



# COUNTY OF ERIE

**MARK C. POLONCARZ**  
COUNTY EXECUTIVE

September 10, 2015

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

**RE: Erie County Sewer District No. 6  
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. 6.

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,

A handwritten signature in black ink, appearing to read "Mark C. Poloncarz", is written over the typed name.

Mark C. Poloncarz, Esq.  
Erie County Executive

MCP:JM:cs  
Enclosure

cc: Thomas Dearing

## MEMORANDUM

**To:** Honorable Members of the Erie County Legislature  
**From:** Department of Environment and Planning  
**Re:** Erie County Sewer District No. 6  
Modification of Plans (2015)  
**Date:** September 10, 2015

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### **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 6. 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 July 16, 2015, calling a Public Hearing. The Public hearing was held on July 29, 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 \$4,000,000 was approved to reduce treatment costs within the Sewer District with an Infiltration/Inflow Program. The District has made great strides in this direction. The bond account currently has \$1.534 million in bond authorization remaining which will require an extension in time to complete some new projects that have surfaced. The Erie County Sewer District No. 6 Board of Managers approved the Sewer Agency Report for the Modification of Plans on May 13, 2015.

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

The Sewer District would not be able to utilize the remaining bond authorization to complete new projects that have materialized.

### **STEPS FOLLOWING APPROVAL**

Erie County Sewer District No. 6 will utilize the remaining funding authorization to complete new projects.

JF  
  
\_\_\_\_\_  
Thomas Dearing  
Commissioner

TD:JM:cs

cc: 0.11.0 Leg Letter  
J.Carr/J.Mallory/6.5.0 Mod. Of Plans (2015)

*V:\Sewerage Management\Administration\Documents\Courtney\Resolution\Mallory\ECSD6ModOfPlansBondReso.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 2:00 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 \$1,534,000 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. 6 IN THE COUNTY OF ERIE, NEW YORK; STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$1,534,000, STATING THE PLAN OF FINANCING SAID COSTS INCLUDES THE ISSUANCE OF \$1,534,000 OF 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. 6 TO SAID COUNTY.

(Introduced) \_\_\_\_\_, 2015

(Adopted) \_\_\_\_\_, 2015

Recitals

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 May 19, 2005 (the "Original Bond Resolution"), an increase and improvement of facilities of Erie County Sewer District No. 6 has been approved at a estimated maximum cost of \$4,000,000; and

WHEREAS, pursuant to the provisions of the Original Bond Resolution, the County has issued \$2,466,000 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 \$1,534,000 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, \$1,534,000 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. 6, including, but not limited to, improvements to the Wilmuth/Well Pumping Station, including engineering costs associated with those improvements, and the replacement of, and improvements to, existing sewers and pumping stations. all as more fully described in the report and estimate of cost accepted and adopted by the Board of Managers of said District on May 13, 2015 and filed with the County Legislature. The estimated maximum cost of said specific object or purpose, including preliminary costs and costs incidental thereto and to the financing thereof, is \$1,534,000. The plan of financing includes the issuance of \$1,534,000 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 assessment against a benefited area which consists of the entire area of said Sewer District No. 6.

Section 2. The period of probable usefulness for the specific object or purpose for which said \$1,534,000 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 \$1,534,000 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.

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,

\_\_\_\_\_, 2015

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: \_\_\_\_\_

\_\_\_\_\_  
Thomas Dearing, 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 summary, in the Challenger Newspaper and the Amherst Bee Newspaper, 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 AFTER ADOPTION)

NOTICE

The resolution, a summary 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

RESOLUTION NO. \_\_-2015

BOND RESOLUTION DATED \_\_\_\_\_, 2015

BOND RESOLUTION AUTHORIZING THE ISSUANCE OF \$1,534,000 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. 6 IN THE COUNTY OF ERIE, NEW YORK; STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$1,534,000, STATING THE PLAN OF FINANCING SAID COSTS INCLUDES THE ISSUANCE OF \$1,534,000 OF 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. 6 TO SAID COUNTY.

object or purpose: increase and improvement of facilities for Erie County Sewer District No. 6, certain additional improvements within the District, including but not limited to improvements to the Wilmuth/Well Pumping Station, including engineering costs associated with those improvements, and the replacement of, and improvements to, existing sewers and pumping stations, all as more fully described in the report and estimate of cost approved by the Board of Managers of said District on May 13, 2015 and filed with the County Legislature.

period of probable usefulness: forty (40) years

amount of obligations to be issued: \$1,534,000

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: \_\_\_\_\_, 2015  
Buffalo, New York