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COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

May 5, 2015

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

RE: Erie County Sewer District No. 3
Modification of Plans (2015)

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. 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. Thank you for your consideration on this matter.

Sincerely yours,

Mark C. Poloncarz, Esq.
Erie County Executive

MCP:JM:cs
Enclosure

cc: Maria R. Whyte

MEMORANDUM

To:	Honorable Members of the Erie County Legislature
From:	Department of Environment and Planning
Re:	Erie County Sewer District No. 3 Modification of Plans (2015)
Date:	May 5, 2015

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 3. 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 2005.

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 2005, requires a public hearing on the proposed changes. The Erie County Legislature approved a resolution on March 26, 2015, calling a Public Hearing. The Public hearing was held on April 15, 2015 with no objections to the Modification of Plans. The final step is to approve the attached Bond Resolution allowing for the authorization of funds.

BACKGROUND INFORMATION

In 2005, an Increase & Improvement of Facilities for $9,100,000 was approved to construct the Rush Creek Interceptor in Erie County Sewer District No 3. Since the approval of the original Sewer Agency Report, the project has seen numerous delays in obtaining project approval, thus resulting in the bond authorization nearing its expiration date. The Modifications of Plans will provide the additional time to complete the project.

CONSEQUENCES OF A NEGATIVE ACTION

The Sewer District would not be able to utilize the bond authorization to complete the Rush Creek Interceptor Project.

STEPS FOLLOWING APPROVAL

Erie County Sewer District No. 3 will utilize the remaining funding authorization to complete the Rush Creek Interceptor Project.

Maria R. Whyte
Commissioner

MW: JM: cs

cc: 0.11.0 Leg Letter
J.Carr/J.Mallory/3.5.0 Mod. Of Plans (2015)

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EXTRACT OF MINUTES

Meeting of the County Legislature of

the County of Erie, New York.

_____, 2015

* * *

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 _____, 2015, at __:00 o'clock P.M. (Prevailing Time).

The following Legislators were present:

There were absent:

Also present: Karen M. McCarthy, Clerk of the Legislature

* * *

Legislator _____ offered the following resolution and moved its adoption:

RESOLUTION NO. __-2015

BOND RESOLUTION DATED _____, 2015

AMENDED BOND RESOLUTION AUTHORIZING THE ISSUANCE OF $9,100,000 BONDS OF THE COUNTY OF ERIE, OR SO MUCH THEREOF AS MAY NECESSARY, TO FINANCE THE COST OF AN INCREASE AND IMPROVEMENT OF THE FACILITIES OF ERIE COUNTY SEWER DISTRICT NO. 3; STATING THE ESTIMATED MAXIMUM COST THEREOF IS $9,100,000, STATING THE PLAN OF FINANCING; PROVIDING FOR A TAX TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AND PROVIDING FOR REIMBURSEMENT BY ERIE COUNTY SEWER DISTRICT NO. 3 TO SAID COUNTY.

(Introduced)

(Adopted)

WHEREAS, pursuant to proceedings had and taken in accordance with the provisions of Article 5A of the County Law and more particularly a resolution of this County Legislature dated _____ 2015, an increase and improvement of facilities for Sewer District No. 3 (the "Original Purpose") has been approved at a estimated maximum cost of $9,100,000, and

WHEREAS, on May 19, 2005 the County Legislature adopted a bond resolution authorizing the $9,100,000 of bonds of the County to finance the costs of the Original Purpose (the "2005 Bond Resolution"), and

WHEREAS, several of the components of the Original Purpose have been completed, and

WHEREAS, pursuant to proceedings had and taken in accordance with the provisions of Article 5A of the County Law, a modification of the plans for the facilities of Erie County Sewer

District No. 3 to include the approval of certain additional improvements within such District, including but not limited to improvements to the Southtowns Advanced Wastewater Treatment Facility and implementation of the Rush Creek Interceptor project, has been approved, and

WHEREAS, the County Legislature desires to amend the 2005 Bond Resolution to expand the objects and purposes or classes of objects and purposes to be financed to include the modifications referred to herein,

NOW THEREFORE BE IT 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), THAT THE 2005 BOND RESOLUTION SHALL BE AMENDED TO READ 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, $9,100,000 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 in Erie County Sewer District No.3, consisting of the construction of new pumping facilities at the Milestrip Pumping Station to pump directly to the Southtowns Advance Wastewater Treatment Facility and the discharging of dry weather flows from the Blasdell Treatment Plant directly into the Northeast Interceptor, as more fully described in a report and estimate of cost approved by the Board of Managers of the Erie County Southtowns Sewage Treatment Agency on January 27, 2005 and filed with the County Legislature pursuant to Section 268 of the County Law, as modified to include improvements to the Southtowns Advanced Wastewater Treatment Facility and implementation of the Rush Creek Interceptor project, as more fully described in the report and estimate of cost approved by the Board of

Managers of said District on February 27, 2015 and filed with the County Legislature pursuant to Section 268 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 $9,100,000. The plan of financing includes the issuance of $9,100,000 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 by the assessment and levy on the real property in (i) Erie County Sewer District No. 3, (ii) the Town of Hamburg on behalf of the Hamburg Master Sewer District, Amsdell Heights, Locksley Park, Cloverbank, Benz and Taylor Road Sewer Districts being Sewer District Nos. 21, 7, 10, 5, 4, 8, and 11 of the Town of Hamburg, (iii) Wanakah Sewer District No. 3, (iv) Mount Vernon Sewer District No. 2, and (v) the Village of Hamburg, and (vi) the Village of Blasdell, each in accordance with their respective proportionate shares of equivalent dwelling units in their service areas, as determined pursuant to the Southtowns Agreement.

Section 2. The period of probable usefulness for the specific objects or purposes for which said $9,100,000 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 $9,100,000 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 respective specific objects or purposes, classes of objects or purposes and combinations of objects or purposes

described in Section 1 hereof, prior to the issuance of the bonds or bond anticipation notes herein authorized, out of any available funds of the County on an interim basis, which respective amounts are reasonably expected to be reimbursed with the proceeds of debt to be incurred by the County pursuant to this Resolution, in the respective maximum amounts 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 the issuance of bonds having 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 §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. 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 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.

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: _____, 2015
Buffalo, New York

The foregoing Bond Resolution is hereby approved

_____
Mark C. Poloncarz, County Executive

I, Karen M. McCarthy, HEREBY CERTIFY that the 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.

_____ __, 2015.

_____
Karen M. McCarthy
Clerk of the Erie County Legislature

APPROVED AS TO CONTENT:

By: _____
Stefan I. Mychajliw, Erie County Comptroller
Date: _____

APPROVED AS TO CONTENT:

_____
Maria R. Whyte, Commissioner
Environment & Planning
Date: _____

APPROVED AS TO CONTENT:

By: _____
Michael Siragusa, Erie County Attorney
Document No. _____
Date: _____

Recommended by:

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

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 full, in the Challenger Newspaper and the Amherst Bee Newspaper the official newspapers of the County and the Hamburg Sun 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.

* * *

CERTIFICATE

I, Karen M. McCarthy, Clerk of the Erie County Legislature, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the Erie County Legislature duly called and held on _____, 2015, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said County Legislature and is a true, complete and correct copy thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said County this ____ day of _____, 2015.

_____
Karen M. McCarthy
Clerk of the Erie County Legislature

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

NOTICE

The resolution, a copy of which is published herewith, has been adopted by the County Legislature on the ____ day of _____, 2015 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.

Karen M. McCarthy
Clerk of the County Legislature