

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 March, 2009.

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., Deputy Director
Wesley C. Dust, Executive Engineer
Mark J. Fuzak, Attorney
Ronald P. Bennett, Associate Attorney
Paul H. Riester, Director of Administration
Daniel J. NeMoyer, Public Affairs Officer
Albert J. Meaney, Comptroller
Steven V. D'Amico, Budget and Financial Analyst

ATTENDEES: **Michael Rosich**

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 Wednesday, March 11, 2009.

III. - APPROVAL OF MINUTES

Motion by Mr. Warthling seconded by Mrs. Vacco and carried to approve the Minutes of the Meeting held on Wednesday, March 11, 2009.

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 \$11,499.00 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 1-13 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 3-23)

ITEM 3 - RATIFICATION OF THE INVESTMENT OF FUNDS FROM THE MANUFACTURERS & TRADERS TRUST COMPANY, DEBT SERVICE FUND WATER WORKS SYSTEM REVENUE REFUNDING BONDS, SERIES 1998A - \$50,064.17

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, Susan Rinaldo, Cash Manager advised under date of March 16, 2009 that there was available on March 31, 2009 the following amounts in the Debt Service Fund Water Works System Revenue Refunding Bonds, Series 1998A:

Principal Account \$32,916.67
Interest Account \$17,147.50

and has recommended that the Manufacturers & Traders Trust Company, as Fiscal Agent, be authorized to invest from the Interest Account, in the amount of \$17,147.50 to mature in time for the June 15, 2009 Interest Payment at the highest yield to maturity to 1998A Bondholders and invest from the Principal Account in the amount of \$32,916.67 to mature in time for the December 15, 2009 Principal Payment at the highest yield to maturity to 1998A Bondholders; and

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

NOW, THEREFORE, BE IT RESOLVED:

That the action of Albert Meaney, Comptroller, in authorizing the Manufacturers & Traders Trust Company to invest from the Interest Account in the amount of \$17,147.50 to mature in time for the June 15, 2009 Interest Payment at the highest yield to maturity to 1998A Bondholders and invest from the Principal Account in the amount of \$32,916.67 to mature in time for the December 15, 2009 Principal Payment at the highest yield to maturity to 1998A Bondholders, is hereby approved and ratified; and be it further

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

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

ITEM 4 - RATIFICATION OF THE INVESTMENT OF FUNDS FROM THE MANUFACTURERS & TRADERS TRUST COMPANY, DEBT SERVICE FUND WATER WORKS SYSTEM REVENUE REFUNDING BONDS, SERIES 1998B - \$111,688.58

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, Susan Rinaldo, Cash Manager advised under date of March 16, 2009 that there was available on March 31, 2009 the following amounts in the Debt Service Fund Water Works System Revenue Refunding Bonds, Series 1998B:

Interest Account	\$44,605.25
Principal Account	\$67,083.33

and has recommended that the Manufacturers & Traders Trust Company, as Fiscal Agent, be authorized to invest from the Interest Account, in the amount of \$22,302.63 to mature in time for the April 15, 2009 and invest from the Interest Account, in the amount of \$22,302.62 to mature in time for the October 15, 2009 and invest from the Principal Account in the amount of \$67,083.33 to mature in time for the October 15, 2009 Principal Payment at the highest yield to maturity to 1998B Bondholders; and

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

NOW, THEREFORE, BE IT RESOLVED:

That the action of Albert Meaney, Comptroller, in authorizing the Manufacturers & Traders Trust Company to invest from the Interest Account in the amount of \$22,302.63 to mature in time for the April 15, 2009 and invest from the Interest Account, in the amount of \$22,302.62 to mature in time for the October 15, 2009 and invest from the Principal Account in the amount of \$67,083.33 to mature in time for the October 15, 2009 Principal Payment at the highest yield to maturity to 1998B Bondholders, is hereby approved and ratified; and be it further

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

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

**ITEM 5 - RATIFICATION OF THE INVESTMENT OF FUNDS FROM THE
MANUFACTURERS & TRADERS TRUST COMPANY, DEBT SERVICE
FUND WATER WORKS SYSTEM REVENUE REFUNDING BONDS,
SERIES 2003F - \$91,766.74**

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, Susan Rinaldo, Cash Manager advised under date of March 16, 2009 that there was available on March 31, 2009 the following amounts in the Debt Service Fund Water Works System Revenue Refunding Bonds, Series 2003F:

Interest Account \$39,683.41

Principal Account \$52,083.33

and has recommended that the Manufacturers & Traders Trust Company, as Fiscal Agent, be authorized to invest from the Interest Account, in the amount of \$39,683.41 to mature in time for the July 15, 2009 Interest Payment at the highest yield to maturity to 2003F Bondholders and to invest from the Principal Account in the amount of \$52,083.33 to mature in time for the July 15, 2009 Principal Payment at the highest yield to maturity to 2003F Bondholders; and

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

NOW, THEREFORE, BE IT RESOLVED:

That the action of Albert Meaney, Comptroller, in authorizing the Manufacturers & Traders Trust Company to invest from the Interest Account in the amount of \$39,683.41 to mature in time for the July 15, 2009 Interest Payment at the highest yield to maturity to 2003F Bondholders and to invest from the Principal Account in the amount of \$52,083.33 to mature in time for the July 15, 2009 Principal Payment at the highest yield to maturity to 2003F Bondholders, is hereby approved and ratified; and be it further

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

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

ITEM 6 - RATIFICATION OF THE INVESTMENT OF FUNDS FROM THE MANUFACTURERS & TRADERS TRUST COMPANY, DEBT SERVICE FUND WATER WORKS SYSTEM REVENUE REFUNDING BONDS, SERIES 2007 - \$188,046.98

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, Susan Rinaldo, Cash Manager advised under date of March 16, 2009 that there was available on March 25, 2009 the following amounts in the Debt Service Fund Water Works System Revenue Refunding Bonds, Series 2007:

Interest Account \$135,130.31
Principal Account \$ 52,916.67

and has recommended that the Manufacturers & Traders Trust Company, as Fiscal Agent, be authorized to invest from the Interest Account, in the amount of \$135,130.31 to mature in time for the June 1, 2009 Interest Payment at the highest yield to maturity to 2007 Bondholders and invest from the Principal Account in the amount of \$52,916.67 to mature in time for the December 1, 2009 Principal Payment at the highest yield to maturity to 2007 Bondholders; and

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

NOW, THEREFORE, BE IT RESOLVED:

That the action of Albert Meaney, Comptroller, in authorizing the Manufacturers & Traders Trust Company to invest from the Interest Account in the amount of \$135,130.31 to mature in time for the June 1, 2009 Interest Payment at the highest yield to maturity to 2007 Bondholders and invest from the Principal Account in the amount of \$52,916.67 to mature in time for the December 1, 2009 Principal Payment at the highest yield to maturity to 2007 Bondholders, is hereby approved and ratified; and be it further

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

Ayes: Three; Commrs. Swiatek, Vacco and Warthling

Noes: None

ITEM 7 - RATIFICATION OF THE INVESTMENT OF FUNDS FROM THE MANUFACTURERS & TRADERS TRUST COMPANY, DEBT SERVICE FUND WATER WORKS SYSTEM REVENUE REFUNDING BONDS, SERIES 2008 - \$493,750.00

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, Susan Rinaldo, Cash Manager advised under date of March 16, 2009 that there was available on March 25, 2009 the following amounts in the Debt Service Fund Water Works System Revenue Refunding Bonds, Series 2008:

Interest Account	\$180,833.33
Principal Account	\$312,916.67

and has recommended that the Manufacturers & Traders Trust Company, as Fiscal Agent, be authorized to invest from the Interest Account, in the amount of \$180,833.33 to mature in time for the June 1, 2009 Interest Payment at the highest yield to maturity to 2008 Bondholders and invest from the Principal Account in the amount of \$312,916.67 to mature in time for the December 1, 2009 Principal Payment at the highest yield to maturity to 2008 Bondholders; and

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

NOW, THEREFORE, BE IT RESOLVED:

That the action of Albert Meaney, Comptroller, in authorizing the Manufacturers & Traders Trust Company to invest from the Interest Account in the amount of \$180,833.33 to mature in time for the June 1, 2009 Interest Payment at the highest yield to maturity to 2008 Bondholders and invest from the Principal Account in the amount of \$312,916.67 to mature in time for the December 1, 2009 Principal Payment at the highest yield to maturity to 2008 Bondholders, is hereby approved and ratified; and be it further

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

Ayes: Three; Commrs. Swiatek, Vacco and Warthling

Noes: None

ITEM 8 - AUTHORIZATION TO ENTER INTO A MAINTENANCE AGREEMENT WITH FM COMMUNICATIONS, INC. TO RENDER MAINTENANCE, REPAIR AND ADJUSTMENTS OF THE EXISTING VOICE RADIO AND AVL SYSTEMS AND THE REMOVAL AND INSTALLATION OF EXISTING VOICE RADIO AND AVL MOBILE UNITS, PROJECT NO. 200900031 AT A COST NOT TO EXCEED \$92,707.00

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, The Authority deems it advisable to have FM Communications, Inc. render maintenance, repair and adjustments required to maintain optimum overall system performance of the existing voice radio and AVL systems and the removal and installation of existing voice radio and AVL mobile units; and

WHEREAS, Paul H. Riester, Director of Administration advised that FM Communications, Inc. is a sole source provider for the following reasons:

1. Sole provider of items that are compatible with existing equipment, inventory, systems, programs or services;
2. Sole provider of factory-authorized warranty service;
3. Sole provider of goods or services that will meet the specialized needs of the Authority or perform the intended function; and

WHEREAS, Under the date of March 4, 2009, FM Communications, Inc. submitted three copies of the proposed agreement between the Authority and them 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; and**

WHEREAS, The Authority agrees to pay FM Communications, 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, 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 FM Communications, Inc. to render professional services for maintenance, repair and adjustments required to maintain optimum overall system performance of the existing voice radio and AVL systems and the removal and installation of existing voice radio and AVL mobile units under the terms and conditions set forth in said proposal; 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 FM Communications, Inc.

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

ITEM 9 - AUTHORIZATION TO GRANT A ONE-TIME COURTESY REVERSAL OF DELINQUENT CHARGES FOR SOUTH LINE FIRE DISTRICT NO. 10 - \$773.15

Motion by Mr. Warthling seconded by Mrs. Vacco

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

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

WHEREAS, Albert J. Meaney, Comptroller, advised the Authority that he has received a request to waive the delinquent charges for South Line Fire District No. 10; and

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

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

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

WHEREAS, Robert J. Lichtenthal, Jr., Deputy Director, concurs with said recommendation;

NOW, THEREFORE, BE IT RESOLVED:

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

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

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

ITEM 10 - AUTHORIZATION TO SOLICIT REQUEST FOR PROPOSALS FOR WORKERS COMPENSATION INSURANCE COVERAGE

Motion by Mr. Warthling seconded by Mrs. Vacco

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 workers compensation insurance coverage; 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 workers compensation insurance coverage 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, Robert J. Lichtenhal, Jr., Deputy Director, 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 workers compensation insurance coverage.

Ayes: Three; Commrs. Swiatek, Vacco and Warthling

Noes: None

ITEM 11 - AUTHORIZATION TO EXECUTE PRELIMINARY UTILITY WORK AGREEMENT WITH THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR NY ROUTE 265, MILITARY ROAD, SH 9221, BUFFALO CITY LINE/TONAWANDA TOWN LINE TO SHERIDAN DRIVE, VILLAGE OF KENMORE AND TOWN OF TONAWANDA AND NY ROUTE 265, SEYMOUR STREET, SH 56-2 AND 55-12, FLETCHER STREET TO THE NIAGARA COUNTY LINE, CITY OF TONAWANDA, ERIE COUNTY, NEW YORK, PROJECT NO. 200900045, IDENTIFIED AS PIN NO. 5019.23

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, Wesley C. Dust, P.E., Executive Engineer, has advised that the New York State Department of Transportation ("NYSDOT") has submitted forms for Preliminary Utility Work Agreement for work to be performed on Erie County Water Authority ("Authority") facilities due to the project described as NY Route 265, Military Road, SH 9221, Buffalo City Line/Tonawanda Town Line to Sheridan Drive, Village of Kenmore and Town of Tonawanda and NY Route 265, Seymour Street, SH 56-2 and 55-12, Fletcher Street to the Niagara County Line, City of Tonawanda, Erie County, New York, identified as PIN No. 5019.23; and

WHEREAS, The water valves and appurtenances presently located on State right-of-way as shown on the plans for the proposed transportation project are to be adjusted by adjusting water valves; and

WHEREAS, Wes Dust, P.E., Executive Engineer and Robert A. Mendez, Executive Director recommend the execution of said Preliminary Utility Work Agreement;

NOW, THEREFORE, BE IT RESOLVED:

That the Chairman, or in his absence the Vice Chairman, be and he hereby is authorized and directed to enter into a Preliminary Utility Work Agreement with the NYSDOT for the abovementioned project identified as NY Route 265, Military Road, SH 9221, Buffalo City Line/Tonawanda Town Line to Sheridan Drive, Village of Kenmore and Town of Tonawanda and NY Route 265, Seymour Street, SH 56-2 and 55-12, Fletcher Street to the Niagara County Line, City of Tonawanda, Erie County, New York, identified as PIN No. 5019.23; and be it further

RESOLVED: That the Secretary be and he hereby is authorized to forward four copies of the executed Agreement, to Richard Lunz, P.E., Regional Utilities Engineer, New York State Department of Transportation, 100 Seneca Street, Buffalo, New York, 14203.

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

ITEM 12 - AUTHORIZATION TO EXECUTE GENERAL RELEASE IN CONNECTION WITH COST OF RELOCATING MUNICIPALLY OWNED FACILITIES MAINTAINED FOR PUBLIC USE (SUBDIVISION 24, SECTION 10, OF THE HIGHWAY LAW) FOR MAIN STREET, PART 2, SH 87, NY ROUTE 5, YOUNGS ROAD TO NY ROUTE 78, TRANSIT ROAD, TOWN OF AMHERST, IDENTIFIED AS PIN NO. 5034.95, PROJECT NO. 199800371 - \$5,419.45

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, By resolution identified as Item No. 12 of the Minutes of the Meeting of October 4, 2001, 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, Regional Utilities Engineer, for the Commissioner of Transportation, for the abovementioned project identified as Main Street, Part 2, SH 87, NY Route 5, Youngs Road to NY Route 78, Transit Road, Town of Amherst, identified as PIN No. 5034.95, at an amount not to exceed \$12,610.00; and

WHEREAS, By resolution identified as Item No. 12 of the Minutes of the Meeting of November 2, 2001, 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 \$12,610.00; 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 March 10, 2009, submitted a Utility Field Audit Report for costs incurred in the relocation of the Authority's facilities in the adjusted amount of \$5,419.45, 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 \$5,419.45;

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 \$5,419.45 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 (3) copies of the executed General Release to Richard Lunz, P.E., Regional Utilities Engineer, New York State Department of Transportation, 100 Seneca Street, Buffalo, New York, 14203.

Ayes: Three; Commrs. Swiatek, Vacco and Warthling

Noes: None

ITEM 13 - 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 SWEET HOME ROAD, REFERENCE ROUTE 952T, SH 82-12 & SH 9409, MAPLE ROAD TO ELLICOTT CREEK ROAD, TOWN OF AMHERST, ERIE COUNTY, IDENTIFIED AS PIN NO. 5803.35, PROJECT NO. 200000314 - \$7,806.32

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, By resolution identified as Item No. 9 of the Minutes of the Meeting of November 28, 2005, 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, Regional Utilities Engineer, for the Commissioner of Transportation, for the abovementioned project identified as Sweet Home Road, Reference Route 952T, SH 82012 & SH 9409, Maple Road to Ellicott Creek Road, Town of Amherst, Erie County, identified as PIN No. 5803.35, at an amount not to exceed \$15,793.00; and

WHEREAS, By resolution identified as Item No. 5 of the Minutes of the Meeting of February 21, 2007, 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 \$15,793.00; 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 March 10, 2009, submitted a Utility Field Audit Report for costs incurred in the relocation of the Authority's facilities in the adjusted amount of \$7,806.32 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 \$7,806.32;

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 \$7,806.32 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 (3) copies of the executed General Release to Richard Lunz, P.E., Regional Utilities Engineer, New York State Department of Transportation, 100 Seneca Street, Buffalo, New York, 14203.

Ayes: Three; Commrs. Swiatek, Vacco and Warthling

Noes: None

ITEM 14 - 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 LAKESHORE-LACKAWANNA CITY, SH 5019, MYRTLE AVENUE, SH 8530, ROUTE 75, TRAFFIC CIRCLE, TOWN OF HAMBURG, ERIE COUNTY, IDENTIFIED AS PIN 5545.13, PROJECT NO. 200100367 - \$1,373.58

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, By resolution identified as Item No. 17 of the Minutes of the Meeting of February 1, 2001, 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, Regional Utilities Engineer, for the Commissioner of Transportation, for the abovementioned project identified as Lakeshore-Lackawanna City, SH 5019, Myrtle Avenue, SH 8530, Route 75, Traffic Circle, Town of Hamburg, Erie County, identified as PIN No. 5545.13, at an amount not to exceed \$5,764.00; 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 March 10, 2009, submitted a Utility Field Audit Report for costs incurred in the relocation of the Authority's facilities in the adjusted amount of \$1,373.58 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 \$1,373.58;

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 \$1,373.58 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 (3) copies of the executed General Release to Richard Lunz, P.E., Regional Utilities Engineer, New York State Department of Transportation, 100 Seneca Street, Buffalo, New York, 14203.

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

ITEM 15 - AWARD OF CONTRACT TO CONCEPT CONSTRUCTION CORP. FOR CONTRACT NO. NC-32-A, INSTALLATION OF PERMANENT STANDBY POWER AT VAN DE WATER TREATMENT PLANT, BALL STANTION AND WINDOM PUMP STATION, PROJECT NO. 200800010 - \$2,993,030.00

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, The Erie County Water Authority (the "Authority") heretofore advertised in the Dodge Reports and Front Page on the 28th day of January, 2009, and in Business First on the 30th day of January, 2009, a notice inviting sealed bids or proposals in accordance with Section 1069 of the Public Authorities Law for Contract No. NC-32-A, installation of permanent standby power at Van de Water Treatment Plant, Ball Station and Windom Pump Station; and

WHEREAS, Sealed bids or proposals were opened in the office of the Authority on the 17th day of February, 2009, at 11:00 a.m., local time, and were as follows:

BIDDERS	AMOUNT
Concept Construction Corp.	\$2,993,030.00
STC Construction, Inc.	3,042,160.00; and

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

WHEREAS, Robert Brown, Director of Equal Employment Opportunity, has advised that the low bidder, Concept Construction Corp. has complied with the Authority's Affirmative Action Requirements and recommends that they be allowed to proceed with their contract based on that fact; and

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

NOW, THEREFORE, BE IT RESOLVED:

That it is hereby determined that Concept Construction Corp. is the lowest responsible bidder for the abovementioned project, and that the Chairman be and he hereby is authorized and directed to execute a contract with said contractor for the Contract No. NC-32-A, installation of permanent standby power at Van de Water Treatment Plant, Ball Station and Windom Pump Station in the total amount of \$2,993,030.00; and be it further

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

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

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

Ayes: Three; Commrs. Swiatek, Vacco and Warthling

Noes: None

ITEM 16 - REFUND FOR NEW SERVICE INSTALLATIONS - \$20,035.51

Motion by Mr. Warthling seconded by Mrs. Vacco

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, Albert J. Meaney, Comptroller, under the date of February 28, 2009, has

recommended that the following refunds be made as set forth on attached Schedule "A";

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, Vacco and Warthling

Noes: None

ITEM 17 - AUTHORIZATION TO GRANT LEAK ALLOWANCE REQUEST - \$1,175.61

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, Robert J. Lichtenthal, Jr., Deputy Director advised the Authority that he has received a leak allowance request from an Authority customer listed below resulting from a service line leak:

- 1) Beth S. Brody-Hochadel
14 Center Street
Getzville, NY 14068
\$1,175.61

WHEREAS, Robert J. Lichtenthal, Jr., Deputy Director advised that the request contains documentation showing that the leak has been repaired; and

WHEREAS, Said leak allowance request has complied with all leak allowance requirements; and

WHEREAS, As stated in Section 9.09 of the Authority's Tariff, the granting of a leak allowance shall be in the sole discretion of the Authority; and

WHEREAS, Robert J. Lichtenthal, Jr., Deputy Director recommends granting the above leak allowance request; and

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

NOW, THEREFORE, BE IT RESOLVED:

That the Authority grant the leak allowance request to the abovementioned customer; and be it further

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

Ayes: Three; Commrs. Swiatek, Vacco and Warthling

Noes: None

ITEM 18 - AUTHORIZATION TO FILE THE PUBLIC AUTHORITY REPORTING INFORMATION SYSTEM (PARIS) 2008 ANNUAL REPORT TO THE NEW YORK STATE AUTHORITY BUDGET OFFICE

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, In accordance with the Public Authority Reform Act of 2005, the Erie County Water Authority (“Authority”) is required to file an Annual Report which reflects the 2008 results of operations and other supporting information; and

WHEREAS, The certification statement must be affirmatively answered confirming that the Report has been presented to and accepted by the Board before the submission of the data; and

WHEREAS, The Authority authorizes the Deputy Director as Chief Financial Officer (“CFO”) and the Executive Director as Chief Executive Officer (CEO);

NOW, THEREFORE, BE IT RESOLVED:

That the Deputy Director as CFO and the Executive Director as CEO are hereby authorized to file the Public Authority Reporting Information System 2007 Annual Report to the New York State Authority Budget Office.

Ayes: Three; Commrs. Swiatek, Vacco and Warthling

Noes: None

ITEM 19 - AUTHORIZATION FOR DANIEL SNYDER, CONTROL CREW CHIEF, TO ATTEND THE OPEN VMS SYSTEM, NETWORK AND INTERNET SECURITY COURSE IN DENVER, COLORADO

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, The Erie County Water Authority deems it advisable for Daniel Snyder, Control Crew Chief, to attend the Open VMS System, Network and Internet Security Course in Denver, Colorado at a total estimated cost of \$4,600;

NOW, THEREFORE, BE IT RESOLVED:

That Daniel Snyder, Control Crew Chief, be and he is hereby authorized to travel to Denver, Colorado from July 19, 2009 through July 24, 2009, to attend the Open VMS System, Network and Internet Security Course at a total estimated cost of \$4,600.

Ayes: Three; Commrs. Swiatek, Vacco and Warthling

Noes: None

ITEM 20 - AUTHORIZATION TO AMEND THE ERIE COUNTY WATER AUTHORITY'S OFFICE RECORDS RETENTION SCHEDULE

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, Heretofore and on the 4th day of June, 1998, by Resolution Item No. 5, the Erie County Water Authority (Authority) authorized replacing its Records Retention and Disposition Schedule MI-1 adopted on May 3, 1990 with a revised schedule entitled "Erie County Water Authority Office Records Retention Schedule" (Schedule); and

WHEREAS, Heretofore and on the 10th day of June, 1999, by Resolution Item No. 11, the Authority authorized amending the Schedule adding additional record series; and

WHEREAS, Matthew J. Baudo, Secretary to the Authority advises it is necessary for the Authority to further amend the Schedule reflecting revisions to the Records Retention and Disposition Schedule MI-1 per the New York State Archives, State Education Department; and

WHEREAS, Matthew J. Baudo, Secretary to the Authority and Robert A. Mendez, Executive Director recommend amending the Schedule to reflect the revisions to the Records Retention and Disposition Schedule MI-1 per the New York State Archives, State Education Department;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority amends the Erie County Water Authority Office Records Retention Schedule reflecting revisions to the Records Retention and Disposition Schedule MI-1 per the New York State Archives, State Education Department.

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

ITEM 21 - 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 14-22 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 - 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.

ITEM 23 - SERVICE CONNECTION WORK ORDER LIST:

Motion by Mr. Warthling seconded by Mrs. Vacco and carried to approve Service Connection Work Order Nos. 2009-11 and 2009-12, to Nichols Long & Moore Construction Corp. for Service Area No. 1 under Contract No. 09-07-01 and to Russo Development, Inc. for Service Area No. 2 under Contract No. 09-08-01 and large services under Contract No. 09-06-01 to Kandey Company, Inc.

VIII. - ADJOURNMENT

Meeting adjourned until the next regular meeting to be held on Thursday, April 9, 2009.

Matthew J. Baudo
Secretary to the Authority

PF