

**MINUTES OF THE REGULAR MEETING  
OF THE  
BUFFALO SEWER AUTHORITY  
December 10, 2003**



# BUFFALO SEWER AUTHORITY

December 10, 2003

**REGULAR MEETING**

**9:00 A.M.**

**1038 CITY HALL**

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**CALL OF THE ROLL**

Present:	Herbert L. Bellamy, Jr.	Chairman
	James Naples	Asst. Vice Chairman
	John D. Kennedy, Sr.	Secretary
	Rodney I. Richardson	Asst. Secretary
	Anthony A. Hazzan	General Manager
	Margaret Burke	Executive Secretary
	Pamela DiPalma	Director of Employee Relations
	Frank DiMascio, P.E.	Principal Sanitary Engineer
	Joseph Baudo	Engineering Dept.
	Anthony Barone	Director of Sewer Maintenance
	Angel Rivera	Supt. of Mechanical Maintenance
	Richard Stoddard	President of CSEA, Local 815
	Frank Bellioti	City Auditor
	Angela Horton	Erie Co. Environment & Planning
Absent:		

The meeting was called to order at 9:17 A.M. A quorum was present.

ITEM NO. 1

Motion to Adopt the Minutes of the Meeting of November 12, 2003.

MOTION TO	ADOPT
MADE BY	MR. NAPLES
2 <sup>ND</sup> BY	MR. RICHARDSON
AYES	4 NOES 0

Board Meeting of December 10, 2003

ITEM NO. 2						
INFORMATIVE: TEMPORARY INVESTMENTS (CERTIFICATES OF DEPOSIT AND TREASURY						
November 30, 2003						
ISSUE DATE	MATURITY DATE	TOTAL DAYS	AMOUNT	BANK	RATE	INTEREST AMOUNT
<b>CAPITAL IMPROVEMENT FUND</b>						
#####	MONEY MARKE		\$ 500,520.22	CHASE	1.26%	Co.High Y
<b>CONSTRUCTION FUND</b>						
#####	MONEY MARKE		\$ 10,414,217.85	CHASE	1.26%	Co.High Y
<b>LIABILITY AND CASUALTY RESERVE FUND</b>						
#####	MONEY MARKE		\$ 1,140,467.44	CHASE	1.26%	Co.High Y
<b>OPERATING FUND</b>						
#####	MONEY MARKE		\$ 2,522,200.39	CHASE	1.26%	Co.High Y
<b>TRUST &amp; AGENCY FUND</b>						
#####	MONEY MARKE		\$ 18,622.02	CHASE	1.26%	Co.High Y
<b>SURPLUS FUND</b>						
#####	31-Dec-03	184	\$ 2,844,971.84	M&T Securities	0.96%	\$14,028
<b>NET REVENUE FUND</b>						
#####	04-Dec-03	42	\$7,621,098.33	M&T Securities	1.00%	\$8,901
#####	19-Dec-03	53	\$4,097,958.00	M&T Securities	1.00%	\$6,042
#####	19-Dec-03	24	\$501,672.03	M&T Securities	0.98%	\$327
#####	22-Dec-03	119	\$2,999,851.28	M&T Securities	1.02%	\$10,148
#####	31-Dec-03	184	\$5,320,764.05	M&T Securities	0.96%	\$26,235
			\$ 20,541,343.69			
<b>DEBT RESERVE FUND</b>						
#####	30-Jun-04	366	\$1,179,697.42	<b>SERIES F</b> U.S.TREAS.N	#####	\$16,631
			(1,157,000.00 par)			(12/
#####	15-Aug-08	1788	\$7,350,000.00	<b>SERIES I</b> M&T Securitie	3.25%	\$119,437
						(2/
#####	15-Apr-32		\$2,825,593.00	<b>SERIES H</b> SLG	#####	
			\$ 11,355,290.42			
<b>CONSTRUCTION FUND</b>						
#####	04-Dec-03	42	\$801,064.33	<b>SERIES H</b> M&T Securities	1.00%	\$935
#####	04-Dec-03	35	\$441,570.28	M&T Securities	1.00%	\$429
#####	11-Dec-03	35	\$2,321,808.34	M&T Securities	0.97%	\$2,191
#####	11-Dec-03	28	\$1,697,691.77	M&T Securities	0.99%	\$1,308
#####	18-Dec-03	28	\$5,710,643.90	M&T Securities	#####	\$4,356
			\$ 10,972,778.62			
<b>RECEIVE &amp;</b>						



ITEM NO. 3

**THE TENTH SUPPLEMENTAL SEWER SYSTEM REVENUE BOND RESOLUTION, SEWER SYSTEM REVENUE BONDS, SERIES J**

**EXTRACT OF MINUTES  
Meeting of the Buffalo Sewer Authority  
of the City of Buffalo, County of Erie, New York  
December 10, 2003**

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A regular meeting of the Buffalo Sewer Authority of the City of Buffalo, in the County of Erie, New York, was held at the City Hall, Buffalo, New York, on December 10, 2003, at 9:00 o'clock A.M. (Prevailing Time)

There were present:

Members: 4

There were absent: 0

Also present:

Member Mr. Kennedy offered the following resolution and offered its adoption:

2<sup>ND</sup> BY MR. RICHARDSON

AYES 4 NOES 0

Board Meeting of December 10, 2003



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**BUFFALO SEWER AUTHORITY**

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**Tenth Supplemental Sewer System Revenue Bond Resolution  
Authorizing Up To \$8,500,000  
Sewer System Revenue Bonds, Series J**

—————

**Adopted: December 10, 2003**

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BUFFALO SEWER AUTHORITY

Tenth Supplemental Sewer System Revenue Bond Resolution  
Authorizing Up To \$8,500,000  
Sewer System Revenue Bonds, Series J

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BE IT RESOLVED by the Board of the Buffalo Sewer Authority (the “Authority”) as follows:

ARTICLE I

DEFINITIONS AND AUTHORITY

Section 101. Short Title. This resolution may hereafter be cited by the Authority and is herein referred to as the Tenth Supplemental Resolution.

Section 102. Definitions.

(A) All terms which are defined in Section 102 of the resolution adopted by the Authority on June 29, 1977 and entitled “Sewer System Revenue Bond Resolution” (the “Resolution”), as heretofore amended, shall have the same meanings, respectively, in this Tenth Supplemental Resolution as such terms are given in said Section of the Resolution.

(B) In this Tenth Supplemental Resolution:

“Corporation” shall mean the New York State Environmental Facilities Corporation, a body corporate and politic constituting a public benefit corporation, established and existing under and by virtue of the laws of the State of New York.

“Project Finance Agreement” or “PFA” shall mean the project finance agreement to be entered into between the Authority and the Corporation relating to the Series J Bonds, in substantially the form presented to this meeting, as the same may be amended and supplemented from time to time.

“Series J Bonds” means the Sewer System Revenue Bonds, Series J, authorized by, and the terms, conditions and other details of issuance of which are to be determined as set forth in, this Tenth Supplemental Resolution.

“Tenth Supplemental Resolution” shall mean this Tenth Supplement Sewer System Revenue Bond Resolution.

Section 103. Authority for This Tenth Supplemental Resolution. This Tenth Supplemental Resolution is adopted pursuant to the provisions of the Act and the Resolution.

Section 104. Resolution to Constitute Contract. In consideration of the purchase and acceptance of the Series J Bonds by the Corporation, the provisions of this Tenth Supplemental Resolution shall be a part of the Project Finance Agreement and shall be deemed to be and shall constitute a contract among the Authority, the Trustee and the Corporation.

## ARTICLE II

AUTHORIZATION OF THE SERIES J BONDS AND  
DETERMINATION OF CERTAIN TERMS OF THE SERIES J BONDS

Section 201. Tenth Supplemental Resolution. This Tenth Supplemental Resolution is supplemental to, and is adopted in accordance with, Article II and Article VIII of the Resolution.

Section 202. Principal Amount, Designation and Series. Pursuant to the provisions of the Resolution, a Series of Bonds (the "Series J Bonds") entitled to the equal benefit, protection and security thereof, is hereby authorized, and shall be issued in an aggregate principal amount not to exceed \$8,500,000, as set forth in the Project Finance Agreement. The Series J Bonds shall be designated as, and shall be distinguished from the Bonds of all other Series, by the title "Sewer System Revenue Bonds, Series J".

Section 203. Purposes. The Series J Bonds are issued to provide moneys for the making of deposits in the amounts, if any, required by the Project Finance Agreement or by the Resolution or this Tenth Supplemental Resolution into the Construction Fund and any other Funds and Accounts established pursuant to Article V of the Resolution, this Tenth Supplemental Resolution or the Project Finance Agreement. The proceeds of the Series J Bonds shall provide permanent long-term financing for the following projects of the Authority: Tonawanda Street Storm Sewer Improvements (EFC Project No. C9-6602-03); Bird Island Wastewater Treatment Plant RAS/WAS Pump Replacement (EFC Project No. C9-6602-04); Hertel Avenue Storm Sewer Improvements (EFC Project No. C9-6602-05); and Bird Island Wastewater Treatment Plant Primary Clarifier Scum System (EFC Project No. C9-6602-07) and will also fund required debt service reserve funds and costs of issuance in connection with such financing.

Section 204. Date, Maturities and Interest Rates. The Series J Bonds shall be dated and shall mature and accrue interest in accordance with the Project Finance Agreement. The Series J Bonds will be payable as to principal and interest at the principal office of the Paying Agent to the registered owner thereof at its address set forth on the books of the Authority maintained by the Trustee for registration of the Series J Bonds. For so long as the Corporation is the registered owner of the Series J Bonds, the Corporation may, by written instruction to the Paying Agent, direct the Paying Agent to pay any principal of or interest on the Series J Bonds to any bank acting as custodian of the Corporation. The principal of and interest on the Series J Bonds shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for public and private debts.

Section 205. Form, Denominations, Numbers and Letters. The Series J Bonds maturing in any particular year shall be issued in the form of fully registered bonds, in the denomination of \$5,000 or any multiple thereof not exceeding the aggregate principal amount of Series J Bonds maturing in such year. The Series J Bonds shall be lettered JR, and numbered from one consecutively upward. Alternatively, at the request of the Corporation, the Series J Bonds may be issued as one or more installment bonds providing for payments of principal and interest identical to those which would be required if a separate bond or bonds were issued for each stated maturity, or as one or more term bonds with mandatory sinking fund installments.

Section 206. Sinking Fund Installments. Sinking Fund Installments are hereby established for the Series J Bonds to the extent, if any, required by the Project Finance Agreement.

Section 207. Redemption. The Series J Bonds shall be subject to mandatory and optional redemption to the extent, if any, provided in the Project Finance Agreement.

Section 208. Registration and Transfer of the Series J Bonds. The Series J Bonds shall be initially issued in the form of a separate single authenticated fully registered bond in the amount of each separate stated maturity of the Series J Bonds registered in the name of the New York State Environmental Facilities Corporation. Alternatively, at the request of the Corporation, the Series J Bonds may be issued as one or more installment bonds providing for payments of principal and interest identical to those which would be required if a separate bond or bonds were issued for each stated maturity, or as one or more term bonds with mandatory sinking fund installments.

## ARTICLE III

## SALE AND DISPOSITION OF PROCEEDS AND OTHER AMOUNTS

Section 301. Determination as to Private Sale. The Authority being of the opinion that it is in the best interests of the Authority to finance the purposes for which the Series J Bonds are to be issued through the Clean Water State Revolving Fund administered by the Corporation, due to the favorable financing terms available thereunder, and upon the favorable recommendation of the Authority's independent financial advisor, the Authority hereby determines pursuant to Section 1187 of the Act (subject to the approval of the New York State Comptroller pursuant to said Section 1187) that the private sale of the Series J Bonds is in the best interests of the Authority.

Section 302. Sale of the Series J Bonds.

(A) The Project Finance Agreement relating to the Series J Bonds by and between the Authority and the Corporation, substantially in the form presented at this meeting and hereby made a part of this Tenth Supplemental Resolution as though set forth in full herein, is hereby approved; provided that any changes, insertions and omissions thereto, including a change in the principal amount of the Series J Bonds, may be made and approved by the Chairman, the Vice-Chairman or the General Manager of the Authority. The Chairman, the Vice-Chairman or the General Manager of the Authority are hereby authorized to execute and deliver the PFA with such changes, insertions and omissions as may be approved by such Chairman, Vice-Chairman or General Manager, and such execution shall be conclusive evidence of any approval required by this subsection 302(A). The Series J Bonds are hereby authorized to be sold to the Corporation on the terms and conditions as set forth in the PFA and approved by the Chairman, Vice-Chairman or General Manager. The authority to make any and all determinations as to the terms, conditions and details of issuance of the Series J Bonds are hereby delegated to the Chairman, Vice-Chairman, or General Manager.

(B) The Chairman, Vice-Chairman, General Manager, Comptroller, Chief Fiscal Officer, Secretary, Assistant Secretary, if any, Executive Secretary and General Counsel (the "Authorized Representatives") of the Authority are hereby severally authorized to execute and deliver any and all papers, instruments, opinions, certificates, affidavits, and other documents and to do and cause to be done all acts and things necessary, convenient or proper for carrying out the Resolution, this Tenth Supplemental Resolution, the PFA and the issuance, sale and delivery of the Series J Bonds.

Section 303. Disposition of Proceeds of the Series J Bonds. The proceeds of sale of the Series J Bonds shall be applied in accordance with applicable provisions of the Resolution and the Project Finance Agreement. To the extent any proceeds are required to be deposited into the Construction Fund, such proceeds will be disbursed as provided in the Resolution and in the Project Finance Agreement, including Section 3.5 thereof. Disbursements of proceeds of the Series J Bonds held in the Construction Fund will be disbursed by the Trustee only upon submission by the Authority of a requisition to the Trustee for such proceeds for Project Costs (as defined in the PFA) substantially in the form attached as Appendix One to Exhibit K of the PFA. Further, the Trustee shall not make any disbursement unless the requisition for such disbursement shall have been approved by the Corporation; provided, however, that if the Corporation shall not expressly approve or deny such requisition within ten (10) Business Days (as defined in the PFA) of its receipt, then the Corporation shall be deemed to have approved such requisition at 9:00 a.m. on the eleventh Business Day next succeeding actual receipt of the request by the Corporation.

Section 304. Tax Covenants. (A) The Authority shall not permit at any time or times any of the proceeds of the Series J Bonds or any other funds of the Authority to be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause any Series J Bond to be an “arbitrage bond” as defined in Section 148 of the Internal Revenue Code of 1986, as amended (herein in this Section called the “Code”).

(B) The Authority shall not permit at any time or times any proceeds of the Series J Bonds or any other funds of the Authority to be used, directly or indirectly, in a manner which would result in the exclusion of any Series J Bond from the treatment afforded by Section 103(a) of the Code, as from time to time amended, or result in the classification of any Series J Bond as a “private activity bond” within the meaning of Section 141 of the Code.

(C) The Authority will comply with the provisions and procedures of the Arbitrage and Use of Proceeds Certificate to be delivered concurrently with the delivery of the Series J Bonds, and it will do and perform all acts and things necessary or desirable to assure that interest paid on the Series J Bonds is excludable from gross income under Section 103 of the Code.

ARTICLE IV  
FORM AND EXECUTION

Section 401. Form of the Series J Bonds. Subject to the provisions of the Resolution, the Series J Bonds shall be executed in substantially the following form:

REGISTERED

REGISTERED

No. JR-

\$ \_\_\_\_\_

BUFFALO SEWER AUTHORITY  
SEWER SYSTEM REVENUE BOND, SERIES J

MATURITY  
DATE

INTEREST  
RATE

DATE OF  
ORIGINAL ISSUE

REGISTERED OWNER:

PRINCIPAL SUM:

DOLLARS AND NO CENTS

BUFFALO SEWER AUTHORITY (the "Recipient"), a body corporate and politic constituting a public benefit corporation organized and existing under the laws of the State of New York, acknowledges itself indebted to, and for value received, hereby promises to pay solely from the revenues pledged under and pursuant to the Resolution hereinafter mentioned to the Registered Owner stated hereon, or registered assigns, the Principal Sum stated hereon on the Maturity Date hereof, unless redeemed prior thereto as hereinafter provided, upon the presentation and surrender hereof (i) for so long as this Bond is held by or for the benefit of New York State Environmental Facilities Corporation (the "Corporation") or of holders of its bonds, at either of 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 Paying Agent (the "Paying Agent"), or (ii) at any time thereafter, at the corporate trust office in Buffalo, New York, of Manufacturers and Traders Trust Company, as Trustee (the "Trustee"), or at the principal corporate trust office of any successor thereto, and to pay to the Registered Owner hereof by check or draft mailed to the Registered Owner at his address as it shall appear on the 15th day of the month preceding the interest payment date on the bond registry kept by the Trustee, interest on such Principal Sum from the Bond Date to the date of maturity or earlier redemption of this Bond at the Interest Rate per annum, payable semi-annually on the 15th day of May and the 15th day of November of each year, commencing \_\_\_\_ 15, 200\_. Principal of, redemption premium, if any, and interest on this Bond are payable in any coin or currency of the United States of America which on the respective dates of payment hereof, shall be legal tender for the payment of public and private debts.



This Bond is one of a duly authorized series of bonds (the "Bonds") of the Buffalo Sewer Authority (the "Recipient") designated "Sewer System Revenue Bonds, Series J" in the aggregate principal amount of \$ \_\_\_\_\_ which are issued to provide moneys for the making of deposits in the amounts, if any, required by the Resolution (as defined below) and to finance improvements to the municipal sewer system of the City of Buffalo. The Bonds are issued pursuant to the provisions of the Buffalo Sewer Authority Act, Title 8 of Article 5 of the Public Authorities Law, Chapter 43-A of the Consolidated Laws of the State of New York, as amended (the "Act"), a Sewer System Revenue Bond Resolution (as amended, the "General Resolution") duly adopted by the Recipient on June 29, 1977, and a Tenth Supplemental Resolution (the "Tenth Supplemental Resolution") duly adopted by the Authority on December 10, 2003 (the General Resolution and the Tenth Supplemental Resolution being collectively referred to herein as the "Resolution"). A copy of the Resolution is on file at the office of the Recipient in the City of Buffalo, New York and at the corporate trust office in Buffalo, New York, of the Trustee. Reference to the Resolution and any and all supplements thereto and modifications and amendments thereof and to the Act is made for a description of the pledges and covenants securing the bonds, the nature, extent and manner of enforcement of such pledges, the rights and remedies of the registered owners of the bonds with respect thereto and the terms and conditions upon which the bonds are issued and additional bonds may be issued in additional series for the purpose of providing sufficient funds for the capital costs of the Authority's sewer system or for the purpose of refunding Outstanding Bonds.

This Bond and the issue of which it forms a part are special obligations of the Recipient payable solely from revenues and other moneys pledged for such payment pursuant to the Act and the Resolution. This Bond and the issue of which it forms a part shall not in any respect be a general obligation of the Recipient to which the full faith and credit of the Recipient is pledged and shall not in any manner or to any extent constitute or be a charge upon any moneys or property of the Recipient not specifically pledged thereto by the Resolution. The Recipient has no taxing power. This Bond is not a debt of the State of New York or the City of Buffalo within the meaning of any statutory or constitutional provisions, nor of any political subdivision of the State of New York, other than the Recipient, or the United States of America. Neither the State of New York, any political subdivision of the State of New York, other than the Recipient, nor the United States of America shall be liable on this Bond. This Bond will not constitute a pledge of the faith and credit of the State of New York, the City of Buffalo, or of any political subdivision of the State of New York, other than the Recipient, nor shall this Bond be payable out of funds or properties other than those of the Recipient set forth in the Resolution. The issuance of this Bond will not obligate the State of New York or any of its political subdivisions or the United States of America to levy or pledge the receipts from any form of taxation for the payment of this Bond.

Neither the officers of the Recipient nor any person executing this Bond shall be liable personally or be subject to any personal liability or accountability by reason of the issuance hereof.

This Bond is transferable or exchangeable, as provided in the Resolution, only upon the books of the Recipient kept for that purpose at the corporate trust office in Buffalo, New York of the Trustee by the Registered Owner hereof in person, or by his duly authorized attorney, upon surrender of this Bond (together with a written instrument of transfer satisfactory to the Trustee duly executed by the Registered Owner or his duly authorized attorney), and thereupon a new registered Bond or Bonds, without coupons, in the same aggregate principal amount and of the same maturity, shall be issued to the transferee or the Registered Owner in exchange therefor in the manner, subject to the conditions and upon payment of the charges, if any, provided in the Resolution. The Recipient and the Trustee (or other fiduciary) may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes whatsoever.

The Bonds are issuable in the form of registered Bonds without coupons in the denomination of \$5,000 or any integral multiple thereof, not exceeding the aggregate principal amount of Bonds stated to mature in the year of stated maturity of the Bond for which the denomination of the Bond is to be specified.

On or after \_\_\_\_\_, 20\_\_ at the option of the Recipient, the Bonds maturing after \_\_\_\_\_, 20\_\_, shall be subject to redemption prior to maturity, in whole at any time or in part in principal amounts of \$5,000 or integral multiples thereof on any interest payment date, from any moneys available therefor, in such order of maturities as shall be determined by the Recipient, at a redemption price, in either case, equal to the principal amount of such Bonds to be redeemed, together with (i) the Applicable Redemption Premium and (ii) the accrued and unpaid interest on the principal amount to be redeemed to the date fixed for redemption. As used herein "Applicable Redemption Premium" with respect to any maturity of the Bonds to be redeemed means four percent (4%) of the principal amount of the Bonds to be redeemed or such lesser redemption premium as is specified in the Notice of Terms (as defined in the Project Finance Agreement dated as of \_\_\_\_\_, 2003 between the Corporation and the Recipient) for such maturity and redemption date.

Notwithstanding the foregoing, no Bond or portion of a Bond that is not in an amount which is an integral multiple of \$5,000 shall be subject to such redemption at the option of the Recipient without the express written consent of the Corporation.

Any such redemption, either as a whole or in part, shall be made upon at least sixty (60) days and no more than seventy-five (75) days prior written notice to (i) the Corporation and to the trustee for the Corporation's State Clean Water and Drinking Water Revolving Funds Revenue Bonds, Series \_\_\_\_ (the "Corporation Bonds"), during any period when the bonds are held by or for the benefit of the Corporation or of holders of the Corporation Bonds, or (ii) any successor holder of this Bond at any time thereafter. The failure to give any such notice, or any defect therein, will not affect the validity of any proceeding for the redemption of any bond with respect to which no such failure to give notice, or defect therein, has occurred.

The moneys necessary for any redemption of Bonds shall be paid to or deposited with (i) the Paying Agent during any period when the Bonds are held for the benefit of the holders of the Corporation Bonds, and (ii) the Trustee during any period when the Bonds are otherwise held, in either case on or prior to the redemption date. All Bonds called for redemption will cease to bear interest on the specified redemption date, provided funds sufficient for the redemption of such Bonds are on deposit with the Trustee or Paying Agent, as appropriate. If such moneys are not available on the redemption date, the Bonds or portions thereof will continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

The General Resolution permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Recipient and the rights of the holders of the bonds at any time by the Recipient with the consent of the holders of not less than two-thirds in aggregate principal amount of the bonds at the time outstanding thereunder. Any such consent shall be conclusive and binding upon each such holder and upon all future holders of each bond and of any such bond issued upon the transfer or exchange thereof, whether or not notation of such consent is made thereon. The General Resolution also contains certain provisions permitting the Trustee to waive certain past defaults and their consequences. The holder of this Bond shall have no right to enforce the provisions of the Resolution, to institute action to enforce the provisions and covenants thereof or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Resolution.

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 and the Resolution to have happened, to exist and to have been performed precedent to and in the issuance of this Bond, do exist, have happened and have been performed in regular and due time, form and manner as required by said Constitution, statutes and Resolution; that the series of Bonds of which this Bond is a part does not exceed any constitutional, statutory or charter limitation of indebtedness; and that provision has been made for the payment of the principal of and interest, if any, on this Bond as provided in the Resolution.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the certificate of authentication hereon shall have been signed by the Trustee.

IN WITNESS WHEREOF, THE BUFFALO SEWER AUTHORITY has caused this Bond to be executed in its name by its Chairman, Vice-Chairman or General Manager by his manual signature or a facsimile of his signature, to bear a facsimile of its corporate seal attested by the Secretary or Executive Secretary of the Recipient by his manual signature or a facsimile of his signature, and this Bond to be dated as of the date set forth above.

BUFFALO SEWER AUTHORITY

(SEAL)

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

\_\_\_\_\_  
Secretary

[FORM OF ASSIGNMENT]

For value received, the undersigned hereby sells, assigns and transfer unto

PLEASE INSERT SOCIAL  
SECURITY OR OTHER TAX  
IDENTIFYING NUMBER OF  
ASSIGNEE:

the within-mentioned Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_, attorney-in-fact, to transfer the same on the books of registry in the office of the within-mentioned Registrar with full power of substitution in the premises.

Dated: \_\_\_\_\_

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

NOTE: The signature on this assignment must correspond with the name as written on the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

\_\_\_\_\_

Section 402. Certificate of Authentication. The Certificate of Authentication to be printed on each of the Series J Bonds shall be in the following form:

[CERTIFICATE OF AUTHENTICATION]

This Bond is one of the Series J Bonds described in the within-mentioned Resolution.

MANUFACTURERS AND TRADERS  
TRUST COMPANY, as Trustee

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

Section 403. No Recourse on Series J Bonds. All covenants, stipulations, promises, agreements and obligations of the Authority contained in this Tenth Supplemental Resolution shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Authority and not of any officer or employee of the Authority in his individual capacity, and no recourse shall be had for the payment of the principal of or interest on the Series J Bonds or for any claim based thereon or on this Tenth Supplemental Resolution, either jointly or severally against any officer or employee of the Authority or any person executing said Bonds.

## ARTICLE V

## FINDINGS AND DETERMINATIONS AND OTHER MATTERS

Section 501. Findings and Determinations. The Authority hereby finds and determines that the PFA is fair and reasonable and in the best interests of the Authority and that, on the basis of such finding and determination, the Series J Bonds shall be sold to the Corporation. The Authority further finds and determines that all conditions precedent to and concurrent with the acceptance of the PFA by the Authority have been met. The Authority hereby authorizes the Chairman, Vice-Chairman or General Manager of the Authority to execute and deliver, or cause to be delivered, the PFA for and on behalf of the Authority, on such terms and conditions as the person executing the same shall determine to be customary and prudent taking into account the best interests of the Authority, including any supplements or amendments thereto, provided that the purchase price shall not be less than one hundred percent (100%) of the principal amount of the Series J Bonds sold thereunder. The execution of the PFA and delivery thereof to the Corporation thereof shall constitute conclusive evidence of such determination.

A copy of the PFA as executed and delivered shall be maintained in the records of the Authority.

Section 502. Appointment of Paying Agent. Manufacturers and Traders Trust Company, Buffalo, New York, is hereby appointed Paying Agent for the Series J Bonds pursuant to Section 1102 of the Resolution.

Section 503. Additional Findings and Determinations. The Authority hereby finds, determines and declares: (a) that the Series J Bonds are issued under and secured by this Tenth Supplemental Resolution; (b) that the terms of sale of the Series J Bonds do not contemplate an underwriting of the Series J Bonds; (c) that it is in the best interest of the Authority to sell, and the interest of the Authority will be best served by a sale of, the Series J Bonds to the Corporation as provided in the PFA; and (d) that all provisions and conditions of the Resolution and of other applicable law have been complied with in the issuance under the Resolution of the Series J Bonds.

Section 504. Laws Governing; Severability. This Tenth Supplemental Resolution shall be construed and enforced in accordance with the Constitution and laws of the State of New York.

If any provision of this Tenth Supplemental Resolution shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provisions or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses, paragraphs or sections in this Tenth Supplemental Resolution shall not affect the remaining portions of this Tenth Supplemental Resolution or any part thereof or of the Series J Bonds issued hereunder.

Section 505. Section Headings; Table of Contents. The headings or titles of the several sections hereof, and any table of contents appended hereto or to copies hereof, shall be solely for

convenience of reference and shall not affect the meaning or construction, interpretation or effect of this Tenth Supplemental Resolution.

Section 506. Effective Date of This Tenth Supplemental Resolution. This Tenth Supplemental Resolution shall become effective immediately.

**CERTIFICATE**

I, \_\_\_\_\_, Secretary of the Buffalo Sewer Authority in the County of Erie, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the Minutes of a meeting of the Board of Directors of said Authority, duly called and held on December 10, 2003, and at which a quorum was present and acting throughout and the resolution contained therein is a true and complete copy of the resolution thereupon adopted and recorded in the Minutes of said Authority and that the foregoing extract has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said Authority and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matters referred to in said extract, and that said resolution has not been amended or repealed but is in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of  
said Authority this \_\_\_\_ day of  
December, 2003.

(SEAL)

\_\_\_\_\_  
Secretary



ITEM NO. 4

**CLAIM AGAINST LIABILITY AND CASUALTY RESERVE FUND**

WHEREAS: On September 16, 2003, Denise Montgomery of 20 Peace Street, Buffalo, New York, filed a Claim with the Buffalo Sewer Authority for property damage that occurred when a main sewer was blocked and sewage backed up into her basement on August 7, 2003. The total amount of this claim was \$2,480.00.

WHEREAS: The Claim was forwarded to the City of Buffalo Law Department. The Law Department determined that there was some liability on the part of the Buffalo Sewer Authority. The General Manager recommended a total settlement of \$1,300.00.

NOW THEREFORE  
BE IT RESOLVED: That the Board of the Buffalo Sewer Authority hereby authorizes the General Manager to make payment to Denise Montgomery of 20 Peace Street, Buffalo, New York, in the amount of \$1,300.00 as final settlement to the claim filed on September 16, 2003. This Claim will be paid out of the Liability and Casualty Reserve Fund.

MOTION TO APPROVE

MADE BY MR. RICHARDSON

2<sup>ND</sup> BY MR. NAPLES

AYES 4 NOES 0

Board Meeting of December 10, 2003

ITEM NO. 5

**CLAIM AGAINST LIABILITY AND CASUALTY RESERVE FUND**

WHEREAS: On July 21, 2003, Francis J. Offerman, Jr., and Anne K. Offerman of 290 Beard Avenue, Buffalo, New York, filed a Claim with the Buffalo Sewer Authority for plumbing costs and basement damages caused by water and sewer back up from 4/22/2003 – 5/21/2003. The total amount of this claim was \$2,855.28.

WHEREAS: The Claim was forwarded to the City of Buffalo Law Department. The Law Department determined that there was some liability on the part of the Buffalo Sewer Authority and recommends a total settlement in the amount of \$2,400.00.

NOW THEREFORE  
BE IT RESOLVED: That the Board of the Buffalo Sewer Authority hereby authorizes the General Manager to make payment to Francis J. Offerman, Jr., and Anne K. Offerman of 290 Beard Avenue, Buffalo, New York, in the amount of \$2,400.00. This Claim will be paid out of the Liability and Casualty Reserve Fund.

MOTION TO APPROVE  
MADE BY MR. KENNEDY  
2<sup>ND</sup> BY MR. RICHARDSON  
AYES 4 NOES 0

Board Meeting of December 10, 2003

## ITEM NO. 6

**CLAIM AGAINST LIABILITY AND CASUALTY RESERVE FUND**

WHEREAS: On March 14, 2003, Joseph Pici of 45 Rachele Drive, Cheektowaga, New York, filed a Claim with the Buffalo Sewer Authority for damages to his vehicle when he drove over a misplaced curb box in front of 490 Dorrance Avenue, Buffalo, New York, on December 16, 2002. The total amount of this claim was \$534.01.

WHEREAS: The Claim was forwarded to the City of Buffalo Law Department. The Law Department determined that there was some liability on the part of the Buffalo Sewer Authority. The General Manager recommended a total settlement of \$267.00.

NOW THEREFORE  
BE IT RESOLVED: That the Board of the Buffalo Sewer Authority hereby authorizes the General Manager to make payment to Joseph Pici of 45 Rachele Drive, Cheektowaga, New York, in the amount of \$267.00 as final settlement to the claim filed on March 14, 2003. This Claim will be paid out of the Liability and Casualty Reserve Fund.

MOTION TO APPROVE  
MADE BY MR. NAPLES  
2<sup>ND</sup> BY MR. RICHARDSON  
AYES 4 NOES 0

Board Meeting of December 10, 2003

ITEM NO. 7

**AUTHORIZATION TO PURCHASE REPLACEMENT PARTS FOR OXYGEN SENSORS**

WHEREAS: On July 23, 2003, the Board of the Buffalo Sewer Authority designated Burgh Schoenenberger Associates, the authorized Royce Technologies local representative, as a single source for replacement parts, supplies, and service for Royce Technologies equipment; and

WHEREAS: Board approval is required on purchases made over \$10,000.00; and

WHEREAS: Burgh Schoenenberger Associates submitted a quote in the amount of \$12,622.00 for necessary replacement parts for the oxygen sensors in the Aeration Building at the Treatment Plant; and

WHEREAS: The Treatment Plant Superintendent, Superintendent of Mechanical Maintenance, and staff recommend the purchase of these replacement parts from Royce Technologies, c/o Burgh Schoenenberger Associates, at a total cost of \$12,622.00, plus any incurred freight charges.

NOW THEREFORE  
BE IT RESOLVED: That the Board of the Buffalo Sewer Authority hereby authorizes the General Manager to purchase necessary replacement parts for the oxygen sensors in the Aeration Building at the Treatment Plant from Royce Technologies, c/o Burgh Schoenenberger Associates, at a total cost of \$12,622.00, plus any incurred freight charges. Funds are available in account no. 00290105-466068.

MOTION TO APPROVE \_\_\_\_\_

MADE BY MR. KENNEDY \_\_\_\_\_

2<sup>ND</sup> BY MR. NAPLES \_\_\_\_\_

AYES 4 NOES 0

Board Meeting of December 10, 2003

## ITEM NO. 8

**AUTHORIZATION TO PURCHASE SUMP PUMPS**

WHEREAS: On July 23, 2003, the Board of the Buffalo Sewer Authority designated ITT Industries, the original equipment manufacturer, as a sole source for replacement parts and service for ITT Flygt brand pumps located throughout the Treatment Plant and the remote pump stations; and

WHEREAS: The original sump pumps located in the Settled Wastewater Building, the Megastructure, and the Main Pump Building are out of order and are in need of immediate replacement. As a result, these buildings have flooded and have created a safety hazard for the personnel and to the equipment located in these areas; and

WHEREAS: Board approval is required on purchases made over \$10,000.00; and

WHEREAS: ITT Flygt, a subsidiary of ITT Industries, has submitted a quote in the amount of \$65,125.00, plus any incurred freight charges, to replace the original sump pumps as follows:

Settled Wastewater Building	Two sets of two sump pumps with duplex controls, appropriate gate valves, ball check valves, fittings, and hose at \$15,686.00 each	\$31,372.00 Total Cost
Megastructure Building	One set of two sump pumps with duplex controls, appropriate gate valves, ball check valves, fittings, and hose at \$18,404.00	\$18,404.00 Total Cost
Main Pump Building	One explosion-proof sump pump and explosion-proof simplex on-off control with pump electrical protection at \$15,349.00	<u>\$15,349.00 Total Cost</u>
		<b>\$65,125.00 Grand Total</b>

; and

WHEREAS: Due to the necessity to expedite this order, the Board was polled and verbally authorized this purchase on November 20, 2003; and

WHEREAS: It is now necessary to formally ratify that authorization.

NOW THEREFORE  
BE IT RESOLVED:

That the Board of the Buffalo Sewer Authority hereby formally authorizes the General Manager to purchase replacement sump pumps for the Settled Wastewater Building, the Megastructure, and the Main Pump Building from ITT Flygt at a total cost of \$65,125.00, plus any incurred freight charges. Funds for this purchase are available in the Capital Improvement Fund.

MOTION TO APPROVE

MADE BY MR. RICHARDSON

2<sup>ND</sup> BY MR. NAPLES

AYES 4 NOES 0

Board Meeting of December 10, 2003

## ITEM NO. 9

**AUTHORIZATION FOR PURCHASE OF VEHICLE UNDER STATE CONTRACT**

- WHEREAS: Board approval is required on purchases made over \$10,000.00; and
- WHEREAS: Vehicle No. 169-S, a 1986 International Harvest dump truck, is no longer serviceable and is in need of replacement; and
- WHEREAS: The Director of Sewer Maintenance recommends purchasing one (1) new and unused 2004 International 7600 SBA 6 X 4 dump truck with a snow plow and salt spreader from International Truck and Engine Corporation under State Contract No. PC59771. The base price for the truck is \$57,770.00; and
- WHEREAS: In order to utilize this vehicle for snowplowing and salt spreading, the Director of Sewer Maintenance requests additional options, available through the State Contract, be added to this dump truck in the amount of \$66,937.55 for a total purchase cost of \$127,707.55.
- NOW THEREFORE  
BE IT RESOLVED: That the Board of the Buffalo Sewer Authority hereby formally authorizes the General Manager to purchase one (1) new and unused 2004 International 7600 SBA 6 X 4 dump truck from International Truck and Engine Corporation under State Contract No. PC59771 at a total cost of \$127,707.55. This purchase will be financed through J. P. Morgan Chase & Co. Funds are available in account no. 00850108-487293.

MOTION TO                     APPROVE                    

MADE BY                     MR. RICHARDSON                    

2<sup>ND</sup> BY                     MR. KENNEDY                    

AYES           4           NOES           0          

Board Meeting of December 10, 2003

## ITEM NO. 10

**CHANGE ORDER NO. 2 – CONTRACT NO 84200015**

CONTRACTOR:	ORIGINAL CONTRACT COST	\$697,101.00
C. O. Falter Construction Corp.	PREVIOUS CHANGE ORDER	0.00
403 West Bear Street	THIS CHANGE ORDER	<u>10,622.50</u>
Syracuse, New York 13204	ADJUSTED CONTRACT COST	\$707,723.50

WORK: Primary Clarifier, Septage and Digested Sludge Improvements

**DESCRIPTION OF CHANGE OR EXTRA WORK:**

- Item #1 An existing conduit had to be lowered to allow for the new Grease Transfer Station.
- Item #2 Contractor had to perform manual excavation to expose existing conduit not shown on record drawings.
- Item #3 Additional soil sampling and analytical testing was required.
- Item #4 Sludge discharge line had to be reconfigured.
- Item #5 Replace the RPZ valve with a ball check valve.
- Item #6 Contractor used manual excavation in lieu of mechanical excavation.
- Item #7 Delete bid Item No. 4000.00.
- Item #8 Relocate and repair electric line at the Hypochloride Building.
- Item #9 Modifications to the Primary Clarifier/MCC work.
- Item #10 Modification in the operation of existing breaker.

**REASON FOR CHANGE OR EXTRA WORK:**

- Item #1 The existing electrical conduit was not shown on the record drawings. The conduit had to be lowered to allow for the installation of the Grease Transfer Station pad.
- Item #2 The location of the existing duct bank was not shown on record drawings. When found, it was not possible to use mechanical excavation.
- Item #3 Additional testing was required to allow for disposal of excavated material to a location on the northern end of Squaw Island.



- Item #4 Due to the location of the existing lintel, the sludge discharge line had to be relocated.
- Item #5 A ball check valve was determined to be acceptable in lieu of an RPZ valve.
- Item #6 The Contractor used manual methods of excavation in lieu of mechanical means.
- Item #7 The existing four (4) inch scum discharge lines were cleaned and tested and found to be satisfactory for reuse.
- Item #8 The existing conduit was damaged during excavation. Record drawings did not show the exact location.
- Item #9 Existing breakers to be used for the scum pumps are no longer available.
- Item #10 It was found that the breaker was electrically operated and the old control station was removed.

COST OF CHANGE OR EXTRA WORK:

Item #1	\$1,513.13
Item #2	\$7,531.71
Item #3	\$3,484.70
Item #4	\$1,277.92
Item #5	(\$1,354.40)
Item #6	( \$849.96)
Item #7	(\$4,000.00)
Item #8	\$1,169.40
Item #9	\$1,102.00
Item #10	\$748.00

THE TOTAL COST OF THE CHANGE OR EXTRA WORK \$10,622.50

The total INCREASE to the contract as a result of this Change Order is \$10,622.50

CONTRACT SUPPLEMENT CONDITIONS:

- The contract completion date established in the original contract or as modified by previous contract supplements is hereby changed by 0 calendar days, making the final completion date unchanged.



## ITEM NO. 11

**CHANGE ORDER NO. 3 – CONTRACT NO 84200009**

CONTRACTOR:	ORIGINAL CONTRACT COST	\$2,381,000.00
Quackenbush Company, Inc.	PREVIOUS CHANGE ORDER	121,129.00
495 Kennedy Road	THIS CHANGE ORDER	0.00
Cheektowaga New York 14227	ADJUSTED CONTRACT COST	\$2,502,129.00

WORK: RAS/WAS Pump Station Improvements

**DESCRIPTION OF CHANGE OR EXTRA WORK:**

Item #1 Reduce retention amount from five (5) percent to two (2) percent.

**REASON FOR CHANGE OR EXTRA WORK:**

Item #1 Work for this contract is in excess of 99 percent complete; the equipment has been placed into service, and is operating as intended.

**COST OF CHANGE OR EXTRA WORK:**

Item #1 \$0.00

THE TOTAL COST OF THE CHANGE OR EXTRA WORK \$0.00

The total INCREASE to the contract as a result of this Change Order is \$0.00

**CONTRACT SUPPLEMENT CONDITIONS:**

6. The contract completion date established in the original contract or as modified by previous contract supplements is hereby changed by 0 calendar days.
7. Any additional work to be performed under this contract supplement shall be carried out in compliance with the specifications included in the preceding description of changes involved with the supplemental contract drawings and under the provisions of the original contract, including compliance with applicable Equipment Specifications, General Specifications and Project Specifications for the same type of work.
8. This contract supplement, unless otherwise provided herein, does not relieve the Contractor from strict compliance with the guarantee provisions of the original contract, particularly those pertaining to performance and operation of equipment.

- 9. The Contractor expressly agrees that he will place, under coverage of his Performance and Payment Bonds and Contractor’s Insurance, all work covered by this contract supplement. The Contractor will furnish to the owner evidence of increased coverage of his Performance and Payment Bonds for the accrued value of all contract supplements that exceeds the original contract price by twenty percent (20%).
- 10. The costs established under this contract supplement are acknowledged as including any and all costs associated with the work described herein and including any and all costs associated with any and all work performed or to be performed by the Contractor that may be affected in any manner by the work described herein.

NOW THEREFORE  
BE IT RESOLVED:

That the Board of the Buffalo Sewer Authority hereby approves Change Order No. 3 to contract no. 84200009 as written in the above Agenda Item, increasing the contract cost in the amount of \$0.00, making the adjusted contract cost \$2,502,129.00.

MOTION TO                                  APPROVE                                   
MADE BY                                  MR. RICHARDSON                                   
2<sup>ND</sup> BY                                  MR. KENNEDY                                   
AYES           4           NOES           0          

Board Meeting of December 10, 2003



ITEM NO. 13

**COMPENSATION: EXEMPT EMPLOYEES**

NOW THEREFORE  
BE IT RESOLVED:

That the modifications and provisions contained in the Agreement between the Buffalo Sewer Authority and Civil Service Employees Association, AFSCME, BSA Local 815, for the period of July 1, 2002, to June 30, 2005, are hereby directed to also apply to the Exempt positions.

MOTION TO APPROVE  
MADE BY MR. RICHARDSON  
2<sup>ND</sup> BY MR. KENNEDY  
AYES 4 NOES 0

Board Meeting of December 10, 2003

## ITEM NO. 14

**COMPENSATION: CONFIDENTIAL AND MANAGERIAL EMPLOYEES**

NOW THEREFORE  
BE IT RESOLVED:

That the modifications and provisions contained in the Agreement between the Buffalo Sewer Authority and Civil Service Employees Association, AFSCME, BSA Local 815, for the period of July 1, 2002, to June 30, 2005, are hereby directed to also apply to those positions which are designated Managerial or Confidential.

MOTION TO                     APPROVE                    

MADE BY                     MR. KENNEDY                    

2<sup>ND</sup> BY                     MR. RICHARDSON                    

AYES           4           NOES           0          

Board Meeting of December 10, 2003

ITEM NO. 15

**CONSTRUCTION FUND AMENDMENT**

WHEREAS: The Buffalo Sewer Authority desires to fund the Five Year Capital Plan in order to continue its program of improving the sewer system; and

WHEREAS: There is funding available from the 2002-2003 Fund Balance designated for Capital Projects; and

WHEREAS: The General Manager recommends approval of this transfer.

NOW THEREFORE  
BE IT RESOLVED: That the Board of the Buffalo Sewer Authority hereby approves the transfer of funds from the Fund Balance Designated for Capital Projects to the Construction Fund Budget Amendment for 2003-2004 for the funding of the listed projects as designated by the Amendment.

MOTION TO APPROVE

MADE BY MR. RICHARDSON

2<sup>ND</sup> BY MR. KENNEDY

AYES 4 NOES 0

Board Meeting of December 10, 2003



**BUFFALO SEWER AUTHORITY  
CONSTRUCTION FUND BUDGET AMENDMENT #1  
2003-2004 FISCAL YEAR**

This Amendment to the Construction Fund utilizes funds from prior years to provide improvements to the infrastructure of the Buffalo Sewer Authority as designated by the Five Year Capital Plan.

The funds will be added to the various appropriation accounts as listed below:

**REVENUES & RESOURCES**

FUND BALANCE DESIGNATED FOR CAPITAL PROJECTS	<u>\$5,168,893</u>
TOTAL REVENUE & RESOURCES	<u>\$5,168,893</u>

**APPROPRIATIONS**

**TREATMENT PLANT:**

INCINERATOR REHAB	\$ 350,000
SECONDARY CLARIFIER SLUDGE WITHDRAWAL	400,000
SO. BUFFALO BACKUP TRANSFORMER	250,000
FINE BUBBLE DIFFUSER CLEANING	200,000
BLOWER #1 CONVERSION PROJECT	1,500,000
SOLIDS HANDLING PROJECT	1,000,000

**COLLECTION SYSTEM:**

SEWER RELINING	\$ 300,000
SEWER CLEANING	250,000
RECONSTRUCTION-UNDESIGNATED PROJECTS	593,893
SEWER RENOVATIONS	<u>325,000</u>

<b>TOTAL APPROPRIATIONS</b>	<b><u>\$5,168,893</u></b>
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ITEM NO. 16

**TUITION ASSISTANCE**

WHEREAS: In accordance with the Agreements between the Buffalo Sewer Authority and CSEA Local 815 and the Communications Workers of America, the following Buffalo Sewer Authority employees have applied for Tuition Assistance:

<u>EMPLOYEE</u>	<u>SCHOOL</u>	<u>COURSE</u>	<u>SEMESTER</u>	<u>TUITION</u>
Anthony A. Hazzan	Canisius College	Foundations of Marketing Management	Spring 2004	\$2,000.00

WHEREAS: No funds will be expended at this time.

NOW THEREFORE  
BE IT RESOLVED: That the Board of the Buffalo Sewer Authority hereby approves the application for Tuition Assistance as detailed above.

MOTION TO APPROVE

MADE BY MR. NAPLES

2<sup>ND</sup> BY MR. RICHARDSON

AYES 4 NOES 0

Board Meeting of December 10, 2003

ITEM NO. 17

**ADJOURNMENT OF MEETING**

MOTION TO                     APPROVE                    

MADE BY                     MR. NAPLES                    

2<sup>ND</sup> BY                     MR. KENNEDY                    

AYES           4           NOES           0          

Board Meeting December 10,, 2003