



COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

July 10, 2015

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

Re: USEPA Great Lakes Restoration Initiative Grant: Erie County Buffalo River Shoreline and In-Water Restoration Project

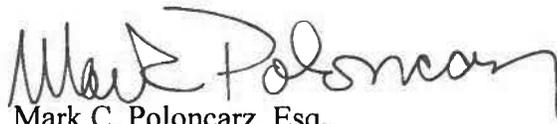
Dear Honorable Members:

Enclosed please find a memorandum and proposed resolution from the Department of Environment and Planning (DEP) to authorize the County Executive to execute a 17-month contract with the US EPA to provide local sponsorship and coordination of United States Environmental Protection Agency Great Lakes Restoration Initiative Grant funding, establish a budget, and create a Junior Environmental Compliance Specialist (JG-7) position.

Authorization of this resolution will allow DEP to take on local coordination of \$5,000,000 of USEPA/GLRI grant funding that is being redirected by USEPA to the Buffalo River Area of Concern (AOC) for implementation of habitat restorations on an accelerated schedule by the end of 2016 as part of the delisting of the Buffalo River as an Area of Concern.

Should your Honorable Body require further information, I encourage you to contact Deputy Commissioner, Thomas R. Hersey, Jr. at the Department of Environment and Planning. Thank you for your consideration on this matter.

Sincerely yours,


Mark C. Poloncarz, Esq.
Erie County Executive

MCP/cw
Enclosure

cc: Thomas R. Hersey, Jr., Deputy Commissioner

MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: Department of Environment and Planning
Re: USEPA Great Lakes Restoration Initiative Grant: Erie County Buffalo River Shoreline and In-Water Restoration Project
Date: July 10, 2015

SUMMARY

It is recommended that the Legislature approve the attached resolution prepared by the Department of Environment and Planning (DEP) to authorize the County Executive or the Deputy County Executive to execute the necessary agreements for DEP to locally coordinate \$5,000,000.00 in grant funding, establish a 17-month program budget and create a Junior Environmental Compliance Specialist (JG-7) position. The grant funding is available from the United States Environmental Protection Agency (USEPA) Great Lakes Restoration Initiative (GLRI) for the US Army Corps of Engineers (USACE) and Erie County to obtain necessary access and authorize a change order to an existing contract to design and construct shoreline stabilization and restorations at Seneca Bluffs Natural Habitat Park, 61 Smith Street owned by Niagara Frontier Transit Authority (NFTA), and a suite of submerged aquatic vegetation restorations within the Buffalo River Area of Concern (AOC).

FISCAL IMPLICATIONS

There will be no additional impact on County resources. The requested staff position and program expenses will be funded by the United States Environmental Protection Agency Great Lakes Restoration Initiative Grant.

REASONS FOR RECOMMENDATION

The anticipated benefits associated with the proposed resolution are as follows:

Implementation of habitat restoration projects for design and construction of approximately 3,000 linear feet of shoreline at Erie County Seneca Bluffs Natural Habitat Park; approximately 1,100 linear feet of shoreline and habitat restoration at 61 Smith Street owned by NFTA; and implementation of approximately 2,500 linear feet of submerged aquatic vegetation and in-water restorations in a suite of sites within the Buffalo River AOC. Erie County DEP will provide local coordination between the US Army Corps of Engineers, approximately seven private land owners and the City of Buffalo to facilitate the identified restorations to delist the Buffalo River as an Area of Concern.

BACKGROUND INFORMATION

The Buffalo River was considered biologically dead in the 1960s and was declared as an Area of Concern (AOC) by the International Joint Commission in 1987 due to possible impairments of 14 beneficial uses. Since being designated as an Area of Concern, nine of the fourteen Beneficial Use Impairments (BUIs) in the Buffalo River AOC have been identified as "Impaired". The ultimate goal of the Area of Concern program is to address the causes of the impairments and delist the area as an Area of Concern.

As part of the Great Lakes Restoration Initiative Action Plan and Great Lakes Regional Collaboration Strategy, protection and restoration of habitat are priorities for restoring aquatic and upland habitats. These actions lead to a healthy ecosystem that contributes to human health and prosperity, economic and social vitality, and supports sustainable biodiversity. Of utmost priority is to achieve corrective measures that will eliminate Benefit Use Impairments and move toward delisting of the AOC.

This project targets Erie County's Seneca Bluffs Natural Habitat Park within the Buffalo River corridor, approximately 1,100 linear feet of shoreline and habitat restoration adjacent to Erie County's existing EPA-funded Red Jacket (Smith Street) Natural Habitat Park; as well as Buffalo River Remedial Action Committee identified in-water sites for submerged aquatic habitat restoration work that conforms to delisting criteria for the AOC.

The funding of this program will allow DEP to create a Junior Environmental Compliance Specialist (JG-7) position to manage local coordination of the USACE and Professional Consultant contracts.

CONSEQUENCES OF NEGATIVE ACTION

The DEP will forfeit USEPA funding and be unable to address the causes of the impairments to work towards delisting the Buffalo River as an Area of Concern, as well as the resulting healthy ecosystem that contributes to human health and prosperity, economic and social vitality, and supports sustainable biodiversity.

STEPS FOLLOWING APPROVAL

The necessary contracts with the USEPA, USACE, access agreements with the City of Buffalo and approximately seven private land owners, and change-order approval to expand the scope of work with an existing Professional Consultant for 61 Smith Street will be executed, a budget will be established, and a Junior Environmental Compliance Specialist (JG-7) position will be created.

A RESOLUTION SUBMITTED BY:
DEPARTMENT OF ENVIRONMENT AND PLANNING

RE: USEPA Great Lakes Restoration Initiative Grant: Erie County Buffalo River Shoreline and In-Water Restoration Project

WHEREAS, the Erie County Department of Environment and Planning (DEP) has played a crucial role in water quality issues throughout the region for decades and continues to administer many initiatives that protect and preserve our natural water resources; and

WHEREAS, DEP is committed to coordinate, oversee, and support work towards the delisting of the Buffalo River as a Great Lakes Area of Concern; and

WHEREAS, the United States Environmental Protection Agency (USEPA) Great Lakes Restoration Initiative provides grant assistance to municipalities to implement projects to improve the quality of the Great Lakes; and

WHEREAS, DEP provides technical assistance regarding the management of the Erie County Natural Habitat Parks; and

WHEREAS, the United States Environmental Protection Agency (USEPA) solicited Erie County to be a local sponsor for \$5,000,000 in funding to work with the United States Army Corps of Engineers (USACE) to complete a 17-month United States Environmental Protection Agency Great Lakes Restoration Initiative Grant: "Buffalo River AOC Project Management: Erie County Natural Habitat/Buffalo River Shoreline and In-Water Restoration Delisting Project"; and

WHEREAS, the USEPA through an interagency agreement will directly provide the USACE \$3.8 million of the \$5 million grant to manage the design and construction work at both the Seneca Bluffs Natural Habitat site, as well as at the in-water properties identified by the Buffalo River Remedial Action Committee; and

WHEREAS, in order for the USACE to receive this direct funding from the USEPA, it is necessary that Erie County enter into an agreement with the USACE to be the local Government sponsor for this habitat restoration work; and

WHEREAS, in order to secure proper authority to access the identified habitat projects Erie County and/or the USACE will need to enter into access agreements with each the City of Buffalo and approximately seven private land owners whose property is adjacent to the proposed projects; and

WHEREAS, in order to most efficiently restore an additional 1,100 linear feet of shoreline at the NFTA property at 61 Smith Street adjacent to the currently EPA-funded Erie County Red Jacket (Smith Street) Natural Habitat Park Restoration site, authorization is being requested to allow a change order to the current contract with Wendel Companies (Contract #14-783-EP) to expand the scope of work to include the design and construction for this additional restoration to the current project. This proposed change order is justified because Wendel Companies was awarded Contract #14-783-EP based on the decision of an RFP selection committee that Wendel Companies was the best qualified bidder with the lowest price for the adjacent Red Jacket (Smith Street) Natural Habitat Restoration implementation; and additionally,

because the USEPA has put stringent time constraints on awarding the project funds that the Buffalo River AOC habitat restorations must be completed by December 31, 2016 which could not be attained if an RFP process were required; and

WHEREAS, Erie County will need to enter into an access agreement with the NFTA in order to allow the County and/or their contractor the necessary access to do the proposed habitat restoration work; and

WHEREAS, the addition of this AOC habitat restoration initiative necessitates the execution of a grant contract with the USACE and change order to a current contract, the adoption of a grant budget; and the creation of a Junior Environmental Compliance Specialist (JG-7) position within the DEP to help administer and oversee this additional work which will be 100 % grant funded.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive or the Deputy County Executive is hereby authorized to execute the necessary agreements and enter into an agreement with the United States Environmental Protection Agency to provide local coordination of \$5,000,000.00 grant funding for the purpose of implementing a "Buffalo River AOC Project Management: Erie County Natural Habitat Park and Buffalo River Shoreline and In-Water Restoration Delisting Project" of which Erie County will receive \$925,000 in funding to directly implement their share of the project work; and be it further

RESOLVED, that the County Executive or the Deputy County Executive is hereby authorized to execute the necessary agreements with the United States Army Corps of Engineers to provide access and direct approximately \$4,075,000 of the EPA grant project funding to USACE for the purpose of implementing approximately 3,000 linear feet of shoreline stabilization and restoration at Erie County's Seneca Bluffs Natural Habitat Park and at least 2,500 linear feet of in-water natural habitat restoration at sites identified by the Buffalo River Remedial Action Committee; and be it further

RESOLVED, that the County Executive or the Deputy County Executive is hereby authorized to execute the necessary access agreements with the City of Buffalo and approximately seven private land owners and the USACE to implement approximately 2,500 linear feet of in-water submerged aquatic vegetation and restoration projects along the Buffalo River Area of Concern; and be it further

RESOLVED, that the County Executive or the Deputy County Executive is hereby authorized to enter into an access agreement with the Niagara Frontier Transportation Authority to restore approximately 1,100 linear feet of additional shoreline and habitat restoration at 61 Smith Street, Buffalo, New York; and be it further

RESOLVED, that Change order #1 to existing Erie County Contract #14-783-EP with Wendel Companies Inc. to expand their existing habitat design and engineering work at Erie County's Red Jacket (Smith Street) Natural Habitat Park to include the approximately 1,100 linear feet of shoreline and habitat restoration at 61 Smith Street, Buffalo, New York and is hereby authorized not to exceed \$150,000; and be it further

RESOLVED, that the grant budget and project period for the United States Environmental Protection Agency Great Lakes Restoration Initiative Grant: "Buffalo River AOC Project Management: Erie County Natural Habitat and Buffalo River In-Water Restoration Delisting Project" is hereby created in the Department of Environment and Planning, Business Area 162, as follows:

"Buffalo River AOC Project Management: Erie County Natural Habitat and Buffalo River Shoreline and In-Water Restoration Delisting Project" (Grant Period: 7/1/15 – 12/31/16),
SAP Grant Account #162BRRPMPH2

REVENUE:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
414000	Federal Aid Revenue	<u>(\$ 925,000.00)</u>
TOTAL REVENUE		<u>(\$ 925,000.00)</u>

APPROPRIATIONS:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
500000	Full Time Wages	\$ 45,097.00
502000	Fringe Benefits	\$ 29,303.00
510100	Out of Area Travel	\$ 200.00
510000	Local Travel & Mileage	\$ 200.00
505000	Supplies	\$ 200.00
516020	Professional Services	<u>\$ 850,000.00</u>

TOTAL APPROPRIATIONS: \$ 925,000.00

and be it further

RESOLVED, that the following position, for which sufficient funding through United States Environmental Protection Agency grant funding for personal services and fringe benefits exists, will be created in the above grant:

Junior Environmental Compliance Specialist (JG-7)
B-100 No. 000 000 8380
Budgeted Annual Salary: \$31,822

and be it further

RESOLVED, that the Director of the Division of Budget and Management is hereby authorized to implement any budget adjustments as required to comply with State and local funding requirements; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive; the Director of the Division of Budget and Management; the County Attorney; the County Comptroller; Maria R. Whyte, Commissioner of Environment and Planning; Thomas Hersey, Jr., Deputy Commissioner of Environment and Planning; and Bonnie Lawrence, Coordinator – Pollution Prevention Program.

to restore approximately 1,100 linear feet of additional shoreline and habitat restoration at 61 Smith Street, Buffalo, New York;

and be it further

RESOLVED that Change order #1 to existing Erie County Contract #14-783-EP with Wendel Companies Inc. to expand their existing habitat design and engineering work at Erie County's Red Jacket (Smith Street) Natural Habitat Park to include the approximately 1,100 linear feet of shoreline and habitat restoration at 61 Smith, Street, Buffalo, NY and is hereby authorized not to exceed \$150,000;

and be it further

RESOLVED, that the grant budget and project period for the United States Environmental Protection Agency Great Lakes Restoration Initiative Grant: "Buffalo River AOC Project Management: Erie County Natural Habitat and Buffalo River In-Water Restoration Delisting Project" is hereby created in the Department of Environment and Planning, Business Area 162, as follows:

"Buffalo River AOC Project Management: Erie County Natural Habitat and Buffalo River Shoreline and In-Water Restoration Delisting Project" (Grant Period: 7/1/15 – 12/31/16),
SAP Grant Account #162BRRPMPH2

REVENUE:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
414000	Federal Aid Revenue	<u>(\$ 831,000.00)</u>
TOTAL REVENUE		<u>(\$ 831,000.00)</u>

APPROPRIATIONS:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
500000	Regular Full Time Wages	\$ 45,080.00
502000	Fringe Benefits	\$ 29,920.00
516020	Professional Services	<u>\$ 756,000.00</u>

TOTAL APPROPRIATIONS: **\$ 831,000.00**