence of such approval:

Registered

UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF DTC TO THE TRUSTEE FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY BOND ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS REQUIRED BY AN AUTHORIZED REPRESENTATIVE OF DTC AND ANY PAYMENT IS MADE TO CEDE & CO., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSONS IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

Number 2008 - \_\_\_\_\_

UNITED STATES OF AMERICA

STATE OF NEW YORK

ERIE COUNTY WATER AUTHORITY  
WATER REVENUE REFUNDING BOND  
SERIES 2008

Interest Rate: \_\_\_\_\_%

Maturity Date: December 1, \_\_\_\_\_

Dated Date: \_\_\_\_\_, 2008

CUSIP NO: \_\_\_\_\_

Registered Owner: \_\_\_\_\_

Principal Amount: \_\_\_\_\_ (\$\_\_\_\_\_)

The Erie County Water Authority (hereinafter called the "Authority"), a body corporate and politic constituting a public benefit corporation, in the County of Erie, State of New York, for value received, hereby promises to pay to the Registered Owner named above, or registered



assigns, but solely from the sources hereinafter specified and not otherwise, on the Maturity Date specified above the Principal Amount (stated above) upon presentation and surrender of this Bond, at the principal office of Manufacturers and Traders Trust Company, in the City of Buffalo, New York, Trustee and Paying Agent under the Resolution hereinafter mentioned, or its successor in trust from time to time thereunder, plus interest accrued thereon at the Interest Rate (stated above) semiannually on June 1 and December 1 of each year, beginning December 1, 2008, in any coin or currency of the United States of America which at the time of such payment is legal tender for public and private debts.

This Bond is one of a duly authorized series of Bonds of like designation herewith, aggregating \_\_\_\_\_ Dollars (\$\_\_\_\_\_) in principal amount, issued under and pursuant to the Fourth General Water Revenue Bond Resolution adopted by the Authority on July 9, 1992, as amended and supplemented (the "General Resolution"), and a supplemental resolution thereto entitled "Supplemental Resolution Authorizing the Issuance of up to \$50,000,000 Water Revenue Refunding Bonds, Series 2008" as adopted on June 5, 2008 (the "Series 2008 Resolution") by said Authority (said General Resolution and Series 2008 Resolution being hereinafter referred to collectively as the "Resolutions"), and under the authority of and in full compliance with the Constitution and statutes of the State of New York, including Sections 1050 through 1073, as amended, inclusive, of Title 3, Article 5 of the Public Authorities Law of New York, and proceedings of the Erie County Water Authority duly adopted.

This Bond and the series of which this Bond is one constitute part of a duly authorized issue of Bonds (herein referred to as the "Bonds") issued, or to be issued, under the General Resolution in one or more series in various principal amounts and of varying denominations, dates, maturities, interest rates and other provisions as provided in the General Resolution, for the purpose of financing all or a portion of the Cost of Acquisition and Construction of the Water Works System or refunding any bond or bonds.

The Bonds are payable as to principal, premium, if any, and interest solely from and are equally and ratably secured solely by a lien upon and pledge, subject only to the provisions of the Resolutions permitting the application thereof for the purposes and on the terms and conditions set forth in the Resolutions, of (i) the proceeds of sale of the Series 2008 Bonds pending application thereof in accordance with the provisions of the Resolutions, (ii) all Net Revenues, and (iii) all funds and accounts established by the Resolutions including the investments, if any, thereof.

Neither the faith and credit nor the taxing power of the State of New York or of any political subdivision thereof are pledged for the payment of the principal of, premium, if any, or interest on the Series 2008 Bonds, and no holder of the Series 2008 Bonds shall have the right to compel the exercise of the subdivision thereof in connection with any default with respect to the Series 2008 Bonds. The Series 2008 Bonds are not a debt of the State of New York or of Erie

County or of any other political subdivision of the State of New York, neither the State of New York nor Erie County nor any other political subdivision of the State of New York is liable for the payment of the Series 2008 Bonds, nor are the Series 2008 Bonds payable out of any funds other than those of the Authority pledged for the payment of the Series 2008 Bonds under the General Resolution. Under the General Resolution, the Authority is obligated to deposit from the aforesaid Net Revenues of the Water Works System into the Bond Fund (established with the Trustee by the General Resolution) certain fixed amounts sufficient to pay the principal of, premium, if any, and interest on this Bond and the issue of Bonds of which it is one, as the same shall become due and payable, as is more fully provided in the Resolutions.

Reference is hereby made to the Resolutions, certified copies of which are on file in the principal office of the Authority and in the principal office of the Trustee, and to all of the provisions of which any holder of this Bond by his acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the security for the properties constituting the Water Works System; the Net Revenues and other moneys pledged to the payment of the principal of, premium, if any, and interest on the Bonds issued thereunder; the nature and extent and manner of enforcement of the pledge; the conditions upon which bonds may hereafter be issued under the General Resolution payable on a parity with this Series 2008 Bond from the aforesaid Net Revenues and equally and ratably secured therewith; the conditions upon which the Resolutions may be amended or supplemented with or without the consent of the holders of the Bonds of the issue of Bonds of which this Series 2008 Bond is one; the rights and remedies of the holder hereof with respect hereto and thereto, including the limitations therein contained upon the right of a holder hereof to institute any suit, action or proceeding in equity or at law with respect hereto and thereto; the rights, duties and obligations of the Authority and the Trustee thereunder; the terms and provisions upon which the liens, pledges, charges, trusts, assignments and covenants made therein may be discharged at or prior to the maturity or redemption of this Series 2008 Bond, and this Series 2008 Bond thereafter shall no longer be secured by the General Resolution or be deemed to be outstanding thereunder, if moneys or certain specific securities shall have been deposited with the Trustee in a sufficient amount and held in trust solely for the payment hereof; and for the other terms and provisions thereof.

The Series 2008 Bonds are subject to redemption prior to maturity, as a whole, at a redemption price equal to 110% of the par amount thereof plus interest accrued thereon to such redemption date, as provided in the Resolutions, upon the occurrence of a Change of Control.

In the event this Bond is called for prior redemption, notice of such redemption shall be mailed by the Trustee, at least once not less than thirty (30) days prior to the date fixed for the redemption thereof, by registered mail, to the registered owner of this Bond as of the forty-fifth (45<sup>th</sup>) day (whether or not a business day) next preceding the date fixed for redemption at his address as it appears on the books of registry. Notice of redemption of Bonds may also be given by publication by the Trustee at least thirty (30) days prior to the date fixed for the redemption thereof, of one such notice in one issue of *The Bond Buyer*, a financial journal published in New

York, New York, or in lieu of publication in The Bond Buyer, in some other newspaper specializing in financial matters printed in the English language and customarily published on each business day and of general circulation in the City of New York, New York and of one such notice in a newspaper of general circulation printed in the English language, published in Erie County, New York. If this Bond be of a denomination in excess of \$5,000, portions of this Bond in principal amounts of \$5,000 or any integral multiple thereof, may be redeemed, and if less than all of the principal amount hereof is to be redeemed, in such case upon the surrender of this Series 2008 Bond to the Registrar there shall be issued to the Registered Owner hereof, without charge therefore, for the principal amount of the then unredeemed portion hereof, registered Series 2008 Bonds in any of the authorized denominations provided by the General Resolution. If this Bond (or any portion hereof) shall have been duly called for redemption and notice of such redemption duly given as aforesaid, and if on or before the redemption date there shall be deposited with the Trustee or other Paying Agent sufficient funds to pay the principal amount hereof to be redeemed at the then applicable redemption price and the interest accrued on the principal amount redeemed to the date of redemption, then this Bond (or such portion hereof) shall become due and payable upon such redemption date and interest shall cease to accrue and become payable from and after the redemption date on the principal amount hereof to be redeemed.

This Bond shall have all the qualities and incidents of a negotiable instrument to the extent provided by the Uniform Commercial Code of the State of New York and shall be transferable by the Registered Owner hereof or by such owner's authorized agent at the principal office of the Registrar upon surrender and cancellation of this Bond, and thereupon a new registered Bond or Bonds without coupons of the same aggregate principal amount in authorized denominations and of the same series, interest rate and maturity will be issued to the transferee as provided in the Resolutions and upon payment of any transfer charge therein prescribed. The Authority, the Trustee, the Paying Agents and any other person may treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment thereof and for all purposes and shall not be affected by any notice to the contrary, whether this Bond be overdue or not.

The Bonds of the series of Bonds of which this Bond is a part are issuable as registered Bonds without coupons in the principal amount of \$5,000 or any integral multiple thereof.

This Bond shall not be valid or obligatory for any purpose until the Certificate of Authentication shall have been signed by the Registrar.

It is hereby certified, recited and declared that all acts, conditions and things required by the Constitution and statutes of the State of New York to exist, to have happened and to have been performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as prescribed by law, and that the amount of this Bond, together with all other obligations or indebtedness of the Authority, does not exceed any

constitutional, statutory or other limitations of indebtedness prescribed by law for the Authority.

IN WITNESS WHEREOF, THE ERIE COUNTY WATER AUTHORITY has caused this Bond to be signed in its name and on its behalf by its Chairman and attested by its Secretary (the facsimile signatures of said officers and the Authority's seal are to be affixed or reproduced hereon, and said officials by the execution hereof do adopt as and for their own proper signatures the facsimile signatures appearing on each of the Bonds), all as of the Dated Date specified above.

ERIE COUNTY WATER AUTHORITY

ATTEST:

By: \_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary

[SEAL]

[REGISTRAR'S CERTIFICATE OF AUTHENTICATION]

This Bond is one of the Bonds described in the within mentioned General Resolution and Series 2008 Resolution and is one of the Water Revenue Refunding Bonds, Series 2008, of the Erie County Water Authority.

MANUFACTURERS AND TRADERS TRUST  
COMPANY, as Registrar

By \_\_\_\_\_  
Authorized Officer

Date of  
Authentication: \_\_\_\_\_

## ARTICLE III

## SALE OF SERIES 2008 BONDS

SECTION 3.1. Sale of Series 2008 Bonds. The Authority hereby determines that the Series 2008 Bonds shall be sold to the Underwriter upon the terms and conditions of (a) this Series 2008 Resolution and (b) the Purchase Contract substantially in the form of Exhibit B hereto with only such changes as the Chairman, Vice Chairman or Treasurer may approve as provided in Section 3.2 hereof, which form of Purchase Contract is hereby approved and adopted.

SECTION 3.2. Negotiation, Preparation and Delivery of Certificate of Award, Purchase Contract and Series 2008 Bonds. Subject to the limitations set forth in Articles II and III hereof, the Chairman, Vice Chairman or Treasurer is hereby authorized, empowered, and directed to negotiate with the Underwriter the terms and conditions of the Series 2008 Bonds, including, but not limited to: the aggregate principal amount, the interest rate, the obtaining of municipal bond insurance for the Series 2008 Bonds, if any, and the Reserve Account Requirement of such Series 2008 Bonds, determined as set forth in Section 4.1(a) hereof. Upon the award of the Series 2008 Bonds, the Chairman, Vice Chairman or Treasurer is hereby authorized, empowered and directed to prepare and execute, on behalf of the Authority, a Certificate of Award setting forth the terms and conditions of the Series 2008 Bonds as negotiated by the Chairman, Vice Chairman or Treasurer, which Certificate of Award shall include a schedule setting forth the principal amounts of and interest rates on the Series 2008 Bonds and shall set forth the Reserve Account Requirement of the Series 2008 Bonds. The Chairman, Vice Chairman or Treasurer is further authorized, empowered, and directed to execute and deliver a definitive Purchase Contract to the Underwriter setting forth the terms and conditions of the sale of the Series 2008 Bonds, any such officer's execution thereof to be conclusive evidence of his or her approval of any changes from the form of Purchase Contract attached hereto as Exhibit B, and to have the Series 2008 Bonds prepared in definitive form and delivered to the Trustee for authentication as provided in the Resolutions.

SECTION 3.3. Date and Place of Sale. The Series 2008 Bonds shall be sold to the Underwriter at the offices of Damon & Morey LLP, 1000 Cathedral Place, 298 Main Street, Buffalo, New York 14202 on a date to be determined by the Chairman, Vice Chairman or Treasurer and set forth in the Certificate of Award.

SECTION 3.4. Official Statement. (a) The Preliminary Official Statement, in substantially the form presented to this meeting and annexed hereto as Exhibit A, is hereby approved, but is subject to change by the Chairman, Vice Chairman or Treasurer without notice

and to completion or amendment or supplementation in the final Official Statement as specified below. The Chairman, Vice Chairman or Treasurer is hereby authorized to distribute copies of the Preliminary Official Statement to the Underwriter in such quantities as any such officer determines to be appropriate.

(b) Upon the sale of the Series 2008 Bonds, the Chairman, Vice Chairman or Treasurer is hereby authorized to complete the final Official Statement with such changes, variations, omissions and insertions as any such officer shall deem necessary or desirable to finalize the Official Statement. The Chairman, Vice Chairman or Treasurer is hereby further authorized to furnish the Underwriter copies of the final Official Statement, in such quantities as any such officer determines to be appropriate, within seven (7) days of the award of the Series 2008 Bonds.

SECTION 3.5. Continuing Disclosure Agreement. The Continuing Disclosure Agreement, in substantially the form presented to the Authority and attached hereto as Exhibit C, is hereby approved. The Authorized Officers of the Authority, and each of them without the others, are hereby authorized to execute and deliver the Continuing Disclosure Agreement on behalf of the Authority, together with such changes, variations, omissions and insertions as such officers or any of them shall deem appropriate, without additional action by the Members of the Authority; such execution shall constitute conclusive evidence of such approval.

#### ARTICLE IV

##### CERTAIN ANCILLARY MATTERS

SECTION 4.1. Reserve Account Requirement for the Series 2008 Bonds. (a) The Reserve Account Requirement for the Series 2008 Bonds shall be an amount equal to, as of any date of calculation, the lesser of (i) the maximum amount of principal and interest coming due in any calendar year on Series 2008 Bonds, (ii) 10% of the original principal amount of the Series 2008 Bonds, or (iii) one hundred twenty-five percent (125%) of the average annual principal and interest due on the Series 2008 Bonds and shall be set forth in the Certificate of Award. The Trustee shall create a separate account in the Bond Fund to be known as the "Reserve Account, Series 2008."

(b) The Reserve Account Requirement shall be funded from any moneys lawfully available therefor. An amount equal to the Reserve Account Requirement shall be deposited in the Bond Fund for the credit to the Reserve Account, Series 2008 from such lawfully available moneys on the date of delivery of the Series 2008 Bonds. If at any time the amount on deposit in the Reserve Account, Series 2008 is less than the Reserve Account Requirement for the Series 2008 Bonds, the Authority shall transfer to the Trustee from the Revenue Fund, for deposit into the Reserve Account, Series 2008, after making any required transfers to the Trustee for deposits to the Operating Fund and to the Interest Account, Principal Account and Retirement Account of the Bond

Fund, an amount equal to the amount by which the Reserve Account Requirement exceeds the amount on deposit in the Reserve Account, Series 2008; provided, that such deposit shall be made proportionately with any deposits required to be made at the same time to other Reserve Accounts in the Bond Fund. In satisfaction of the Reserve Account Requirement for the Series 2008 Bonds and in amount equal thereto, the Authority alternatively may provide a letter of credit, surety agreement, insurance agreement or other type of agreement or arrangement with any entity whose obligations are rated in one of the two (2) highest rating categories by Standard & Poor's or Moody's (a "Credit Agreement"). The Authority, at its discretion, shall have the authority to substitute a Credit Agreement, if not initially provided, for all or a portion of the amounts in the Reserve Account, Series 2008, and from time to time to substitute one Credit Agreement for another. If at any time the rating issued by Standard & Poor's or Moody's of obligations of the issuer of the Credit Agreement shall fall below such two (2) highest ratings, then within twelve (12) months thereafter the Authority shall (i) use its best efforts to, and, if available, replace such Credit Agreement with a Credit Agreement issued by an entity having obligations so rated within such two (2) highest rating categories, or (ii) deposit moneys into the Reserve Account, Series 2008, in replacement of such Credit Agreement. On or before the date which is six (6) months prior to the expiration of such Credit Agreement, the Authority shall either procure a replacement Credit Agreement or provide moneys in substitution therefor. Upon the delivery of such Credit Agreement to the Trustee, the amounts in the Reserve Account, Series 2008 equal to the amount specified in the Credit Agreement shall be deposited in the Revenue Fund. The Chairman is hereby authorized to execute and deliver any such Credit Agreement on behalf of the Authority.

SECTION 4.2. Additional Tax Covenant. (a) The Authority covenants with the holders from time to time of the Series 2008 Bonds that it will comply with the Tax Requirements, including, without limitation, the maintenance of books and records to separately record the amount of any brokerage commissions and similar amounts paid, if any, in connection with the purchase or sale of any Investment Security. The Authorized Officers of the Authority are hereby authorized to execute all certificates, agreements and other documents necessary or desirable to evidence compliance with such covenant, and are hereby authorized and directed to make all investments of moneys under the General Resolution and this Series 2008 Resolution, in accordance with such certificates and agreements, required thereby.

(b) In connection with, and in furtherance of, the foregoing covenant, the Authorized Officers of the Authority are hereby authorized and directed to pay to the United States Treasury Department at such time or times and in such amounts as shall be required by the Treasury Department all amounts required under Section 148 of the Code to be rebated, including without limitation, (i) as of and within 60 days after the fifth, tenth, fifteenth, twentieth and twenty-fifth anniversaries of the date of issuance of the Series 2008 Bonds, an amount equal to the amount required under Section 148 of the Code to be rebated on such dates and (ii) as of and within 60 days after the date on which all of the Series 2008 Bonds have been retired, an amount equal to the balance of all rebatable amounts. Such payments shall be made to the Internal Revenue Service at the Internal Revenue Service Center, Ogden, Utah 84201-0027 or any successor office

designated by the Internal Revenue Service. Each such payment shall be accompanied by Internal Revenue Service Form 8038-T (or any successor or other applicable form).

SECTION 4.3. Transfer and Exchange of Bonds. The Authority and the Registrar shall not be required to (i) issue, transfer or exchange Series 2008 Bonds for a period of ten days next preceding any interest payment date therefor, (ii) issue, transfer or exchange any Series 2008 Bonds for a period of ten days next preceding any selection of Series 2008 Bonds to be redeemed or for a period of ten days thereafter, or (iii) transfer or exchange any Series 2008 Bonds which have been designated for redemption within a period of 60 days next preceding the date fixed for redemption.

SECTION 4.4. Parties Interested Herein. Nothing in this Series 2008 Resolution, expressed or implied, is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Authority, the Trustee and the registered owners of the Series 2008 Bonds, any right, remedy or claim under or by reason of this Series 2008 Resolution or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Series 2008 Resolution contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Authority, the Trustee and the registered owners of the Series 2008 Bonds.

SECTION 4.5. Not to Issue Additional Prior Lien Bonds. So long as any Series 2008 Bonds are Outstanding, the Authority shall not issue any additional bonds under the 1990 Resolution or otherwise issue any additional bonds or other debt obligations secured or purporting to be secured by a lien on Revenues prior or superior to the lien created by the Resolution.

SECTION 4.6. Amendment of 1990 Resolution. The Authority will not hereafter consent to or agree to any supplement, change, amendment or modification of the 1990 Resolution which would adversely affect the rights or interests of the holders of the Series 2008 Bonds except as otherwise expressly provided herein.

SECTION 4.7. Investment Securities. In accordance with clause (x) of the definition of "Investment Securities" as set forth in Section 1.1 of the Resolution, to the extent permitted by law and the Authority's investment guidelines, the following shall be "Investment Securities" with respect to any funds held with respect to the Series 2008 Bonds:

- (a) Bonds, notes or other evidences of indebtedness rated "AAA" by Standard & Poor's and "Aaa" by Moody's issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding three years;



(b) Commercial paper which is rated at the time of purchase in the single highest classification, "A-1+" by Standard & Poor's and "P-1" by Moody's and which matures not more than 270 days after the date of purchase; and

(c) Investments in money market funds rated "AAAm" or "AAAm-G" or better by Standard & Poor's.

SECTION 4.8. CUSIP Identification Numbers. CUSIP identification numbers, at the sole option of the Authority, may be placed on the Series 2008 Bonds, but neither the failure to place any such number of any Series 2008 Bond nor any inaccuracy, error or omission with respect thereto shall constitute cause for failure or refusal by the purchasers to accept delivery of and pay for the Series 2008 Bonds. No such CUSIP identification number shall constitute a part of the contract evidenced by the particular Series 2008 Bond upon which it is imprinted and no liability shall attach to the Authority or any officer or agent thereof, including any Registrar or Paying Agent for the Series 2008 Bonds, by reason of such number or any use made thereof, including any use thereof made by the Authority, any such officer or any such agent, or by reason of any inaccuracy, error or omission with respect thereto or in such use.

## ARTICLE V

### MISCELLANEOUS

SECTION 5.1. Further Authority. The Chairman, Vice Chairman, Treasurer and Secretary of the Authority and each of them are hereby authorized to execute and deliver such documents, agreements, instruments and certifications as may be necessary to give effect to this Series 2008 Resolution.

SECTION 5.2. Effective Date. This Series 2008 Resolution shall be fully effective upon its adoption.

#### **ITEM 4 - AUTHORIZATION TO OPEN AN ACCOUNT AT M&T BANK, BUFFALO, NEW YORK, ENTITLED "ERIE COUNTY WATER AUTHORITY, SERIES 2008 DEBT SERVICE FUND"**

Motion by Mr. Warthling seconded by Mrs. Vacco

**WHEREAS**, Heretofore and on the 29<sup>th</sup> day of May, 2008 the Erie County Water Authority ("Authority") authorized the issuance of bonds known as the Series 2008 (not to exceed \$50,000,000) pursuant to the Fourth Resolution Refunding Water Revenue Bonds; and

**WHEREAS**, The establishment of a separate account for interest and principal payable on the Authority's bonds is required which is to be entitled "Erie County Water Authority, Series 2008 Debt Service Fund"; and

**WHEREAS**, This account will be held by the Trustee, M&T Bank, on behalf of the bondholders and is to be funded beginning six months prior to the interest due dates and twelve months prior to the principal due dates; and

**WHEREAS**, Robert J. Lichtenthal, Jr., Deputy Director advises that an account will be opened at M&T Bank, Buffalo, New York, entitled Erie County Water Authority, Series 2008 Debt Service Fund"; Account No. 1013479; and

**WHEREAS**, Robert J. Lichtenthal, Jr., Deputy Director and Robert A. Mendez, Executive Director recommend approving the opening of an account at M&T Bank, Buffalo, New York, referred to as the Erie County Water Authority, Series 2008 Debt Service Fund; and

**WHEREAS**, In accordance with the terms and conditions of Resolution Item No. 12 of the Erie County Water Authority's Annual Meeting held on May 8, 2008 said persons as described therein are authorized to act on behalf of the Authority;

**NOW, THEREFORE, BE IT RESOLVED:**

That the Authority open a bank account at M&T Bank entitled the "Erie County Water Authority, Series 2008 Debt Service Fund" required for the above-referenced bond issuance; and be it further

**RESOLVED:** That the individuals listed in Resolution Item No. 12 of the Erie County Water Authority's Annual Meeting held on May, 8, 2008 are authorized to act on behalf of the Authority.

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

**ITEM 5 - AUTHORIZATION TO OPEN AN ACCOUNT AT M&T BANK, BUFFALO, NEW YORK, ENTITLED "ERIE COUNTY WATER AUTHORITY, SERIES 2008 DEBT SERVICE RESERVE"**

Motion by Mr. Warthling seconded by Mrs. Vacco

**WHEREAS**, Heretofore and on the 29<sup>th</sup> day of May, 2008 the Erie County Water Authority ("Authority") authorized the issuance of bonds known as the Series 2008 (not to exceed \$50,000,000) pursuant to the Fourth Resolution Refunding Water Revenue Bonds; and

**WHEREAS,** The Authority's bonds shall be secured by funds set aside in a debt service reserve fund held for the benefit of the Corporation, as bondholder, by M&T Bank, Buffalo, New York, the Authority's Trustee; and

**WHEREAS,** The amount to be deposited in the debt service reserve fund shall be the lesser of ten percent of the total principal of the Loan, the maximum annual debt service, or 125% of the average annual debt service; and

**WHEREAS,** Robert J. Lichtenthal, Jr., Deputy Director advises that an account will be opened at M&T Bank, Buffalo, New York, Bank Account No. 1013480; and

**WHEREAS,** Robert J. Lichtenthal, Jr., Deputy Director and Robert A. Mendez, Executive Director recommend approving the opening of an account at M&T Bank, Buffalo, New York, referred to as the Erie County Water Authority, Series 2008 Debt Service Reserve;

**WHEREAS,** In accordance with the terms and conditions of Resolution Item No. 12 of the Erie County Water Authority's Annual Meeting held on May 8, 2008 said persons as described therein are authorized to act on behalf of the Authority;

**NOW, THEREFORE, BE IT RESOLVED:**

That the Authority open a bank account at M&T Bank entitled the Erie County Water Authority, Series 2008 Debt Service Reserve required for the above-referenced bond issuance; and be it further

**RESOLVED:** That the individuals listed in Resolution Item No. 12 of the Erie County Water Authority's Annual Meeting held on May, 8, 2008 are authorized to act on behalf of the Authority.

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

**ITEM 6 - AUTHORIZATION TO ACCEPT FEE PROPOSAL FROM  
MANUFACTURERS AND TRADERS TRUST COMPANY FOR PAYMENT  
OF BOND TRUSTEE SERVICES FOR THE ERIE COUNTY WATER  
AUTHORITY SERIES 2008 BONDS AND EXECUTION OF FEE PROPOSAL**

Motion by Mr. Warthling seconded by Mrs. Vacco

**WHEREAS**, Manufacturers & Traders Trust Company (“M&T”) currently acts as Trustee for the Erie County Water Authority (“Authority”) per the Fourth Resolution Bonds; and

**WHEREAS**, M&T has submitted the attached Fee Proposal for Bond Trustee services for the Authority’s newly adopted Series 2008 Bonds; and

**WHEREAS**, Robert J. Lichtenthal, Jr., Deputy Director and Robert A. Mendez, Executive Director have reviewed the Fee Proposal and recommend acceptance and execution thereof;

**NOW, THEREFORE BE IT RESOLVED:**

That the Authority accepts the Fee Proposal submitted by M&T for payment of Bond Trustee services for the Authority’s Series 2008 Bonds; and be it further

**RESOLVED:** That the Chairman be and he hereby is authorized to execute the attached Fee Proposal as stated above.

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

**ITEM 7 - APPROVAL OF MASTER PURCHASE ORDER AMENDMENT NO. 4 OF NUSSBAUMER & CLARKE, INC. TO RENDER PROFESSIONAL ENGINEERING SERVICES IN CONNECTION WITH IMPROVEMENTS TO THE PUMPING EQUIPMENT FOR THE VAN DE WATER RAW WATER PUMP STATION, VAN DE WATER TREATMENT PLANT DELIVERED WATER PUMPS AND FILTER WASTEWATER PUMPS, BALL PUMP STATION AND ELECTRICAL SYSTEM IMPROVEMENTS AT STURGEON POINT WATER TREATMENT PLANT, IDENTIFIED AS CONTRACT NO. NC-026, PROJECT NO. 200000374, MASTER PURCHASE ORDER NO. 1424-NC26**

Motion by Mr. Warthling seconded by Mrs. Vacco

**WHEREAS**, Heretofore and on the 19th day of April, 2001, the Erie County Water Authority (the "Authority") entered into an agreement with Nussbaumer & Clarke, Inc. to the design and construction of improvements to the pumping equipment for the Van de Water Raw Water Pump Station, the Van de Water Treatment Plant Delivered Water Pumps and Filter Wastewater Pumps and the Ball Pump Station and the replacement of several motor control centers at the Sturgeon Point Treatment Plant, identified as Contract No. NC-026 and Master Purchase Order No. 1424-NC26; and

**WHEREAS**, Nussbaumer & Clarke, Inc. submitted Master Purchase Order Amendment No. 4 to extend the date range of Master Purchase Order to December 31, 2008; and

**WHEREAS**, Paul H. Riester, Director of Administration, Wesley C. Dust, Executive Engineer and Robert A. Mendez, Executive Director recommend approval of said Master Purchase Order Amendment No. 4;

**NOW, THEREFORE, BE IT RESOLVED:**

That Master Purchase Order Amendment No. 4 of Nussbaumer & Clarke, Inc. to provide for the abovementioned change be approved; and be it further

**RESOLVED:** That the Budget Director be and he hereby is directed to make the necessary budgetary changes.

Ayes: Three; Commrs. Swiatek, Vacco and Warthling

Noes: None

**ITEM 8 - PURCHASE ORDERS:**

Motion by Mr. Warthling seconded by Mrs. Vacco and carried to approve for payment of Purchase Order Nos. as listed on the attached sheets pages 12-21 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 9 - PURCHASE ORDER AMENDMENTS:**

Motion by Mr. Warthling seconded by Mrs. Vacco and carried to approve for payment of Purchase Order Amendments as listed on the attached sheet page 23 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.

**VIII. - ADJOURNMENT**

Meeting adjourned until the next regular meeting to be held on Thursday, June 12, 2008 at 4:00 p.m.

Matthew J. Baudo  
Secretary to the Authority

SLZ

06/05/08