

Regular Meeting Monday, June 02, 2003

ALBANY COMMON COUNCIL

MINUTES OF A REGULAR MEETING

Monday, June 2nd, 2003

The Common Council was convened at 7 p.m. and was called to order by President Desfosses.

The roll being called, the following answered to their names: Council Members Brown, Calsolaro, Casey, Conti, Curry-Cobb, Fox, Herring, Igoe, Morris, O'Brien, Sano, Scalzo and Torncello.

Council Member Fox led the Pledge of Allegiance.

PUBLIC COMMENT

The following appeared to speak before the Common Council:

1. Daniel Van Riper, 223 South Swan Street, Albany, New York
Melanie Trimble, NYCLU, 90 State Street, Albany, New York
Ross D. Levi, 410 Madison Avenue, Albany, New York
Jeanette Hemingway, 30 Ida Yarbrough, Albany, New York
Libby Post, 97 Menands Road, Menands, New York
Hawk Stone, 50 Colvin Avenue, Albany, New York
Steven I. Longo, AHA, 200 S. Pearl Street, Albany, New York
Surraine Thomas, 122 Ida Yarbrough, Albany, New York

President Pro Tempore Brown requested that the Public Comment Period be extended for an additional 20 minutes, which was approved.

John Bartholomew, 615 Warren Street, Albany, New York
Linda McGrath, 112 Lancaster Street, Albany, New York
Vincent Marrone, 247 Murray Avenue, Larchmont, New York
Mark Days, 80 Homestead Avenue, Albany, New York
Monique Marshall, United Tenants, 33 Clinton Avenue, Albany, New York

The President declared the Public Comment period closed.
The minutes of the previous meeting were approved.

LOCAL LAWS HELD

1. CALSOLARO

LOCAL LAW C – 2002*

A LOCAL LAW AMENDING CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY BY ADDING THERETO A NEW PART 34 TO BE ENTITLED: “ALBANY ARCHAEOLOGICAL COMMISSION.”

*Referred to the Zoning Committee.

2. CALSOLARO

LOCAL LAW E – 2002*

A LOCAL LAW AMENDING CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY BY ADDING THERETO A NEW PART 35 TO BE ENTITLED: “OFFICE OF THE CITY ARCHAEOLOGIST.”

*Referred to the Budget and Finance Committee.

Reports of Standing Committees

Health and Environment Committee: **Council Member Casey reported that the Health Committee met on May 29th in regard to Resolution Number 61.52.03R, which was passed unanimously and favorably from committee.**

Council Members Conti, Calsolaro, Herring and Sano offered the following, which was referred to the Human Resources Committee:

ORDINANCE NUMBER 18.61.03

AN ORDINANCE AMENDING ARTICLE I (OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION PROGRAM) AND ARTICLE III (OMNIBUS HUMAN RIGHTS LAW) OF CHAPTER 48 (EQUAL EMPLOYMENT OPPORTUNITY; AFFIRMATIVE ACTION; UNLAWFUL DISCRIMINATORY PRACTICES) IN RELATION TO GENDER-BASED DISCRIMINATION

The City of Albany, in Common Council convened, does hereby ordain and enact as follows:

§ 1. Council findings and intent. The Common Council hereby reaffirms its commitment to the protection of human rights guaranteed the residents of the City of Albany by Article III of Chapter 48 of the Code of the City of Albany. The Council further reaffirms its commitment to the purpose of such Article which declares that the City of Albany “. . . has the responsibility to ensure that every individual within its boundaries is afforded an equal opportunity to enjoy a full and productive life, free from violation of basic civil and human rights, and that discriminatory practices adversely affecting the equality of opportunity threaten the general welfare of the municipality and its inhabitants.”

In furtherance of the policy set forth in Article III of Chapter 48 of the Code of the City of Albany, it is the intent of the Council in adopting this ordinance to make clear that all gender-based discrimination - including, but not limited to, discrimination based on an individual’s actual or perceived sex, and discrimination based on an individual’s gender identity, self-image, appearance, behavior or expression - constitutes a violation of the City’s Omnibus Human Rights Law. The Council finds that gender-based discrimination effects a broad range of individuals and that the impact of gender-based discrimination is especially debilitating for those whose gender self-image and presentation do not fully accord with the legal sex assigned to them at birth. For those individuals, gender-based discrimination often leads to pariah status including the loss of a job, the loss of an apartment, and the refusal of service in public accommodations such as restaurants or stores. The impact of such discrimination can be especially devastating for those who endure other prejudices due to their race, ethnicity, national origin, or citizen status, in addition to gender-based discrimination. In adopting this ordinance, the Council declares that the ability of all New Yorkers to work and to live free from invidious discrimination based on gender is the guiding principle of policy and law.

§ 2. Subsection A of section 48-2 of the Code of the City of Albany is amended to read as follows:

EXPLANATION – Matter underscored is new; matter in brackets [] is old law to be deleted.

A. It is the policy of the city to prohibit discrimination because of race, color, religion, sex, national origin, sexual orientation, gender, age, disability, marital or domestic partner status in all aspects of its personnel policies, programs, practices and operations. The purposes of this Article are those in accord with Title VII of the Civil Rights Act of 1964, the Human Rights Law of the State of New York as pertaining to equal employment opportunity in city government, and Article III of this chapter.

§ 3. Paragraph (6) of Subsection A of section 48-7 of the Code of the City of Albany is amended to read as follows:

(6) Evaluation of any candidate shall in no way reflect race, color, creed, sex, age, national origin, sexual orientation, gender, ancestry, disability, marital or domestic partner status. Whenever possible, every effort shall be made to hire qualified residents of the City of Albany.

§ 4. Subsection B of section 48-23 of the Code of the City of Albany is amended to read as follows:

B. It shall be the policy of the City of Albany to encourage programs designed to ensure that every individual has an equal opportunity to participate fully in the life of this city, free from violation of their basic civil and human rights, and to prohibit discrimination because of race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner status in areas of employment, public accommodations, housing, real property transactions and the provision of city services.

§ 5. Section 48-24 of the Code of the City of Albany is amended to read as follows:

The opportunity to obtain employment, use of places of public accommodation, the use, occupancy and ownership of housing accommodations, land and commercial space and the provision of city services without discrimination because of race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner status is hereby recognized as and declared to be a civil right. Nothing contained herein, however, shall be construed to protect conduct otherwise proscribed by law.

§ 6. Subsection A of section 48-25 of the Code of the City of Albany is amended by adding a new definition thereto to read as follows:

GENDER - shall include actual or perceived sex and shall also include a person's gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to that person at birth.

EXPLANATION – Matter underscored is new; matter in brackets [] is old law to be deleted.

§ 7. Paragraphs (1), (2) and (3) of subsection A of section 48-26 of the Code of the City of Albany is amended to read as follows:

(1) For an employer or licensing agency, because of the age, race, sex, creed, color, religion, national origin, sexual orientation, gender, disability, marital or domestic partner status of any individual to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.

(2) For an employment agency to discriminate against any individual because of age, race, sex, creed, color, religion, national origin, sexual orientation, gender, disability, marital or domestic partner status in receiving, classifying, disposing or otherwise acting upon applications for its services or in referring an applicant or applicants to an employer or employers.

(3) For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication or to use any form of application for employment or to make any inquiry in connection with prospective employment which expresses, directly or indirectly, any limitations, specification or discrimination as to age, race, sex, creed, color, religion, national origin, sexual orientation, gender, disability, marital or domestic partner status or any intent to make any such limitation, specifications or discrimination, unless based upon a bona fide occupational qualification; provided, however, that neither this subsection nor any provision of this article shall be construed to prohibit the personnel office from requesting information from applicants for civil service concerning any of the aforementioned characteristics for the purpose of conducting studies to identify and resolve possible problems in recruitment and testing of members of minority groups to ensure the fairest possible and equal opportunities for employment in the civil service for all persons, regardless of age, race, sex, creed, color, religion, national origin, sexual orientation, gender, disability, marital or domestic

partner status.

§ 8. Paragraph (1) of subsection B of section 48-26 of the Code of the City of Albany is amended to read as follows:

(1) It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, agent or employee of any place of public accommodation, resort or amusement, because of the race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner status of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, including the extension of credit, or directly or indirectly to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement to the effect that any of the

EXPLANATION – Matter underscored is new; matter in brackets [] is old law to be deleted.

accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner status or having a disability is unwelcome, objectionable or not acceptable, desired or solicited.

(1) It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, agent or employee of any place of public accommodation, resort or amusement, because of the race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner status of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, including the extension of credit, or directly or indirectly to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner status or having a disability is unwelcome, objectionable or not acceptable, desired or solicited.

§ 9. Subsection C of section 48-26 of the Code of the City of Albany is amended to read as follows:

C. It shall be an unlawful discriminatory practice for any real estate broker, real estate salesman or employee or agent thereof or any other individual, corporation, partnership or organization, for the purpose of inducing a real estate transaction from which any such person or any of its stockholders or members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner status of the owners or occupants in the block, neighborhood or area in which the real property is located and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or antisocial behavior or a decline in the quality of schools or other facilities.

§ 10. Subparagraph (a), (b) and (c) of paragraph (1) of subsection D of section 48-26 of the Code of the City of Albany are amended to read as follows:

(a) To refuse to sell, rent or lease or otherwise to deny to or withhold from any person or group of persons such a housing accommodation because of the race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner status of such person or persons.
EXPLANATION – Matter underscored is new; matter in brackets [] is old law to be deleted.

(b) To discriminate against any person because of his race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner status in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or in the furnishing of facilities or services in connection therewith.

(c) To print or circulate or cause to be printed or circulated any statement, advertisement or publication or to use any form of application for the purchase, rental or lease of such housing accommodation or to make any record or inquiry in connection with the prospective purchase, rental or lease of housing accommodation which expresses, directly or indirectly, any limitation, specification or discrimination as to race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner status or any intent to make any such limitation, specification or discrimination.

§ 11. Subparagraph (a), (b) and (c) of paragraph (3) of subsection D of section 48-26 of the Code of the City of Albany are amended to read as follows:

(a) To refuse to sell, rent or lease or otherwise to deny to or withhold from any person or group of persons such commercial space because of the age of such person or persons or land or commercial space because of the race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner status of such person or persons.

(b) To discriminate against any person because of her race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner status in the terms, conditions or privileges of the sale, rental or lease of any such land or commercial space or in the furnishing of facilities or services in connection therewith.

(c) To print or circulate or cause to be printed or circulated any statement, advertisement or publication or to use any form of application for the purchase, rental or lease of such land or commercial space or to make any record or inquiry in connection with the prospective purchase, rental or lease of such land or commercial space which expresses, directly or indirectly, any limitation, specification or discrimination as to race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner status or any intent to make any such limitation, specification or discrimination.

EXPLANATION – Matter underscored is new; matter in brackets [] is old law to be deleted.

§ 12. Subparagraphs (a) and (b) of paragraph (4) of subsection D of section 48-26 of the Code of the City of Albany is amended to read as follows:

(a) To refuse to sell, rent or lease any housing accommodation, land or commercial space to any person or group of persons or to refuse to negotiate for the sale, rental or lease of any housing accommodation, land or commercial space to any person or group or persons because of the race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner status of such person or persons or to represent that any housing accommodation, land or commercial space is not available for inspection, sale, rental or lease when in fact it is so available or otherwise deny or withhold any housing accommodation, land or commercial space or any facilities of any housing accommodation, land or commercial space from any person or group of persons because of the race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner status of such person or persons.

(b) To print or circulate or cause to be printed or circulated any statement, advertisement or publication or to use any form of application for the purchase, rental or lease of any housing accommodation, land or commercial space or to make any record or inquiry in connection with the prospective purchase, rental or lease of any housing accommodation, land or commercial space which expresses, directly or indirectly, any limitation, specification or discrimination as to race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner

status or any intent to make any such limitation, specification or discrimination.

§ 13. Paragraph (5) of subsection D of section 48-26 of the Code of the City of Albany is amended to read as follows:

(5) It shall be an unlawful discriminatory practice for any real estate board, because of the race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner status of any individual who is otherwise qualified for membership, to exclude or expel such individual from membership or to discriminate against such individual in the terms, conditions and privileges of membership in such board.

§ 14. Paragraph (1) of Subsection E of section 48-26 of the Code of the City of Albany is amended to read as follows:

(1) It shall be an unlawful discriminatory practice for any department, agency, board, commission, authority, employee or other entity of the City of Albany to discriminate in the provision of city services, for which a person is otherwise entitled, because of the age, race, sex, creed, color, religion, national origin, sexual orientation, gender, disability, marital or domestic partner status of such person.

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§ 15. Severability. If any provision of this ordinance or application thereof is adjudged by a court of competent jurisdiction to be invalid, such judgement shall not effect, impair or invalidate the remainder thereof, and the remainder of this ordinance and application thereof to other persons or circumstances shall not be affected by such holding and shall remain in full force and effect.

§ 16. Except as herein amended, Articles I and III of Chapter 48 of the Code of the City of Albany is hereby ratified, continued and approved.

§ 17. This ordinance shall take effect immediately.

APPROVED AS TO FORM

May 22, 2003

S/ _____
Corporation Counsel

EXPLANATION – Matter underscored is new; matter in brackets [] is old law to be deleted.

Council Members Casey and Conti offered the following, which was referred to the Zoning Committee:

ORDINANCE NUMBER 19.61.03

AN ORDINANCE AMENDING ARTICLE VII (ADMINISTRATION AND COMPLIANCE) OF CHAPTER 231 (HOUSING) OF THE CODE OF THE CITY OF ALBANY.

The City of Albany in Common Council convened, does hereby ordain and enact:

Section 1. Section 231-99 (Responsibilities of owners) of Article VII of Chapter 231 of the Code of the City of Albany is hereby amended to read as follows:

§ 231-99. Responsibilities of owners.

A. Owners, operators and occupants who are responsible by reason of agreement or law shall be responsible for compliance with all provisions of this code.

B. Owners of premises shall also be responsible for proper maintenance, condition and function of their property and service facilities. Unless otherwise agreed in writing with a tenant, the owner shall be responsible for furnishing adequate heat and hot-water supply, except in units with individual heating system or domestic hot-water supply.

C. In the event that cooking and/or refrigeration equipment is provided by the owner, the owner shall maintain the same in proper operating condition. See § 231-73.

D. The owner, operator or agent in control of the building shall be responsible for the following:

(1) Limiting occupancy to the maximum number of persons permitted and prohibiting unlawful uses.

(2) Posting required statements of the maximum number of occupants permitted.

(3) Maintenance of the premises in a clean, safe and sanitary condition.

Maintenance of the operation of service facilities in good order and condition.

Owners or an agent or representative acting on behalf of an owner shall request in writing from the Building and Codes Department a letter detailing the legal use of any building or premises being marketed, advertised or sold to include but not limited to; the extent and kind of use made of the building or premises, the maximum number of occupants or employees allowed in the building, whether such use conforms to zoning, and any variances approved or denied from the City of Albany Board of Zoning Appeals. If such legal use is granted by a variance from the City of Albany Board of Zoning Appeals the conditions and term of such variance must be noted. All other constraints that apply to the property such as

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Historic District designation should be noted in such letter. A copy of this letter shall be provided to any and all potential buyers of such property prior to signing a contract or other binding agreement.

Owners who shall knowingly market, advertise or sell any building or premises in violation of zoning compliance shall be punishable by a fine not to exceed one thousand dollars for each offense and or imprisonment not to exceed one year. Each building or premises that is marketed, advertised or sold shall be deemed a separate offense.

Section 2. This ordinance shall take effect sixty (60) days after it shall become law.

APPROVED AS TO FORM

May 22nd, 2003

S/_____
Corporation Counsel

EXPLANATION – Matter underscored is new; matter in brackets [] is old law to be deleted.

Council Member Curry-Cobb offered the following, which was referred to the Budget and Finance Committee:

ORDINANCE NUMBER 20.61.03

AN ORDINANCE AUTHORIZING PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$345,000.00 AND AUTHORIZING THE ISSUANCE OF \$345,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF.

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. The objects or purposes to be authorized and financed pursuant to this ordinance are set forth below, together with estimates of the maximum estimated costs thereof; determinations of the periods of probable usefulness thereof and the subparagraphs of Section 11.00(a) of the New York Local Finance Law pursuant to which it is determined; the maximum amount of the bonds to be issued with respect to such object or purpose and the maximum term of the obligations to be issued with respect to each project or purpose.

(A) Object or Purpose: Motor vehicles

Local Finance Law Section 11.00(a) Subparagraph 29

Period of Probable Usefulness: 5 years

Maximum Term of Obligations: 5 years

Maximum Estimated Cost: \$140,000.00

Maximum Amount of Bonds: \$140,000.00

Comptroller's Bond Authorization Numbers: H-03; AI-03; AS-03

Comptroller's Project Numbers: GH 817090308; GH 801090335; GH 711090345

(B) Object or Purpose: Equipment, machinery and apparatus

Local Finance Law Section 11.00(a) Subparagraph 32

Period of Probable Usefulness: 5 years

Maximum Term of Obligations: 5 years

Maximum Estimated Cost: \$65,000.00

Maximum Amount of Bonds: \$65,000.00

Comptroller's Bond Authorization Numbers: AR-03

Comptroller's Project Numbers: GH 711090344

(C) Object or Purpose: Police communications system

Local Finance Law Section 11.00(a) Subparagraph 25

Period of Probable Usefulness: 10 years

Maximum Term of Obligations: 10 years

Maximum Estimated Cost: \$140,000.00

Maximum Amount of Bonds: \$140,000.00

Comptroller's Bond Authorization Numbers: AAH-03

Comptroller's Project Numbers: GH 312090361

Section 2. The plan of financing such objects or purposes is the issuance of \$345,000.00 serial bonds hereby authorized to be issued.

Section 3. It is hereby ordered and directed that the projects specified above be undertaken and the amounts set forth as the maximum estimated costs are hereby appropriated therefor. The Board of Contract and Supply is hereby authorized to take such necessary and further steps to carry out the provisions of this section.

Section 4. Pending the sale of the bonds herein authorized, the temporary use of funds from the City's general fund, pursuant to the provisions of section 165.10 of the New York Local Finance Law, is hereby authorized. The City reasonably expects to reimburse such temporary expenditures with the

proceeds of the bonds or bond anticipation notes authorized by section 1 of this ordinance. This ordinance shall constitute the City's "official intent" to reimburse such temporary expenditures in accordance with United States Treasury Regulation section 1.150-2.

Section 5. The faith and credit of the City of Albany, New York are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year and such debt service payments may be made in substantially level or declining amounts as may be authorized by law. There shall annually be levied on all taxable real property of said City, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 6. Subject to the provisions of the New York Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated in the City comptroller, as chief fiscal officer of the City of Albany. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said City Comptroller, consistent with the provisions of Local Finance Law.

Section 7. The City Comptroller is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution and any notes issued in anticipation thereof, as excludable from federal income taxation pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

Section 8. The City Comptroller is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934.

Section 9. The validity of such bonds and bond anticipation notes may be contested only if:

(1) (a) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or

(b) The provisions of law which should be complied with at the date of publication of this ordinance pursuant to Section 8 hereof are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publications, or

(c) Such obligations are authorized in violation of the provisions of the Constitution.

Section 10. Upon this ordinance taking effect, the Clerk of the Common Council is hereby authorized and directed to publish the same together with a notice in substantially the form set forth in section 81.00 of the New York Local Finance Law.

Section 11. It is hereby determined that except as hereinafter specified, the authority and funding of the projects aforesaid constitute either unlisted of Type II actions under the New York State Environmental Quality Review Act and the regulations promulgated thereunder having no adverse effect upon the environment.

Section 12. This ordinance shall be dated June 2, 2003 and shall take effect upon its approval by the Board of Estimate and Apportionment of the City of Albany.

Approved as to form the 23rd day of May, 2003.

S/
CORPORATION COUNSEL

Council Member Fox offered the following, which was approved:

ORDINANCE NUMBER 15.52.03

AN ORDINANCE AUTHORIZING AND DIRECTING THE CONVEYANCE ALL THE RIGHT, TITLE AND INTEREST OF THE CITY OF ALBANY IN AND TO CERTAIN PARCELS OF LAND IN THE CITY OF ALBANY, NEW YORK, TO THE ALBANY PUBLIC LIBRARY AT PRIVATE SALE.

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. It is hereby ordered and directed that the following parcels of land in the City of Albany to be sold at private sale to the Albany Public Library pursuant to the provisions of Local Law No. 4 for 1984:

<u>PROPERTY ADDRESS</u>	<u>TAX ID NUMBER</u>
Albany Public Library (Main Library) 161 Washington Avenue	65.80-4-28
Pine Hill Branch 517 Western Avenue	64.51-2-2
Howe Branch Schuyler and Broad Streets	76.65-2-6

Section 2. It is hereby determined that the aforesaid parcels have been abandoned for municipal and public purposes. The Mayor is hereby authorized and empowered to effect any or all conveyances subject to existing tenancies by the execution and delivery of bargain and sale deeds in a form approved by the Corporation Counsel and for a valuable consideration, subject to the approval of the Board of Estimate and Apportionment.

Section 3. The Mayor is further authorized and empowered to execute such other documents, forms and agreements and to do and cause to be done any such other acts and things as the Corporation Counsel shall advise are necessary and appropriate to effectuate any of the conveyances herein.

Section 4. The Common Council finds and determines, based upon a review of the environmental assessment form prepared in connection with this conveyance and on file with the City Clerk, that the action authorized herein is a Type II action having no adverse environmental impact.

Section 5. This Ordinance shall take effect immediately.

Approved as to form this 29th day of April 29, 2003

Corporation Counsel

S/_____

Ordinance Number 15.52.03 was Co-Sponsored by Council Members Brown, Casey and Scalzo.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative – Brown, Calsolaro, Casey, Conti, Curry-Cobb, Fox, Herring, Igoe, Morris, O’Brien, Sano, and Scalzo.

Negative – Torncello

Affirmative 12 Negative 1 Abstain 0

Council Member Sano offered the following, which was approved:

ORDINANCE NUMBER 17.52.03

AN ORDINANCE AMENDING ARTICLE III (TOUR BUSES) OF CHAPTER 272 (PUBLIC TRANSPORTATION) OF THE CODE OF THE CITY OF ALBANY.

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. Article III of Chapter 272 of the Code of the City of Albany is hereby amended to read as follows

§ 272-9. Designation of specific parking areas.

In order to ensure the public health, safety and welfare and in the interests of regulating traffic and avoiding congestion, the Chief of [~~Special Operations~~] Police or his/her designee shall designate specific areas for the parking of tour buses within the City of Albany.

§ 272-10. Fees.

The Chief of [~~Special Operations~~] Police or his/her designee is authorized to impose a parking fee for the parking of tour buses, the sum of which shall be [~~twenty-five dollars (\$25.)~~] fifty (\$50.) per bus per day or a part thereof.

§ 272-11. (Reserved)

§ 272-12. Rules and regulations.

The Chief of [~~Special Operations~~] Police or his/her designee is hereby authorized and empowered to promulgate additional rules and regulations necessary to effect the purpose and intent of this Article.

§ 272-13. Exemptions.

The provisions of this Article shall not apply to school buses, senior citizen buses or buses transporting the handicapped.

Section 2. Except as herein amended, Chapter 292 of the Code of the City of Albany is hereby ratified, continued and approved.

Section 3. This ordinance shall take effect immediately.

APPROVED AS TO FORM

MAY 23rd , 2003

S/ _____
Corporation Counsel

matter in [~~brackets with strikethrough~~] is to be deleted. matter underlined is new.

Ordinance Number 17.52.03 was Co-Sponsored by Council Member Curry-Cobb.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative – Brown, Calsolaro, Casey, Conti, Curry-Cobb, Fox, Herring, Igoe, Morris, O’Brien, Sano, and Scalzo.

Negative – Torncello

Affirmative 12 Negative 1 Abstain 0

ORDINANCES HELD

1. CALSOLARO ORDINANCE 9.22.02*

AN ORDINANCE AMENDING ARTICLE IX (BUILDING CONSTRUCTION AND REGULATION) OF CHAPTER 133 (BUILDING CONSTRUCTION) OF THE CODE OF THE CITY OF ALBANY.
***Referred to the Law Committee.**

2. CASEY ORDINANCE
4.21.03*

AN ORDINANCE AMENDING ARTICLE I (CARE OF TREES AND SHRUBS) OF CHAPTER 345 (TREES AND VEGETATION) OF THE CODE OF THE CITY OF ALBANY.
***Referred to the General Services Committee.**

3. CASEY/CALSOLARO ORDINANCE
8.31.03*

AN ORDINANCE AMENDING ARTICLE V (UNNECESSARY AND UNUSUAL NOISES) OF CHAPTER 255 (PEACE AND GOOD ORDER) OF THE CODE OF THE CITY OF ALBANY.
***Referred to the Public Safety Committee.**

4. CASEY/CONTI ORDINANCE 19.61.03*

AN ORDINANCE AMENDING ARTICLE VII (ADMINISTRATION AND COMPLIANCE) OF CHAPTER 231 (HOUSING) OF THE CODE OF THE CITY OF ALBANY.
***Referred to the Zoning Committee.**

5. CONTI ORDINANCE 1.12.02*

AN ORDINANCE AMENDING ARTICLE II (TAXICABS AND HACKS) OF CHAPTER 353 (VEHICLES FOR HIRE) OF THE CODE OF THE CITY OF ALBANY.
***Referred to the Law Committee.**

6. CONTI ORDINANCE 10.22.02*

AN ORDINANCE AMENDING THE CODE OF THE CITY OF ALBANY BY ADDING THERETO A NEW CHAPTER 185 TO BE ENTITLED: "FALSE ALARMS."
***Referred to the Law Committee**

7. CONTI, CALSOLARO, HERRING & SANO ORDINANCE 18.61.03*

AN ORDINANCE AMENDING ARTICLE I (OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION PROGRAM) AND ARTICLE III (OMNIBUS HUMAN RIGHTS LAW) OF CHAPTER 48 (EQUAL EMPLOYMENT OPPORTUNITY; AFFIRMATIVE ACTION; UNLAWFUL DISCRIMINATORY PRACTICES) IN RELATION TO GENDER-BASED DISCRIMINATION.
*** Referred to the Human Resources Committee**

8. CONTI/CASEY

ORDINANCE 35.81.02*

AN ORDINANCE AMENDING ARTICLE IV (LARGE GROUP EVENTS) OF CHAPTER 251 (PARKS AND RECREATION) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO PUBLIC NOTIFICATION OF TEMPORARY STREET CLOSURES OR PARKING RESTRICTIONS IN CONNECTION WITH A LARGE GROUP EVENT.

*Referred to the Parks and Recreation Committee and the Public Safety Committee.

9. CONTI/CASEY

ORDINANCE 1.11.03*

AN ORDINANCE AMENDING ARTICLE IX (PENALTIES FOR PARKING VIOLATIONS) OF CHAPTER 359 (VEHICLES AND TRAFFIC) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO THE DESIGNATION OF TEMPORARY ON-STREET EMERGENCY NO PARKING AREAS.

*Referred to the Law Committee and the Public Safety Committee.

10. CURRY-COBB

ORDINANCE 20.61.03*

AN ORDINANCE AUTHORIZING PROJECTS BY THE CITY OF ALBANY, NEW YORK AT A MAXIMUM ESTIMATED COST OF \$345,000.00 AND AUTHORIZING THE ISSUANCE OF \$345,000.00 SERIAL BONDS OF SAID CITY TO PAY THE COST THEREOF.

*Referred to the Budget & Finance Committee.

11. IGOE

ORDINANCE 10.41.03*

AN ORDINANCE AMENDING CHAPTER 115 (ANIMALS) OF THE CODE OF THE CITY OF ALBANY.

*Referred to the Public Safety Committee.

12. IGOE

ORDINANCE 16.52.03*

AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY (ZONING) CHANGING THE ZONING CLASSIFICATION OF APPROXIMATELY 7.23 ACRES OF PROPERTY LOCATED ON THE NORTH SIDE OF KRUMKILL ROAD FROM R-1B (SINGLE-FAMILY MEDIUM DENSITY RESIDENTIAL DISTRICT) TO R-4 (MULTI-FAMILY HIGH RISE RESIDENTIAL DISTRICT) AND AMENDING THE ZONING MAP ACCORDINGLY.

*Referred to the Zoning Committee.

Council Member Calsolaro offered the following, which was referred to the Public Authorities and

Utilities Committee:

RESOLUTION NUMBER 64.61.03R

RESOLUTION URGING NIAGARA MOHAWK TO RESCIND THEIR NEW SECURITY DEPOSIT POLICY.

WHEREAS, Niagara Mohawk has instituted a new policy requiring many new customers who are renters without a one year lease to pay a two (2) month security deposit prior to receiving service, and

WHEREAS, this new policy places an unreasonable burden on low income families, who may be forced to go without heat and electricity if they are unable to produce the security deposit which may be several hundred dollars, and

WHEREAS, the Public Service Commission is investigating this policy to determine if it violates the Home Energy Fair Practices Act and several state legislators have written to the Public Service Commission to protest this new policy.

NOW, THEREFORE, BE IT RESOLVED, that the City of Albany Common Council urges Niagara Mohawk to rescind this policy to prevent this undue burden on low-income families.

BE IT FURTHER RESOLVED, that the Common Council of Albany requests that the Clerk of this Council forward copies of this Resolution to the Public Service Commission and Niagara Mohawk.

Council Member Conti offered the following, which was approved:

RESOLUTION NUMBER 65.61.03R

RESOLUTION OF THE COMMON COUNCIL RECOGNIZING AND COMMEMORATING CAPITAL PRIDE 2003

WHEREAS, the month of June is nationally recognized and celebrated as Lesbian, Gay, Bisexual and Transgender Pride Month in commemoration of the 1969 Stonewall Rebellion which marks the birth of the modern day LGBT human rights movement; and

WHEREAS, Albany is the home of the oldest continuously operating lesbian and gay community center in the nation, located at 332 Hudson Avenue, and was the site, in 1971, of the first march on a state capital for lesbian and gay civil rights; and

WHEREAS, 2003 marks the first year of protection under New York State's Sexual Orientation Non Discrimination Act (SONDA), and also marks the 25th anniversary of the Rainbow Flag which is an international symbol of the LGBT community and its proud diversity; and

WHEREAS, Albany and the Capital District respect and appreciate the diversity of its community and the variety of races, religions, backgrounds and sexual orientations among its citizens; and

WHEREAS, the volunteers of the Capital District Gay and Lesbian Community Council have organized a series of activities from Friday, June 6 through Sunday, June 15, 2003 marking a celebration of lesbian, gay, bisexual and transgender pride across the Capital District; and

WHEREAS, activities during this week of celebration will include a Midnight Community Cruise on the Hudson, a benefit sponsored by STARS M.C. for the AIDS unit at Albany Medical Center and Ahanna House, a conference on adoption, a barbecue and open house at the Community Center, a Capital Pride movie night, a Pride Parade and Festival in Washington Park emceed by Michelle Crone, a Youth Dance and Pride Ball and an evening of entertainment with Kate Clinton; and

WHEREAS, it is appropriate for this body to pause in its deliberations to recognize Capital Pride 2003 and the celebration of pride that it represents.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany does hereby recognize this week of celebration and the contributions of the lesbian, gay, bisexual and transgender community to our city and does extend its congratulations and best wishes for a successful Capital Pride 2003 celebration.

Resolution Number 65.61.03R was Co-Sponsored by Council Members Calsolaro, Sano, and Scalzo.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative – Brown, Calsolaro, Casey, Conti, Curry-Cobb, Fox, Herring, Igoe, Morris, O'Brien, Sano, Scalzo, and Torncello.

Affirmative 13 Negative 0 Abstain 0

Council Member Torncello offered the following, which was referred to the Public Authorities Committee:

RESOLUTION NUMBER 66.61.03R

A RESOLUTION MAKING ENVIRONMENTAL DETERMINATIONS WITH RESPECT TO A PROPOSED AMENDMENT TO THE FINANCING AGREEMENT BY AND AMONG THE CITY OF ALBANY, THE ALBANY WATER BOARD AND THE ALBANY MUNICIPAL WATER FINANCE AUTHORITY AND APPROVING SUCH PROPOSED AMENDMENT TO THE FINANCING AGREEMENT.

WHEREAS, pursuant to Section 1115-h(1) of the Public Authorities Law of the State of New York (the “Act”), the Albany Water Board (the “Board”), the City of Albany (the “City”) and the Albany Municipal Water Finance Authority (the “Authority”) have entered into an agreement dated as of October 1, 1987 (the “Financing Agreement”) for the purposes of providing for the construction and financing of certain projects described in Appendix A to the Financing Agreement; and

WHEREAS, the Authority has for the past 15 years been financing projects identified in the Financing Agreement through the issuance of its bonds and other obligations under the terms of its Water and Sewer System General Revenue Bond Resolution adopted January 22, 1988 (the “1988 General Resolution”), and supplements to such resolution adopted by the Authority from time to time; and

WHEREAS, the Board now proposes to add to Appendix A of the Financing Agreement certain capital projects of the Board, comprised of various repairs, replacements, additions and improvements to the System (as defined in the Act); and

WHEREAS, the Authority now proposes to adopt a Second Water and Sewer System General Revenue Bond Resolution (the “Second General Resolution”) that will provide the Authority with additional flexibility in the issuance of its obligations and allow the Authority to take advantage of currently low interest rates and thus borrowing costs by the issuance of bonds to (a) finance such additional capital projects of the Board and (b) the refinancing of certain of the Authority’s existing obligations; and

WHEREAS, both the addition of projects to Appendix A of the Financing Agreement and the issuance of bonds by the Authority under the Second General Resolution will require the amendment of the Financing Agreement; and

WHEREAS, the amendment of the Financing Agreement requires the approval by resolution of the City, the Board and the Authority; and

WHEREAS, in accordance with the requirements of Sections 1115-h(4) and 1115-h(6) of the Act, a public hearing concerning the proposed amendments of the Financing Agreement was held on June 11, 2003; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations (the “Regulations”) of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively, the “SEQR Act”), the City is required to make review any proposed “action” (as defined by the SEQR Act) to be taken by the City as to its potential environmental impact;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. It is hereby found and determined that proposed amendment of the Financing Agreement, the

undertaking and completion by the Board of the projects proposed to be added to Appendix A of the Financing Agreement and the issuance by the Authority of obligations to finance such projects and to refund outstanding obligations of the Authority all constitute Type II Actions under the SEQR Act, for which no further environmental review is required (the projects proposed to be undertaken by the Board all involving either replacement, rehabilitation, reconstruction, maintenance, and repair of facilities in kind, on the same sites, with no substantial changes in existing structures or facilities or other Type II Actions under the SEQR Act).

2. The amendment to the Financing Agreement in substantially the form before this meeting is hereby approved, including the addition of projects to Appendix A of the Financing Agreement as described in Appendix A of this Resolution.

3. The officers of the City are hereby authorized and directed for and in the name of the City to execute and deliver such amended Financing Agreement and all such documents, certificates and instruments and to perform all such further acts as in the opinion of the officer acting may be necessary or desirable to effect the purposes of this Resolution.

4. This Resolution shall take effect immediately.

APPENDIX A

PROJECTS TO BE FINANCED WITH PROCEEDS OF \$ ALBANY MUNICIPAL WATER FINANCE AUTHORITY WATER AND SEWER SYSTEM REVENUE BONDS, SERIES 2003B

A. Emergency Interconnect Work

Engineering and other preliminary work for interconnections to Guilderland, Bethlehem, Latham, and Menands municipal water systems.

B. Emergency Repairs

Systemwide repairs on an emergency basis.

C. Six Mile Waterworks

Engineering and related preliminary work on draw down facilities.

D. Six Mile Dam Rehabilitation

Continued engineering and related preliminary work.

E. Erie Boulevard Department Facilities

Structural and electrical improvements.

G. New Scotland Avenue and Central Avenue Water and Sewer Systems

Repair and reconstruction in support of street reconstruction projects.

H. Alcove Reservoir

Gatehouse repairs.

I. Selkirk Tunnel Improvements

Radio transmitter for supply conduit.

J. Feura Bush Filtration Plant Improvements

Control systems modifications, chemical feed system, and building upgrades.

K. Distribution System Upgrades

Installation of radio equipment and pressure sensors.

L. Pine Bush Pumping Station

Replacement of pump.

M. Loudonville Reservoir

Storage and UV equipment, and continuing installation of recirculative treatment equipment and ultraviolet disinfection in response to new Federal guidelines. Also security measures such as joint repair work and perimeter fence replacements.

N. Water System Engineering Projects

O. Computer upgrades and software

P. Sewer rehabilitation/Lark Street

Q. Onesquethaw Bridge Continued Maintenance

R. Sewer repair equipment

S. Radio Read Water Meter Acquisition and Installation

Acquisition and installation of new high-tech radio read water meters designed to increase efficiency, eliminate meter reading errors, increase revenues, and improve customer satisfaction.

T. Maintain flow meters and CSO

U. Work at existing pump stations

Install a MOSCAD radio system and improve station controls at the McCormack Road pump station.

Authorized by:

Resolution of the Albany Municipal Water Finance Authority adopted ____, 2003.

Resolution of the Albany Water Board adopted ____, 2003.

Resolution of the Common Council of the City of Albany adopted ____, 2003.

Proposed Financing Agreement

Please see attached document entitled, "66.61.03-FinAgmt"

CITY OF ALBANY,

ALBANY MUNICIPAL WATER FINANCE AUTHORITY

AND

ALBANY WATER BOARD

FINANCING AGREEMENT

DATED AS OF OCTOBER 1, 1987

AMENDED AS OF JUNE ____, 2003

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FINANCING AGREEMENT

THIS FINANCING AGREEMENT, dated as of October 1, 1987, and amended as of June ____, 2003, by and among the CITY OF ALBANY (the “City”), a municipal corporation of the State of New York (the “State”), the ALBANY MUNICIPAL WATER FINANCE AUTHORITY (the “Authority”), a body corporate and politic constituting a public benefit corporation of the State, and the ALBANY WATER BOARD (the “Board”), a body corporate and politic constituting a corporate municipal instrumentality of the State.

WITNESSETH:

WHEREAS, the Authority was created by the Albany Municipal Water Finance Authority Act (the “Authority Act”) constituting Title 6 of Article 5 of the Public Authorities Law of the State, as amended, and is vested with the powers and duties described in the Authority Act, including the power to borrow money, issue debt and enter into agreements with the Board and the City for the financing by the Authority of “Projects”, as such term is defined in the Authority Act; and

WHEREAS, pursuant to the Authority Act, the Board was created by the Albany Water Board Act (the “Board Act”) (the Board Act and the Authority Act are hereinafter collectively referred as the “Act”) constituting Title 6-A of Article 5 of the Public Authorities Law of the State and was authorized thereby to enter into agreements with the Authority and the City to provide a means whereby the Authority could finance the cost of constructing Projects and the Board could (i) agree to assume title to the Water System or the Sewerage System (both as hereinafter defined), or both, and (ii) raise revenues from users through fees, rates, rents or other service charges necessary or appropriate to secure such financing and to pay the cost of the operation, management and repair of such Water System or Sewerage System or both; and

WHEREAS, pursuant to the provisions of Section 1115-h of the Act, the Authority, the Board and the City are authorized to enter into an agreement for the acquisition, construction and financing of certain Projects (as defined in the Act), including the transfer of the Water System and the Sewerage System from the City to the Board, for use in the exercise of the corporate powers and purposes of the Board; and

WHEREAS, pursuant to the provisions of the Act, the Mayor of the City (the “Mayor”) has duly executed and delivered this amended Financing Agreement on behalf of the City; and

WHEREAS, the Board by resolution has duly authorized the execution and delivery of this amended

Financing Agreement on its behalf; and

WHEREAS, the Authority by resolution has duly authorized the execution and delivery of this amended Financing Agreement on its behalf;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants hereinafter contained, it is agreed as follows:

ARTICLE I DEFINITIONS

SECTION 1.1. DEFINITIONS. The terms set forth in this Section shall have the meanings ascribed to them for all purposes of this Financing Agreement unless the context clearly requires otherwise. Capitalized terms contained herein, and not otherwise defined herein (expressly or by reference to another document), shall have the respective meanings assigned such terms in the Resolution. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires.

“Account” shall mean any of the special accounts created and established pursuant to the Resolution, the Second Resolution and the Financing Agreement.

“Acquisition Agreement” shall mean the Acquisition Agreement dated as of October 1, 1987, by and between the City and the Board with respect to the acquisition by the Board of the System, as the same may be from time to time hereafter amended or supplemented in accordance with the provisions thereof and of the Resolution.

“Acquisition Date” shall mean the date of the conveyance of the System by the City to the Board pursuant to the Acquisition Agreement.

“Act” shall mean, collectively, the Authority Act and the Board Act.

“Annual Budget” shall mean the annual budget of the Board, as amended or supplemented, adopted or in effect for a particular Fiscal Year, as provided in Section 6.4 of the Financing Agreement.

“Appendix A” shall mean Appendix A to the Financing Agreement, as the same may be amended from time to time in accordance with the provisions of the Financing Agreement.

“Authority” shall mean the Albany Municipal Water Finance Authority, a body corporate and politic constituting a public benefit corporation of the State, created and existing under and by virtue of the provisions of the Authority Act.

“Authority Act” shall mean the Albany Municipal Water Finance Authority Act, constituting Title 6 of Article 5 of the Public Authorities Law of the State, as amended from time to time.

“Authority Budget” shall have the meaning ascribed to such term in (A) the Resolution for so long as any Bonds are Outstanding, and (B) the Second Resolution, thereafter.

“Authority Expenses” shall mean all reasonable or necessary expenses of the Authority, including, but not limited to, all salaries, administrative, general, commercial, engineering, advertising, auditing, accounting and legal expenses, insurance and surety bond premiums, fees paid to banks, insurance companies or other financial institutions for the issuance of Credit Facilities, consultants’ fees and charges, payments to pension, retirement, health and hospitalization funds, costs of public hearings and public notices, ordinary and current rentals of equipment and other property, lease payments for real property or interests therein, expenses, liabilities and compensation of any Fiduciary, and all other expenses necessary, incidental or convenient for the efficient operation of the Authority.

“Authorized Representative” shall mean (A) in the case of both the Authority and the Board, their

respective Chairpersons, or such other person or persons so designated by resolution or the by-laws of the Authority or the Board, as the case may be, to perform the act or sign the document in question and (B) in the case of the City, the Mayor, unless the Mayor is not available, in which case the President of the Common Council shall perform the act or sign the document in question.

“Bank” shall mean the bank, trust company or banking association (which may be the Trustee) designated by the Board to act as depository for the funds of the Board.

“Bill of Sale to Board” shall mean the bill of sale from the City to the Board.

“Board” shall mean the Albany Water Board, a body corporate and politic constituting a corporate municipal instrumentality of the State created and existing under and by virtue of the Board Act.

“Board Act” shall mean the Albany Water Board Act, constituting Title 6-A of Article 5 of the Public Authorities Law of the State, as amended from time to time.

“Board Expense Account” shall mean the Albany Water Board Expense Account established by, and held in the custody of, the Board pursuant to Section 4.2(A)(1) of the Financing Agreement.

“Board Expenses” shall mean all reasonable or necessary expenses of the Board, including, but not limited to, all salaries, administrative, general, commercial, engineering, advertising, auditing, accounting and legal expenses, insurance and surety bond premiums, consultants fees and charges, payment to pension, retirement, health and hospitalization funds, costs of public hearings and public notices, ordinary and current rentals of equipment and other property, lease payments for real property or interests therein, expenses, liabilities and compensation of any depository of funds of the Board, and all other expenses necessary, incidental or convenient for the efficient operation of the Board; provided, however, that in the event the Board shall operate the System, Board Expenses shall not include Operating Expenses.

“Bond” or “Bonds” shall have the meaning ascribed thereto in Section 101 of the Resolution.

“Bondholder” or “Bondholders” shall have the meaning ascribed thereto in Section 101 of the Resolution.

“Bond Payment Date” shall mean each date on which interest or both a Principal Installment and interest shall be due and payable on any of the Outstanding Bonds or any of the Outstanding Second Resolution Bonds according to their respective terms.

“Capitalized Interest Account” shall have the meaning ascribed thereto in Section 101 of the Resolution when used with respect to Bonds and shall have the meaning ascribed thereto in Section 101 of the Second Resolution when used with respect to Second Resolution Bonds.

“City” shall mean the City of Albany, a municipal corporation of the State.

“Common Council” shall mean the Common Council of the City.

“Construction” shall have the meaning assigned such term in subsection 8 of Section 1115-a of the Act.

“Construction Fund” shall mean the Construction Fund established pursuant to Section 502(A)(1) of the Resolution and the “Construction Fund” as defined in the Second Resolution.

“Consulting Engineer” shall mean such independent engineer or firm of engineers of recognized standing selected by the Board in consultation with the City and the Authority, and may include an independent

engineer or firm of engineers retained by the City in one or more other capacities.

“Cost” or “Cost of a Project” shall mean all costs of Construction, including, without limitation, the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of the System or a Project or any portion of either, the inspection and supervision thereof, the engineering, architectural, legal, fiscal, economic and environmental investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto; the cost of the acquisition of all Property; the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated; the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after Construction to the extent not paid or provided for from Revenues or other sources; the cost of engineering and architectural surveys, plans and specifications; the cost of consultants’ and legal services; the cost of lease guarantee or bond insurance; other expenses necessary, reasonably related or incidental to the Construction of such Project and the financing of the Construction thereof, including the cost of Credit Facilities, the amounts authorized in the Resolution or any Supplemental Resolution or the Second Resolution to be paid into any reserve or other special fund from the proceeds of Bonds and the financing of the placing of any Project in operation, including reimbursement to any municipality, state agency, the State, the United States of America or any other person for expenditures that would be costs of such Project hereunder and all claims arising from any of the foregoing.

“Credit Facility” shall have the meaning ascribed thereto in Section 101 of the Resolution when used with respect to Bonds and shall have the meaning ascribed thereto in Section 101 of the Second Resolution when used with respect to Second Resolution Bonds.

“Debt Service” shall have the meaning ascribed thereto in Section 101 of the Resolution when used with respect to Bonds and shall have the meaning ascribed thereto in Section 101 of the Second Resolution when used with respect to Second Resolution Bonds.

“Debt Service Fund” shall have the meaning ascribed thereto in Section 101 of the Resolution when used with respect to Bonds and shall have the meaning ascribed thereto in Section 101 of the Second Resolution when used with respect to Second Resolution Bonds.

“Deed to Board” shall mean the deed conveying the Systems from the City to the Board.

“Disbursement Request” shall mean the written request signed by an Authorized Representative of the Authority and required to be delivered to the Trustee pursuant to Section 503 of the Resolution (or, with respect to disbursement of amounts from the “Construction Fund” as defined in the Second Resolution, the Second Resolution) to effect disbursements from the Construction Fund, in substantially the form set forth in Exhibit A to the Resolution (or, with respect to disbursement of amounts from the “Construction Fund” as defined in the Second Resolution, the Second Resolution).

“Fiduciary” shall have the meaning ascribed thereto in Section 101 of the Resolution and Section 101 of the Second Resolution.

“Financing Agreement” shall mean the Financing Agreement, dated as of October 1, 1987, as amended June ____, 2003, entered into pursuant to Section 1115-h of the Act, by and among the City, the Authority and the Board, as the same may be from time to time hereafter amended or supplemented in accordance with the provisions thereof and of the Resolution.

“Fiscal Year” shall mean the twelve-month period commencing on January 1 of each year; provided,

however, that the Authority, the Board and the City may, from time to time, mutually agree on a different twelve-month period as the Fiscal Year, in which case January 1, when used herein with reference to a Fiscal Year, shall be construed to mean the first day of the first calendar month of such different Fiscal Year and provided, further, that the first Fiscal Year of the Board and the Authority shall commence on the date of the issue of the first series of Bonds pursuant to the Resolution, and shall end on December 31 of the calendar year in which such Bonds were issued.

“Fund” shall mean any fund established pursuant to Section 502 of the Resolution or Section 502 of the Second Resolution.

“General Account” shall mean the Albany Water Board Water and Sewer System General Account established by, and held in the custody of, the Board pursuant to Section 4.2(A)(5) of the Financing Agreement.

“Local Water Fund” shall mean the special fund by that name established by subsection 2 of Section 1115-i of the Act in the custody of the Board.

“Mayor” shall mean the Mayor of the City or such other person duly appointed and authorized to act upon behalf of the Mayor.

“Minimum Monthly Balance” shall have the meaning of such phrase as set forth in Section 4.3 of the Financing Agreement.

“Mortgage” means the mortgage, dated as of October 1, 1987, from the Board to the Trustee intending to create a mortgage lien on and security interest in the System as additional security for the Bonds, as the same may be supplemented or amended from time to time.

“Ongoing Project Account” shall mean the Albany Water Board Ongoing Project Account established by, and held in the custody of, the Board pursuant to Section 4.2(A)(4) of the Financing Agreement.

“Operating Expenses” shall mean all reasonable or necessary current expenses of operating, maintaining, repairing, and managing the System, including all salaries, administrative, general, commercial, architectural, engineering, advertising, public notices, auditing, billing, collection and enforcement and legal expenses, insurance and surety bond premiums, consultants fees and charges, payments to pension, retirement, health and hospitalization funds, any taxes or assessments which may lawfully be imposed on the System or the income or operation thereof, payments to any taxing jurisdiction (other than the City) in lieu of taxes, costs of public hearings, ordinary and current rentals of equipment or other property, hydrant rentals, lease payments for real property or interest therein, usual expenses of maintenance and repair (including replacements), expenses, liabilities and compensation of the Bank or any other depository of Board funds, reasonable reserves for maintenance and repair and all other expenses necessary, incidental or convenient for the efficient operation of the System, but only to the extent properly attributable to the Board or the System; including but not limited to those items described in Section 6.1(A) of the Operation Agreement.

“Operation Account” shall mean the Albany Water Board Operation Account established by, and held in the custody of, the Board pursuant to Section 4.2(A)(2) of the Financing Agreement.

“Operation Agreement” means the Operation Agreement, dated as of October 1, 1987, by and between the City and the Board providing for the operation and maintenance of the System by the City, as the same may be from time to time hereafter amended or supplemented in accordance with the provisions of the Operation Agreement and the Resolution.

“Operation and Maintenance Reserve Account” shall mean the Albany Water Board Operation and Maintenance Reserve Account established by, and held in the custody of, the Board pursuant to Section 4.2(A)(3) of the Financing Agreement.

“Permitted Encumbrances” when used with reference to the System, shall mean (A) any and all liens, encumbrances, security interests or other defects in or clouds on title which may exist on the Acquisition Date, (B) utility, access and other easements, rights of way and exceptions which do not materially impair the operation or maintenance of the System or the Revenues therefrom, (C) mechanics’, materialmen’s, warehousemen’s, carriers’ and other similar liens, to the extent permitted by law, and liens for taxes at the time not delinquent or being contested, (D) the Mortgage, (E) any other lien or security interest which the Board grants with the written consent of the City and the Authority, and (F) agreements for the sale and leaseback of elements of the System.

“Principal Installment” shall have the meaning ascribed thereto in Section 101 of the Resolution when used with respect to Bonds and shall have the meaning ascribed thereto in Section 101 of the Second Resolution when used with respect to Second Resolution Bonds.

“Project” shall have the meaning assigned such term in subsection 15 of Section 1115-a of the Act, including any water facility, sewerage facility or water and sewerage facility as described in the Act and constituting a part of the System.

“Property” shall mean any interest in any kind of property or asset, whether real, personal or mixed, tangible or intangible.

“Rate Consultant” shall mean such independent accountant or firm of independent accountants, or management consultant or firm of management consultants, or independent engineer or firm of independent engineers (which may be the firm then serving as the Consulting Engineer), selected by the Board in consultation with the City and the Authority.

“Resolution” shall mean the Water and Sewer System General Revenue Bond Resolution adopted by the Authority January 22, 1988, as the same may be amended or supplemented from time to time by one or more Supplemental Resolutions (other than the Second Resolution adopted by the Authority June ____, 2003, and all resolutions supplemental thereto). In the event there shall be no Bonds Outstanding, “Resolution” shall be deemed to refer to the Second Resolution.

“Revenues” shall mean (A) all rates, rents, fees, charges, payments and other income and receipts derived by the Board from users of the System, and (B) all investment proceeds and proceeds of insurance, condemnation, sale or other disposition of the System or any part thereof received by the Board (other than the proceeds of insurance with respect to the damage or destruction of all or any portion of the System), together with all operating aid with respect to the System from any governmental entity, Federal, State or local, to the Board, but shall not include (1) amounts required to be refunded because of billing or payment errors, (2) any amount attributable to any of the foregoing sources described in clause (A) which is expressly excluded by the Financing Agreement or the Operation Agreement, (3) any amount from any governmental entity, Federal, State or local, in aid of or for or with respect to the Cost of a Project or (4) (a) fines (excluding interest on late payments which shall constitute Revenues), (b) amounts from the use of water to generate electricity, (c) amounts from the State as a result of mandatory water discharges from reservoirs or (d) any amounts from the granting of easements, licenses, rights-of-way or other interests in the real property constituting a part of the System.

“Second Resolution” shall mean the Second Water and Sewer System General Revenue Bond Resolution

[to be adopted by the Authority], as the same may be amended or supplemented from time to time by one or more Supplemental Resolutions (as defined in such Second Resolution).

“Second Resolution Bondholders” shall mean “Bondholders” as defined in the Second Resolution

“Second Resolution Bonds” shall mean “Bonds” as defined in the Second Resolution.

“Series”, “Series of Bonds” or “Series of Second Resolution Bonds” shall mean all of the Bonds or Second Resolution Bonds, as the case may be, authenticated and delivered on original issuance and identified pursuant to the Supplemental Resolution authorizing such Bonds as a separate Series of Bonds and any Bonds thereafter authenticated and delivered in lieu of or in substitution therefor pursuant to the Resolution regardless of varieties in maturity, interest rate or other provisions.

“Sewerage System” shall have the meaning ascribed to such term in subsection 21 of Section 1115-a of the Act.

“State” shall mean the State of New York.

“Subordinated Indebtedness” shall mean any bond, note or other evidence of indebtedness issued by the Authority under the Resolution in furtherance of its corporate purposes under the Act and payable from the Subordinated Indebtedness Fund.

“Supplemental Resolution” shall mean a resolution of the Authority authorizing the issuance of a Series of Bonds or Second Resolution Bonds, as the case may be, or otherwise amending or supplementing the Resolution or the Second Resolution, adopted at the time of or subsequent to the adoption of the Resolution or the Second Resolution, as the case may be, in accordance with Article VII of the Resolution (including, except for purposes of the definition of “Resolution” while there are Bonds Outstanding, the Second Resolution) or, as applicable, Article VII of the Second Resolution.

“System” or “Systems” shall mean, collectively, the Water System and the Sewerage System.

“Trustee” shall mean the bank or trust company appointed as Trustee pursuant to the Resolution and the Second Resolution, and its successor or successors and any other person which may at any time be substituted in its place pursuant to the Resolution and the Second Resolution.

“Water System” shall have the meaning ascribed to such term in subsection 26 of Section 1115-a of the Act.

SECTION 1.2. AGREEMENT WITH BONDHOLDERS. Subject in all respects to the provisions of Article X hereof, the Authority, the Board and the City agree that this Financing Agreement is executed in part to induce the purchase of the bonds, notes and other evidences of indebtedness of the Authority (including the Bonds) issued from time to time, and all representations, warranties, covenants and agreements contained in this Financing Agreement are declared to be for the benefit of the holders thereof.

ARTICLE II
AGREEMENT AS TO PROJECTS AND REVENUES

SECTION 2.1. AGREEMENT TO FINANCE PROJECTS; DESCRIPTION. The Authority agrees to use its best efforts to finance all or a part of the Cost of the Projects described in Appendix A by the issuance from time to time of Bonds in accordance with the Resolution or Second Resolution Bonds in accordance with the Second Resolution. The total Cost of said Projects shall be financed in accordance with the description set forth in Appendix A. Appendix A may, from time to time, upon approval by resolution of the City, the Authority and the Board, be amended to add a Project or to delete or change a Project listed thereon or to change the scope or cost of a Project listed thereon, without the consent of the Trustee or the Bondholders. No proceeds of any obligations of the Authority shall be expended for any improvements unless such improvements shall be listed on Appendix "A" hereto. The financing by the Authority of any Project added or changed by such amendment shall be governed by the terms and conditions of this Financing Agreement and the Resolution (and, with respect to Projects financed with the proceeds of Second Resolution Bonds, the Second Resolution).

SECTION 2.2. NO INDEBTEDNESS OF BOARD OR CITY. Nothing contained in this Financing Agreement, the Acquisition Agreement, the Operation Agreement, the Resolution, the Second Resolution or any other document or instrument executed and delivered in connection with any of them, shall be construed as creating an indebtedness of the Board or the City within the meaning of any constitutional or statutory provision.

SECTION 2.3. AGREEMENT OF CITY AND BOARD AS TO PROJECTS. (A) The City and the Board agree that the operation, maintenance and repair of any Projects financed in whole or in part pursuant to this Financing Agreement shall be carried out by the City and the Board in accordance with the provisions of the Act and pursuant to the terms of this Financing Agreement and the Operation Agreement.

(B) Nothing contained in this Financing Agreement or the Operation Agreement shall be construed as preventing the City from undertaking improvements to the System on its own initiative, and the City may undertake such improvements on its own initiative, provided that such improvements are financed either out of proceeds of obligations issued by the City to finance same, or from other funds of the City available therefor. Any such improvements so undertaken by the City may be conveyed to the Board by lease or other conveyance upon such terms as the Board and the City may agree.

SECTION 2.4. GRANT OF REVENUES TO AUTHORITY. In consideration of the promises and agreements of the Authority contained herein and in consideration of the issuance of the Bonds and Second Resolution Bonds by the Authority to finance the Projects described in Appendix A, the Board hereby pledges, gives, grants a security interest in, conveys and transfers to the Authority all of its right, title and interest in the Revenues, including, without limiting the generality of the foregoing, all of its rights to collect and receive the same, subject only to the provisions of this Financing Agreement, the Resolution and the Second Resolution permitting the application thereof for or to the purposes and on the terms and conditions herein and therein set forth.

ARTICLE III
TRANSFER OF FUNDS

SECTION 3.1. APPLICATION OF BOND PROCEEDS TO PAY COSTS. The proceeds of the issuance of each Series of Bonds shall be deposited by the Authority with the Trustee in accordance with the provisions of the Resolution and the applicable provisions of the Supplemental Resolution authorizing such Series of Bonds. The proceeds of the issuance of each Series of Second Resolution Bonds shall be deposited by the Authority with the Trustee in accordance with the provisions of the Second Resolution and the applicable provisions of the “Supplemental Resolution” (as defined in the Second Resolution) authorizing such Series of Second Resolution Bonds.

SECTION 3.2. PAYMENTS FROM CONSTRUCTION FUND. (A) The Costs incurred with respect to Projects shall be evidenced to the Authority by a certificate signed by an Authorized Representative of the Board. Each such certificate shall contain the information required to be set forth in a Disbursement Request. Upon receipt of such certificate, the Authority shall submit a Disbursement Request for such costs to the Trustee to pay the persons entitled thereto, in accordance with Section 503 of the Resolution or Section 503 of the Second Resolution (as the case may be).

(B) Moneys may be withdrawn from the Construction Fund under the Resolution or the Second Resolution for the purpose of paying an amount equal to any judgment arising out of claims against the City, the Authority or the Board in any action, if the payment of such claims would constitute a Cost of a Project. Withdrawals may be similarly made with respect to the settlement of any such action.

SECTION 3.3. PAYMENTS FROM LOCAL WATER FUND. (A) As provided in Section 4.8, moneys in the Ongoing Project Account in the Local Water Fund may be utilized to fund ongoing Projects undertaken by the Board or the City in accordance with the provisions of Article IV of the Operation Agreement.

(B) As provided in Section 4.6, moneys in the Operation Account in the Local Water Fund may also be utilized to fund ongoing Projects undertaken by the City in accordance with the written Project capital plan required by, and otherwise in accordance with, the provisions of the Operation Agreement.

ARTICLE IV
PAYMENTS BY THE BOARD

SECTION 4.1. LOCAL WATER FUND. All Revenues, as promptly as practicable after receipt thereof by the Board, shall be deposited by the Board into the General Account within the Local Water Fund at the Bank. There shall also be deposited in the General Account within the Local Water Fund all amounts received by the Board from the Trustee pursuant to the Resolution. All amounts in the Local Water Fund shall be held in trust by the Board and applied only as provided herein, in the Act or in the Resolution and in the Second Resolution.

SECTION 4.2. ESTABLISHMENT OF ACCOUNTS; APPLICATION OF REVENUES IN LOCAL WATER FUND. (A) The Board shall establish the following special accounts within the Local Water Fund:

- (1) the "Albany Water Board Expense Account" (the "Board Expense Account");
- (2) the "Albany Water Board Operation Account" (the "Operation Account");
- (3) the "Albany Water Board Operation and Maintenance Reserve Account (the "Operation and Maintenance Reserve Account");
- (4) the "Albany Water Board Ongoing Project Account" (the "Ongoing Project Account"); and
- (5) the "Albany Water Board Water and Sewer System General Account" (the "General Account");

each of which shall be held by the Board at the Bank.

(B) Such accounts shall be held by the Board as trust funds and the amounts on deposit therein shall be applied solely for the purposes provided herein and in the Operation Agreement.

(C) Commencing on the first day of each Fiscal Year and on each day thereafter, the Board shall make the following payments from the General Account within the Local Water Fund in the following order of priority:

FIRST: To the Trustee, for deposit in the Revenue Fund, beginning with the first day of each calendar month, all Revenues in the Local Water Fund, until the balance in the Revenue Fund, together with the balance in the Debt Service Fund, equals the Minimum Monthly Balance as defined in Section 4.3 hereof, for each Series of Bonds (or, if there are no Bonds Outstanding, Second Resolution Bonds) in such month and the Trustee shall have received the amounts, if any, required by the Resolution (or, if there are no Bonds Outstanding, the Second Resolution) to be deposited in the Authority Expense Fund, the Debt Service Reserve Fund and the Subordinated Indebtedness Fund (which, so long as any Bonds are Outstanding, shall include all amounts required to be deposited in the Funds and Accounts created under the Second Resolution);

SECOND: beginning with the first day of each calendar month until paid in each calendar month, to the Board Expense Account, one-twelfth (or, with respect to the first Fiscal Year, a fraction, the numerator of which is one and the denominator of which is the number of calendar months or portions thereof in such first Fiscal Year) of the Board Expenses for the then current Fiscal Year as shown in the Annual Budget;

THIRD: beginning with the first day of each calendar month, to the Operation Account, until paid in each calendar month, for credit against the amount due from the Board to the City for Operating Expenses for the then current Fiscal Year pursuant to Section 6.1 of the Operation Agreement, one-twelfth (or, with respect to the first Fiscal Year, a fraction, the numerator of which is one and the denominator of which is the number of calendar months or portions thereof in such first Fiscal Year) of the amount certified to the Board pursuant to Section 6.2 of the Operation Agreement;

FOURTH: from the balance, if any, in the General Account of the Local Water Fund after making the deposits required by the preceding paragraphs, to the Operation and Maintenance Reserve Account, all such Revenues until the total of the amounts so paid equals the amount, if any, required to be deposited therein pursuant to Section 4.4(A) hereof;

FIFTH: from the balance, if any, in the General Account in the Local Water Fund after making the deposits required by the preceding paragraphs, to the Ongoing Project Account until the balance therein equals the total amount budgeted for deposit therein in such Fiscal Year in the Annual Budget; and

SIXTH: the balance, if any, in the General Account in the Local Water Fund after making the deposits required by the preceding paragraphs, to the Operation and Maintenance Reserve Account.

(D) In making the payments required pursuant to paragraph FIRST of subsection (C) of this Section, the Board shall be entitled to rely on the Certificate of an Authorized Representative of the Authority described in subsection (E) of this Section;

(E) On the first day of each month, the Authority, or the Trustee as the Authority's agent, shall deliver to the Board a Certificate, setting forth the Authority's calculations of the Minimum Monthly Balance for each Series of Outstanding Bonds for such month and the amounts required to be deposited in the Authority Expense Fund, Debt Service Reserve Fund and Subordinated Indebtedness Fund (which, so long as any Bonds are Outstanding, shall include all amounts required to be deposited in the Funds and Accounts created under the Second Resolution) in such month.

SECTION 4.3. MINIMUM MONTHLY BALANCE. The Minimum Monthly Balance to be satisfied pursuant to paragraph FIRST of Section 4.2(C) shall be an amount equal to the sum of the aggregate amounts of Debt Service that have accrued with respect to all Series of Bonds (or, if no Bonds are Outstanding, all Series of Second Resolution Bonds), calculating the Debt Service that has accrued with respect to each Series of Bonds (or, if no Bonds are Outstanding, all Series of Second Resolution Bonds) as an amount equal to the sum of (i) the interest on the Bonds (or, if there are no Bonds Outstanding, Second Resolution Bonds) of such Series that has accrued and is unpaid and that will have accrued by the end of the then current calendar month, reduced by the amount, if any, then on deposit in the Capitalized Interest Account in the Debt Service Fund, and (ii) that portion of the next due Principal Installment for the Bonds (or, if there are no Bonds Outstanding, Second Resolution Bonds) of such Series that would have accrued (as deemed to accrue in the manner interest accrues) by the end of the then current calendar month.

SECTION 4.4. DEPOSITS INTO OPERATION AND MAINTENANCE RESERVE ACCOUNT. (A) There shall be deposited in the Operation and Maintenance Reserve Account in each Fiscal Year from the sources described in (B) below the amount required, if any, so that the amounts on deposit therein shall at least equal the amount of the deposit to the Operation and Maintenance Reserve Account set forth in the Board's Annual Budget for such Fiscal Year.

(B) In addition to the deposits made to the Operation and Maintenance Reserve Account pursuant to clauses FOURTH and SIXTH of Section 4.2(C) hereof, additional deposits to the Operation and

Maintenance Reserve Account may be made from moneys remaining on deposit in the Local Water Fund after the payments provided for in Section 4.2(C) hereof have been made, or any other moneys lawfully available therefor.

(C) The Board may establish sub-accounts in the Operation and Maintenance Reserve Account as the Board may deem appropriate.

SECTION 4.5. APPLICATION OF MONEYS IN THE OPERATION AND MAINTENANCE RESERVE ACCOUNT. (A) (1) The amounts on deposit in the Operation and Maintenance Reserve Fund may be used to pay the cost of extraordinary repairs to and replacements of the System and (2), if there are insufficient funds in the Operation Account to pay the City the requisite amounts (as such amounts are certified to the Board pursuant to Section 6.2 of the Operation Agreement) for Operating Expenses, the Board shall withdraw from the Operation and Maintenance Reserve Account and pay to the City, on demand, an amount equal to the amount required to be so paid, or the entire balance in the Operation and Maintenance Reserve Account if less than sufficient.

(B) After any payment to the City made pursuant to Section 4.5(A) hereof, the amount required to be deposited in the Operation Account pursuant to paragraph THIRD of Section 4.2 hereof shall be reduced by the sum so paid, unless the City shall deliver a certification described in Section 6.2(E) of the Operation Agreement which is approved by the Board and the Consulting Engineer, in which case the amounts to be so paid to the City shall not be reduced.

(C) After any payments and transfers required or permitted by Section 4.5(A) hereof are made, the amounts on deposit in the Operation and Maintenance Reserve Account may also be applied or transferred, as the case may be, by the Board in the following order of priority:

(1) on any date that there is insufficient funds in the Board Expense Account to pay Board Expenses then due and owing, to the Board Expense Account the amount of such deficiency;

(2) to pay, when due, the amounts requested by the City pursuant to Section 6.1(B) of the Operation Agreement to pay Costs incurred by the City for the Construction of Projects approved by the Board as provided in Section 4.1(A) of the Operation Agreement. but only if on such date there is insufficient funds in the Operation Account to pay such amounts so requested; and

(3) to pay, when due, the principal of and interest on bonds, notes or other obligations of the Authority (other than Bonds, Bond Anticipation Notes and Subordinated Indebtedness, as defined in both the Resolution and the Second Resolution), together with all other amounts, certified by the Authority to the Board as necessary to make the required deposits, if any, to the reserve and other funds and accounts established for such bonds, notes or other obligations pursuant to the resolution, trust indenture or other instrument under which such bonds, notes or other obligations were issued.

SECTION 4.6. OPERATION ACCOUNT. (A) The amounts on deposit in the Operation Account shall be paid to the City for Operating Expenses in accordance with Section 6.2(C) of the Operation Agreement upon request therefor accompanied (1) by the certificates required pursuant to Section 6.2 of the Operation Agreement and (2), if requested by the Board, by bills or other evidences of such costs.

(B) As provided in Section 6.1(B) of the Operation Agreement, the amounts on deposit in the Operation Account may also be paid to the City for Costs incurred by the City for the Construction of Projects approved by the Board as provided in Section 4.1(A) of the Operation Agreement.

SECTION 4.7. BOARD EXPENSE ACCOUNT. The amounts on deposit in the Board Expense Account

shall be applied by the Board solely for the purposes of paying Board Expenses.

SECTION 4.8. ONGOING PROJECT ACCOUNT. (A) The amounts on deposit in the Ongoing Project Account shall be applied to ongoing Projects undertaken by the City or the Board in accordance with Article IV of the Operation Agreement. Any request for payment of such costs by the City shall be in writing accompanied (1) by the certificates required by Section 6.2 of the Operation Agreement and (2) if requested by the Board, by bills or other evidences of such costs.

(B) The amounts on deposit in the Ongoing Project Account may also be applied to pay the principal of and interest on bonds notes or other obligations of the Authority (other than Bonds, Bond Anticipation Notes and Subordinated Indebtedness, as defined in both the Resolution and the Second Resolution), together with all other amounts. certified by the Authority to the Board as necessary to make the required deposits, if any, to the reserve and other funds and accounts established for such bonds, notes or other obligations pursuant to the resolution, trust indenture or other instrument under which such bonds, notes or other obligations were issued.

SECTION 4.9. APPLICATION OF REVENUES AFTER DEFAULT. Anything herein to the contrary notwithstanding, the Board covenants that, if an "Event of Default" as defined in the Resolution (or, if there are no Bonds Outstanding, the Second Resolution), shall occur, the Board, upon demand of the Trustee, shall pay over or cause to be paid over to the Trustee all moneys and securities then held by the Board in the Local Water Fund and all Accounts created thereunder, and thereafter, as promptly as practical, the Revenues, for application in accordance with Section 1003 of the Resolution including Second Resolution Bonds and "Subordinated Indebtedness" as defined in the Second Resolution.

SECTION 4.10. AMOUNTS REMAINING. Any amounts received or held by the Authority or the Trustee pursuant to the provisions of the Resolution (or under any other resolution, trust indenture or similar document including the Second Resolution) or this Financing Agreement after all Bonds (and all other bonds, notes or other evidences of indebtedness including Second Resolution Bonds and "Subordinated Indebtedness" as defined in the Second Resolution) have been paid in full or are no longer Outstanding pursuant to the provisions of the Resolution (or under any other resolution, trust indenture or similar document including the Second Resolution), and after payment of all other obligations and expenses of the Authority or provision for payment thereof has been made in accordance with the provisions of the Resolution (or under any other resolution, trust indenture or similar document including the Second Resolution), shall be paid to the City.

ARTICLE V
REPRESENTATIONS AND WARRANTIES;
CONSENT TO ASSIGNMENT; INDEMNIFICATION

SECTION 5.1. REPRESENTATIONS AND WARRANTIES. (A) The Board makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(1) It is a body corporate and politic constituting a corporate municipal instrumentality duly organized and validly existing under the Constitution and the laws of the State, including the Act, and has full power and authority:

(a) to acquire the System pursuant to the Act and to carry out its purposes in the manner proposed to be conducted pursuant to this Financing Agreement, the Mortgage, the Operation Agreement and the Acquisition Agreement; and,

(b) to execute, deliver and to perform and observe all of the terms and provisions of this Financing Agreement, the Mortgage, the Operation Agreement and the Acquisition Agreement.

(2) The execution, delivery and performance of this Financing Agreement have been duly authorized by all necessary action on the part of the Board.

(3) All by-laws and rules and regulations adopted by the Board relating to the Board and the System were duly adopted in conformity with the Act.

(B) The Authority makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(1) It is a body corporate and politic constituting a public benefit corporation duly organized and validly existing under the constitution and the laws of the State, including the Act, and has full power and authority:

(a) to issue its Bonds (and its Second Resolution Bonds) pursuant to the Act and the Resolution and the Second Resolution and to carry out its purposes in the manner proposed to be conducted pursuant to this Financing Agreement, the Resolution and the Second Resolution; and

(b) to execute, deliver and to perform and observe all of the terms and provisions of this Financing Agreement.

(2) The execution, delivery and performance of this Financing Agreement have been duly authorized by all necessary action on the part of the Authority.

(3) All By-Laws and resolutions adopted by the Authority relating to the Authority and the Bonds were duly adopted in conformity with the Act.

(C) The City makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(1) It is a municipal corporation of the State and has full power and authority to:

(a) convey the System to the Board pursuant to the Act and to carry out its purposes in the manner proposed to be conducted pursuant to this Financing Agreement, the Operation Agreement and the Acquisition Agreement; and

(b) to execute, deliver and to perform and observe all of the terms and provisions of this Financing Agreement, the Operation Agreement and the Acquisition Agreement.

(2) The execution, delivery and performance of this Financing Agreement have been duly authorized by all necessary action on the part of the City.

SECTION 5.2. CONSENT TO ASSIGNMENT. The lien on the Revenues created pursuant to the Act and the Mortgage is made for the benefit of the Authority and the Bondholders (and the Second Resolution Bondholders). The Board hereby consents to the assignment by the Authority to the Trustee for the benefit of the Bondholders (and the Second Resolution Bondholders) of the benefits and rights of the Authority provided by this Financing Agreement, including, without limitation, the lien upon the Revenues created pursuant to the Act and the Mortgage and the pledge and agreement of the State included herein pursuant to Section 1115-s of the Act and set forth in Section 7.1 hereof, to the extent set forth in the Resolution (and the Second Resolution).

SECTION 5.3. INDEMNIFICATION. (A) The City agrees to keep, save and hold harmless the Authority, the Board and their respective members, officers, employees and agents from any and all liability, loss or damage from or in connection with any act done or omitted in the exercise of the powers of the Authority or the Board, as the case may be, which is taken, or omitted, in good faith and in pursuance of the purposes of the Authority or the Board, as the case may be, in accordance with the Act.

(B) The right to indemnification set forth above is expressly subject to satisfaction of the following conditions:

(1) The Board or the Authority, as the case may be, shall promptly forward to the City all summonses or notices pertaining to claims received or served upon the Board or the Authority, as the case may be, and their respective members, officers, employees or agents, together with a written request for indemnification pursuant to this Section;

(2) The Board or the Authority, as the case may be, and their respective members, officers and employees shall cooperate in aiding the City to investigate, adjust, settle or defend each claim, action or proceeding; and

(3) The defense of all claims, actions and proceedings shall be conducted by, or under the supervision of, the City. Unless the City shall determine otherwise, the Corporation Counsel of the City shall be the attorney of record on behalf of the Board or the Authority, as the case may be, in all actions and proceedings for which indemnification is requested by the Board or the Authority.

ARTICLE VI
COVENANTS

SECTION 6.1. RATE COVENANT. (A) The Board hereby covenants and agrees to establish, fix and revise, from time to time, fees, rates, rents or other charges for the use of, or services furnished, rendered or made available by the System adequate, together with any other available funds, to provide for (1) the timely payment of the Principal Installments of and interest on all Bonds and the principal of and interest on any other indebtedness of the Authority payable from Revenues, (2) the proper operation and maintenance of the System, (3) all other payments required for the System not otherwise provided for and (4) all other payments required pursuant to the Financing Agreement and the Operation Agreement.

(B) (1) Without limiting the generality of subsection (A) above and for so long as there are Bonds Outstanding, the Board shall establish and collect rates, fees and charges sufficient in each Fiscal Year so that Revenues collected in such Fiscal Year will be at least equal to the sum of (a) one hundred fifteen percent (115%) of estimated Aggregate Debt Service and Projected Debt Service payable in such Fiscal Year, (b) one hundred percent (100%) of the Operating Expenses and Authority Expenses payable in such Fiscal Year and (c) one hundred percent (100%) of the amount necessary to pay the Required Deposits for such Fiscal Year; provided, however, that any Principal Installment which is a Refundable Principal Installment may be excluded from Aggregate Debt Service for purposes of the foregoing but only to the extent that such Principal Installment is payable from funds specifically held in trust therefor and which were derived from sources other than Revenues; provided, further, that for purposes of calculating the amount of required Revenues for purposes of this Section 6.1(B)(1), the Board shall include amounts deposited in the various Funds created hereunder and under the Resolution which are available for paying the costs outlined in Section 6.1(B)(1)(a) through (c) above and are not set aside as a reserve.

(2) Without limiting the generality of subsection (A) above and for so long as there are Second Resolution Bonds Outstanding, the Board shall establish and collect rates, fees and charges sufficient in each Fiscal Year so that Revenues collected in such Fiscal Year will be at least equal to the sum of (a) one hundred fifteen percent (115%) of estimated "Aggregate Debt Service" (as defined in the Second Resolution) and "Projected Debt Service" (as defined in the Second Resolution) payable in such Fiscal Year, (b) one hundred percent (100%) of the Operating Expenses and Authority Expenses payable in such Fiscal Year and (c) one hundred percent (100%) of the amount necessary to pay the "Required Deposits" (as defined in the Second Resolution) for such Fiscal Year; provided, however, that any Principal Installment which is a Refundable Principal Installment (as defined in the Second Resolution) may be excluded from such "Aggregate Debt Service" for purposes of the foregoing but only to the extent that such Principal Installment is payable from funds specifically held in trust therefor and which were derived from sources other than Revenues; provided, further, that for purposes of calculating the amount of required Revenues for purposes of this Section 6.1(B)(2), the Board shall include amounts deposited in the various Funds created hereunder and under the Second Resolution which are available for paying the costs outlined in Section 6.1(B)(2)(a) through (c) above and are not set aside as a reserve.

(3) A failure to generate Revenues in accordance herewith shall not constitute an "event of default" within the meaning of Article VIII hereof, if the Board takes timely action to correct any such deficit under subsection (C) below.

(C) Except (1) to the extent required by law, and (2) as provided in a certain contract dated December 22, 1927 by and between the City and the Village of Ravenna, the Board will not furnish or supply or cause to be furnished or supplied any product, use or service of the System, free of charge (or at a

nominal charge) to any person, firm or corporation, public or private, and the Board will enforce (or cause the City to enforce) the payment of any and all amounts owing to the Board for use of the System in accordance with Section 6.7 hereof; provided, however, there shall be no charges for any use of the System by the City in pursuance of its governmental functions or for services rendered to the City in connection with such use of the System.

(D) (1) In estimating Aggregate Debt Service for purposes of subsection (B)(1) of this Section 6.1, the Board shall be entitled to assume that Variable Rate Bonds will bear such interest rate or rates as the Authority shall determine: provided, however, that the interest rate or rates assumed shall not be less than the interest rate borne by such Variable Rate Bonds at the time of determination of Aggregate Debt Service.

(2) In estimating "Aggregate Debt Service" (as defined in the Second Resolution) for purposes of subsection (B)(2) of this Section 6.1, the Board shall be entitled to assume that "Variable Rate Bonds" (as defined in the Second Resolution) will bear such interest rate or rates as the Authority shall determine: provided, however, that the interest rate or rates assumed shall not be less than the interest rate borne by such Variable Rate Bonds at the time of determination of such Aggregate Debt Service.

SECTION 6.2. CONSULTING ENGINEER AND RATE CONSULTANT. (A) The Board shall employ a Consulting Engineer and a Rate Consultant whose duties, respectively, shall be to make any certificates and perform any other acts required or permitted of the Consulting Engineer and the Rate Consultant hereunder, under the Operation Agreement or under the Resolution. If so determined by the Board, the same person or firm may perform the duties and functions of the Consulting Engineer and the Rate Consultant.

(B) In every other Fiscal Year, the Consulting Engineer shall make an examination of, and shall report on, the properties and operations of the System. The report of the Consulting Engineer shall be submitted to the Authority, the Board, the City and the Trustee no later than November 1 of each such year and shall set forth the following:

(1) the Consulting Engineer's advice and recommendation as to the proper operation, maintenance and repair of the System during the ensuing two Fiscal Years, and an estimate of the amounts of money necessary for such purposes:

(2) the Consulting Engineer's advice and recommendations as to improvements which should be made during the ensuing five Fiscal Years, and an estimate of the amounts of money necessary for such purposes, showing the amount to be expended during each of such Fiscal Years from the proceeds of Bonds issued under the provisions of the Resolution and the amount recommended to be expended during such Fiscal Year from the amounts held in the Ongoing Project Account; and

(3) the Consulting Engineer's findings whether the System has been maintained in good repair and sound operating condition, and its estimate of the amount, if any, required to be expended to place such properties in such condition and the details of such expenditures and the approximate time required therefor.

(C) In every Fiscal Year, the Rate Consultant shall make an examination of, and shall report on, the properties and operations of the System. Such annual report shall be submitted to the Board and the Authority on each January 15 and shall set forth the projected or actual compliance by the Authority with the rate covenant in Section 6.1(B)(1) or 6.1(B)(2) for the immediately preceding Fiscal Year, and the projected compliance therewith for the current Fiscal Year, and for the next two succeeding Fiscal Years.

(D) In the event of noncompliance in the previous Fiscal Year or prospective noncompliance in the current Fiscal Year, the Board shall issue a corrective measures report to the Authority within 20 days detailing the methods by which and time frame within which it shall cause compliance. In the event such report includes a recommended increase in rates, fees, rents or other charges, the Board covenants to meet within 45 days and formally consider a resolution to increase such rates, fees, rents or other charges in amounts necessary to cause compliance with the rate covenant in Section 6.1(B)(1) or Section 6.1(B)(2) hereof.

(E) The City and the Board covenant that if any such report shall set forth that the properties of the System have not been maintained in good repair and sound operating condition, the City and Board shall take all necessary joint action as will promptly restore the properties to good repair and sound operating condition with all expedition practicable.

(F) The Board and the City further covenant that (1) the Consulting Engineer and the Rate Consultant shall at all times have free access to all properties of the System and every part thereof and the records, maps, diagrams and other drawings thereof for the purposes of inspection and examination, and (2) their books, records and accounts may be examined by the Consulting Engineer and the Rate Consultant at all reasonable times.

SECTION 6.3. OPERATION AND MAINTENANCE. The City and the Board hereby covenant that they shall, at all times:

(A) operate the System properly and in a sound and economical manner and shall maintain, preserve, and keep the same preserved and kept with the appurtenances and every part and parcel thereof, in good repair, working order and condition, and shall from time to time make, or cause to be made, all necessary and proper repairs, so that at all times the operation of the System may be properly and advantageously conducted, regardless of any failure on the part of the Board to make the payments to the City required by Section 6.1 of the Operation Agreement; provided, however, that nothing herein contained shall require the City and the Board to operate, maintain, preserve, repair replace, renew or reconstruct any part of the System if there shall be filed with the Board, the Authority and the Trustee (1) a certificate of an Authorized Representative of the City stating that in the opinion of the City abandonment of operation of such part of the System will not adversely affect the operation of the System or the amount of Revenues derived therefrom and is not prejudicial to the interests of the Board, the Authority or the Bondholders (or the Second Resolution Bondholders) and (2) a Certificate of the Consulting Engineer concurring with such statement;

(B) enforce the rules and regulations governing the operation, use and services of the System established from time to time by the Board or the City;

(C) observe and perform all of the terms and conditions contained in the Act, and comply with all valid acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body having competent jurisdiction of the City, the Board or the System; provided, however, that the failure of the City or the Board to comply with the covenant contained in this subsection (C) for any period shall not constitute a default on its part so long as the City or the Board, as the case may be (1) is taking reasonable and timely steps to permit compliance and (2) the City or the Board, as the case may be, shall have delivered to the Authority and to the Board or the City, as the case may be, a Certificate of the Consulting Engineer which (a) sets forth in reasonable detail the facts and circumstances attendant to such noncompliance, (b) sets forth the steps being taken by the City or the Board, as the case may be, to permit compliance, (c) sets forth the estimated date on which the City or the Board, as the case may be, will be in compliance and (d) states that in the opinion of the Consulting Engineer such noncompliance during the

period described will not adversely affect the operation of the System or the amount of Revenues to be derived therefrom; and

(D) not create or suffer to be created any lien or charge upon the System or any part thereof except for Permitted Encumbrances.

SECTION 6.4. ANNUAL BUDGET. (A) On November 1 of each year (or on such later date as the Authority, the Board and the City may agree) the Authority shall deliver to the Board a certified copy of the Authority Budget for the ensuing Fiscal Year showing the Debt Service and projected Debt Service for all Series of Bonds and all projected Series of Bonds for such Fiscal Year as well as the total amount of interest and principal payable on all other obligations of the Authority issued under the Resolution or the Second Resolution. Within 5 days after passage of the City's budget, the City shall submit to the Board its certification of the amounts of moneys to be paid to the City by the Board in accordance with Section 6.2(A) of the Operation Agreement.

(B) Notwithstanding Section 6.4(A) hereof, the City and Board acknowledge the express general power of the Board under Section 1115-f of the Act respecting the operation and management of the System, which either may be undertaken directly by the Board or may be delegated by contract. Consistent with the power conferred upon the Board under such provision of the Act, the City and Board agree that the contracted delegation to the City of the power to operate and maintain the System pursuant to the Operation Agreement expressly reserves to the Board (1) the right to actively participate, both prior to and subsequent to the certification referred to in Section 6.4(A) hereof, in the preparation, development and formulation of budgetary planning relating to the payments to be made to the City by the Board pursuant to Article VI of the Operation Agreement, such participation to include, but not necessarily be limited to, representation by an Authorized Representative of the Board at budget hearings or conferences relating to the System and the submission of advice and recommendations by the Board to appropriate officers and employees of the City regarding any matter concerning the System including, particularly with respect to the provisions of this section, advice and recommendations regarding payments to be made to the City under Article VI of the Operation Agreement and (2) if the Board believes it to be in the best interests of the Board for the Board to directly operate the System, then the Board may terminate its delegation to the City of the power to operate and maintain the System, provided that (a) the Board shall furnish to the Authority, the City and the Trustee six months notice of its proposed termination, accompanied by a certificate of the Consulting Engineer to the effect that the Board's operation and maintenance of the System will not have an adverse effect on the System, and (b) the Authority and the City shall consent to such termination; provided, however, that the consent of the City to such termination shall not be required if, in the opinion of the Consulting Engineer, the City is not operating and maintaining the System in accordance with the Operation Agreement or is otherwise not in compliance with any material provisions of the Operation Agreement. If the Board shall so terminate its delegation to the City of the power to operate and maintain the System, then the Board, the City and the Authority may, in accordance with the provisions of the Act, enter into an amendment to this Financing Agreement solely for the purpose of allowing the Board to so directly operate the System, and to make conforming changes to the Financing Agreement to reflect such operation of the System by the Board.

(C) Based upon the information contained in (1) the Authority Budget, (2) the City's certification pursuant to Section 6.2(A) of the Operation Agreement, (3) the certificate delivered to the Board pursuant to Section 6.2(B) of the Operation Agreement and (4) the report of the Consulting Engineer described in Section 6.2 hereof (collectively, the "Budget Documents"), the Board in consultation with the City shall prepare the Annual Budget for the ensuing Fiscal Year. In addition to the information contained in the Budget Documents, the Board shall also make provision in the Annual Budget (a) for Board Expenses for the ensuing Fiscal Year, (b) for the amount, if any, required to be deposited in the Operation and Maintenance Reserve Account in accordance with Section 4.4 hereof and (c) after consultation with the

Consulting Engineer, for the amount to be deposited in the Ongoing Project Fund. Thereafter, but in no event later than fifteen (15) days after the date of passage of the City's budget, the Board shall adopt such Annual Budget.

(D) Promptly after adoption of the Annual Budget, and in no event later than December 31 (or such other date as the Authority, the Board and the City may agree) of each year, the Board shall establish the rates, fees and charges for the use of the System for the ensuing Fiscal Year. The Board may from time to time, either before or after commencement of the Fiscal Year to which it relates, amend the Annual Budget, but (except for its own expenses) only in accordance with and after receipt of amended Budget Documents. If, as of the first day of any Fiscal Year an Annual Budget has not been adopted, the Annual Budget for the immediately preceding Fiscal Year shall be the Annual Budget for such Fiscal Year until a new Annual Budget is adopted. The Annual Budget for Fiscal Years 1987 and 1988 adopted by the Board by resolution on or prior to the date of adoption of the Resolution shall be deemed to satisfy all the procedural requirements of this Section 6.4.

SECTION 6.5. COMPLIANCE WITH AGREEMENTS; TAX EXEMPTION. (A) The City and the Board each hereby covenant with the Authority that each of them shall take all such actions or refrain from taking all such actions, as the case may be, so as to comply with the terms and provisions of the Acquisition Agreement, the Mortgage, the Operation Agreement and this Financing Agreement.

(B) The Authority hereby covenants with each of the City and the Board that it shall take all such actions or refrain from taking all such actions, as the case may be, so as to comply with the terms and provisions of the Resolution, the Second Resolution and this Financing Agreement.

(C) The Authority further agrees that it will take no action to amend or supplement the Resolution in any way which would adversely affect the interest of the City or the Board without the prior written consent to such amendment or supplement by those parties thereby affected.

(D) The Authority, the City and the Board each hereby covenant one with the other that, so long as any Bonds (or any Second Resolution Bonds) shall be Outstanding, each will (1) not take any action, or fail to take any action, which, if taken or not taken, as the case may be, would adversely affect the tax-exempt status of the interest payable on the Bonds (or any Second Resolution Bonds) then Outstanding and (2) consent to any amendments to the Financing Agreement, the Operation Agreement, the Resolution and the Second Resolution required, in the opinion of Bond Counsel, to maintain such tax exemption. Such amendments may be made without the consent of Bondholders (including Second Resolution Bondholders).

SECTION 6.6. COMPLIANCE WITH RESOLUTION. The Board and the City shall take all such actions and refrain from taking all such actions, as the case may be, and otherwise shall operate the System as shall ensure their compliance. and the compliance of the Authority, with the terms and provisions of the Resolution and the Second Resolution, or any other agreement approved by the Board and the City entered into by the Authority in connection with the undertaking or financing of a Project and which shall, by its terms, directly or indirectly apply to the Board or the City. In the event of any conflict between the Resolution and the Second Resolution while any Bonds are Outstanding, the Resolution shall control.

SECTION 6.7. ENFORCEMENT OF RULES AND REGULATIONS. In accordance with Section 1115-h(2)(viii) of the Act, the Board and the City shall enforce the rules and regulations providing for discontinuance of or disconnection from the supply of water or the provision of sewer service, or both, as the case may be, for nonpayment of fees, rates, rents or other charges imposed by the Board, provided that such discontinuance or disconnection shall not be carried out except in the manner and upon the

notice as is required of a waterworks corporation pursuant to Sections 89(b)(3)(a)-(c) and 116 of the Public Service Law of the State.

SECTION 6.8. GOVERNMENTAL APPROVALS. Pursuant to Section 1115-d of the Act, the City represents to the Board and the Authority that, with respect to the Projects listed on or subsequently added to Appendix A, the State Department of Health and the State Department of Environmental Conservation have completed (or, with respect to Projects to be added to such Appendix A, will have completed) all statutory reviews and approvals with respect to such Projects required to be completed prior to the date of this Financing Agreement (or such amendment of Appendix A, as the case may be).

SECTION 6.9. COVENANT OF CITY AS TO RATES AND CHARGES. The City covenants that, upon the issuance of the Bonds by the Authority, the City will not thereafter levy user fees, rents and other charges with respect to the System until all Bonds (and all Second Resolution Bonds) are paid or are no longer Outstanding pursuant to the terms of the Resolution (or the Second Resolution, as the case may be); provided, however, that nothing herein contained shall be construed so as to prevent the City from levying ad valorem taxes or assessments for the purpose of paying the costs and expenses of the System or to pay the principal of and interest on general obligation bonds of the City heretofore or hereafter issued to finance the System or any part thereof.

SECTION 6.10. CONSENT OF MAYOR AND BOARD. Upon the consent of the Mayor and the Board, the Authority may issue Bonds for the purpose of refunding outstanding general obligation bonds of the City issued for water or sewer capital purposes.

SECTION 6.11. BOOKS, RECORDS AND ACCOUNTS. (A) If the Authority so requests pursuant to Section 1115-h(2)(ix) of the Act, the Board shall provide to the Authority such reports concerning Projects as may be required by the Authority.

(B) Each of the Authority and the Board shall keep, or cause to be kept, proper books of record and account in which complete and correct entries shall be made of all transactions relating to their corporate purposes under the Act. In accordance with Section 1115-y of the Act, the Authority and the Board shall each annually submit to the Governor of the State, the State Comptroller and the State Legislature a detailed report concerning their activities for the Fiscal Year which shall comply with the provisions of Section 2500 of Title 1 of Article 9 of the Public Authorities Law of the State, which report shall set forth: (1) their respective operations and accomplishments; (2) their respective receipts and disbursements, or revenues and expenses, during such Fiscal Year in accordance with the categories or classifications established by them for their own operating and capital outlay purposes; (3) their respective assets and liabilities of the end of their respective Fiscal Year including the status of reserve, depreciation, special or other funds and including the receipts and payments of these funds; and (4) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year. A copy of such report shall be delivered to the Mayor and the Comptroller of the City.

SECTION 6.12. LIENS. Until the Bonds (or any other bonds, notes or other evidences of indebtedness issued by the Authority for its purposes under the Act, including Second Resolution Bonds) have been paid in full or provision has been made therefor in accordance with the Resolution (or such other resolution, trust indenture or similar document, including the Second Resolution), the Board shall not create, and, to the extent it has the power to do so, shall not permit to be created, any lien upon or pledge of the Revenues except the lien and the pledge thereon created by the Act, the Resolution, the Second Resolution and the Mortgage.

SECTION 6.13. SECURITY INTERESTS. (A) Except to the extent provided by the Act, neither the

Board nor the Authority may grant any Bondholder (or any Second Resolution Bondholder) any security interest in any of the assets or Properties of the Board (other than the Property and Revenues which have been mortgaged and pledged pursuant to the terms hereof, of the Resolution and of the Mortgage).

(B) Notwithstanding the foregoing, in the event the Board is required to grant a lien on the System in favor of the Trustee to obtain or maintain a credit rating on the Bonds (or any other obligations of the Authority, including Bonds and obligations issued under the Second Resolution), it is hereby authorized to do so in accordance with the terms of the Mortgage. The creation of such lien shall not be considered a violation or an event of default hereunder.

SECTION 6.14. COMPLIANCE WITH LAW. The Authority and the Board hereby covenant and agree, each for itself, that it will observe and perform all of the terms and conditions contained in the Act, and comply with all valid laws, acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body having competent jurisdiction over its property or affairs.

SECTION 6.15. FURTHER ASSURANCES. To the extent permitted by law, the Board from time to time shall make, do, execute, adopt, acknowledge and deliver and take all and every such further acts, deeds, conveyances: assignments, resolutions, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning, confirming and effecting the rights assigned and the Revenues pledged.

ARTICLE VII
AGREEMENT OF THE STATE

SECTION 7.1. AGREEMENT OF THE STATE. Pursuant to Section 1115-s of the Act, the State has pledged and agreed that it will not alter or limit the rights vested by the Act in the Authority or the Board to fulfill the terms of any agreement made with or for the benefit of the Bondholders, or in any way impair the rights and remedies of Bondholders, until the Bonds, together with the interest thereon, with interest on any unpaid installment of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The Authority, the Board and the City for the purpose of effectuating such pledge of the State do hereby certify that this Financing Agreement, the Resolution, the Second Resolution, the Mortgage and the Acquisition Agreement are all intended to be for the benefit of, first, the Bondholders and, second, the Second Resolution Bondholders.

ARTICLE VIII
EVENTS OF DEFAULT AND REMEDIES

SECTION 8.1. EVENTS OF DEFAULT. An “event of default” or a “default” shall mean, whenever they are used in this Financing Agreement, any one or more of the following events:

(A) failure by the Board to make the payments required to be made to the Authority pursuant to Section 4.2 of this Financing Agreement;

(B) failure of the City or the Board to observe any covenant, term or condition of this Financing Agreement, other than as referred to in clause (A) of this Section, provided; however, that such failure shall have continued for a period of sixty (60) days after written notice, specifying such failure and requesting that it be remedied, is given to the City or the Board, or both, as the case may be, by the Authority, unless the Authority shall agree in writing to an extension of such time prior to its expiration, and provided further, that if the failure stated in the notice cannot be remedied within the applicable period, the Authority shall not unreasonably withhold its consent to an extension of such time if corrective action has been instituted by the City or the Board, as the case may be, within such period and is being diligently pursued;

(C) the Authority shall file a petition or otherwise seek relief under any federal or State bankruptcy or similar law; or

(D) the respective provisions of the Act pursuant to which the Resolution and the Second Resolution have been adopted or the Bonds (and the Second Resolution Bonds) have been issued, including, without limitation, those provisions pursuant to which the lien upon the Revenues of the Board has been created pursuant to this Financing Agreement, the Resolution and the Second Resolution and those provisions establishing the powers and obligations of the Board and the relationship of the Authority to the Board and the City as contemplated by the Act, shall be materially and adversely limited, altered or impaired by any legislative action or any final judgment or the terms, conditions and security provided under this Financing Agreement and the Resolution or the Second Resolution shall be materially and adversely limited, altered or impaired by any legislative action or any final judgment.

SECTION 8.2. REMEDIES. (A) Whenever any event of default shall have occurred and be continuing, and written notice of the default, if required, shall have been given to the City and the Board by the Authority or by the Trustee and the default shall not have been cured within any curative period provided therefor, the Authority and the Trustee may take whatever action at law or in equity may appear necessary or desirable to collect the payments then due and as they thereafter become due, end the Authority and the Trustee, so long as any Bonds (or any Second Resolution Bonds) are outstanding, may take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligation, agreement or covenant of the City or the Board under this Financing Agreement.

(B) In addition, if there is any default by the Board in the making of payments to the Trustee for the benefit of the Authority required under this Financing Agreement, as a result of the failure by the Board to impose sufficient fees, rates, rents or other charges, the Authority may, pursuant to subsection 8 of Section 1115-i of the Act, petition for the appointment by any court having jurisdiction in any proper action of a receiver to administer on behalf of the Board, under the direction of said court, the affairs of the Board in order to achieve Revenues at least sufficient to make such payments, and by and with the approval of said court, to establish, fix and revise, from time to time, fees, rates, rents or other charges at least sufficient therefor.

SECTION 8.3. REMEDIES NOT EXCLUSIVE. (A) The remedies conferred upon or reserved to the Authority in respect of any event of default are not intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Financing Agreement or now or hereafter existing at law or in equity or by statute.

(B) No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be expressly required herein.

ARTICLE IX
TERMINATION

SECTION 9.1. TERMINATION. This Financing Agreement shall terminate, and the covenants and other obligations contained herein shall be discharged and satisfied, when (1) payment of all indebtedness of the Authority has been made or provided for in accordance with the Resolution (or such other resolution, trust indenture or similar document securing such indebtedness, including the Second Resolution) and (2) either all payments required hereunder have been made in full, or provision for such payments satisfactory to the Authority has been made or the City pays or assumes all liabilities, obligations, duties, rights and powers of the Authority hereunder.

ARTICLE X
AMENDMENTS TO THE FINANCING AGREEMENT, THE OPERATION
AGREEMENT, THE MORTGAGE AND THE ACQUISITION AGREEMENT

SECTION 10.1. AMENDMENTS TO FINANCING AGREEMENT; CONSENTS. (A) No amendment hereto shall be effective unless it is in writing, signed by each of the parties hereto and, except for an amendment to Appendix A, consented to in writing by the Trustee.

(B) Except as hereinafter expressly provided, the parties hereto may enter into any amendment, change or modification of this Financing Agreement, including without limitation amendments to Appendix A (the list of approved Projects) and amendments pursuant to Section 6.4(B) hereof (relating to operation of the System directly by the Board); provided, however, the parties hereto shall not enter into, or consent to, any amendment, change or modification of the provisions of this Financing Agreement, without first obtaining the consent of the Bondholders (or, if there are no Bonds Outstanding, the Second Resolution Bondholders) in accordance with Section 803 and Article IX of the Resolution (or, if there are no Bonds Outstanding, Article IX of the Second Resolution), if such amendment, modification or change would materially adversely affect the rights of the Bondholders (or, if there are no Bonds Outstanding, the Second Resolution Bondholders) by modifying or revoking the provisions of this Financing Agreement with respect to: (1) the grant of Revenues to the Authority; (2) the application of the proceeds of Bonds (or, if there are no Bonds Outstanding, Second Resolution Bonds) to pay the Costs of Projects; (3) the deposit or application of the Revenues in the Local Water Fund; (4) the representations and warranties of the Board; (5) the consent to assignment by the Authority; (6) the covenants relating to the establishment and collection of rates and charges, appointment of the Consulting Engineer and the Rate Consultant, operation and maintenance, adoption of the Annual Budget, compliance with law, the Financing Agreement, the Acquisition Agreement and the Resolution, enforcement of rules and regulations, the obtaining of governmental approvals, maintenance of books, records and accounts, the creation of liens on or security interests in the Revenues or the System and further assurances; (7) the agreement of the State; (8) events of default and remedies; (9) termination; (10) the controlling effect of the Resolution (or, if there are no Bonds Outstanding, Article IX of the Second Resolution and the Bonds (or, if there are no Bonds Outstanding, Second Resolution Bonds)); (11) severability of invalid provisions; or (12) governing law.

SECTION 10.2. AMENDMENTS TO ACQUISITION AGREEMENT, THE OPERATION AGREEMENT AND THE MORTGAGE; CONSENTS. (A) The Board and the City hereby further covenant and agree that neither will enter into nor consent to any amendment, change or modification of the Acquisition Agreement or Operation Agreement (other than amendments pursuant to Section 6.4(B) hereof relating to operation of the System directly by the Board), without first obtaining the consent of the Bondholders (or, if there are no Bonds Outstanding, the Second Resolution Bondholders) in accordance with Section 803 and Article IX of the Resolution (or, if there are no Bonds Outstanding, Article IX of the Second Resolution), if such amendment, modification or change (other than amendments pursuant to Section 6.4(B) relating to operation of the System directly by the Board) would materially adversely affect the rights of the Bondholders (or, if there are no Bonds Outstanding, the Second Resolution Bondholders) by modifying or revoking the provisions of the Acquisition Agreement or the Operation Agreement with respect to: (1) the term of the Operation Agreement; (2) the right of the Board to restrict entry to or use of the System; (3) the payments by the Board to the City relating to operation and maintenance of the System and construction of improvements thereto; (4) the right of the Board to the Revenues; (5) the obligation of the City to indemnify the Board; (6) the obligation of the City and the Board to operate and maintain the System; (7) the agreements of the City and the Board as to care of the

System; (8) compliance with applicable law, rules and regulations as to the use of the System; (9) billing and collection of rates and charges; (10) covenants as to the disposition of real and personal property constituting a portion of the System, encumbrances and further assurances; (11) termination; or (12) severability of Invalid provisions; provided, however, that the foregoing shall not in any way restrict the Board's authority to terminate, in accordance with Section 6.4(B) hereof, its delegation to the City of its power to operate and maintain the System.

(B) The City, the Board and the Authority hereby agree to make amendments to this Financing Agreement, the Operation Agreement, the Mortgage, and the Acquisition Agreement which is required by either Rating Agency to obtain or maintain a rating on the Bonds (or any Second Resolution Bonds). Notwithstanding anything herein to the contrary, the consent of the Trustee or the Bondholders (or any Second Resolution Bondholders) shall not be required for any such amendment.

SECTION 10.3. CONSENT OF TRUSTEE. In consenting to any amendment referred to in Section 10.1 and 10.2 hereof, the Trustee shall be fully protected in relying on an opinion of Bond Counsel, satisfactory to the Trustee, that such amendment is authorized or permitted by the terms of this Financing Agreement.

ARTICLE XI
MISCELLANEOUS

SECTION 11.1. CONFLICTS. The provisions of this Financing Agreement are in no way intended to, nor shall such provisions, change or in any manner alter the terms of the Resolution or the Second Resolution, or adversely affect the security, rights or remedies of the Trustee or the Bondholders (or the Second Resolution Bondholders). In the event any provision of this Financing Agreement conflicts at any time, or in any manner, with the provisions of the Resolution or the Second Resolution or any Bond (or any Second Resolution Bonds), the provisions of the Resolution or the Second Resolution or Bond (or Second Resolution Bond) shall be controlling and conflicting provisions of this Financing Agreement shall be disregarded. In the event of any conflict between the Resolution and the Second Resolution, the Resolution shall be controlling so long as any Bonds are Outstanding.

SECTION 11.2. ASSIGNMENT. The Authority has, pursuant to the Resolution, pledged and assigned to the Trustee certain of its rights and interests in and to this Financing Agreement including, without limitation, its rights and interests in and to all amounts payable to the Authority hereunder as security for the payment of the principal of, premium, if any, and interest on, first, the Bonds and, second, the Second Resolution Bonds. The Board and the City hereby consent to such pledge and assignment and to the enforcement of such rights and interests by the Trustee.

SECTION 11.3. NO WAIVER. No failure to exercise, and no delay in exercising by the parties hereto, any right, power or privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof, or the exercise of any right, power or privilege. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

SECTION 11.4. NOTICES. [STILL GOOD?] All notices, requests and other communications under this Financing Agreement shall be deemed to have been duly given if in writing and delivered personally or by certified mail (A) to the City at the office of the Corporation Counsel, City Hall, Albany, New York 12207, Attention: Corporation Counsel; (B) to the Board at [City Hall, Albany, New York 12207], Attention: Chairperson; and (C) to the Authority at City Hall, Albany, New York 12207, Attention: Chairperson, or such other address as the City, the Board and the Authority, as the case may be, shall hereafter designate by notice in writing.

SECTION 11.5. SEVERABILITY. In the event that any one or more of the provisions contained in this Financing Agreement is or are invalid, irregular or unenforceable in any respect, the validity, regularity and enforceability of the remaining provisions contained in this Financing Agreement shall be in no way effected, prejudiced or disturbed hereby.

SECTION 11.6. HEADINGS. The descriptive headings of the several Articles and Sections of this Financing Agreement are inserted in this Financing Agreement for convenience only and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

SECTION 11.7. GOVERNING LAW. This Financing Agreement shall be governed by, and construed in accordance with, the Constitution and laws of the State.

SECTION 11.8. PAYMENTS ON SATURDAYS, SUNDAYS AND HOLIDAYS. In any case where the date of any payment required to be made under this Financing Agreement shall be a Saturday or a Sunday or shall be, at the place designated for such payment a legal holiday or a day on which banking

institutions in the City of Albany are authorized by law to close, then such payment shall not be made on such date but shall be made on the next preceding business day not a Saturday, Sunday or a legal holiday or a day upon which banking institutions in the City of Albany are authorized by law to close.

SECTION 11.9. COUNTERPARTS. This Financing Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 11.10. DATE OF FINANCING AGREEMENT. The date of this Financing Agreement shall be for identification purposes only. This Financing Agreement shall become effective upon the delivery of the initial issue of bonds, notes or other obligations of the Authority to the original purchasers thereof.

IN WITNESS WHEREOF, the City has caused this Financing Agreement to be executed in its name by the Mayor of the City, the Authority has caused this Financing Agreement to be executed in its name by its Chairman and the Board has caused this Financing Agreement to be executed in its name by its Chairman, all as of the date first above written.

APPROVED AS TO FORM:

THE CITY OF ALBANY

Gary F. Stiglmeier
Corporation Counsel of
the City of Albany

By:
Mayor

ALBANY MUNICIPAL WATER
FINANCE AUTHORITY

By:
Chairman

ALBANY WATER BOARD

By:
Chairman

ALBANY WATER BOARD
ALBANY MUNICIPAL WATER FINANCE AUTHORITY

APPENDIX A

ANTICIPATED USE OF BOND PROCEEDS
ALBANY WATER BOARD
ALBANY MUNICIPAL WATER FINANCE AUTHORITY

WATER SYSTEM
SCHEDULE OF UNEXPENDED BOND FUNDS FOR CAPITAL PROJECTS

APPENDIX A-1
ALBANY WATER BOARD
ALBANY MUNICIPAL WATER FINANCE AUTHORITY

WASTEWATER SYSTEM
SCHEDULE OF UNEXPENDED BOND FUNDS FOR CAPITAL PROJECTS

APPENDIX A-2
ALBANY WATER BOARD
ALBANY MUNICIPAL WATER FINANCE AUTHORITY

SCHEDULE OF FUTURE CAPITAL PROJECTS

APPENDIX A-3
ALBANY WATER BOARD
ALBANY MUNICIPAL WATER FINANCE AUTHORITY

WATER AND SEWER SYSTEM
REPAIRS AND IMPROVEMENTS (1993-1995)

APPENDIX A-4

WATER SYSTEM ANTICIPATED CAPITAL EXPENDITURES:

Feura Bush Filtration Plant

Improvements to the filter operation control systems

Expansion of the centralized system control computer

Improvements to age-deteriorated structures

Studies of and improvements to the corrosion control system

Pine Bush Area

Improvements to the Pine Bush Pumping Station and immediate service area to facilitate expanded services to the Town of Guilderland

Distribution System

Corrections of operational problems in the distribution system, including the following: New Main -- South Lark Street; New Main -- ROW Crossing; Replace Main -Wellington Avenue; Replace Main -- Sheridan Avenue; Replace Main -- Elliot Avenue

Upgrades to older, smaller diameter piping and aging valves and in-ground vaults

Loudonville Reservoirs

Rehabilitation of the concrete basins that serve as balancing reservoirs on the distribution system

Repairs to age and weather-exposure damage to concrete linings, walls, etc.

Supply Reservoirs

Support of -much-needed sanitary condition inspection of the raw water supply watershed area, which will most likely result in necessary improvements

Structure replacements and the reconditioning of aged facilities

Erie Boulevard Facility

Study of and improvements to existing headquarters facilities of the Department of Water and Water Supply

Supply Conduit

Improvements to the condition of the supply conduit appurtenances

Repair of deteriorated conditions at valve and access locations along the entire route of the conduit, from the Alcove Reservoir to the Loudonville Reservoirs

SEWER SYSTEM ANTICIPATED CAPITAL EXPENDITURES:

Pumping Stations

Remedy of the continuing deterioration of the aging pumping stations in this system

Continued miscellaneous repairs to electrical and mechanical systems throughout the program period

Sewer Separation

Separation of combined sewers

Construction of sanitary sewers and storm sewers to reduce the potential of property damages caused by occasional flooding and to meet regulatory standards

Projects include: Beaver Creek /Washington Park lake and Erie Boulevard

Sewer Rehabilitation

Reconstruction, recondition or replacement as necessary of severely deteriorated sanitary sewer piping

Sewer Equipment (Rolling Stock)

Purchase of three service trucks and a truck-mounted sewer jet cleaning machine

APPENDIX A

PROJECTS TO BE FINANCED WITH PROCEED OF
\$12,498,540.25
ALBANY MUNICIPAL WATER FINANCE AUTHORITY
WATER AND SEWER SYSTEM REVENUE BONDS,
SERIES 2000A

A. Radio Read Water Meter Acquisition and Installation

Acquisition and installation of new high-tech radio read water meters designed to increase efficiency, eliminate meter reading errors, increase revenues and improve customer satisfaction.

B. Feura Bush Filtration Plant Upgrades

Upgrades in Feura Bush filtration plant for enhanced surface water treatment and reduced levels of disinfection by-products in response to new Federal regulations which take effect in 2001.

C. Loudonville Reservoir Upgrades

Upgrades in facilities at Loudonville Reservoir involving installation of recirculative treatment equipment and ultraviolet disinfection in response to new Federal guidelines.

Authorized by:

Resolution of the Albany Municipal Water Finance Authority adopted December 8, 1999.

Resolution of the Albany Water Board adopted November 15, 1999.

Resolution of the Common Council of the City of Albany adopted November 15, 1999.

Council Members Sano and O'Brien offered the following, which was referred to the General Services Committee:

RESOLUTION NUMBER 67.61.03R

RESOLUTION CALLING ON THE STATE LEGISLATURE TO CREATE A TEMPORARY TASK FORCE ON THE MAINTENANCE OF STATE HIGHWAYS

WHEREAS, the State of New York operates under a confusing and unfair system for the maintenance of state highways passing through cities, towns, and villages, and

WHEREAS, the statutory guidelines for the maintenance of state highways were developed in the 1940's when traffic and resources were concentrated in the cities and state highways in towns and villages were mainly farm roads. Sixty years later this statutory scheme no longer makes sense as resources are no longer concentrated in cities and traffic on state highways passing through suburbs is as heavy as it is in the cities, and

WHEREAS, the City of Albany maintains Central Avenue (NYS Rt. 5), Henry Johnson Boulevard (NYS Rt. 9), Van Rensselaer Boulevard (NYS Rt. 377), Western Avenue (NYS Rt. 20), Pearl Street/Broadway (NYS Rt. 32), Delaware Avenue (NYS Rt. 443), New Scotland Avenue (NYS Rt. 85), and Southern Boulevard (NYS Rt. 9W). The adjacent towns and villages do not have to maintain these roads as the State assumes full responsibility for these highways once they cross the City line, and

WHEREAS, this creates a double standard with transportation funding as cities must seek funding to maintain state highways and city streets while towns and villages only need to seek state funding for the maintenance of town and village streets.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany requests that the State Legislature create a temporary joint task force to review the inequities of the current statutory scheme and to develop modern standards for the maintenance of the state highway system which is uniform and equitable throughout the State.

BE IT FURTHER RESOLVED, that the Common Council of Albany requests that the Clerk of this Council forward copies of this resolution to Governor George Pataki, Senate Majority Leader Joseph Bruno, Assembly Speaker Sheldon Silver, Senator Neil D. Breslin, Assemblyman John McEneny and to city mayors across the State.

Council Member Curry-Cobb offered the following, which was approved:

RESOLUTION NUMBER 68.61.03R

RESOLUTION MEMORIALIZING CONGRESS TO RESTORE FUNDING FOR PUBLIC HOUSING AUTHORITIES.

WHEREAS, over \$76 million dollars of funding for housing programs statewide has been eliminated for fiscal year 2004, and

WHEREAS, public housing authorities provide housing to low income senior citizens, working parents and thousands of children and over 10,000 families in the Capital Region will be affected by these cuts, and

WHEREAS, these cuts, which could easily balloon to \$10 million dollars this year affect families in subsidized private housing through HUD, federal section 8 programs, and through loss of security, youth programs, and routine maintenance, and

WHEREAS, HUD has cut the 2003 operating budgets of local housing authorities by 10 to 30% to cover accounting errors. With rising liability and health insurance costs along with rising retirement system costs, local housing authorities should not bear the burden of HUD's accounting mistakes, and

WHEREAS, funding for the Public Housing Drug Elimination Program has been eliminated. This program had reduced crime dramatically in all of the public housing properties where it existed, and

WHEREAS, funding for the HOPE VI programs are to be eliminated, and

WHEREAS, Section 8 has been in existence for over 30 years and has provided affordable housing to millions of families. Block granting the Section 8 programs to the states will undermine the nation's housing authorities.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany urges Congress to restore funding to public housing authorities to continue decent, safe and affordable housing for low income seniors and working families.

BE IT FURTHER RESOLVED, that the Common Council of Albany requests that the Clerk of this Council forward copies of this resolution to Senator Hillary Clinton, Senator Charles Schumer, and Representative Michael McNulty and to the President of the United States.

Resolution Number 68.61.03R was Co-Sponsored by Council Members Brown, Calsolaro, Casey, Conti, Fox, O'Brien, Sano, and Scalzo.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative – Brown, Calsolaro, Casey, Conti, Curry-Cobb, Fox, Herring, Igoe, Morris, O'Brien, Sano, Scalzo, and Torncello.

Affirmative 13 Negative 0 Abstain 0

President Pro-Tempore Brown asked for and received Majority Consent to add to the Agenda and Council Member Igoe offered the following, which was approved:

RESOLUTION NUMBER 69.61.03R (MC)

RESOLUTION OF THE COMMON COUNCIL URGING THE ALBANY COUNTY LEGISLATURE TO ENACT A HOME RULE MESSAGE TO THE NEW YORK STATE LEGISLATURE REQUESTING THE ENACTMENT OF SENATE BILL NO. 5205/ ASSEMBLY BILL NO. 8644 ENTITLED: “AN ACT TO AMEND CHAPTER 693 OF THE LAWS OF 1980, ENABLING THE COUNTY OF ALBANY TO IMPOSE AND COLLECT TAXES ON OCCUPANCY OF HOTEL OR MOTEL ROOMS IN ALBANY COUNTY, IN RELATION TO THE FUNDING FOR THE ALBANY CONVENTION CENTER AND HOTEL COMPLEX; AND PROVIDING FOR THE REPEAL OF SUCH PROVISIONS UPON EXPIRATION THEREOF.”

WHEREAS, the above entitled legislation has been introduced before both branches of the legislature and referred to respective committees for review, and

WHEREAS, the City of Albany, County of Albany and the Capital District will all benefit from the location of a convention center and hotel complex in the City of Albany, through the creation of new jobs in the construction, entertainment and hotel industries, other related employment opportunities and from the increased revenue and development that would result from such an endeavor, and

WHEREAS, the “Albany convention center and hotel project fund” described in the aforesaid bills will facilitate the realization of these goals and opportunities, and

WHEREAS, the Common Council of the City of Albany fully supports the adoption of these bills,

NOW, THEREFORE BE IT RESOLVED, that the Common Council endorses and supports the passage of Senate Bill No. 5205 and Assembly Bill No. 8644 and urges the Albany County Legislature to enact a Home Rule Message to the New York State Legislature requesting the enactment thereof, and

BE IT FURTHER RESOLVED, that certified copies of this resolution be forwarded to Assembly Speaker Sheldon Silver, Senate Majority Leader Joseph Bruno, to the bill sponsors; Ronald Canestrari, John McEneny and Neil Breslin, Albany County Executive Michael Breslin, Chairman of the Albany County Legislature Charles E. Houghtaling, Jr. and Majority Leader Frank Commisso.

Resolution Number 69.61.03R was Co-Sponsored by Council Members Brown, Calsolaro, Casey, Conti, Curry-Cobb, Fox, Herring, O’Brien, Sano, Scalzo, and Torncello.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative – Brown, Calsolaro, Casey, Conti, Curry-Cobb, Fox, Herring, Igoe, Morris, O’Brien, Sano, Scalzo, and Torncello.

Affirmative 13 Negative 0 Abstain 0

Council Member Conti offered the following, which was approved:

RESOLUTION NUMBER 61.52.03R

RESOLUTION OF THE COMMON COUNCIL SUPPORTING THE ADOPTION OF A.5796, AN ACT TO AMEND THE PUBLIC HEALTH LAW IN RELATION TO MEDICAL USE OF MARIJUANA

WHEREAS, New Yorkers suffering from AIDS, glaucoma, cancer, multiple sclerosis, epilepsy, chronic pain, and other illnesses have long sought the right to use marijuana to treat their symptoms; and

WHEREAS, The National Academy of Sciences' Institute of Medicine has determined that "the accumulated data indicate a potential therapeutic value for cannabinoid drugs, particularly for symptoms such as pain relief, control of nausea and vomiting, and appetite stimulation . . . For patients, such as those with AIDS or undergoing chemotherapy, who suffer simultaneously from severe pain, nausea, and appetite loss, cannabinoid drugs might thus offer broad spectrum relief not found in any other single medication."; and

WHEREAS, *The New England Journal of Medicine* has stated that prohibiting "physicians from alleviating suffering by prescribing marijuana for seriously ill patients is misguided, heavy-handed, and inhumane"; and

WHEREAS, the New York State Nurses Association has endorsed the therapeutic use of marijuana, noting that "concerns about the safety of marijuana are...misplaced, because the drug is remarkably non-toxic. Overdosing on marijuana in its natural state is virtually impossible"; and

WHEREAS, the New York State Nurses Association has also argued that prohibiting the use of medical marijuana, "has led many desperate patients and their families to break the law to obtain marijuana when prescribed medications proved ineffective or too toxic. This not only puts patients at risk for criminal charges, it makes them vulnerable to contaminated drugs because there is no quality control in the contraband market."; and

WHEREAS, a Zogby public opinion poll conducted in January 2003 found that 66% of New Yorkers support a policy that would allow people with serious illnesses to use marijuana for medical purposes with physician approval; and

WHEREAS, legal advocates for medicinal marijuana report that federal law does not hinder a state's right to pass laws allowing patients to grow, possess, and use medical marijuana; and

WHEREAS, eight states currently have effective medical marijuana laws and fourteen (14) states, including New York, currently allow for therapeutic research programs; and

WHEREAS, in enacting New York's Antonio G. Olivieri Controlled Substances Therapeutic Research Program in 1980, the New York State Legislature found that "the use of marijuana may alleviate the nausea and ill-effects of cancer chemotherapy, may alleviate the ill-effects of glaucoma and may have other therapeutic uses"; and

WHEREAS, on February 28, 2003, Assembly Member Richard Gottfried, Chair of the State Assembly's Health Committee, introduced A.5796, a comprehensive medical marijuana bill which would legalize the possession, manufacture, sale, administration, delivery, dispensing and distribution of marijuana in connection with medical use thereof for certified patients; now, therefore, be it

NOW, THEREFORE, BE IT RESOLVED, that the Albany Common Council calls upon the New York State Legislature to adopt A.5796 which would legalize the possession, manufacture, sale, administration, delivery, dispensing and distribution of marijuana in connection with medical use for certified patients.

Resolution Number 61.52.03R was Co-Sponsored by Council Members Sano and Scalzo.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative – Calsolaro, Casey, Conti, Herring, Morris, Sano, Scalzo and Torncello.

Negative – Brown, Curry-Cobb, Fox, Igoe, and O’Brien.

Affirmative 8 Negative 5 Abstain 0

RESOLUTIONS HELD

BROWN

RESOLUTION 32.32.03R

RESOLUTION SUPPORTING AFFIRMATIVE ACTION AND CALLING UPON PRESIDENT GEORGE W. BUSH TO RECONSIDER HIS VIEWS ON THIS IMPORTANT NATIONAL POLICY.

2. CALSOLARO

RESOLUTION 25.41.02R*

RESOLUTION OF THE COMMON COUNCIL AMENDING THE RULES OF PROCEDURE IN RELATION TO THE FISCAL IMPACT STATEMENT.

***Referred to the Budget and Finance Committee.**

3. CALSOLARO

RESOLUTION 88.122.02R

RESOLUTION CALLING FOR THE CREATION OF A GUN VIOLENCE TASK FORCE IN THE CITY OF ALBANY.

4. CALSOLARO

RESOLUTION 30.32.03R

RESOLUTION OPPOSING THE INFRINGEMENT OF CIVIL LIBERTIES IN THE NAME OF NATIONAL SECURITY.

5. CALSOLARO

RESOLUTION 60.52.03R*

RESOLUTION SUPPORTING THE ENACTMENT OF SENATE BILL S.3440-A/ASSEMBLY BILL A.3453-A THE CLEAN MONEY CLEAN ELECTIONS BILL.

***Referred to the Law Committee.**

6. CALSOLARO

RESOLUTION 64.61.03R*

RESOLUTION URGING NIAGARA MOHAWK TO RESCIND THEIR NEW SECURITY DEPOSIT POLICY.

***Referred to the Public Authorities & Utilities Committee.**

7. CONTI

RESOLUTION 13.22.02R*

RESOLUTION OF THE COMMON COUNCIL AMENDING THE RULES OF PROCEDURE IN RELATION TO THE APPOINTMENT OF INDIVIDUALS TO ANY COMMISSION, BOARD, AUTHORITY OR OTHER PUBLIC BODY.

***Referred to the Council Operations Committee.**

8. CONTI

RESOLUTION 48.41.03R*

RESOLUTION OF THE COMMON COUNCIL AMENDING THE RULES OF PROCEDURE IN RELATION TO THE ORDER OF BUSINESS.

***Referred to the Council Operations Committee.**

9. CURRY-COBB

RESOLUTION 23.32.02R*

RESOLUTION OF THE COMMON COUNCIL SUPPORTING THE ENACTMENT OF ASSEMBLY BILLS A-9286 AND A-9912 COMPELLING THE STATE TO FORMALLY APOLOGIZE FOR SLAVERY AND TO ESTABLISH A COMMISSION TO QUANTIFY THE DEBT OWED TO THE HEIRS OF SLAVES IN NEW YORK.

*Referred to the Law Committee.

10. IGOE RESOLUTION 59.52.03R*

RESOLUTION OF THE COMMON COUNCIL GIVING NOTICE OF INTENT TO ACT AS LEAD AGENCY FOR PURPOSES OF DETERMINING ENVIRONMENTAL SIGNIFICANCE PURSUANT TO ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW OF THE STATE OF NEW YORK (ECL) AND THE REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC) PROMULGATED UNDER (SEQRA).

*Referred to the Zoning Committee.

11. McLAUGHLIN

RESOLUTION 47.41.03R (As Amended)

A RESOLUTION OF THE ALBANY COMMON COUNCIL SUPPORTING DIPLOMATIC SOLUTIONS TO FUTURE WORLD CONFLICTS AND SUPPORTING CONTINUED FUNDING FOR BENEFITS TO THOSE MEN AND WOMEN WHO SERVE OUR COUNTRY.

12. SANO

RESOLUTION 67.61.03R*

RESOLUTION CALLING ON THE STATE LEGISLATURE TO CREATE A TEMPORARY TASK FORCE ON THE MAINTENANCE OF STATE HIGHWAYS.

*Referred to the General Services Committee.

13. TORNCHELLO

RESOLUTION 66.61.03R*

A RESOLUTION MAKING ENVIRONMENTAL DETERMINATIONS TO A PROPOSED AMENDMENT TO THE FINANCING AGREEMENT BY AND AMONG THE CITY OF ALBANY, THE ALBANY WATER BOARD AND THE ALBANY MUNICIPAL WATER FINANCE AUTHORITY AND APPROVING SUCH PROPOSED AMENDMENT TO THE FINANCING AGREEMENT.

*Referred to the Public Authorities & Utilities Committee.

COMMISSIONERS OF DEEDS

Council Member Sano offered the following, which was adopted:*

RESOLVED THAT THE FOLLOWING PERSONS BE AND HEREBY ARE APPOINTED COMMISSIONERS OF DEEDS FOR THE CITY OF ALBANY, NEW YORK FOR THE TERM ENDING DECEMBER 31, 2004, and WAIVE THE READING OF THE NAMES: _

1. Allen, Marie; 10 Hanover Drive, Delmar, New York 12054
2. **Bagley, Valerie; 15 McCarty Avenue, Albany, New York 12202**
3. Bartle, Sue; 15 Buell St, Albany, New York 12206
- Baxter, Jillina; 540 Third Street, Albany, New York 12206
- Bethea, Ira; 4 Equinox Court, Delmar, Albany, New York 12054
- Bostic, Yolanda; 315 Delaware Ave., Albany, New York 12209
- Brown, Edward H., Jr.; 33 Garland Court, Albany, New York 12202
- Brown, George A., Sr.; 355 Leedale Street, Albany, New York 12209
9. **Calsolaro, Dominick M.; 35 Clare Avenue, Albany, New York 12202**
10. **Canabush, Jackie; 102 Southern Blvd., Albany, New York 12209**
11. **Chapman, Norma; 404 First Street, Albany, New York 12206**
12. **Clay, Michael; 77 Aspen Circle, Albany, New York 12208**
13. **Damm, Gene; 22 Fairlawn Ave., Albany, New York 12203**
14. **Davila, Taryn; 506 Madison Ave., Apt. 1, Albany, New York 12208**
15. **Doeschate, Judy; 380 New Scotland Ave. Albany, New York 12208**
16. **Douglas, Mattie; 123 Van Rensselaer Blvd., Albany, New York 12204**
17. **Douglas, Nathaniel; 123 Van Renssealer Blvd., Albany, NY 12204**
18. **Fahey, Cathy; 32 Lawnridge Avenue, Albany, New York 12208**
19. **Fahy, Patricia M.; 297 S. Main Street, Albany, New York 12208**
20. **Fiato, Anne; 18 Hampton Street, Albany, New York 12209**
- Fitzgerald, Brendan; 10 Glenwood Street, Albany, New York 12208**
- Frost, Teneka; 643 Providence Street, Albany, New York 12208**
23. **Goodbee, Regina; 39 Hurlbut Street, Albany, New York 12209**
24. **Hier, Phyllis M., 8 Bogart Terrace, Albany, New York 12202**
25. **Howard, Barbara; 31 Buchanan Avenue, Albany, New York 12206**
26. **Howard, Ronald; 31 Buchanan Avenue, Albany, New York 12206**
27. **Jackson, Lynne; 223 South Swan Street, Albany, New York 12202**
28. **Langan, Donna; 7 Stonehedge Lane, Albany, New York 12203**
29. **Lee, Martin; 40 Ryckman Avenue, Albany, New York 12208**
30. **Lougheed, Sharon; 217 Lark Street Albany, New York 12210**
31. Lubinski, Wanda; 175 Second Avenue, Albany, New York 12202
32. **Mauldin, Larry; 60 Grandview Terrace, Albany, New York 12202**
33. **Mazza, Judith A.; 3 Sand Street, Albany, New York 12209**
- McLaughlin, Carolyn; 76 Grandview Terrace, Albany, NY 12202**
35. McPheeters, Thomas; 14 Wilbur Drive, Albany, New York 12202
36. **Moore, Ceylon; 4 Fountain Avenue, Albany, New York 12203**
37. **Moore, DeSean; 4 Fountain Avenue, Albany, New York 12203**
38. **Mulligan, Bernard; 800 Park Avenue, Albany, New York 12208**
39. **Myers, Kathleen; 172 Southern Boulevard, Albany, New York 12209**
40. **O'Malley, Bryan; 225 Lark Street, Albany, New York 12210**
41. **Pine, Sherri; Albany County Courthouse - Room 128, Albany, NY**

- 42. Ponds, James E.; 55 Park Avenue, Albany, New York 12202
- Quattlebaum, Nathaniel; 2 Beverly Drive, Albany, New York 12203
- 44. Rabinowitz, Michael; 223 Lancaster Street, Albany, New York 12210
- 45. Reay, Natasha; 77 Aspen Circle, Albany, New York 12208
- 46. Roberti, Nancy; 73 McAlpin Street, Albany, New York 12209
- 47. Smith, Samantha; 524 First Street, Albany, New York 12206
- 48. Soria, Rosa; 8 Mapleridge Avenue, Albany, New York 12209
- 49. Stofelano, MaryEllen; 45 Park Avenue, Albany, New York 12202
- 50. Sullivan, Margaret M.; 737 New Scotland Ave., Albany, NY 12208
- 51. Swanigan, Pamela; 4J Mansion Boulevard, Delmar, New York 12054
- 52. Thomas, Vincent; 506 Madison Avenue, Apt. 2, Albany, NY 12208
- 53. Van Riper, Daniel; 223 South Swan Street, Albany, New York 12202
- 54. Ware, Linda; 50 Broad Street, Albany, New York 12202
- 55. Webster, Paul; 506 Madison Avenue, Apt. 1, Albany, NY 12208
- 56. Young, Carla; 104 Philip Street, Albany, New York 12202
- Young, Ronald C., Jr.; 104 Philip Street, Albany, New York 12202

**Council Members Curry-Cobb and Scalzo abstained from the voice vote.*

ADJOURNMENT

President Pro Tempore Brown asked that Council Members Foskey and McLaughlin be excused.

Council Member Fox moved for adjournment.

Council Member Conti seconded the motion.

President Desfosses stated, hearing no objections, that the Council was adjourned.

A true record of the Common Council minutes of June 2nd, 2003.

Joseph J. Rabito

Clerk of the Common Council