COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

January 16, 2014

Erie County Legislature
92 Franklin Street – Fourth Floor
Buffalo, NY 14202

RE: Erie County Sewer District No. 3
License Agreements between CSX Transportation, Inc., Norfolk Southern Railway Company, the Erie County Industrial Development Agency, and the County of Erie

Honorable Members:

Enclosed please find a resolution and an accompanying memorandum from the Department of Environment and Planning, Division of Sewerage Management pertaining to proposed license agreements with CSX Transportation, Inc., Norfolk Southern Railway Company, and the Erie County Industrial Development Agency.

Should your honorable body require further information, I encourage you to contact Joseph L. Fiegl, P.E. in the Division of Sewerage Management. Thank you for your consideration of this matter.

Sincerely,

Mark C. Poloncarz, Esq.
Erie County Executive

MCP/DCM/vb
Enclosure

cc: J. Fiegl – Environment and Planning

MEMORANDUM

To:	Honorable Members of the Erie County Legislature
From:	Department of Environment and Planning
Re:	Erie County Sewer District No. 3 License Agreements between CSX Transportation, Inc., Norfolk Southern Railway Company, the Erie County Industrial Development Agency, and the County of Erie
Date:	January 16, 2014

SUMMARY

Authorization to execute individual license agreements between CSX Transportation, Inc., Norfolk Southern Railway Company, the Erie County Industrial Development Agency, and the County of Erie on behalf of Erie County Sewer District No. 3 is requested.

FISCAL IMPLICATIONS

There will be no fiscal impact to the County's General Fund. Funds for this project are included in Erie County Sewer District No. 3, Capital Account C.00012.

REASONS FOR RECOMMENDATION

The agreements will provide for a one-time lump sum payment to install the Rush Creek Interceptor (Interceptor) under the respective Railroad properties. The Interceptor will eliminate the Blasdell Wastewater Treatment Plant (WWTP), several pumping stations, and sanitary sewer overflows that Erie County Sewer District No. 3 took over from other municipalities.

BACKGROUND INFORMATION

The Rush Creek Interceptor has been proposed to eliminate the Blasdell WWTP, several pumping stations, and sanitary sewer overflows. The Division of Sewerage Management has been awarded a $5 million grant to implement this project (refer to Comm. 3E-25 (2011)). The new interceptor will cross under existing CSX Transportation, Inc., Norfolk Southern Railway Company, and Erie County Industrial Development Agency property. In order to obtain permission for the Interceptor to be installed on the respective properties, the County is required to enter into a License Agreement with each of CSX Transportation, Inc., Norfolk Southern Railway Company, and the Erie County Industrial Development Agency. The respective agreements will require lump sum payments. The Department of Environment and Planning, Division of Sewerage Management will negotiate a one-time final payment with each Railroad property owner in an amount not-to-exceed $12,000 each. The payment will cover various costs associated with this action, which may include administration fees, Railroad Protective Liability Insurance, and annual rent.

CONSEQUENCES OF NEGATIVE ACTION

The County will not be able to eliminate the Blasdell WWTP, upstream pumping stations, and sanitary sewer overflows in the tributary area. This may result in a violation of discharge permits, increase costs, and harm public health and the environment.

STEPS TO FOLLOW APPROVAL

Erie County will prepare, and the County Executive will execute, the respective agreements. Erie County Sewer District No. 3 will make payments to CSX Transportation, Inc., Norfolk Southern Railway Company, and the Erie County Industrial Development Agency per the terms of the negotiated agreements.

COMPTROLLER'S OFFICE REVIEW

The proposed legislation has been reviewed by the Comptroller's Office and is related to an authorized capital project for which there are sufficient capital appropriations for the action proposed.

Signed _____ Date 1/15/14
Title Greg Gach
Deputy Comptroller

DCM:vb
Enc.

cc: M. Whyte – Department of Environment and Planning
J. Fiegl /S. Tirone/0.11.0 Leg Ltr
M. Salah/J. Mallory/0.7.0/Mun
J. Carr/3.3.2.URS 4/15/03
D. Millar/3.6.1.Lease

A RESOLUTION SUBMITTED BY:
DEPARTMENT OF ENVIRONMENT AND PLANNING

RE: Erie County Sewer District No. 3
License Agreements between CSX Transportation, Inc., Norfolk Southern Railway Company, the Erie County Industrial Development Agency, and the County of Erie

WHEREAS, the County of Erie desires to eliminate the Blasdell Wastewater Treatment Plant, several pumping stations, and sanitary sewer overflows by constructing the Rush Creek Interceptor; and

WHEREAS, Erie County and CSX Transportation, Inc., Norfolk Southern Railway Company, and the Erie County Industrial Development Agency must have license agreements to allow for the Rush Creek Interceptor to cross under the railroad right of ways; and

WHEREAS, the County of Erie and CSX Transportation, Inc., Norfolk Southern Railway Company, and the Erie County Industrial Development Agency will negotiate lump sum payments for the costs associated with each agreement, which may include administration fees, Railroad Protective Liability Insurance, and annual rent.

NOW, THEREFORE, BE IT

RESOLVED, that license agreements between the County of Erie, on behalf of Erie County Sewer District No. 3, and CSX Transportation, Inc., Norfolk Southern Railway Company, and the Erie County Industrial Development Agency in an amount not-to-exceed $12,000 each are hereby approved for the Rush Creek Interceptor project; and be it further

RESOLVED, the County Executive be, and hereby is authorized to, execute the necessary agreements with CSX Transportation, Inc., Norfolk Southern Railway Company, and the Erie County Industrial Development Agency for the Rush Creek Interceptor project, subject to approval as to form by the County Attorney and as to content by the Commissioner of the Department of Environment and Planning; and be it further

RESOLVED, that the Erie County Comptroller is directed to allocate $36,000.00 from Erie County Sewer District No. 3 Account C.00012 for payment of said agreements; and be it further

RESOLVED, that the Clerk of the Legislature send one (1) certified copy each to the County Executive, the Erie County Comptroller, the Erie County Director of Budget and Management, Kristen Walder, Assistant County Attorney and two (2) certified copies of this resolution to Joseph L. Fiegl, P.E., Division of Sewerage Management.