

ALL MEMBERS PRESENT EXCEPT LEGISLATOR CHASE. CHAIRMAN HOLT PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, that the following items are hereby received and filed.
- a. COMM. 11E-24 (2005)
COUNTY EXECUTIVE: Contract Agreement - Erie County Diesel School Bus Education Initiative
(4-0) Legislator Marinelli was absent.

b. COMM. 23E-24 (2005)
COUNTY EXECUTIVE: ECSD No. 1 - Engineering Agreement Dated 2/3/00 - Greenman Pedersen, Inc. - Change Order No. 4
(4-0) Legislator Holt was absent.

c. COMM. 23E-25 (2005)
COUNTY EXECUTIVE: ECSD No. 4 & STSTA - Engineer Term Agreement - Work Order: GPI-5, Legislative Comm., 21E-33
(4-0) Legislator Holt was absent.

d. COMM. 23E-36 (2005)
COUNTY EXECUTIVE: ECSSTA/ECSN No. 6 - Engineering Agreement Dated 6/1/02 - Stearns & Wheler, LLC - Change Order No. 7
(4-0) Legislator Holt was absent.

e. COMM. 23E-38 (2005)
COUNTY EXECUTIVE: ECSN No. 2 - Engineering Agreement Dated 8/29/02 - URS Corp. - Change Order No. 4
(4-0) Legislator Holt was absent.

f. COMM. 23E-47 (2005)
COUNTY EXECUTIVE: ECSN Nos. 1-6 - Section 270/271 Resolutions
(4-0) Legislator Holt was absent.

g. COMM. 23D-13 (2005)
PARKS: Monthly Monitoring Report for Erie County Golf Courses for August
(3-0) Legislators Holt and Ranzenhofer were absent.

2. COMM. 23E-4 (2005)
COMPTROLLER
CERTIFICATE OF DETERMINATION BY THE COMPTROLLER RELATIVE TO THE TERMS, FORM AND DETAILS OF SALE AND ISSUANCE OF \$2,660,483 EFC SEWER SYSTEM SERIAL BONDS 2005-B OF THE COUNTY OF ERIE, NEW YORK, AND PROVIDING FOR THEIR PRIVATE SALE.
- I, JAMES M. HARTMAN, Acting Comptroller of the County of Erie, New York (the "County"), HEREBY CERTIFY that pursuant to the powers and duties delegated to me, the chief fiscal officer of the County, by the County Legislature of the County, pursuant to the resolution duly adopted and as set forth below and subject to the limitations prescribed in said resolution, and pursuant to the Project Finance Agreement dated as of June 1, 2005 (the "Agreement") between the New York State Environmental Facilities Corporation (hereinafter referred to as "EFC" or the "Corporation") and the County, I have made the following determinations:
1. Authorization. Principal Amount. Maturity Schedule and Designation.

(a) Of the \$7,400,000 bonds of the County authorized pursuant to the resolution entitled:

"Bond resolution dated December 21, 1995

Bond resolution authorizing the issuance of \$7,400,000 Bonds of the County of Erie, or so much thereof as may be necessary, to finance the cost of an increase and improvement of facilities for Erie County Sewer District No.1; stating the estimated maximum cost thereof is \$7,400,000; stating the plan of financing said cost includes the issuance of \$7,400,000 bonds herein authorized; providing for a tax to pay the principal of and interest on said bonds; and providing for reimbursement by Erie County Sewer District No.1 to said County,"

duly adopted by the County Legislature of the County on the date therein referred to, \$2,660,483 bonds shall be issued (a \$2,043,392.00 Short Term Direct Loan E.F.C. Municipal Water Pollution Control Facility Note – 2003 - A was made to the County on June 5, 2003, of which \$1,996,456.39 has been drawn upon in anticipation of the sale of said bonds, all of which are currently outstanding and will be redeemed with a part of the bond proceeds, and \$-0- in available funds) and shall mature in the respective principal amounts on October 1 in each of the years asset forth in Schedule A of the Notice of Terms Certificate between the County and EFC attached hereto as Appendix A (the "Notice of Terms Certificate"). Said bonds shall be designated "EFC Sewer System Serial Bond -2005-B" (the "Bonds").

(b) Said Bonds are hereby sold at private sale and awarded to EFC upon the terms and conditions as set forth in the Agreement and herein.

2. Issue Date. The Bonds shall be dated as of the date of delivery thereof and such date shall appear on the face of each Bond following the caption "Date of Original Issue".

3. Dates and Medium of Payment. Pursuant to the Agreement, the Bonds maturing in the respective principal amounts as set forth in the Notice of Terms shall bear interest from the Date of Original Issue at the respective rates per annum payable on October 1; 2005 and semiannually thereafter on April 1 and October 1 in each year to maturity as set forth in the Notice of Terms. Interest shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Interest shall be paid to the person in whose name each Bond is registered at either the principal corporate trust office in Buffalo, New York, or at the paying agency office in New York, New York of Manufacturers and Traders Trust Company, as depository bank (the "Depositor Bank"). For so long as EFC shall be the registered owner of the Bonds, EFC may by written instruction to the County instruct the County to pay any principal due on the Bonds to any bank acting as custodian for EFC.

4. Bonds Subject to Prior Redemption. The Bonds, or certain maturities of the Bonds, shall be subject to redemption prior to maturity as described in the Notice of Terms.

5. Denominations, Numbers and Letters. The Bonds maturing in each year shall be issued as fully registered bonds in denominations corresponding to the aggregate principal amounts due in each year to maturity. Only one Bond will be issued for each maturity in the aggregate principal, amount of such maturity. The Bonds shall be numbered separately and consecutively upward with the letter BR prefixed thereto and shall be transferable and exchangeable as provided herein.

6. Fiscal Agent. The Office of the County Comptroller, County of Erie, 95 Franklin Avenue, Buffalo, New York, is hereby appointed as Fiscal Agent for the Bonds pursuant to, and to act in accordance with, applicable provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York.

7. Execution of Bonds. The Bonds shall be executed in the name of the

County by the manual signature of the Acting Comptroller, and shall have the corporate seal of the County, or a facsimile thereof, affixed, impressed, imprinted, engraved or otherwise reproduced thereon.

8. Transfer of Bonds. Each Bond shall be transferable solely in accordance with the terms of the Agreement and only upon the books of the County, which shall be kept for such purpose at the office of the Fiscal Agent, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the County duly executed by the registered owner or his duly authorized attorney. Upon transfer of any such Bond, the County shall issue in the name of the transferee or the registered owner a new Bond or Bonds of the same aggregate principal amount and of the same maturity as the surrendered Bond upon payment of the charges, if any, therein prescribed. The County and the Fiscal Agent may deem and treat the person in whose name any Bond shall be registered upon the books of the Fiscal Agent as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of such Bond and for all other purposes, and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the County nor the Fiscal Agent shall be affected by any notice to the contrary.

9. Regulations With Respect to Exchanges and Transfers. In all cases in which the privilege of exchanging or transferring Bonds is exercised, the County shall execute and the Fiscal Agent shall deliver Bonds in accordance with the provisions hereof All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Fiscal Agent. For every such exchange or transfer of bonds, the County or the Fiscal Agent may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, and may charge a sum sufficient to pay the cost of preparing each new bond issued upon such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer.

10. Form of Bonds. Said Bonds shall be in substantially the form set forth in Appendix B hereto.

I HEREBY FURTHER CERTIFY that the powers and duties delegated to me to issue and sell the bonds hereinabove described and referred to are in full force and effect and have not been modified, amended or revoked.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 28th day of July 2005.

Acting Comptroller
James Hartman
(4-0) Legislator Marinelli was absent.

3. COMM. 23E-29 (2005)
COUNTY EXECUTIVE
WHEREAS, the United States Environmental Protection Agency (EPA) provides grant assistance to implement air quality education and outreach initiatives; and

WHEREAS, the EPA has awarded Erie County an air quality education grant under the Mobile Source Outreach Program; and

WHEREAS, the Erie County Department of Environment and Planning (ECDEP) has accepted this role and successfully coordinated the Diesel School Bus Education Initiative; and

WHEREAS, the work plan for the grant effort involves preparation of a video presentation; and

WHEREAS, MacPherson Media has been identified as a professional services contractor with the capacity to produce the informational video; and

WHEREAS, through Legislative resolution (Comm. 12E-49) dated July 3, 2003, a budget was established within the ECDEP.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to enter into an agreement with the MacPherson Media for production of a video presentation outlining the methods to reduce school bus idling and to improve local air quality; and be it further

RESOLVED, that the contractual agreement will not exceed \$1,851.60 and will be paid from existing Federal grant funds; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive; the Director of Budget, Management and Finance; Laurence K. Rubin, Commissioner of Environment and Planning; Michael Raab, Deputy Commissioner of Environment and Planning; the County Comptroller; and the County Attorney.
(4-0) Legislator Holt was absent.

4. COMM. 23E-31 (2005)
COUNTY EXECUTIVE
WHEREAS, the United States Environmental Protection Agency (USEPA) provides grant assistance to implement air quality education and outreach initiatives; and

WHEREAS, Erie County has successfully conducted a model Indoor Air Quality (IAQ) Program since 1988; and

WHEREAS, representatives from regional Native American population centers have expressed interest in developing a program to minimize risks associated with toxic air pollutants; and

WHEREAS, the USEPA has awarded the Erie County Department of Environment and Planning (ECDEP) a grant in the amount of \$67,122 to establish a two-year program to implement a multifaceted risk reduction effort for indoor and outdoor air pollutants; and

WHEREAS, it is in the best interest of Erie County to assist local Native American groups with the reduction of air pollutants for the protection of the environment.

NOW, THEREFORE BE IT

RESOLVED, that the County Executive is hereby authorized to execute the contracts necessary to accept a grant of \$67,122 from the USEPA to implement the Erie County Tribal Community Reducing Toxic Air Pollutants Project, and be it further

and be it further

RESOLVED, that the new revenue from the USEPA program is hereby appropriated in the grant as follows:

<u>REVENUE:</u>		
<u>Account</u>	<u>Description</u>	<u>Amount</u>
405060	Federal Aid – EPA	<u>\$67,122</u>
TOTAL REVENUE		\$67,122

<u>APPROPRIATIONS:</u>		
<u>Account</u>	<u>Description</u>	<u>Amount</u>
916200	ID Environment and Planning Services	\$53,172
505000	Office Supplies	7,950
	Local Travel	1,000
516020	Professional Service Contract & Fees	5,000
TOTAL APPROPRIATIONS:		\$67,122

and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive, the Director of Budget, Management and Finance; Laurence K. Rubin, Commissioner of Environment and Planning; Michael Raab, Deputy Commissioner of Environment and Planning; the County Comptroller; and the County Attorney.
(4-0) Legislator Holt was absent.

5. COMM. 23E-37 (2005)
 COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Environment and Planning, Division of Sewerage Management has identified the need to execute an energy performance contract for the implementation of energy and cost saving measures at the Erie County Southtowns Advanced Wastewater Treatment Facility; and

WHEREAS, Erie County has entered into a Contract with Siemens Building Technologies, Inc. to complete the work as an Energy Performance Contract in an amount not-to-exceed \$2,997,261.00; and

WHEREAS, Siemens Building Technologies, Inc. and the Erie County Department of Environment and Planning, Division of Sewerage Management have identified the need additional items of work required to complete the project and not previously identified or included in the original scope of services; and

WHEREAS, the Department of Environment and Planning, Division of Sewerage Management has prepared Change Order No. 3 to the Siemens Building Technologies Contract and has recommended the approval of this Change Order in an amount not-to-exceed \$115,000.00; and

WHEREAS, the adjusted amount of the Contract with Siemens Building Technologies, Inc. would be in an amount not-to-exceed \$3,112,261.00; and

NOW, THEREFORE, BE IT

RESOLVED, that approval of Change Order No. 3 to Siemens Building Technologies contract in an amount not-to-exceed \$115,000.00 is granted and that monies for this Change Order be appropriated from Capital Account C.00015 (430-451); and be it further.

RESOLVED, that the Clerk of the Legislature be directed to send two (2) certified copies of the Resolution to Charles J. Alessi, P.E., Deputy Commissioner, Department of Environment and Planning, and one (1) certified copy each to Joel A. Giambra, County Executive; James M. Hartman, Erie County Comptroller; Gregory Dudek, Assistant County Attorney; and Joseph Passafiume, Director of Budget, Management and Finance.
(4-0) Legislator Holt was absent.

6. COMM. 23E-39 (2005)
 COUNTY EXECUTIVE

WHEREAS, the Division of Sewerage Management is requesting the reclassification of the Chief Treatment Plant Supervisor, Job Group 16 to an Associate Engineer, Sewerage Management, Job Group 15; and

WHEREAS, this position adjustment is reflected on B-100 position authorization form, Control No. 1204 in the SAP system.

NOW, THEREFORE, BE IT

RESOLVED, that the reclassification of the Chief Treatment Plant Supervisor, JG 16 to an Associate Engineer, Sewerage Management, JG 15 is hereby approved; and be it further

RESOLVED, that the funding for the position adjustments is available in unexpended salaries in the Department of Environment and Planning, Division of Sewerage Management, Cost Center 1801010; and be it further

RESOLVED, that certified copies of the approved resolution be sent to Joel A. Giambra, County Executive; Charles J. Alessi, P.E., Deputy Commissioner, Department of Environment and Planning; the Erie County Personnel Department and the Erie County Budget Office.
(4-0) Legislator Holt was absent.

7. COMM. 23E-44 (2005)
 COUNTY EXECUTIVE

WHEREAS, the New York State Department of Environmental Conservation (NYSDEC) provides grant assistance to implement recycling education in municipalities; and

WHEREAS, NYSDEC has awarded Erie County and the City of Buffalo a Recycling Education grant; and

WHEREAS, the Erie County Department of Environment and Planning (ECDEP) has accepted the role of successfully coordinating the City of Buffalo Recycling Education grant; and

WHEREAS, the work plan for the City of Buffalo Recycling Coordinator Grant effort specifies a door-to-door direct marketing campaign; and

WHEREAS, Keep Western New York Beautiful, Inc. (KWNYP) has been identified as a professional non-profit organization with a long history of providing hands-on services to the residents of the City; and

WHEREAS, KWNYP is currently supervising the City’s Summer Youth Program and working directly with the City’s Door-to-Door Dog-Licensing Campaign; and

WHEREAS, other organizations and private firms were contacted, and none were found to be either interested in or able to perform the required service at the same cost or below the price submitted by KWNYP; and

WHEREAS, through Legislative resolution (Comm. 20E-55) dated November 20, 2003, a grant budget was established within the ECDEP that called for funding of a door-to-door recycling campaign.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to enter into an agreement with Keep Western New York Beautiful, Inc., to oversee and deliver a Door-to-Door Recycling Education Campaign; and be it further

RESOLVED, that the contractual agreement will not exceed \$9,500 and will be paid from the existing State grant budget; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive; the Director of Budget, Management and Finance; Laurence K. Rubin, Commissioner of Environment and Planning; Michael Raab, Deputy Commissioner of Environment and Planning; the County Comptroller; and the County Attorney.
(3-1) Legislator Ranzenhofer in the negative. Legislator Holt was absent.

8. COMM. 23E-49 (2005)
COUNTY EXECUTIVE
WHEREAS, Capital Project C.00022 (430 515), Increase of Facilities 1981-1984 will be closed out in 2005; and

WHEREAS, there is a cash balance of \$9,951.20 as of June, 2005; and

WHEREAS, the use of said cash will have no impact on the approved 2005 Budget.

NOW, THEREFORE, BE IT

RESOLVED, that the cash balance of \$9,951.20 and any additional accrued interest be transferred into Erie County Sewer District No. 1’s Debt Service Fund; and be it further

RESOLVED, that the Clerk of the Legislature be authorized and directed to send certified copies of this resolution to Joel A. Giambra, County Executive; Charles J. Alessi, P.E., Deputy Commissioner, Department of Environment and Planning; Erie County Comptroller, Director, Budget and Management, and Gregory Dudek, Assistant County Attorney.
(4-0) Legislator Holt was absent.

9. COMM. 23E-50 (2005)
COUNTY EXECUTIVE
WHEREAS, Article 5-A, Sections 270 and 271 of County Law requires your Honorable Body to hold a Public Hearing on the Sewer District Assessment Rolls for Erie County Sewer District Nos. 1, 2, 3, 4, 5 and 6; and

WHEREAS, Notice of said Public Hearing shall be published at least once in the official County newspapers and at least five (5) days prior to holding the Public Hearing.

NOW, THEREFORE, BE IT

RESOLVED, that the Sewer District assessment rolls be open for public inspection after October 1, 2005 in the offices of the Division of Sewerage Management, 95 Franklin Street, Buffalo, New York 14202; and be it further

RESOLVED, that a Public Hearing be held in the Chambers of the Erie County Legislature, 92 Franklin Street, 4th Floor, Buffalo, NY, at 1:30 p.m., local time, on November 10, 2005, for the purpose of meeting to hear and consider any objections which may be made to the 2006 Sewer District Assessment Rolls for Erie County Sewer District Nos. 1, 2, 3, 4, 5 and 6; and be it further

RESOLVED, that the Clerk of the Legislature be directed to have published in the official County Newspapers, and the Buffalo News, a Notice of Public Hearing no later than the week of October 3, 2005; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send certified copies of this resolution to Joel A. Giambra, County Executive, Charles J. Alessi, P.E., Deputy Commissioner, Department of Environment and Planning, James Hartman, County Comptroller, and Gregory Dudek Assistant County Attorney.
(4-0) Legislator Holt was absent.

10. COMM. 23E-52 (2005)

COUNTY EXECUTIVE

WHEREAS, the Legislature awarded a contract to URS Corporation to provide engineering services related to the design and construction of Sewerage Facilities within Erie County Sewer District No.2 on April 3, 2003, (COMM. 6E-29); and

WHEREAS, the Erie County Division of Sewerage Management has advised the Legislature that all engineering services are now completed; and

WHEREAS, the Erie County Division of Sewerage Management has recommended the formal close-out of the Engineering Agreement with URS Corporation dated May 5, 2003 in the amount of \$48,441.58 the release of all retention and cancellation of any remaining balances.

NOW, THEREFORE, BE IT

RESOLVED, that the Engineering Agreement dated May 5, 2003 between Erie County Sewer District No.3 and URS Corporation be formally closed-out in the final amount of \$48,441.58; and be it further,

RESOLVED, that the Erie County Comptroller is hereby authorized and directed to release all retention and cancel any remaining encumbrances from Erie County Sewer District No. 3/Southtowns 220 853 831 698 105 use of Fund Balance and 220 853 830 830 Contractual Services, relating to the Engineering Agreement dated May 5 ,2003, between Erie County and URS Corporation; and be it further,

RESOLVED, that the Clerk of the Legislature be directed to send one (1) certified copy to Joel A. Giambra, County Executive and two (2) certified copies of this Resolution to Charles J. Alessi, P.E., Department of Environment and Planning; and one copy each to Director of Budget and Management, Erie County Comptroller's Office; and Gregory Dudek, Assistant County Attorney.
(4-0) Legislator Holt was absent.

10. COMM. 23E-53 (2005)
COUNTY EXECUTIVE

WHEREAS, Erie Canalway Trail – SAP Account No. A.00034 includes \$1,500,000 for the design and construction of the Erie Canalway Trail Project; and

WHEREAS, the New York State Capital Corporation, through a Memorandum of Agreement with the County of Erie dated March 3, 2005 will provide up to \$1,500,000 as reimbursement for this project; and

WHEREAS, the original contract with Peter J. Smith & Company, Inc. for design and construction inspection services was dated July 5, 2001 and included a fee of \$220,000; and

WHEREAS, by Resolution Comm. 6E-12 enacted April 10, 2003 the Erie County Legislature authorized executing an amended contract for design and construction inspection services with Peter J. Smith & Company, Inc. for a fee not to exceed \$225,000; and

WHEREAS, an increase in the authorized contract amount is necessary to reflect cost changes in consultant rates since 2001 and actual construction inspection tasks identified in the final design,

NOW, THEREFORE, BE IT

RESOLVED, that said contract with Peter J. Smith & Company be amended to establish a new fee not to exceed \$235,000; and be it further

RESOLVED, that the sum of \$10,000 is hereby transferred from WBS Element #A.00034.2, Erie Canal Trail Construction to WBS Element #A.00034.1 Erie Canal Trail Design, within the budget of the Erie Canalway Trail Capital Project A.00034; and be it further

RESOLVED, that the Clerk of the Legislature be directed to forward certified copies of this resolution to the County Executive; the Director of the Division of Budget, Management, and Finance; the County Comptroller; the Commissioner of the Department of Environment and Planning; and the Acting Commissioner of the Department of Public Works.
(4-0) Legislator Holt was absent.

RAYMOND K. DUSZA
CHAIRMAN