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# COUNTY OF ERIE

**MARK C. POLONCARZ**  
COUNTY EXECUTIVE

July 10, 2015

Erie County Legislature  
92 Franklin Street – 4<sup>th</sup> Floor  
Buffalo, New York 14202

**RE: Erie County Sewer District No. 3  
Increase & Improvement of Facilities (2015)**

Dear Honorable Members:

Enclosed please find a memorandum from the Department of Environment and Planning, Division of Sewerage Management, pertaining to an Increase & Improvement of Facilities for 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 Division of Sewerage Management. Thank you for your consideration on this matter.

Sincerely,

Mark C. Poloncarz, Esq.  
Erie County Executive

MCP:JM:cs  
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  
Increase & Improvement of Facilities  
**Date:** July 10, 2015

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### **SUMMARY**

The Erie County Legislature is requested to approve the attached Bond Resolution for the Increase and Improvement of Facilities 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 cost increases to the bond authorization that was originally approved in 2005.

### **REASONS FOR RECOMMENDATION**

The Erie County Sewer District No. 3 Board of Managers approved the reissue of the remaining bond authorization at their June 17, 2015 meeting. The Sewer District will be able to utilize the remaining bond authorization to make improvements within the Sewer District as they become necessary.

### **BACKGROUND INFORMATION**

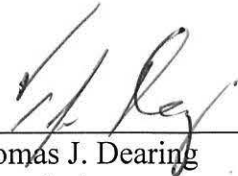
In 2005, an Increase & Improvement of Facilities for \$9,000,000 in complete numerous projects within Erie County Sewer District No. 3. The bond authorization has recently expired and in order to utilize the remaining funds, an extension is required to provide the Sewer District with the needed funding to complete additional projects.

### **CONSEQUENCES OF A NEGATIVE ACTION**

The Sewer District would not be able to utilize the bond authorization to complete the additional projects.

### **STEPS FOLLOWING APPROVAL**

Erie County Sewer District No. 3 will utilize the remaining funding authorization to complete new projects.

JF   
\_\_\_\_\_  
Thomas J. Dearing  
Commissioner

MW:JM:cs

cc: 0.11.0 Leg Letter  
J.Carr/J.Mallory/3.5.0 Increase & Improvement of Facilities (2015)

*V:\Sewerage Management\Administration\Documents\Courtney\Resolution\Mallory\ECSD3 Increase&ImprovementofFacilities (2015).docx*

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

BOND RESOLUTION AUTHORIZING THE ISSUANCE OF \$5,655,912.55 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 SOUTHTOWNS SEWER TREATMENT AGENCY IN THE COUNTY OF ERIE, NEW YORK; STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$9,000,000, 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 ~~February 17, 2005~~ <sup>March 14, 2015</sup> (the "Original Bond Resolution"), an increase and improvement of Southtowns Treatment Facility has been approved at a estimated maximum cost of \$9,000,000; and

WHEREAS, pursuant to the provisions of the Original Bond Resolution, the County has issued \$3,344,087.45 of obligations; and

WHEREAS, pursuant to Section 41 of the Local Finance Law of the State of New York, the Original Bond Resolution is deemed to have been repealed ten years after the date it became effective, except to the extent that any indebtedness shall already have been contracted or

encumbrances made thereunder for the object or purpose for which such Original Bond Resolution authorizes the issuance of obligations; and

WHEREAS, the County Legislature desires to adopt this resolution to reauthorize the issuance of \$5,655,912.55 principal amount of obligations to finance the object or purpose described in the Original Bond Resolution;

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) 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, \$5,655,912.55 bonds of the County, or so much thereof as may be necessary, are hereby authorized to be issued to finance the cost of a increase and improvement of facilities of the Erie County-Southtowns Sewer Treatment Agency, consisting of the reconstruction and/or rehabilitation of approximately 20,000 feet of sanitary sewer and the upgrading of sewage pumping stations, all as more fully described in the report and estimate of costs approved by the board of County managers of the Southtowns Sewer Treatment Agency on April 29, 2004 and filed with the County Legislature pursuant to Section 268 of the County Law of the State of New York. The estimated maximum cost of said specific object or purpose, including preliminary costs and costs incidental thereto and to the financing thereof, is \$9,000,000. The plan of financing includes the issuance of \$3,344,087.45 of bonds authorized and issued prior to the date hereof pursuant to the provisions of the Original Bond Resolution and the issuance of \$5,655,912.55 of 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, 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 \$5,655,912.55 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 \$5,655,912.55 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 said improvements, 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:

APPROVED AS TO CONTENT:

By: \_\_\_\_\_  
Stefan I. Mychajliw, Erie County Comptroller  
Date: \_\_\_\_\_

\_\_\_\_\_  
Maria R. Whyte, Commissioner  
Environmental & Planning  
Date: \_\_\_\_\_

APPROVED AS TO CONTENT:

Recommended by:

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

\_\_\_\_\_  
Joseph L. Fiegl, P.E.  
Deputy Commissioner  
Environmental & 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, the Amherst Bee Newspaper and the Hamburg Sun, 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.

\* \* \*

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.

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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