

MINUTES of the **MEETING** of the **ERIE COUNTY WATER AUTHORITY** held in the office, 350 Ellicott Square Building, Buffalo, New York, on the 29th day of October, 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
Paul H. Riester, Director of Administration
Daniel J. NeMoyer, Director of Human Resources
Albert J. Meaney, Comptroller
Steven V. D'Amico, Budget and Financial Analyst
James R. Lisinski, Director of Labor Relations
Brian Bray, Public Affairs Officer

ATTENDEES:

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, October 15, 2009.

III. - APPROVAL OF MINUTES

Motion by Mr. Warthling seconded by Mrs. Vacco and carried to approve the Minutes of the Meeting held on Thursday, October 15, 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 \$44,900 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 3-15)

**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 - \$50,064.13**

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, Susan Rinaldo, Cash Manager advised under date of October 16, 2009 that there was available on October 30, 2009 the following amounts in the Debt Service Fund Water Works System Revenue Refunding Bonds, Series 1998A:

Principal Account \$32,916.63
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 December 15, 2009 Interest Payment at the highest yield to maturity to 1998A Bondholders and invest from the Principal Account in the amount of \$32,916.63 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 Karen A. Prendergast, Manager of Accounting Services, 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 December 15, 2009 Interest Payment at the highest yield to maturity to 1998A Bondholders and invest from the Principal Account in the amount of \$32,916.63 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 - \$110,669.38

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, Susan Rinaldo, Cash Manager advised under date of October 16, 2009 that there was available on October 30, 2009 the following amounts in the Debt Service Fund Water Works System Revenue Refunding Bonds, Series 1998B:

Interest Account \$41,502.71
Principal Account \$69,166.67

and has recommended that the Manufacturers & Traders Trust Company, as Fiscal Agent, be authorized to invest from the Interest Account, in the amount of \$41,502.71 to mature in time for the April 15, 2009 and invest from the Principal Account in the amount of \$69,166.67 to mature in time for the October 15, 2010 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 Karen A. Prendergast, Manager of Accounting Services, in authorizing the Manufacturers & Traders Trust Company to invest from the Interest Account in the amount of \$41,502.71 to mature in time for the April 15, 2010 and invest from the Principal Account in the amount of \$69,166.67 to mature in time for the October 15, 2010 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 - \$91,376.12

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, Susan Rinaldo, Cash Manager advised under date of October 15, 2009 that there was available on October 30, 2009 the following amounts in the Debt Service Fund Water Works System Revenue Refunding Bonds, Series 2003F:

Interest Account \$38,459.45
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 \$38,459.45 to mature in time for the January 15, 2010 Interest Payment at the highest yield to maturity to 2003F Bondholders and to invest from the Principal Account in the amount of \$52,916.67 to mature in time for the July 15, 2010 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 Karen A. Prendergast, Manager of Accounting Services, in authorizing the Manufacturers & Traders Trust Company to invest from the Interest Account in the amount of \$38,459.45 to mature in time for the January 15, 2010 Interest Payment at the highest yield to maturity to 2003F Bondholders and to invest from the Principal Account in the amount of \$52,916.67 to mature in time for the July 15, 2010 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 October 16, 2009 that there was available on October 23, 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 December 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 Karen A. Prendergast, Manager of Accounting Services, 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 December 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 October 15, 2009 that there was available on October 23, 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 December 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 Karen A. Prendergast, Manager of Accounting Services, 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 December 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 EXTEND THE AGREEMENT WITH E-3 COMMUNICATIONS, INC. TO PROVIDE PUBLIC RELATIONS SERVICES, PROJECT NO. 200700648

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, Heretofore and on the 13th day of December, 2007 the Erie County Water Authority ("Authority") entered into an Agreement with E-3 Communications, Inc. to provide public relations services; and

WHEREAS, The Agreement expired on September 30, 2009; and

WHEREAS, Pursuant to Paragraph 3 of the Agreement (Duration and Payment for Services) the agreement shall be for a two year period with a one (1) year renewal at the option of the Authority on 30 days' written notice to the Consultant; and

WHEREAS, E-3 Communications, Inc. submitted a letter dated October 7, 2009 requesting the Authority extend the contract for a one year period; and

WHEREAS, Brian Bray, Public Affairs Officer advises that it is in the best interest of the Authority to exercise its option to extend the contract for one year and recommends extending the contract; and

WHEREAS, Matthew J. Baudo, Secretary to the Authority and Robert A. Mendez, Executive Director concur with said recommendation;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority extends the Agreement with E-3 Communications, Inc. to provide public relations services for a one year period.

Ayes: Three; Commrs. Swiatek, Vacco and Warthling

Noes: None

ITEM 9 - AUTHORIZATION TO ACCEPT PROPOSAL OF WATERFORD VILLAGE, LLC FOR THE CONSTRUCTION AND INSTALLATION OF APPROXIMATELY 4,100 LF OF 8-INCH AND 10-INCH PVC WATERMAIN AND APPROXIMATELY 200 LF OF 8-INCH DIP WATERMAIN AND EIGHT HYDRANTS IN WATERFORD GREEN CAMPUS AND LANDINGS AND 1,458 LF OF 8-INCH PVC WATERMAIN AND 124 LF OF 8-INCH DUCTILE IRON WATERMAIN AND TWO HYDRANTS IN WATERFORD ESTATES PHASE 3, TOWN OF CLARENCE, NEW YORK, PROJECT NO. 200400412 AND EC NO. 5805

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, The Erie County Water Authority ("Authority") desires to enter into a Main Extension Agreement (Builder-Contractor-Developer) with Waterford Village, LLC for the construction and installation of approximately 4,100 lf of 8-inch and 10-inch PVC watermain and approximately 200 lf of 8-inch DIP watermain and eight hydrants in Waterford Green Campus and Landings and 1,458 lf of 8-inch PVC watermain and 124 lf of 8-inch ductile iron watermain and two hydrants in Waterford Estates Phase 3, Town of Clarence, New York; and

WHEREAS, The materials, work, labor and services for said installation shall be supplied and paid for by the applicant; and

WHEREAS, Said installation of main and hydrants has been assigned Work Authorization No. EC-5805; and

WHEREAS, Wesley C. Dust, P.E., Executive Engineer and Robert A. Mendez, Executive Director advised that the materials, work, labor and services for said installations, as proposed to be supplied and installed by the applicant, meet with the Authority's specifications;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority accepts the proposal of Waterford Village, LLC for the construction and installation of approximately 4,100 lf of 8-inch and 10-inch PVC watermain and approximately 200 lf of 8-inch DIP watermain and eight hydrants in Waterford Green Campus and Landings and 1,458 lf of 8-inch PVC watermain and 124 lf of 8-inch ductile iron watermain and two hydrants in Waterford Estates Phase 3, Town of Clarence, New York; and be it further

RESOLVED: That the Chairman be and he hereby is authorized to execute said Main Extension Agreement (Builder-Contractor-Developer) between the Authority and Waterford Village, LLC covering the abovementioned subdivision.

Ayes: Three; Commrs. Swiatek, Vacco and Warthling

Noes: None

ITEM 10 - APPROVAL OF CHANGE ORDER NO. 1 OF CUSTOM TOPSOIL, INC. FOR 2009 PAVEMENT REPLACEMENT PROJECT, ERIE COUNTY WATER AUTHORITY SERVICE CENTER, ERIE COUNTY, NEW YORK, PROJECT NO. 200900113, CONTRACT NO. 09-20-09 - \$3,071.31

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, Heretofore and on the 13th day of August 2009, the Erie County Water Authority ("Authority") entered into a contract with Custom Topsoil, Inc. for 2009 Pavement Replacement Project, Erie County Water Authority Service Center, Erie County, New York, identified as Contract No. 09-20-09; and

WHEREAS, Said contractor has submitted Change Order No. 1 in the sum of \$3,071.31 for the following:

1. Authority to retain pavement millings at \$5.50/ton x 558.42 tons = \$3,071.31; and

WHEREAS, The reason for said change is because it was requested from Distribution to leave millings on site for ECWA use at Service Center; and

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

NOW, THEREFORE, BE IT RESOLVED:

That Change Order No. 1 of Custom Tom Soil, Inc. for 2009 Pavement Replacement Project, Erie County Water Authority Service Center, Erie County, New York in the amount of \$3,071.31 to provide for the abovementioned change be approved; and be it further

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

Ayes: Three; Commrs. Swiatek, Vacco and Warthling

Noes: None

ITEM 11 - REFUND FOR NEW SERVICE INSTALLATIONS - \$8,071.12

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 October 22, 2009, has recommended that the following refunds be made 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 12 - AUTHORIZATION TO GRANT LEAK ALLOWANCE REQUESTS - \$1,508.80

Motion by Mr. Warthling seconded by Mrs. Vacco

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

- | | |
|-------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| 1) Gregory Nowicki
24 Home Place
Lackawanna, NY 14218
\$595.05 | 2) Matthew Jaworski
19 Elkart Avenue
Lackawanna, NY 14218
\$913.75; and |
|-------------------------------------------------------------------------|----------------------------------------------------------------------------------|

WHEREAS, Robert J. Lichtenthal, Jr., Deputy Director advised that the requests contain documentation showing that the leaks have been repaired; and

WHEREAS, Said leak allowance requests have 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 requests; and

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

NOW, THEREFORE, BE IT RESOLVED:

That the Authority grant the leak allowance requests to the abovementioned customers; and be it further

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

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

ITEM 13 - 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 12-15 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 14 - 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 16 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 15 - SERVICE CONNECTION WORK ORDER LIST:

Motion by Mr. Warthling seconded by Mrs. Vacco and carried to approve Service Connection Work Order Nos. 2009-42 and 2009-43, 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.

Motion by Mr. Warthling seconded by Mrs. Vacco and carried to enter into Executive Session (8:50 a.m) for the matter of AFSCME contract negotiations.

Motion by Mr. Warthling seconded by Mrs. Vacco and carried to exit Executive Session (9:30 a.m).

VIII. - ADJOURNMENT

Meeting adjourned until the next regular meeting to be held on Thursday, November 19, 2009.

Matthew J. Baudo
Secretary to the Authority

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