



# COUNTY OF ERIE

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**MARK C. POLONCARZ**  
COUNTY EXECUTIVE

September 27, 2012

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

**RE: Erie County Sewer District No. 3  
Proposed Transfer of Assets  
Town of Hamburg Sewer Districts**

Dear Honorable Members:

Enclosed please find a resolution and an accompanying memorandum from the Department of Environment and Planning pertaining to a proposed transfer of leased sanitary sewer assets of the Town of Hamburg to Erie County Sewer District No. 3.

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

Sincerely,

Mark C. Poloncarz, Esq.  
Erie County Executive

MCP/DM/ms  
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  
Proposed Transfer of Assets  
Town of Hamburg Sewer Districts  
**Date:** August 27, 2012

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### **SUMMARY**

Approval of the accompanying resolution is requested authorizing the County Executive to enter into an intermunicipal agreement with the Town of Hamburg for the transfer of the leased sanitary sewer assets of former Town of Hamburg Sewer District Nos. 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, and 30 ("Former Town Sewer Districts") to Erie County Sewer District No. 3 (ECSD No. 3).

### **FISCAL IMPLICATIONS**

There are no fiscal implications to the County's General Fund. Anticipated and related costs are already borne by ECSD No. 3 through the existing lease agreements and will be included in future District operation budgets as approved by the Erie County Legislature.

### **REASONS FOR RECOMMENDATION**

In order to deliver the most effective and efficient means of providing sanitary sewer service to the ratepayers in the former Town of Hamburg Sewer Districts, the Erie County Department of Environment and Planning/Division of Sewerage Management (DSM) effectuated the lease of the related sanitary sewer assets through two separate agreements, effective 1/1/2007 and 1/1/2008. Since that time, New York State law has changed to eliminate certain barriers for municipal consolidation. Consequently, the Town of Hamburg now has the opportunity to formally transfer ownership of the Former Town Sewer Districts assets that the County currently leases to ECSD No. 3.

In June 2012, the ECSD No. 3 Board of Managers approved of this action.

### **BACKGROUND INFORMATION**

Per Legislative Communications 20E-21 (2006) and 22E-8 (2007), two separate agreements were effectuated so that ECSD No. 3 now leases the assets of the Former Town Sewer Districts. These collection systems are tributary to ECSD No. 3 pumping stations, interceptors, treatment facilities. From 2007-2008 to the present Erie County has operated, maintained, and improved the Former Town Sewer District facilities in similar fashion to all other ECSD No. 3 infrastructure.

The mergers of service were completed as leases due to the need of the Town to complete a mandatory referendum, as then required by New York State law, to formally transfer the related

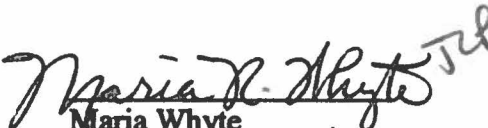
assets to Erie County. It was always the intention of both parties to effectuate an asset transfer at a later date. Since the time of the mergers, New York State law has changed to eliminate certain barriers for municipal consolidation. As a result, the Town of Hamburg has commenced sewer district dissolution proceedings. The final step in this process is to finalize an agreement to formalize change of asset ownership from the Town of Hamburg to Erie County.

### **CONSEQUENCES OF NEGATIVE ACTION**

The most efficient and effective sanitary sewer service by ECSD No. 3 in the former Town of Hamburg Sewer Districts would not be realized. The present lease arrangement would continue, which is not ideal.

### **STEPS FOLLOWING APPROVAL**

An intermunicipal agreement will be executed with the Town of Hamburg for the formal transfer of the sanitary sewer assets of former Town of Hamburg Sewer Districts.

  
Maria Whyte  
Commissioner 9/5/12

CC: M. Whyte, Commissioner  
J. Fiegl/0.11.0 Leg Ltr  
J. Carr/D. Millar/3.2.6.Merger (T) Hamburg  
Glenn Absolom  
ECSD No. 3 BOM

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**A RESOLUTION SUBMITTED BY:  
DEPARTMENT OF ENVIRONMENT AND PLANNING**

**RE: Erie County Sewer District No. 3  
Proposed Transfer of Assets  
Town of Hamburg Sewer Districts**

**WHEREAS, the Town of Hamburg (Town) and County of Erie (County) completed two separate mergers of sanitary sewer services, effective 1/1/2007 and 1/1/2008, to allow for the lease of the assets of Town Sewer District Nos. 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, and 30 (Former Town Sewer Districts) to Erie County Sewer District No. 3 (ECSD No. 3); and**

**WHEREAS, the Town has commenced procedures to dissolve the Former Town Sewer Districts; and**

**WHEREAS, since 1/1/2007 and 1/1/2008, ECSD No. 3 has been operating, maintaining, and improving the leased assets of said Former Town Sewer Districts in accordance with the merger agreements authorized per Legislative Communications 20E-21 (2006) and 22E-8 (2007); and**

**WHEREAS, the County and Town wish to effectuate a formal asset transfer of the leased infrastructure of the Former Town Sewer Districts to the County/ECSD No. 3; and**

**WHEREAS, an intermunicipal agreement is necessary to allow for the transfer of assets of the Former Town Sewer Districts to ECSD No. 3.**

**NOW, THEREFORE BE IT**

**RESOLVED, that the County Executive be authorized to execute an intermunicipal agreement to transfer ownership of the assets of the Former Town Sewer Districts to ECSD No. 3, subject to approval as to content by the Commissioner of Environment and Planning, and approval as to form by the County Attorney's office; and be it further**

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