

June 10, 2019

A meeting of the Town Board of the Town of Aurora took place on Monday, June 10, 2019 at 7:00 p.m. in the Town Hall Auditorium, 300 Gleed Avenue, East Aurora, New York.

Members Present:	Jeffrey T. Harris	Councilman
	Susan A. Friess	Councilwoman
	Jolene M. Jeffe	Councilwoman
	Charles D. Snyder	Councilman
	James J. Bach	Supervisor
Others Present:	Ronald Bennett	Town Attorney
	David Gunner	Highway Superintendent
	William Kramer	Code Enforcement Officer
	Shane Krieger	Chief of Police
	Tony Rosati	ZBA member
	William Wheeler	Engineer/GHD
	Paul Porter	East Aurora Village Trustee

Supervisor Bach opened the meeting at 7:00 p.m. with the Pledge of Allegiance to the Flag.

Councilwoman Jeffe moved to approve the minutes of the May 28, 2019 Town Board work session and meeting; seconded by Councilwoman Friess. Upon a vote being taken: ayes – five noes – none  
Motion carried. Action #188 5/28/19 wk sess & mtg min aprvd

AUDIENCE I: none

UNFINISHED BUSINESS:

Councilman Snyder moved to approve final payment to Ingall's Site Development in the amount of \$8,732.75 for the parking lot, retaining wall and fence project at 575 Oakwood Avenue contingent upon a few small landscaping items being completed on the west side of the wall/fence. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five noes – none  
Motion carried. Action #189 Final pymt to Ingalls for 575 Oakwood work aprvd with contingencies

Councilwoman Jeffe moved to adopt the following resolution; seconded by Councilwoman Friess:

#### **RESOLUTION APPROVING DIRECT SERVICE AGREEMENT**

WHEREAS, the Town of Aurora ("Town") and the Erie County Water Authority ("Authority") have been negotiating a Direct Service Agreement whereby the Authority would own and manage the Consolidated Water District Number 1 ("CWD") with a Direct Service Agreement, and

WHEREAS, pursuant to Article 17-A of the General Municipal Law and other applicable provisions of State Law, the Town has consolidated its Water Districts into a single Water District known as the Consolidated Water District Number 1, and

WHEREAS, the Town has determined it would be in the best interests of its residents and businesses to convey the property and facilities of the CWA to the Authority and that the Authority provides direct service to these water customers, and

WHEREAS, pursuant to Public Authorities Law §1054 and other applicable provisions of State Law, the Authority is authorized to acquire the property and facilities of the Town water supply and distribution system, and

WHEREAS, the Authority and the Town have approved and authorized the execution of Memorandums of Understanding, on or after September 18, 2014, December 29, 2015 and January 14, 2019, in contemplation of the sale and conveyance of the Town water system to the Authority, and

WHEREAS, pursuant to Town Law §198(12)(b) the Town has sought and received approval of residents of the CWA to convey the property and facilities of the District to the Authority in consideration for water direct service to be provided by the Authority and a Mandatory Referendum held on April 30, 2019, and

WHEREAS, the Town has carefully considered the terms and provisions of the Direct Service Agreement finding it to be in the best interests of the residents and businesses to approve and enter into the Direct Service Agreement, a copy of which is attached as Exhibit A,

NOW, THEREFORE, be it

RESOLVED, the Town Board hereby approves the Direct Service Agreement with the Erie County Water Authority, and be it further

RESOLVED, the Town authorizes and approves the conveyance of the property and facilities of CWA to the Erie County Water Authority, and be it further

RESOLVED, that the Town Supervisor is authorized to execute the Direct Service Agreement, and be it further

RESOLVED, that the Town Clerk is directed to forward a copy of the signed Agreement to the Erie County Water Authority.

Upon a vote being taken: ayes – five      noes – none      Motion carried.  
Duly adopted this 10th day of June 2019.

Action #190  
Board adopts  
resolution  
approving  
ECWA direct  
svc agreement  
and auth supv  
to sign

**TOWN OF AURORA  
DIRECT SERVICE AGREEMENT**

**AGREEMENT** made this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between

**ERIE COUNTY WATER AUTHORITY**  
295 Main Street, Room 350  
Buffalo, New York 14203

a public benefit corporation hereinafter referred to as the “Authority”, and

**TOWN OF AURORA**  
300 Glead Avenue  
East Aurora, New York 14052

a municipal corporation hereinafter referred to as the “Town”.

**WHEREAS**, the Town has constructed water facilities in water districts formerly known as Water Districts 1N, 1S, 1-E1, 6, 6-E1, 6-E2, 7, 8, 9, 10, 10-E1, 10-E2, 10-E4,10-E5, 11, 12,14, 16, 16-E1,17,18, 235 and Water Improvement Areas (WIA) 5 and 7 within the Town of Aurora; and

**WHEREAS**, the Authority has been supplying water services to Water Districts 6, 6-E1, 6-E2, 8, 9, 10, 10-E1, 10-E2, 10-E4, 10-E5, 16, 16-E1, and 18, and WIA 5 pursuant to a Lease Management Agreement, dated December 19, 1995, and amended on May 28, 1998 and April 21, 2005; and

**WHEREAS**, the Authority has been supplying water to Water Districts 1S, 7, and 11, and WIA 7 pursuant to a Bulk Sales Agreement, dated January 9, 2014; and

**WHEREAS**, the Town of Elma (“Elma”) has agreed to supply water to Water Districts 1N, 1-E1, 12, 14, and 235 pursuant to a Bulk Sales Agreement, dated July 1, 1995, until such time as water services are provided by the Authority; and

**WHEREAS**, Elma has agreed to supply water service to Water District 17 pursuant to a Lease Management Agreement, dated November 25, 2002, until the Town terminates said agreement by providing Elma with written notice of a direct service agreement with the Authority to supply water services to Water District 17; and

**WHEREAS**, pursuant to Article 17-A of the General Municipal Law and other applicable provisions of state law, the Town has consolidated its water districts into a single district known as Consolidated Water District No. 1 (“CWD”); and

**WHEREAS**, the Town has determined it would be in the best interests of its residents and businesses to convey the property and facilities of CWD to the Authority and that the Authority provides direct service to these water customers; and

**WHEREAS**, pursuant to Public Authorities Law § 1054 and other applicable provisions of state law, the Authority is authorized to acquire the property and facilities of a town water supply and distribution system; and

**WHEREAS**, the Authority and the Town have approved, and authorized the execution of the Memoranda of Understanding, on or after September 18, 2014, December 29, 2015, and January 14, 2019, in contemplation of the sale and conveyance of the Town water system (“System”) to the Authority; and

**WHEREAS**, pursuant to Town Law § 198(12)(b), the residents of the CDW approved, at a mandatory referendum held on April 30, 2019, the conveyance of the System to the Authority in consideration for direct water service being provided by the Authority;

**NOW, THEREFORE**, in consideration of mutual promises herein set forth, the parties agree as follows:

### **Section 1: Capital Improvements**

1.1 Subject to the provisions of any valid lease management agreement or bulk sales agreement, the Town will continue to own and maintain the property and facilities of the CWD until such property and facilities are conveyed to, and accepted by, the Authority.

1.2 The Town will confirm in writing to the Authority the following specific capital improvements have been made to the water supply and distribution system (the “System”).

1.2.1 **West Falls Road:** Replacement of three thousand (3000) linear feet of eight-inch (8”) water main from Bridge Street to 523 West Falls Road.

1.2.2 **Ellis Drive:** Replacement of the hydro-pneumatic pump station on Ellis Drive, as well as completing any restoration needed at the site.

1.2.3 **Canterbury Lane:** Replacement of eight hundred (800) linear feet of eight-inch (8”) water main as recommended in the report, dated June 23, 2015, from Conestoga-Rovers & Associates.

1.2.4 **Hamlin Avenue:** Replacement of four hundred (400) linear feet of eight-inch (8”) water main as recommended in report, dated June 23, 2015, from Conestoga-Rovers & Associates.

1.2.5 **Lawrence Avenue & Pomander Square:** Replacement of three thousand two hundred (3200) linear feet of eight-inch (8”) water main as recommended in report, dated June 23, 2015, from Conestoga-Rovers & Associates.

1.2.6 **Emery Tank:** Modifications to ladders and handrails as outlined in the report, dated October 15, 2014, from O’Brien & Gere Engineers Inc. The Authority has agreed to make these modifications. Pursuant to the Cooperative Agreement, dated June 22, 2017, the Authority has agreed to make these modifications and the Town has agreed to reimburse the Authority for these modifications.

1.2.7 **Townline Tank:** Modifications to ladders and handrails as outlined in the report, dated October 15, 2014, from O'Brien & Gere Engineers Inc. Pursuant to the Cooperative Agreement, dated June 22, 2017, the Authority has agreed to make these modifications and the Town has agreed to reimburse the Authority for these modifications.

1.2.8 **New Radio Read Meters:**

1.2.8.1 All residential meters must be replaced with radio reading capability that are compatible with the Authority's system.

1.2.8.2 All commercial and industrial meters must be tested and if found at low, medium and high flow to be reading less than 98.5% efficient, must then be replaced or repaired. All commercial meters must also be equipped with radio reads compatible with the Authority's system. If such meters are not capable of being equipped with reads, such meters must be replaced.

1.2.8.3 The Town will confirm in writing the following radio read meters have been installed:

- 1.2.8.3.1 Five (5) radio read meters in the water district formerly identified as Water District 16.
- 1.2.8.3.2 Ten (10) radio read meters in the water district formerly identified as Water District 10-E1.
- 1.2.8.3.3 Eleven (11) radio read meters in the water district formerly identified as Water District 7.
- 1.2.8.3.4 Seventy-six (76) radio read meters in the water district formerly identified as Water District 1-S.
- 1.2.8.3.5 Thirty (30) radio read meters in the water district formerly identified as Water District 11.
- 1.2.8.3.6 Five (5) radio read meters in the water district formerly identified as Water District 6.
- 1.2.8.3.7 Seventy-eight (78) radio read meters in the water district formerly identified as WIA 7.

1.2.8.4 The Town agrees to reimburse the Authority for the installation of radio read meters in Water District 17, subject to the termination of the lease management agreement with Elma. This provision survives the transfer of the property and facilities from the Town to the Authority at closing.

1.2.8.5 Documentation of consumption for all meters must be supplied to the Authority along with service and maintenance records and numbers of remote ARB meters presently in the System.

1.2.9 Replace any waterline that is known to be less than six inches (6") in diameter.

1.2.10 Replacement of all lead water mains within the System.

1.2.11 Replacement of all hydrants and line valves not meeting the Authority standard specifications.

1.2.12 Repair leaks of all existing water mains detected by the independent contractor retained by the Town pursuant to the terms of the Memorandum of Understanding, dated September 14, 2014, Appendix B.

1.2.12.1 Provide the Authority with a copy of the leak survey performed by the independent contractor of all existing water mains together with a history of water line breaks. The history of water line breaks including services shall be attached to this Agreement as Table "A" and on the form provided to the Town pursuant to the Memorandum of Understanding, dated September 18, 2014.

1.2.12.2 Provide documentation to the Authority showing all detected leaks have been repaired.

1.3 Once the Town has confirmed in writing it has completed the capital improvements set forth in paragraph 1.2, the Authority has 30 days from receipt of the Town's written confirmation to submit to the Town Clerk its written objections disputing the completion of any capital improvements.

1.3.1 If the Authority fails to timely file its objections with the Town Clerk, all capital improvements will be deemed completed.

1.3.2 If the Authority timely files any written objections, then the Town's engineer must provide sufficient proof to the Authority's engineer to show the work has been completed. If no such proof exists, then the Town agrees to reimburse the Authority for completing the work.

## **Section 2: System Inventory**

2.1 The Town shall provide the following complete and comprehensive inventory of the System, including an inventory for the bulk service areas:

2.1.1 Total miles and the historical cost or net book value of pipe by size and the average age of the total inventory. The inventory should contain not only the size but also the type of pipe (i.e. lead, cast iron, galvanized steel, asbestos cement, ductile iron or plastic PVC). The inventory should also list which pipe are within the public right-of-way or within an area for which Town has an easement. Pipe information shall be attached to this Agreement in Tables B, C and D and on the forms provided to the Town pursuant to the Memorandum of Understanding, dated September 18, 2014.

2.1.2 Total number of hydrants and the historical cost or net book value and the average age of the total inventory.

2.1.3 Total number of large valves (i.e. 4" or larger) and the historical cost or net book value and average age of the total inventory. In lieu of the average age of the various inventories, the average remaining useful life at the time it was recorded is sufficient. Such information shall be attached to this Agreement in Table E and on the form provided to the Town pursuant to the Memorandum of Understanding, dated September 18, 2014.

2.1.4 Total number of cross-connection control devices by type and date initially installed. Such information shall be attached to this Agreement in Table F and on the form provided to the Town pursuant to the Memorandum of Understanding, dated September 18, 2014.

2.1.5 The material composition (i.e. lead, cast iron, galvanized steel, asbestos cement, ductile iron or plastic PVC) of each water service connection, as that phrase is defined in paragraph 1.19 of the Authority's Tariff, listed by address and by customer.

2.2 The Town shall provide to the Authority all available documentation possessed by the Town reflecting investment, work, maintenance, capital improvement, and other information associated with the System.

2.3 The Town will provide the Authority with a legal description and map with metes and bounds of the System along with the record drawings of all existing and new mains and appurtenances, service connection details, filed books and any other information pertinent to the System.

2.4 Pursuant to a Memorandum of Understanding, dated May 16, 2005, the Village of East Aurora conditionally transferred to the Town the ownership, operation and maintenance of approximately 1,900 feet of waterlines along Center Street from the meter located at or near 475 Center Street to Center Street Tank located opposite West Gate Drive. The Town will transfer these waterlines to the Authority, upon the same conditions these waterlines were given to the Town by the Village. The Village will continue to own and maintain the Center Street Tank.

## **Section 3: Agreements with the Town of Elma**

3.1 The Town will undertake such steps as are necessary to properly and timely terminate the Bulk Sales Agreement, dated July 1, 1995 and any amendments thereto, with Elma, which supplies water to Water Districts 1N, 1-E1, 12, 14, and 235. Paragraph 5 of said Bulk Sales Agreement sets forth the provision for the automatic termination of services.

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3.2 The Town will undertake such steps as are necessary to properly and timely terminate the Lease Management Agreement, dated November 25, 2002, with Elma for supplying water services to Water District 17. Paragraph 5 of said Leased Management Agreement sets forth the provision to terminate services “in the event that the Erie County Water Authority agrees to provide direct service of water to” the water district.

#### **Section 4: Customer Service and Accounts**

4.1 The Authority will not service mains on private property. Such mains must either be isolated and master metered, or abandoned in favor of mains in the right-of-way.

4.1.1 The Town shall provide the Authority with any resolution and/or easement authorizing the Town to construct, repair, maintain or own any water mains, valves, hydrants, or appurtenances to service residences of a private road. If the Town owns any water mains, valves, hydrants, or appurtenances located on private property, the Town must agree to repair and maintain such water mains, valves, hydrants, or appurtenances.

4.2 The Town will provide the Authority a copy of the billing records (i.e. list of all customers and consumption) for those areas not currently being serviced by the Authority pursuant to the Lease Management Agreement, dated December 19, 1995, and amended on May 28, 1998 and April 21, 2005. These billing records include all customers in the water district formerly known as 1N, 1-E1, 1S, 7, 11, 12, 14, 17, 235, and WIA 7.

4.3 Town residents located along the south side of South Street, and immediately north of the meter on Center Street shall remain customers of the Village of East Aurora as outlined in the Memorandum of Understanding between the Town and the Village of East Aurora, executed on May 16, 2005.

4.4 If the Town has provided unmetered water services for fire protection or other purposes, it will provide the Authority with customer records relating to these unmetered services.

4.5 The Authority’s Tariff requires meter tile sets if building fronts are more than 150 feet from the property’s right-of-way line. The Town will agree to pay the costs of all tile sets deemed necessary by the Authority for customers residing in the water district formerly known as 1N, 1-E1, 1S, 7, 11, 12, 14, 17, 235, and WIA 7.

4.6 Customers who are 30 days or more delinquent in paying water charges are subject to interest and penalties as prescribed by the Authority’s Tariff. Upon notification by the Authority, the Town agrees to collect all water charges, interest and penalties on these delinquent accounts pursuant to Town Law § 198 (3)(d) and will remit such water charges, interest and penalties to the Authority once collected.

#### **Section 5: Water Quality**

5.1 The Town will provide the Authority with the results of any lead and copper testing, along with the address and other contact information relating to the residences participating in such sample testing.

5.2 The Town will provide the Authority with the information relating to asbestos monitoring required by the New York State Health Department Rules Part V.

5.3 The Town will provide the Authority with all microbiological monitoring results required by the New York State Department of Health including information on coliform violations, if any.

5.4 The Town must disclose to the Authority any outstanding issues relating to the System with the New York State Department of Conservation, the New York State Department of Health, the U.S. Environmental Protection Agency, Occupational Safety and Health Administration, and any other federal, state or local regulatory agency.

#### **Section 6: Transfer of the System’s Property and Facilities**

6.1 The Town shall provide the Authority, in a form acceptable to the Authority’s Legal Division, with a written opinion from its bond counsel and its town attorney confirming the property and

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facilities of the CWD may be transferred free and clear of any liens, claims, or other encumbrances. A copy of the written opinion shall be attached and made a part of this Agreement as Exhibit "A."

6.2 Once the Town has performed the obligations set forth in Sections 1 through 5 of this Agreement, the Town will transfer and convey to the Authority the System's assets, equipment, inventory, water mains, hydrants, valves, appurtenances and infrastructure in exchange for direct service by the Authority to the CWD water customers. The conveyance shall include the Bill of Sale, transferring all rights, titles, and interests of the System. The conveyance shall include the following:

6.2.1 A Bill of Sale to the Authority for water mains, hydrants, tanks, pumping stations and appurtenances. The Bill of Sale must include a complete "schedule of inventory" attached to the Bill of Sale on the form provided by the Authority. A copy of the Bill of Sale is attached and made a part of this Agreement as Exhibit "B."

6.2.2 Deeds conveying the pumping stations and water tanks, including the land upon which the pumping stations and tanks are situated, to the Authority.

6.2.3 A legal description and map with metes and bounds of the System along with the record drawings of all existing and new mains and appurtenances, service connection details, filed books and any other information pertinent to the System. A copy of the legal description and map shall be attached and made a part of this Agreement as Exhibit "C."

6.3 The Town will convey to the Authority all permanent and/or temporary easements relating to the System.

6.4 Unless the parties otherwise agree, the transfer of the System shall be completed by July 1, 2019.

#### **Section 7: Title**

7.1 Title to property of the System, referenced in Exhibit B and identified in paragraphs 6.2.1 and 6.2.2, shall be vested solely in the Authority. The Town represents that at the time of transfer of the System, it can be transferred free and clear of all liens, encumbrances and claims, and that the existence of outstanding Town indebtedness heretofore for water system improvements is not a legal impediment to the transfer of part of the System to the Authority.

#### **Section 8: The Authority's Obligation**

8.1 Upon conveyance of the System, the Authority shall provide water services to the residents of the CWD pursuant to the terms of the Authority's Tariff, and shall maintain, repair and improve the System as needed.

8.2 The Town has entered into service agreements with three residences outside of the CWD district. Those agreements have been recorded in the Erie County Clerk's office on August 21, 1997 and the terms, conditions and covenants set forth in those agreements run with the land. Upon the conveyance of the System, the Authority agrees to continue water service to three residences outside of the CWD district, currently receiving water services pursuant to the current Lease Management Agreement between the Town and the Authority. Those residential premises are identified as follows;

8.2.1 655 Quaker Road, Town of Aurora (Liber 10920, Page 2683)

8.2.2 305 Grover Road, Town of Aurora (Liber 10920, Page 2677)

8.2.3 777 Grover Road, Town of Aurora (Liber 10920, Page 2668)

8.3 The Authority shall not enter into any agreement to sell, lease or transfer the System or any part thereof, to any other person or entity other than a state or local governmental unit.

#### **Section 9: Tariff**

9.1 This Agreement is subject to all provisions, rules and regulations of the Authority's Tariff, as adopted or amended in the future.

#### **Section 10: Closing Documents**

10.1 The following documents will be prepared and executed at the time of the closing on or about July 1, 2019:

10.1.1 Assignment of Permanent Easements

10.1.1.1 The Town has identified 35 recorded easements and 34 non-recorded easements to be assigned to the Authority.

10.1.1.2 The Town will prepare a TP-584.2 to record and assign each of these easements.

10.1.2 Warranty Deeds

10.1.2.1 The Town will prepare the warranty deeds conveying the following real properties to the Authority:

10.1.2.1.1 Emery Tank with pump located at 1797 Center Street, Aurora

10.1.2.1.2 Townline Tank with pump located at 7004 Center Street, Colden

10.1.2.1.3 Griffin-Mills Pump Station located at 1556 Mill Road, Aurora

10.1.2.1.4 Ellis Pump Station located at off Ellis Drove, Aurora.

10.1.3 Bill of Sale

10.1.3.1 The Town will provide the Authority with an itemized Bill of Sale conveying the remaining properties and facilities of the System.

10.1.4 Opinion Letters

10.1.4.1 The Town will provide the Authority a written opinion from its bond counsel and its town attorney confirming the property and facilities of the CWD may be transferred free and clear of any liens, claims, or other encumbrances.

**Section 11: Defaults**

11.1 In the event the Town defaults under any circumstances and fails to convey the System, the Town shall reimburse the Authority for all expenses incurred and appropriations approved by the Authority necessitated by this Agreement to properly serve the System or its customers.

**Section 12: Insurance, Maintenance & Security**

12.1 The Authority and the Town agree to obtain and continue to keep in full force and effect their respective General Liability Insurance, Public Liability Insurance and Workers' Compensation Insurance relative to all phases of performance of the various provisions of the terms to be performed pursuant to this Agreement. Each party shall name the other party as an additional insured on a non-contributory basis and shall provide each other with current certificates of insurance.

**Section 13: Arbitration**

13.1 Should any dispute arise between the parties respecting the terms of this Agreement, the disputed matter shall be settled by arbitration in accordance with the laws of the State of New York, by three (3) arbitrators, one of whom shall be selected by each of the parties hereto, and the third by the two arbitrators so selected. If the selection of the arbitrators shall not be within fifteen (15) days of the time that either party shall notify the other of the name of the arbitrator selected by the notifying party, then the arbitrator or arbitrators not selected shall be appointed in the manner provided by the laws of the State of New York.

**Section 14: Indemnification**



14.1 The Town covenants and agrees to indemnify and keep indemnified, defend and save harmless the Authority against claims for any loss, injury, death and/or damage for any claim for compensation for which the Town may or shall be liable for reason of its performance in compliance with the terms of this Agreement. The Town shall indemnify, defend and hold harmless the Authority against all claims, loss and damage arising from the inaccuracy of any representations made pursuant to this Agreement.

14.2 The Authority covenants and agrees to indemnify and keep indemnified, defend and save harmless the Town against claims for any loss, injury, death and/or damage for any claim for compensation for which the Authority may or shall be liable for reason of its performance or failure to perform in compliance with the terms of this Agreement, as determined by a court of competent jurisdiction or by stipulation of liability.

**Section 15: Authority for Execution on the Town's Behalf**

15.1 The Town has executed this Agreement pursuant to a resolution adopted by the Town Board at a meeting thereof held on the 10th day of June, 2019. Supervisor James J. Bach, whose signature appears hereafter, is duly authorized and empowered to execute this instrument and enter into such an agreement on behalf of the Town. This instrument shall be executed in duplicate. At least one copy shall be permanently filed, after execution thereof, in the office of the Town Clerk.

**Section 16: Authority for Execution on the Authority's Behalf**

16.1 The Chair has executed this Agreement pursuant to a resolution adopted by the Board of Commissioners at a meeting thereof held on the 13<sup>th</sup> day of June, 2019. Chair Jerome D. Schad, whose signature appears hereafter, is duly authorized and empowered to execute this instrument and enter into such an Agreement on behalf of the Authority. This instrument shall be executed in duplicate. At least one copy shall be permanently filed, after execution thereof, in the office of the Authority.

**Section 17: Notices**

17.1 Notices hereunder shall be addressed as follows, or to such other address as may hereafter be designated by either party hereto and sent certified mail, return receipt requested:

**TO: TOWN CLERK**  
**TOWN OF AURORA**  
300 Glead Avenue  
East Aurora, New York 14052  
and  
**TO: LEGAL DEPARTMENT**  
**ERIE COUNTY WATER AUTHORITY**  
295 Main Street, Room 350  
Buffalo, New York 14203

**Section 18: Waiver**

18.1 No waiver of any breach of any condition of this Agreement shall be binding unless in writing and signed by the party waiving such breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

**Section 19: Modification**

19.1 This Agreement constitutes the entire understanding of the parties. No modification of any provision thereof shall be valid unless in writing and signed by the parties.

**Section 20: Applicable Law**

20.1 This Agreement is governed by the laws of the State of New York.

**Section 21: Severability**

21.1 If any provision of this Agreement shall be held invalid or unenforceable, in whole or in part, such provision shall be modified to the minimum extent necessary to make it valid and enforceable, and the validity and enforceability of all other provisions of this Agreement shall not be affected thereafter.

**Section 22: Survival**

22.1 All applicable provisions of this Agreement shall remain in full force and effect after the conveyance of the System from the Town to the Authority.

**Section 23: Counterparts**

23.1 This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. Each party will execute two duplicate original Agreements with one duplicate original to be exchanged with the other party.

**IN WITNESS WHEREOF**, the Town of Aurora has caused its corporate seal to be affixed hereto and to be signed by James J. Bach, its Supervisor, duly authorized to do so, and to be attested to by the Town Clerk, and the Authority has caused its corporate seal to be affixed hereto and to be signed by Jerome D. Schad, its Chair, the day and year first above written.

**TOWN OF AURORA**

**ERIE COUNTY WATER AUTHORITY**

By: \_\_\_\_\_  
James J. Bach, Supervisor

By: \_\_\_\_\_  
Jerome D. Schad, Chair

\* \* \* \* \*

Councilman Harris moved to table the two resolutions regarding termination of water service agreements with the Town of Elma until after the ECWA votes on the Town of Aurora Direct Service Agreement. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five  
noes – none Motion carried.

Action #191  
Resolutions  
re: term of  
Elma water  
agreements  
tabled

Councilwoman Friess moved to table the request from Frank Chinnici, Polo Grounds, to amend the subdivision map to eliminate a 2-family building and replace it with two single-family structures, so a resolution can be developed. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #192  
Polo Grounds  
amendment  
to subdivision  
density tabled

**NEW BUSINESS:**

Councilman Snyder moved to add three items to the agenda:  
6M – IPL payment for AMC project  
6N – Budget transfer re: NYPA loan  
6O – Budget amendment re: Capital Projects  
Councilman Harris seconded the motion. Upon a vote being taken:  
ayes – five noes – none Motion carried.

Action #193  
Items 6M, 6N  
and 6O added  
to agenda

Councilwoman Friess moved to forward the Open Development Area application from Eric Osmanski for SBL#187.00-2-21.31 Blakeley Road to the Planning Board for review and recommendation. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #194  
ODA  
application  
for V/L on  
Blakeley Rd  
forwarded to  
Plng Brd

Councilwoman Jeffe moved to approve the request from Bernard and Kathleen Kotarski to become out-of-district water customers to the Village of East Aurora for their property at the southwest corner of Beech and Center (SBL# 175.00-2-8.111 Beech Road) and to authorize the Supervisor to sign the Out-of-District Agreement. Councilman Harris seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #195  
OOD water  
to VEA for  
corner of  
Beech &  
Center aprvd

Councilman Snyder moved to appoint Timothy Stroth, Center Street, East Aurora, as an Alternate Member of the Zoning Board of Appeals to fill a vacancy, with a term beginning 6/10/19 and ending 12/31/19. Councilman Harris seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #196  
T. Stroth appt  
alternate  
member of  
ZBA

Councilwoman Friess moved to table the Assessor appointment until the September 9, 2019 Town Board meeting. Councilman Harris seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #197  
Assessor appt  
tabled

Councilwoman Jeffe moved to approve the placement of Verizon Mobile Hotspots at Community Pool and Hamlin Park and the purchase of unlimited data for each device at a rate of \$39.99 per month. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #198  
Mobile  
Hotspots  
aprvd for  
pool &  
Hamlin Park

Councilwoman Jeffe moved to approve a Temporary Use Permit to Up and Over Dog Sports (Mike Wolff & Lynn Broderick) for their Dog Agility Trial event at the Equestrian Park at Knox Farm State Park on August 1-4, 2019. Councilman Harris seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #199  
Temp Use  
Permit for  
dog agility  
event at  
KFSP aprvd

Councilwoman Friess moved to table the request from Erie County Legislator John Mill regarding a resolution in opposition of NYS legislation that would allow driver's licenses for illegal immigrants. Councilwoman Jeffe seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #200  
Driver's lies  
for illegal  
immigrant  
discussion  
tabled

Councilman Snyder moved to approve the use of Debt Reserve funds for the \$165,000 principal payment and \$12,925 interest payment to Depository Trust Company for the Gleed Avenue Renovation Bond due 6/15/19. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #201  
Debt reserve  
funds to be  
used for  
Gleed bond  
payment

Councilwoman Jeffe moved to approve the hiring of Madeline Wasner, Crescent Ave., E. Aurora, as a Recreation Attendant PT Seasonal starting 6/14/19 at a rate of \$11.10 per hour. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #202  
M. Wasner  
hired Rec  
Attend PT  
seasonal

Councilman Snyder moved to approve the hiring of Paul Spahn, Quaker Road, E. Aurora, as a Laborer PT Seasonal starting on or after 6/24/19 at a rate of \$12.00 per hour. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #203  
P. Spahn  
hired laborer  
PT seasonal

Councilwoman Friess moved to approve the following budget amendment to properly record a refund for items purchased and returned by the Recreation Department in 2018:

- Increase revenue line A2701 Refund prior year expenditure \$613.87
- Increase appropriation line A7620.400.2 Adult Baseball Supplies \$613.87

Councilman Harris seconded the motion. Upon a vote being taken:

ayes – five                      noes – none                      Motion carried.

Action #204  
Budget amendment re: refund (rec dept) aprvd

Councilman Snyder moved to approve payment #1 to Telco Construction, Inc., 500 Buffalo Road, E. Aurora, NY, in the amount of \$76,970.96 for work done through 5/31/19 at the Aurora Municipal Center, 575 Oakwood. Funds will be disbursed from H5 1620.230. Councilman Harris seconded the motion. Upon a vote being taken: ayes – five

noes – none                      Motion carried.

Action #205  
Pymt #1 to Telco for AMC project aprvd

Councilwoman Friess moved to approve payment #1 to Industrial Power & Lighting, 60 Depot Street, Buffalo, NY, in the amount of \$13,775.00 for work done through 5/31/19 for the Aurora Municipal Center, 575 Oakwood. Funds will be disbursed from H5 1620.230. Councilman Harris seconded the motion. Upon a vote being taken: ayes – five                      noes – none

Motion carried.

Action #206  
Pymt #1 to IPL for AMC project aprvd

Councilwoman Friess moved to approve the following budget transfer, effective 12/31/18, to correct a budget entry regarding the NYPA loan:

- From: A9060.800 Hosp/Medical Insurance \$3,028
- To: A9790.600 State Loan – NYPA Principal \$3,028

Councilwoman Jeffe seconded the motion. Upon a vote being taken:

ayes – five                      noes – none                      Motion carried.

Action #207  
2018 Budget transfer approved re: NYPA loan

Councilwoman Friess moved to approve the following 2018 budget amendment to properly record the transfer of assigned fund balance in the General Fund to capital projects:

- Increase A9950.900 Transfer to Capital Projects \$462,434.28
  - \$72,786.26 transferred to H4 Senior Center Purch/Improvement
  - \$389,648.02 transferred to H5 Firehall Purch/New Town Hall Improvements
- Decrease A599 Appropriated Fund Balance \$462,434.28

Councilman Harris seconded the motion. Upon a vote being taken:

ayes – five                      noes – none                      Motion carried.

Action #208  
2018 Budget amendment for A fund balance to capital projects

COMMUNICATIONS & REPORTS – The following communications and reports were received by the Board and filed:

- Building Department – May 2019 report
- Recreation Director – May 2019 report
- Town Clerk/Tax – May 2019 report
- Town Clerk – May 2019 report
- EAPD/EA Dispatch – May 2019 expense report
- Senior Center – May 2019 report
- Water Clerk – May 2019 report
- Work Requisitions – May 2019 report
- Going Places Van – Annual assessment report
- Highway closure notification (Jewett Holmwood) from EC Highway Dept.
- Supervisor – May 2019 report

BUSINESS FROM BOARD MEMBERS AND LIAISONS: none

Supervisor Bach stated the ground breaking for the Aurora Municipal Center reconstruction/renovation project was held earlier today with approximately 25 people in attendance.

AUDIENCE II: none

STAFF REPORTS:

William Wheeler stated that the curbing/gutters on Millstone Drive in the Aurora Mills subdivision are finished and paving of the roadway should be done soon.

Police Chief Krieger stated there were no major incidents at Music Fest and that there were some scuffles and domestics. He noted they will be looking at the stats and complaints registered during the event. Lt. Jack Wolff is retiring from the EAPD – his last day will be 6/28/19. Also, the Village and EAPD are in discussion with the EAUFSD regarding a FT school resource officer.

ABSTRACT OF CLAIMS:

The Abstract of Claims dated June 10, 2019, consisting of vouchers numbered 720 - 771, was presented to the Board for audit and authorization of payment from the following funds:

General	\$ 183,875.98
Highway	23,040.57
Trust/Agency	10,400.00
Capital/MWIA	220.00
Capital/AMC	20,077.58
Special Districts	<u>66,851.30</u>
Grand Total Abstract	\$ 304,465.43

Councilwoman Friess moved to approve the 6/10/19 Abstract of Claims, and authorize payment of same. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five noes – none  
Motion carried.

Action #209  
6/10/19  
Abstract of  
Claims aprvd

Councilwoman Jeffe moved to adjourn at 7:30 p.m.; seconded by Councilman Harris. Upon a vote being taken: ayes – five noes – none  
Motion carried.

Action #210  
Meeting  
adjourned

Martha L. Librock  
Town Clerk