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COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

June 13, 2018

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

**RE: Erie County Sewer District No. 8
Modification of Plans (2017)**

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. 8.

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, reading "Mark Poloncarz", with a long, sweeping horizontal line extending to the right.

Mark C. Poloncarz, Esq.
Erie County Executive

MCP:JM:cs
Enclosure

cc: Thomas Hersey, Jr., Commissioner of Environment & Planning

MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: Department of Environment and Planning
Re: Erie County Sewer District No. 8
Modification of Plans (2017)
Date: June 13, 2018

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 8. 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 2008, requires a public hearing on the proposed changes. The Erie County Legislature approved a resolution on February 15, 2018, calling a Public Hearing. The Public hearing was held on March 6, 2018 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 2008, an Increase & Improvement of Facilities for \$4,000,000 was approved to make needed improvements within the Sewer District. The District has made great strides in this direction. The bond account currently has \$674,636.00 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. 8 Board of Managers approved the Sewer Agency Report for the Modification of Plans on December 5, 2017.

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. 8 will utilize the remaining funding authorization to complete new projects.

EXTRACT OF MINUTES
Meeting of the County Legislature of
the County of Erie, New York.

_____, 2018

* * *

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 _____, 2018, at 2 o'clock P.M. (Prevailing Time).

The following Legislators were present:

There were absent:

Also present: Robert M. Graber, Clerk of the Legislature

* * *

Legislator _____ offered the following resolution and moved its
adoption:

RESOLUTION NO. ____-2018

BOND RESOLUTION DATED _____, 2018

BOND RESOLUTION OF THE COUNTY OF ERIE, NEW YORK, AUTHORIZING THE
ISSUANCE OF \$674,636 BONDS OF THE COUNTY, OR SO MUCH THEREOF AS MAY
BE NECESSARY, TO FINANCE THE COST OF MODIFIED INCREASE AND
IMPROVEMENT OF FACILITIES FOR ERIE COUNTY SEWER DISTRICT NO. 8;
STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$674,636, 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. 8 TO SAID COUNTY.

(Introduced) _____, 2018

(Adopted) _____, 2018

WHEREAS, pursuant to proceedings heretofore had and taken in accordance with
the provisions of Article 5-A of the County Law, including approving orders of the State
Comptroller, County Sewer District No. 8 of the County of Erie, New York (the "District"), has
heretofore been established and a plan for increase and improvement of facilities for the District
has been authorized by the County Legislature of the County of Erie, New York on January 24,
2008; and

WHEREAS, such County Legislature has heretofore duly authorized the
financing of said establishment, at an estimated maximum cost of \$4,000,000, which amount was
appropriated therefore pursuant to Bond Resolution No. 15-2008 duly adopted on January 24,
2008, and it has now been determined that such resolution has been deemed to be repealed by

operation of law on the tenth anniversary of its effective date except to the extent that \$674,636 of the County's bonds have yet to be issued pursuant thereto; and

WHEREAS, it is now appropriate to reauthorize such appropriation and the issuance of \$674,636 bonds to finance the balance of such appropriation; and

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 24, 2018, a modification of plans for a portion of said increase and improvement of the facilities of Erie County Sewer District No. 8 (the District”) has been approved at a total estimated maximum cost of \$674,636 (the “Projects”); and

WHEREAS, the Projects are to be financed through the issuance of said bonds; 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 upgrades to the filters, reactor tanks, piping, the physical plant, and energy improvements at the water resource recovery facility, collection system upgrades, and related engineering and administration costs; all as more fully described in the report and estimate of cost approved by the Board of Managers of the District on December 5, 2017 and filed with the County Legislature. The total estimated maximum cost of said objects or purposes, including preliminary costs and costs incidental thereto and to the financing thereof, is \$674,636 and said amount is hereby reappropriated therefor pursuant to the duly adopted 2018

Capital Budget for the County. The plan of financing includes the issuance of \$674,636 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, 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 \$674,636, 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 object or purpose for which said \$674,636 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,
_____, 2018

The foregoing Bond Resolution is hereby approved

County Executive
Mark C. Poloncarz

I, Robert M. Graber, 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.

_____, 2018.

Robert M. Graber
Clerk of the Erie County
Legislature

APPROVED AS TO CONTENT:

By _____
Stefan I. Mychajliw, Erie County
Comptroller
Date: _____

APPROVED AS TO CONTENT:

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

APPROVED AS TO FORM:

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

RECOMMENDED BY:

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, "*Amherst Bee*" and in the "*Challenger*", the official newspapers of said County, and in the "*East Aurora Bee*", 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, Robert M. Graber, 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 _____, 2018, 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 _____, 2018.

Robert M. Graber
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 _____, 2018 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.

ROBERT M. GRABER.
Clerk of the County Legislature

RESOLUTION NO. _____ OF 2018

BOND RESOLUTION DATED _____, 2018

BOND RESOLUTION OF THE COUNTY OF ERIE, NEW YORK, AUTHORIZING THE ISSUANCE OF \$674,636 BONDS OF THE COUNTY, OR SO MUCH THEREOF AS MAY BE NECESSARY, TO FINANCE THE COST OF MODIFIED INCREASE AND IMPROVEMENT OF FACILITIES FOR ERIE COUNTY SEWER DISTRICT NO. 8; STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$674,636, 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. 8 TO SAID COUNTY.

object or purpose: modified increase and improvement of facilities for Erie County Sewer District No. 8, consisting of upgrades to the filters, reactor tanks, piping, the physical plant, and energy improvements at the water resource recovery facility, collection system upgrades, and related engineering and administration costs; all as more fully described in the report and estimate of cost approved by the Board of Managers of the District on December 5, 2017 and filed with the County Legislature

period of probable usefulness: forty (40) years

amount of obligations to be issued: \$674,636

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: _____, 2018
Buffalo, New York