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COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

December 30, 2016

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

**RE: Erie County Sewer District No. 4
Increase & Improvement of Facilities (2016)**

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. 4.

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,

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

Mark C. Poloncarz, Esq.
Erie County Executive

MCP:JM:cs

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. 4
Increase & Improvement of Facilities (2016)
Date: December 30, 2016

SUMMARY

The Erie County Legislature is requested to approve the attached bond resolution for the proposed Increase & Improvement of Facilities in Erie County Sewer District (ECSD) No. 4. The Bond Resolution requires a roll call favorable vote of not less than two-thirds of all members of the Legislature.

FISCAL IMPLICATIONS

The bond authorization will have no effect on Erie County's general fund.

REASONS FOR RECOMMENDATION

Pursuant to County Law, Article 5A, Section 268, Increase & Improvement requires a Public Hearing on the proposed increase. The Erie County Legislature approved a resolution on October 6, 2016 calling for a public hearing. The public hearing was held on October 26, 2016 with no objections to the Increase & Improvement of Facilities. The Erie County Legislature on December 15, 2016 approved the project. The final step is to approve the attached bond resolution.

BACKGROUND INFORMATION

The new bonding authorization will provide funding for engineering, pumping station improvements, collection system, infiltration and inflow improvements, and upgrades for the Depew Overflow Retention Facility.

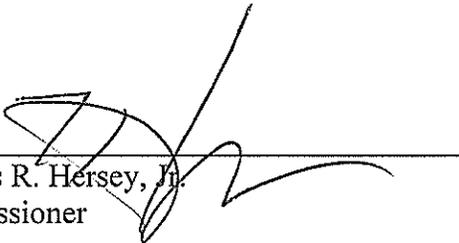
On June 22, 2016 the Erie County Sewer District No. 4 Board of Managers approved the Sewer Agency Report recommending the Increase & Improvement of Facilities pursuant to the New York State Law to fund these needed improvements.

CONSEQUENCES OF A NEGATIVE ACTION

The County would not be able to fund the necessary improvements in ECSD No. 4.

STEPS FOLLOWING APPROVAL

The Erie County Division of Sewerage Management will be able to fund the necessary improvements within the Sewer District.

JK

Thomas R. Hersey, Jr.
Commissioner

JM:cs
Enclosures

cc: J. Fiegl 0.11.0 Leg. Ltr. (w/enc.)
J. Carr/D. Millar/J. Mallory 4.5.0 Inc. & Imp. of Facilities (2016)
V:\Sewerage Management\Administration\Documents\Courtney\Resolution\Mallory\11.28.16 D4 Increase&Improve 2016.docx

EXTRACT OF MINUTES

Meeting of the County Legislature of
the County of Erie, New York.

_____, 2017

* * *

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 _____, 2017, at 2 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. ____-2017

BOND RESOLUTION DATED _____, 2017

BOND RESOLUTION OF THE COUNTY OF ERIE, NEW YORK, AUTHORIZING THE ISSUANCE OF \$6,000,000 BONDS OF THE COUNTY, OR SO MUCH THEREOF AS MAY BE NECESSARY, TO FINANCE THE COST OF AN INCREASE AND IMPROVEMENT OF THE FACILITIES OF ERIE COUNTY SEWER DISTRICT NO. 4; STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$6,000,000, 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. 4 TO SAID COUNTY.

(Introduced) _____, 2017

(Adopted) _____, 2017

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 December 15, 2016, an increase and improvement of facilities of Erie County Sewer District No. 4 (the District”) has been approved at a total estimated maximum cost of \$6,000,000 (the “Projects”); 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. The County of Erie, New York (herein called “County”), is hereby authorized to undertake the Projects, consisting of: (i) various pumping station improvements at the estimated maximum cost of \$2,400,000; (ii) various collection system/infiltration and inflow

improvements at the estimated maximum cost of \$2,100,000; and (iii) improvements required by anticipated modification of the State Pollutant Discharge Elimination System permit for the Depew Overflow Retention Facility at the estimated maximum cost of \$1,500,000; all as more fully described in the report and estimate of cost approved by the Board of Managers of the District on June 22, 2016 and filed with the County Legislature pursuant to Section 268 of the County Law. The total estimated maximum cost of said specific objects or purposes, including preliminary costs and costs incidental thereto and to the financing thereof, is \$6,000,000 and said amount is hereby appropriated therefor pursuant to the duly adopted 2016 Capital Budget for the County. The plan of financing includes the issuance of \$6,000,000 aggregate principal amount of bonds of the County to finance said appropriation, the levy and collection of taxes on all the taxable real property in the County to pay the principal of said bonds and the interest thereon as the same shall become due and payable, the said principal and interest to be reimbursed to the County by the assessment and levy on the real property in the District, as well as the contracting communities including Erie County Sewer District No. 1, West Seneca District No. 6, Cheektowaga Sewer District No. 3, and Lancaster town sewer districts, all in accordance with their respective proportionate shares of equalized assessed value in the District.

Section 2. Bonds of the County in the principal amount of \$6,000,000, or so much thereof as may be necessary, are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law") to finance said appropriation.

Section 3. The period of probable usefulness for the specific objects or purposes for which said \$6,000,000 bonds herein authorized are to be issued, within the limitations of §11.00 a. 4 of the Law, is forty (40) years.

Section 4. Current funds are not required to be provided as a down payment prior to the issuance of the bonds authorized herein, or any bond anticipation notes issued in anticipation thereof, pursuant to Section 107.00 d. 3. of said Law.

Section 5. 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 6. 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 7. 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 8. 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 9. 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,
_____, 2017

The foregoing Bond Resolution is hereby approved

County Executive
Mark C. Poloncarz

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.

_____, 2017.

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: _____

By _____
Thomas R. Hersey, Jr., Commissioner
Environment & Planning
Date: _____

APPROVED AS TO FORM:

RECOMMENDED BY:

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

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 summary, in the *Amherst Bee*, and the *Challenger*, the official newspapers of the County and in the Depew Bee a newspaper of local circulation 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 _____, 2017, 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
_____, 2017.

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 summary of which is published herewith, has been adopted by the County Legislature on the ____ day of _____, 2017 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. _____ OF 2017

BOND RESOLUTION DATED _____, 2017

BOND RESOLUTION OF THE COUNTY OF ERIE, NEW YORK, AUTHORIZING THE ISSUANCE OF \$6,000,000 BONDS OF THE COUNTY, OR SO MUCH THEREOF AS MAY BE NECESSARY, TO FINANCE THE COST OF AN INCREASE AND IMPROVEMENT OF THE FACILITIES OF ERIE COUNTY SEWER DISTRICT NO. 4; STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$6,000,000, 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. 4 TO SAID COUNTY.

object or purpose: increase and improvement of facilities of Erie County Sewer District No. 4, consisting of: (i) various pumping station improvements at the estimated maximum cost of \$2,400,000; (ii) various collection system/infiltration and inflow improvements at the estimated maximum cost of \$2,100,000; and (iii) improvements required by anticipated modification of the State Pollutant Discharge Elimination System permit for the Depew Overflow Retention Facility at the estimated maximum cost of \$1,500,000; all as more fully described in the report and estimate of cost approved by the Board of Managers of the District on June 22, 2016 and filed with the County Legislature pursuant to Section 268 of the County Law

period of probable usefulness: forty (40) years

amount of obligations to be issued: \$6,000,000

A complete copy of the Bond Resolution summarized above shall be available for public inspection during normal business hours at the office of the Clerk of the Erie County Legislature, in Buffalo, New York.

Dated: _____, 2017
Buffalo, New York