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COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

September 9, 2013

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

**RE: Erie County Sewer District No. 5
Amherst Town Sewer District No. 16
Amendment to Service Agreement – October 26, 2005**

Dear Honorable Members:

Enclosed please find an accompanying memorandum and proposed resolution from the Department of Environment and Planning, Division of Sewerage Management, pertaining to the amendment of the Agreement between the County of Erie and Town of Amherst for County Sewer District No. 5 Treatment services.

Should your Honorable Body require further information, I encourage you to contact the Division of Sewerage Management. Thank you for your consideration on this matter.

Sincerely,

A handwritten signature in blue ink that reads "Mark Poloncarz".

Mark Poloncarz, Esq.
Erie County Executive

MCP: bs
Enclosure

cc: Joe Fiegl, Division of Sewerage Management

MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: Division of Sewerage Management
Re: Erie County Sewer District No. 5 (ECSD 5)
Amherst Town Sewer District No. 16
Amendment to Service Agreement – October 26, 2005
Date: August 6, 2013

SUMMARY

Approval of a sanitary sewer service agreement amendment between the County of Erie (County) and the Town (Town) of Amherst is requested.

FISCAL IMPLICATIONS

There are no fiscal implications to the County's General Fund. Town of Amherst Sewer District No. 16 will continue to transmit and treat wastewater generated by Erie County Sewer District No. 5 at essentially the same cost as listed under Article VIII of the of the October 26, 2005 service agreement.

REASONS FOR RECOMMENDATION

The October 26, 2005 Agreement between the County and Town allows for Amherst Town Sewer District No. 16 to transmit and treat wastewater generated by Erie County Sewer District No. 5. An amendment to the existing October 26, 2005 agreement is required as Amherst Town Sewer District No.16 has merged with Amherst Town Sewer District No. 1.

BACKGROUND INFORMATION

On October 26, 2005 an agreement between the County on behalf of Erie County Sewer District No. 5 and the Town on behalf of Amherst Town Sewer District No. 16 was executed. The purpose of said agreement was for Amherst Town District No. 16 to provide transmission and treatment to wastewater generated by ECSD 5.

Recently Amherst Town Sewer Districts Nos. 1 & 16 had merged. As such part of the billing formula that is relevant to the applicable Town Interceptor Sewer system operations and maintenance will have to be revised to reflect said merger. This part of the billing is referred to as Item No. 4 in the billing formula of the October 26, 2005 agreement.

To properly adjust for said merger, this Item No. 4 when calculated by the Town of Amherst Comptroller's office as part of their bill to ECSD 5 shall be adjusted to account for this merger before it is added to the remaining parts of the overall formula.

CONSEQUENCES OF NEGATIVE ACTION

Without amending the agreement the Town would overcharge the ECSD 5.

STEPS TO FOLLOW APPROVAL

Upon authorization, an amendment of the service agreement will be negotiated with the Town of Amherst in a form acceptable to the County Attorney's office. The amendment will then be executed by the County Executive. The Town of Amherst will adjust their billing formula to reflect the adjustment.

**A RESOLUTION SUBMITTED BY
Department of Environment and Planning**

**RE: Erie County Sewer District No. 5 (ECSD 5)
Alden Industrial Park Sewer District No. 16
Amendment to Service Agreement – October 26, 2005**

WHEREAS, the Town of Amherst has merged of Amherst Town Sewer District No. 16 with Amherst Town Sewer District No. 1; and

WHEREAS, the County of Erie on behalf of ECSD 5 has requested modifications to the existing October 26, 2005 service agreement due to said Town Sewer Districts merger; and

WHEREAS, the billing formula consists of seven items where Item No. 4 of the original agreement shall be adjusted to account for the Town Sewer District merger.

NOW, THEREFORE BE IT

RESOLVED, that the County Executive be, and hereby is, authorized to execute an amendment to the October 26, 2005 service agreement for ECSD 5, subject to approval as to content by the Commissioner of Environment and Planning and approval as to form by the County Attorney; and be it further

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