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# COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE

August 27, 2015

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

**Re: Authorization to Execute Erie County Greenway Fund Standing Committee Documents**

Dear Honorable Members:

Enclosed please find a suggested resolution authorizing the Commissioner of the Erie County Department of Environment and Planning to execute necessary documents with M&T Bank. This pertains to a trustee agreement between M&T Bank and the members comprising the Erie County Greenway Standing Committee. The latter includes Erie County, City of Buffalo, Olmsted Parks Conservancy, and the New York Power Authority.

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

Sincerely yours,

A handwritten signature in black ink, appearing to read "Mark C. Poloncarz", is written over a faint, larger version of the same signature.

Mark C. Poloncarz, Esq.  
Erie County Executive

MCP/cw  
Enclosure

Cc: Maria R. Whyte, Deputy County Executive  
Thomas J. Dearing, Commissioner

## MEMORANDUM

**To:** Honorable Members of the Erie County Legislature  
**From:** Environment and Planning  
**Re:** Authorization to Execute Erie County Greenway Fund Standing Committee Documents  
**Date:** August 27, 2015

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### **SUMMARY**

Erie County is represented on the Erie County Greenway Fund Standing Committee by Thomas J. Dearing, Commissioner of the Department of Environment and Planning. Other members of the Committee include a representative from the City of Buffalo, Olmsted Parks Conservancy, and the New York Power Authority. The primary purpose of the Committee is to review, award, and monitor the expenditure of Greenway funds undertaken by eligible organizations within the Erie County Greenway area.

The Committee is seeking to designate M&T Bank as the financial organization to oversee management of the Greenway Fund. The latter shall be the trustee of the Greenway Fund and shall have the power and authority to receive and disburse funds.

Bank of America formerly served as Trustee but is no longer desirous of continuing in that capacity.

### **FISCAL IMPLICATIONS**

As a result of the terms contained in the Erie County/City of Buffalo Relicensing Settlement Agreement (RSA) executed in September, 2007, the New York Power Authority provides \$2,000,000 annually to the Committee to support construction and rehabilitation of parks, recreation/related facilities promoting tourism, environmental enhancements, public access projects and economic revitalization of the Niagara River Greenway.

There are no County funds required to execute the written agreements.

### **REASONS FOR RECOMMENDATION**

Bank of America served as trustee since 2009. The latter institution is no longer desirous of serving in this capacity. The Erie County/City of Buffalo Relicensing Settlement Agreement (RSA), executed on/about September 2007, requires that the Committee select a Trustee of the Greenway Fund.

### **BACKGROUND INFORMATION**

On behalf of the Committee, the Community Foundation solicited responses from six financial institutions that may have had an interest in serving as Trustee. Upon a thorough evaluation of investment approaches, accessibility, fees, and other factors the Committee, at their meeting of July 22, 2015, chose M&T Bank as the financial institution to provide Trustee Services for the Greenway Fund. In order to initiate the service a Trustee Agreement must be executed between M&T Bank and the four members comprising the Erie County Greenway Fund Standing Committee.

### **CONSEQUENCES OF NEGATIVE ACTION**

The annual distribution of the Greenway Fund would be suspended until the appropriate legislative authorization is completed by the Erie County Legislature.

### **STEPS FOLLOWING APPROVAL**

The Commissioner of the Department of Environment and Planning will execute the Trustee Agreement on behalf of Erie County with M&T Bank, and the other Committee representatives.

**A RESOLUTION SUBMITTED BY:  
ENVIRONMENT AND PLANNING**

**RE: Authorization to Execute Erie County Greenway Fund Standing Committee Documents**

WHEREAS, The New York Power Authority (“Authority”) which owns and operates the Niagara Power Project (“NPP”) in Lewiston, New York, received a new License to operate the NPP from the Federal Energy Regulatory Commission on March 15, 2007 that became effective on September 1, 2007; and

WHEREAS, in conjunction with the License for the NPP, the “Erie County/City of Buffalo Relicensing Settlement Agreement” (“RSA”) was executed; and

WHEREAS, the RSA provides for Authority funding of the Erie County Greenway Fund (“Greenway Fund”) to support construction and/or rehabilitation of parks, recreation, and related facilities promoting tourism, enhancing the environment, and advancing the economic revitalization of the Niagara River Greenway within Erie County as set forth in the Niagara River Greenway Act of 2005; and

WHEREAS, the Committee, which is comprised of one member from Erie County, the City of Buffalo, Buffalo Olmsted Parks Conservancy and the Authority, has adopted protocols and requirements for the funding of projects entitled “Buffalo and Erie County Greenway Fund Standing Committee Grant Guidelines and Application”; and

WHEREAS, on August 24, 2015 the Erie County Executive appointed Thomas J. Dearing, Commissioner of the Department of Environment and Planning as the Erie County representative on the Committee; and

WHEREAS, the RSA requires that the Committee select a Trustee of the Greenway Fund which shall have the power and lawful authority to receive and disburse funds with respect to the Greenway Fund; and

WHEREAS, the Committee desires to appoint the Manufacturers and Traders Trust Company (M&T Bank) as Trustee and Escrow Agent under this Agreement for the purpose of accepting and disbursing payments to the Greenway Fund, and investing and holding such funds in trust for the benefit of the Committee in accordance with the terms of this Agreement.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that Erie County (“Client”) hereby authorizes Thomas J. Dearing, Commissioner of the Erie County Department of Environment and Planning, on behalf of the Client, to complete, execute, and deliver to Manufacturers and Traders Trust Company (M&T Bank) agreements in a form acceptable to such Authorized Individual for the provision of custody, escrow, trust, funds transfer, investment management and investment advisory services, including any amendments and agreements or other documents related thereto, as such Authorized Individual deems necessary or appropriate from time to time; and be it further

**RESOLVED**, that certified copies of this resolution be sent to the County Executive’s Office; the Comptroller’s Office; the Director of the Division of Budget and Management; the County Attorney; and Thomas J. Dearing, the Commissioner of the Department of Environment and Planning, Rath Building, 10<sup>th</sup> Floor.

Comm. 16E-7

Page 3 of 3