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COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

June 23, 2014

Erie County Legislature
92 Franklin Street – 4th Floor
Buffalo, New York 14202

RE: Erie County Sewer District No. 1
Modification of Plans (2013)

Dear Honorable Members:

Enclosed please find a memorandum from the Department of Environment and Planning, Division of Sewerage Management, pertaining to a proposed Modification of Plans in Erie County Sewer District No. 1.

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

Sincerely yours,

Mark C. Poloncarz, Esq.
Erie County Executive

MCP/sm
Enclosure

MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: Department of Environment and Planning
Re: Erie County Sewer District No. 1
Modification of Plans (2013)
Date: June 23, 2014

SUMMARY

The Erie County Legislature is requested to approve the attached Bond Resolution for the proposed Modification of Plans in Erie County Sewer District No. 1. The Bond Resolution requires a roll call favorable vote of not less than two-thirds of all members of the Legislature.

FISCAL IMPLICATIONS

None. There are no new cost increases to the bond authorization that was originally approved in 2004. This action will simply extend the time period to use this bonding authorization.

REASONS FOR RECOMMENDATION

Pursuant to County Law, Article 5A, Section 253-b, Modification of Plans, any changes to the original adopted Sewer Agency Report of 2004, requires a public hearing on the proposed changes. The Erie County Legislature approved a resolution on January 23, 2014, calling a Public Hearing. The Public Hearing was held on February 19, 2014, with no objections to the Modification of Plans. The Erie County Legislature on May 22, 2014, passed the Approving Resolution authorizing the Modification of Plans. The final step is to approve the attached Bond Resolution allowing for the authorization of funds.

BACKGROUND INFORMATION

In 2004, an Increase & Improvement of Facilities for $4,000,000 was approved to rehabilitate assets in Erie County Sewer District No. 1. Since the approval of the original Sewer Agency Report, many of the projects have been completed or allocated thus causing a surplus of $3,432,596. It was recommended by the Erie County Sewer Agency and approved by the Erie County Sewer District No. 1 Board of Managers on October 4, 2013, that the 2004 project be modified to use the remaining funds for capital repairs to the existing pumping stations, sanitary sewers and treatment plant facilities. These remaining funds would also be available for any engineering, easements, financing costs and maintenance that would be required for the existing infrastructure of the Sewer District.

CONSEQUENCES OF A NEGATIVE ACTION

The Sewer District would not be able to utilize the remaining bond authorization to make necessary improvements within the District.

STEPS FOLLOWING APPROVAL

Erie County Sewer District No. 1 will utilize the available funding authorization to advance infrastructure improvements in the Sewer District.

EXTRACT OF MINUTES

Meeting of the County Legislature of

the County of Erie, New York.

_____, 2014

* * * * * *

A regular meeting of the County Legislature of the County of Erie, New York, was held at the Chambers of the Erie County Legislature, in the Erie County Hall, Buffalo, New York, in said County, on _____, 2014, at 2:00 o'clock P.M. (Prevailing Time).

The following Legislators were present:

There were absent:

Also present: Scott W. Kroll, Clerk of the Legislature

* * * * * *

Legislator _____ offered the following resolution and moved its adoption:

RESOLUTION NO. __-2014

BOND RESOLUTION DATED _____, 2014

BOND RESOLUTION OF THE COUNTY OF ERIE, NEW YORK, ADOPTED _____, 2014 AMENDING THE BOND RESOLUTION ADOPTED JULY 8, 2004

(Introduced) _____, 2014

(Adopted) _____, 2014

Recitals

WHEREAS, The County Legislature of the County of Erie, New York, has heretofore duly directed that there be prepared a report and estimate of cost by the County Engineers (Erie County Department of Environment and Planning) relating to a proposed modification of plans for the increase and improvement of the facilities for County Sewer District No. 1 authorized by the County Legislature, which report and estimate of cost have been filed with the County Legislature pursuant to Section 253-b of the County Law; and

WHEREAS, such report and estimate of cost have been approved by the Erie County Sewer Agency pursuant to a written report dated October 4, 2013, which has also been filed with said County Legislature; and

WHEREAS, said report and estimate of cost describe a proposed modification of plans for such increase and improvement of the facilities of Erie County Sewer District No. 1 in said County which lists new projects and future improvements and future capital repairs to the existing infrastructure, all as more fully described in the report and estimate of cost herein referred; and

WHEREAS, the maximum estimated cost of the aforesaid design, engineering, and construction of the facilities of said Sewer District is $3,432,596, to be apportioned among real properties in the District in accordance with (i) their respective proportionate shares of sewered units in the District, (ii) applicable flat charges, and (iii) assessments against a benefited area which consists of the entire area of said Sewer District No. 1; and

WHEREAS, said County Legislature duly adopted Resolution No. 20E-13 on the 23rd of January, 2014, calling a meeting of the County Legislature for the purpose of holding a public hearing to consider said modification of plans for such increase and improvement of facilities in accordance with the provisions of Section 253-b of the County Law; and

WHEREAS, said public hearing was duly held at 92 Franklin Street, 4th Floor, Buffalo, New York, in said County, on the 19th day of February, 2014, at 1:30 o'clock P.M., Prevailing Time; and

WHEREAS, notice of said public hearing was duly published in substantially the manner provided by law and proof thereof was submitted to said County Legislature; and

WHEREAS, said County Legislature had duly considered the evidence given at such public hearing; and

WHEREAS, it is now necessary to amend the Bond Resolution adopted by the County Legislature on July 8, 2004 to reflect the modification of plans for the increase and improvement of facilities for Erie County Sewer District No. 1;

NOW, THEREFORE, BE IT

RESOLVED BY THE LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK (by the favorable vote of not less than two-thirds of all members of said Legislature) AS FOLLOWS:

Section (A). Resolution No. 302-2004 of said County duly adopted by the Legislature on July 8, 2004, entitled:

> "BOND RESOLUTION AUTHORIZING THE ISSUANCE OF $4,000,000 BONDS OF THE COUNTY OF ERIE, OR SO MUCH THEREOF AS MAY BE NECESSARY, TO FINANCE THE COST OF AN INCREASE AND IMPROVEMENT OF FACILITIES FOR ERIE COUNTY SEWER DISTRICT NO. 1, STATING THE ESTIMATED MAXIMUM COST THEREOF IS $4,000,000; STATING THE PLAN OF FINANCING SAID COST INCLUDES THE ISSUANCE OF THE ISSUANCE OF $4,000,000 BONDS HEREIN AUTHORIZED; PROVIDING FOR A TAX TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AND PROVIDING FOR REIMBURSEMENT BY ERIE COUNTY SEWER DISTRICT NO. 1 TO SAID COUNTY"

is hereby amended to read as follows:

BOND RESOLUTION DATED _____, 2014, AMENDING THE BOND RESOLUTION ADOPTED JULY 8, 2004.

> BOND RESOLUTION AUTHORIZING THE ISSUANCE OF $4,000,000 BONDS OF THE COUNTY OF ERIE, OR SO MUCH THEREOF AS MAY BE NECESSARY, TO FINANCE THE COST OF AN INCREASE AND IMPROVEMENT OF THE FACILITIES OF ERIE COUNTY SEWER DISTRICT NO. 1; STATING THE ESTIMATED MAXIMUM COST THEREOF IS $4,000,000; STATING THE PLAN OF FINANCING SAID COST INCLUDES THE ISSUANCE OF $4,000,000 BONDS HEREIN AUTHORIZED; PROVIDING FOR A TAX TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AND PROVIDING FOR REIMBURSEMENT BY ERIE COUNTY SEWER DISTRICT NO. 1 TO SAID COUNTY.

RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK (by the affirmative vote of not less than two-thirds of the voting strength of said Legislature), AS FOLLOWS:

Section 1. Pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York, as amended (the "Law"), and to the provisions of other laws applicable thereto, $4,000,000 bonds of the County, or so much thereof as may be necessary, are hereby authorized to be issued to finance the cost of an increase and improvement of facilities for Erie County Sewer District No. 1, all as more fully described in the report and estimate of cost accepted and adopted by the Board of Managers of said District on October 4, 2013 and filed with the County Legislature pursuant to Section 268 of the County Law and as modified by the Board of Managers of said District on October 22, 2013, and filed with the County Legislature pursuant to Section 253-b of the County Law. The estimated maximum cost of said specific object or purpose, including preliminary costs and costs incidental thereto and to the financing thereof, is $4,000,000. The plan of financing includes the issuance of $4,000,000 bonds herein authorized and any bond anticipation notes issued in anticipation of the sale of such bonds, and the levy of a tax to pay the principal of and interest on said bonds and notes, the said principal and interest to be reimbursed to the County to be apportioned among real properties in the District in accordance with (i) their respective proportionate shares of sewered units in the District, (ii) applicable flat charges, and (iii) assessment against a benefited area which consists of the entire area of said Sewer District No. 1.

Section 2. The period of probable usefulness for the specific object or purpose for which said $4,000,000 bonds herein authorized to be issued, within the limitations of Section 11.00 a.4. of the Law, is forty (40) years.

Section 3. Current funds are not required to be provided as a down payment prior to the issuance of the $4,000,000 bonds authorized herein, or any bond anticipation notes issued in anticipation thereof, pursuant to Section 107.00 d. 3. of said Law.

Section 4. The County intends to finance, and the Comptroller of the County is hereby authorized to advance such amounts as are necessary to pay the costs of the object or purpose described in Section 1 hereof prior to the issuance of the bonds or bond anticipation notes authorized out of any available funds of the County, on an interim basis, which amounts are reasonably expected to be reimbursed with the proceeds of debt to be incurred by the County, pursuant to this Resolution, in the maximum amount of bonds herein authorized. This Resolution is a declaration of official intent adopted pursuant to the requirements of Treasury Regulation Section 1.150-2.

Section 5. Subject to the provisions of this Resolution and of the Law, and pursuant to the provisions of §21.00 relative to substantially level or declining annual debt service, §30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals thereof, and of §§50.00, 56.00 to 60.00 and 168.00 of said Law, the powers and duties of the County Legislature relative to authorizing the issuance of any notes in anticipation of the sale of the respective amounts of bonds herein authorized, or the renewals thereof, relative to providing for substantially level or declining annual debt service, relative to prescribing the terms, form and contents and as to the sale and issuance of the respective amounts of bonds herein authorized, and of any notes issued in anticipation of the sale of said bonds or the renewals of said notes, and relative to executing agreements for credit enhancement, are hereby delegated to the Comptroller of the County, as the chief fiscal officer of the County.

Section 6. Each of the bonds authorized by this Resolution and any bond anticipation notes issued in anticipation of the sale thereof shall contain the recital of validity prescribed by Section 52.00 of said Local Finance Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the County of Erie, payable as to both principal and interest by general tax upon all the taxable real property within the County without

limitation as to rate or amount. The faith and credit of the County are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds or the renewals of said notes, and provision shall be made annually in the budgets of the County by appropriation for (a) the amortization and redemption of the notes and bonds to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 7. The validity of the bonds authorized by this Resolution and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

(a) such obligations are authorized for an object or purpose for which the County is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of the publication of this Resolution or a summary 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 publication, or

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

Section 8. This Resolution shall take effect immediately upon approval by the County Executive.

Section (B). The amendment of the bond resolution set forth in Section A of this Resolution shall in no way affect the validity of the liabilities incurred, obligations issued, or action taken pursuant to said bond resolution, and all such liabilities incurred, obligations issued, or action taken shall be deemed to have been incurred, issued or taken pursuant to said bond resolution, as so amended.

The adoption of the foregoing resolution was seconded by Legislator _____ and duly put to a vote on roll call, which resulted as follows:

AYES:

NOES:

The resolution was declared adopted.

Dated: Buffalo, New York,

_____, 2014

The foregoing Bond Resolution is hereby approved

_____
Mark C. Poloncarz, Erie County Executive

I, Scott W. Kroll, HEREBY CERTIFY, that Mark C. Poloncarz, County Executive of Erie County, approved a Bond Resolution of which the foregoing is a certified copy and returned the same for filing in the office of the Erie County Legislature.

_____, 2014.

_____
Scott W. Kroll
Clerk of the Erie County Legislature

Approved as to Content

_____
Joseph L. Fiegl, P.E. Date: _____
Deputy Commissioner of
Environment and Planning

Approved as to Content

_____
Maria R. Whyte Date: _____
Commissioner of Environment and Planning

Approved as to Form

_____
Kristen Walder
Assistant County Attorney
Doc No. _____
Date: _____

Approved as to Content

_____
Stephen Mychajliw Date: _____
Comptroller

Legislator _____ offered the following resolution and moved its adoption:

RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. The Clerk of the Erie County Legislature is hereby directed to publish the foregoing bond resolution in summary, in the official newspapers of the County for such publication, together with a notice in substantially the form prescribed in Section 81.00 of the Local Finance Law of the State of New York.

Section 2. This resolution shall take effect immediately.

* * *

The adoption of the foregoing resolution was seconded by Legislator _____ and duly put to a vote, which resulted as follows:

AYES:

NOES:

THE RESOLUTION WAS DECLARED ADOPTED.

* * *

STATE OF NEW YORK)
:SS.
COUNTY OF ERIE)

I, the undersigned Clerk of the Erie County Legislature, DO HEREBY CERTIFY that I have compared the foregoing extract of the minutes of the meeting of the County Legislature of said County, including the resolution contained therein, held on the ____ day of _____, 2014, with the original minutes thereof as originally recorded in the Minute Book of said Erie County Legislature and the same is a true and correct copy of said original minutes and of the whole of said original so far as the same relates to the subject matters referred to in said extract.

I FURTHER CERTIFY that all members of said Legislature had due notice of said meeting.

I FURTHER CERTIFY that, pursuant to Section 103 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public.

I FURTHER CERTIFY that, PRIOR to the time of said meeting, I duly caused public notice of the time and place of said meeting to be conspicuously posted in the following designated public locations(s) on the following dates:

Designated Locations(s) of posted notice	Date of Posting
Public Entrance of the Legislature	
Legislature Webpage	

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County Legislature this ____ day of _____, 2014.

_____

_____

Scott W. Kroll
Clerk, Erie County Legislature

(SEAL)

RESOLUTION NO. __-2014

BOND RESOLUTION DATED _____, 2014 AMENDING THE BOND RESOLUTION ADOPTED JULY 8, 2004

BOND RESOLUTION AUTHORIZING THE ISSUANCE OF $4,000,000 BONDS OF THE COUNTY OF ERIE, OR SO MUCH THEREOF AS MAY BE NECESSARY, TO FINANCE THE COST OF AN INCREASE AND IMPROVEMENT OF THE FACILITIES OF ERIE COUNTY SEWER DISTRICT NO. 1 STATING THE ESTIMATED MAXIMUM COST THEREOF IS $4,000,000; STATING THE PLAN OF FINANCING SAID COST INCLUDES THE ISSUANCE OF $4,000,000 BONDS HEREIN AUTHORIZED; PROVIDING FOR A TAX TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AND PROVIDING FOR REIMBURSEMENT BY ERIE SEWER DISTRICT NO. 1 TO SAID COUNTY.

object or purpose: increase and improvement of facilities for Erie County Sewer District No. 1 to said County, in accordance with the report originally approved by the Board of Managers of Erie County Sewer District No. 1 on April 23, 2004 and filed with the County Legislature pursuant to Section 268 of the County Law and modified in accordance with the report approved by the Board of Managers of Erie County Sewer District No. 1 on March 19, 2004 and filed with the County Legislature pursuant to Section 253-b o the County Law

period of probable usefulness: forty (40) years

amount of obligations to be issued: $4,000,000

A complete copy of the Bond Resolution summarized above, as amended, shall be available for public inspection during normal business hours at the office of the Clerk of the Erie County Legislature, at the Erie County Hall, in Buffalo, New York.

Dated: _____, 2014
Buffalo, New York

(NOTICE TO BE ATTACHED TO AND TO BE PUBLISHED
WITH SUMMARY OF RESOLUTION AFTER ADOPTION)

NOTICE

The resolution, a summary of which is published herewith, has been adopted on the 8th day of July, 2004 and amended on the ____ day of _____, 2014, and the validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which the COUNTY OF ERIE, New York, is not authorized to expend money or if the provisions of law which should have been complied with as of the date of publication of this Notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the publication of this Notice, or such obligations were authorized in violation of the provisions of the constitution.

SCOTT W. KROLL
Clerk of the County Legislature