

January 26, 2023

ENERGY & ENVIRONMENT COMMITTEE
REPORT NO. 2

ALL MEMBERS PRESENT, EXCEPT LEGISLATOR BARGNESI & CHAIR MEYERS
CHAIR BASKIN PRESENT AS EX-OFFICIO MEMBER.

- 1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 12E-6 (2022)
GREENE: “Letter Concerning the Implementation of COMM. 8E-33, a Resolution Imposing a Two Dollar Cap on the Collection of Sales Taxes on Motor Fuel”
(Acting Chair’s Ruling)
 - b. COMM. 14E-6 (2022)
MILLS: “Request for Conversation Regarding Wind Turbines on Lake Erie”
(Acting Chair’s Ruling)
 - c. COMM. 2E-4 (2023)
COUNTY EXECUTIVE: “ECSD No. 8 - Engineering Term Contract Agreement”
(Acting Chair’s Ruling)
 - d. COMM. 2E-5 (2023)
COUNTY EXECUTIVE: “ECSD No. 2 - Engineering Term Contract Agreement”
(Acting Chair’s Ruling)
 - e. COMM. 2E-6 (2023)
COUNTY EXECUTIVE: “ECSD No. 6 - Engineering Term Contract Agreement”
(Acting Chair’s Ruling)
 - f. COMM. 2E-7 (2023)
COUNTY EXECUTIVE: “ECSD No. 4 - Engineer Term Contract Agreement”
(Acting Chair’s Ruling)
 - g. COMM. 2E-8 (2023)
COUNTY EXECUTIVE: “ECSD Nos. 1, 3, 4, & 5 - Construction Inspection Term Contract Agreement”
(Acting Chair’s Ruling)

- h. COMM. 2E-9 (2023)
COUNTY EXECUTIVE: “ECSD No. 3 - Engineering Term Contract Agreement, Arcadis of NY, Inc.”
(Acting Chair’s Ruling)
- i. COMM. 2E-10 (2023)
COUNTY EXECUTIVE: “ECSD No. 3 - Engineering Term Contract Agreement, CHA Consulting, Inc.”
(Acting Chair’s Ruling)
- j. COMM. 2E-11 (2023)
COUNTY EXECUTIVE: “ECSD No. 3 - Engineering Term Contract Agreement, O'Brien & Gere Engineers, Inc.”
(Acting Chair’s Ruling)
- k. COMM. 2E-12 (2023)
COUNTY EXECUTIVE: “ECSD No. 3 - Engineering Term Contract Agreement, C&S Companies”
(Acting Chair’s Ruling)
- l. COMM. 2E-13 (2023)
COUNTY EXECUTIVE: “ECSD No. 3 - Engineering Term Contract Agreement, DiDonato Associates”
(Acting Chair’s Ruling)
- m. COMM. 2D-2 (2023)
CHIEF PLANNER ENVIRONMENT AND PLANNING: “Southtowns Advanced Wastewater Treatment Facility Expansion”
(Acting Chair’s Ruling)
- 2. COMM. 2E-17 (2023)
COUNTY EXECUTIVE
WHEREAS, the County of Erie had previously entered into a contract with the Erie County Soil and Water Conservation District (ECS&WCD) who have the essential expertise and personnel to perform the necessary inspections and evaluations, as well as, to carry out administrative responsibilities related to the delivery of various technical services including stream bank maintenance, road, bridge, and culvert scour maintenance; and

WHEREAS, it has become necessary to implement the County-wide Stream Maintenance Program to continue to reduce erosion and localized flood-related risk to roads, bridges, culverts, and rights-of-way by removing gravel bars and vegetative debris obstructing or diverting the natural flow of streams, repair road, bridge, and culvert scour or prevention of same; and

WHEREAS, Article 5-G of the General Municipal Law authorizes municipalities and districts to contract to perform together that which each public entity is authorized to perform individually; and Article 5, Section 99-R of the same General Municipal Law authorizes Erie County and the ECS&WCD to contract by direct negotiations for services of government not regularly provided to the public as part of general government services; and

WHEREAS, the Legislative Body of Erie County and the Board of Directors of the ECS&WCD have previously authorized a municipal agreement on July 22, 2021, via COMM. 14E-16 (2021) for the purpose of performing a County-wide Stream Maintenance Program; and

WHEREAS, continued wetland mitigation is required after the reconstruction of Goodrich Road-CR 216; and

WHEREAS, authorization is required to renew and execute a contract with ECS&WCD for an amount not to exceed \$152,660.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to renew and execute the contract between the County of Erie and the Erie County Soil and Water Conservation District (ECS&WCD) for \$152,660; and be it further

RESOLVED, that the 2022 Highway Department Budget, GL 516020 – Professional Services, Fund 210, Funds Center 1231010 will provide \$120,000 and B.17002 – 2017 Preservation of Roads Construction-Goodrich Road (Clarence) will contribute \$32,660 for the required wetland mitigation after the reconstruction of CR 216 for a total contract with ECS&WCD not to exceed \$152,660; and be it further

RESOLVED, that five (5) certified copies of this resolution be sent to the Department of Public Works, Division of Highways, and one copy each to the Office of the County Executive, the Division of Budget and Management, and the Office of the Comptroller.
(4-0)

3. COMM. 2E-24 (2023)
COUNTY EXECUTIVE

WHEREAS, pursuant to Legislative Comm. 12E-5 (2021), Contract No. 26 was awarded to National Water Main Cleaning Co. to construct the Transit Road Cured In Place Pipe Lining Project, in Erie County Sewer District No. 5; and

WHEREAS, the Erie County Division of Sewerage Management has advised that all scheduled improvements are now completed; and

WHEREAS, the Erie County Department of Environment and Planning has recommended the acceptance of Contract No.26, in the final contract amount of \$376,319.80 which includes Change Order No. 1 (final), a decrease of (\$17,524.20) and recommends approval for final payment.

NOW, THEREFORE, BE IT

RESOLVED, that Contract No. 26 between the County of Erie and National Water Main Cleaning Co. (25 Marshall Street, Canton, MA 02021) is accepted in the final contract amount of \$376,319.80 which includes Change Order No. 1 (final), a decrease of (\$17,524.20) and is allocated in Capital Account C.21150 (American Rescue Plan); and be it further

RESOLVED, that the Erie County Comptroller be directed to make final payment for Contract No. 26, to National Water Main Cleaning Co. for a total contract amount of \$376,319.80; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send one (1) certified copy of this resolution to the County Executive, the Erie County Comptroller, the Director of Budget and Management, Richard Stanton, Assistant County Attorney, and Joseph Fiegl, P.E., Deputy Commissioner, Department of Environment and Planning.
(4-0)

4. COMM. 2E-25 (2023)
COUNTY EXECUTIVE
WHEREAS, the New York State Department of Transportation (NTSDOT), under the project identified as:

PMI – NY ROUTE 240/277 (S.H. 1665, S.H. 272, S.H. 27, S.H. 66, S.H. 67, S.H. 9215);
US ROUTE 20A (S.H. 1586, S.H. 1066)
BIN 1016060, 1016070
TOWN/VILLAGE OF ORCHARD PARK, ERIE COUNTY
Project Identification Number (PIN) 5814.39, D264946

Is advancing a preventative maintenance project, located on Route NY Rt. 240/277 (South Buffalo Street, North Buffalo Street); NY Rt. 952J to Michael Road and Us Rt. 20A (East and West Quaker Street); Centre Drive to Freeman Road; and

WHEREAS, the Erie County Legislature on the behalf of the ECSD No. 3 concurs with the Erie County Division of Sewerage Management’s recommendation to replace ECSD No. 3 manhole frames and covers as part of NYSDOT PIN 5814.39, D264946 (hereinafter referred to as betterment work); and

WHEREAS, the Erie County Legislature, on behalf of ECSD No. 3, approves the plans of this betterment work and desires to have this work included with the State project; and

WHEREAS, the State of New York has estimated the cost of the betterment work at \$81,640.00 and has agreed to include this betterment work with the State project identified above and described in Schedule A provided the Erie County Legislature on the behalf of the ECSD No. 3 agrees to pay the cost of such betterment(s).

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does approve the cost estimate for the betterment work to be performed by the State; and be it further

RESOLVED, that ECSD No. 3 shall maintain or cause to be maintained such highway betterment(s); and be it further

RESOLVED, that ECSD No. 3 will deposit with the State Comptroller in a project escrow account the full amount of the estimate for the cost of the betterment work as described in Schedule A for payments by the State Comptroller for the Municipal work prior to contract letting; and be it further

RESOLVED, that ECSD No. 3 will also deposit with the State Comptroller in a project escrow account the full amount of the contract bid price for the cost of the betterment work (less any amounts already deposited for purposes thereof) for payments by the Comptroller on account of project costs within 10 days after the lowest-bidder or best-value proposer eligible for award has been identified; and be it further

RESOLVED, that in the event the cost of the betterment work exceeds the amount of the deposit and the Erie County Division of Sewerage Management recommends proceeding with the betterment work, ECSD No. 3, shall within 90 days of the receipt of notice from the Commissioner pay the amount of such deficiency to the State Comptroller; and any excess of the deposit shall be paid to ECSD No. 3 on the warrant of the State Comptroller on vouchers approved by the Commissioner after project close out; and be it further

RESOLVED, that the Erie County Legislature hereby authorizes the Commissioner of the Department of Environment and Planning to enter into an agreement with the State of New York and through the Commissioner of Transportation to commit ECSD No. 3 to maintain at its own expense the betterment(s) on the above-identified project; and that such agreement provides that maintenance shall include the repair and replacement of equipment and the operation of such betterment(s); and be it further

RESOLVED, that Erie County Sewer District (ECSD) No. 3 Professional Services Account No. 516020 be the source of funding for all costs associated with the aforementioned agreement, up to an amount not to exceed \$100,000.00; and be it further

RESOLVED, that Commissioner of the Department of Environment and Planning has the authority to sign, with the concurrence of the Erie County Legislature, any and all documentation that may become necessary as a result of the betterment work as it relates to the ECSD No. 3; and be it further

RESOLVED, that the Clerk of this Erie County Legislature is hereby directed to transmit five (5) certified copies of the foregoing resolution to the State Department of Transportation addressed through:

Regional Utility Unit
NYSDOT – Region 5
100 Seneca Street
Buffalo, New York 14203

and be it further

RESOLVED, that one (1) certified copy each of this resolution be sent to the County Executive, the County Comptroller, Richard Stanton, Assistant County Attorney, and Joseph Fiegl, P.E., Department of Environment and Planning.
(4-0)

5. COMM. 2E-26 (2023)

COUNTY EXECUTIVE

WHEREAS, the New York State Department of Transportation (NYSDOT) in the calendar year 2023 proposes the construction, reconstruction, or improvement capital projects of State Highways within the boundaries of the Erie County Sewer Districts; and

WHEREAS, the State will include as part of their capital projects sanitary sewer facilities adjustments to be done pursuant to Section 10, Subdivision 24, of the State Highway Law, as shown on contract plans relating to the projects and satisfying the requirements of the Erie County Sewer Districts; and

WHEREAS, the service life of the adjusted utilities has not been extended; and

WHEREAS, the Erie County Department of Environment and Planning, Division of Sewerage Management recommends that the County of Erie enter into NYSDOT Utility Work Agreements (HC-140) in the year 2023 to allow for adjustments of Erie County Sewer District assets required for NYSDOT capital projects at the NYSDOT’s expense.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature approves the proposed adjustments for the County owned sanitary sewer facilities as shown on contract plans relating to NYSDOT capital projects, and completed at the NYSDOT’s expense; and be it further

RESOLVED, that the affected Erie County Sewer District will maintain or cause to be maintained facilities adjusted by the NYSDOT as above stated; and it be further

RESOLVED, that the Commissioner of the Erie County Department of Environment and Planning or his/her designee is hereby authorized, on behalf of the County of Erie, to sign NYSDOT Utility Work Agreements; and be it further

RESOLVED, that the Commissioner of the Erie County Department of Environment and Planning or his/her designee is hereby authorized, on behalf of the County of Erie, to sign any additional documentation relating to a project to be completed under an aforementioned NYSDOT Utility Work Agreements; and it be further

RESOLVED, that the Clerk of the Legislature send one (1) certified copy of this resolution to the New York State Department of Transportation with each package of NYSDOT Utility Work Agreements for each NYSDOT capital project approved by Erie County Department of Environment and Planning, and one (1) certified copy each of this resolution to the County Executive, the County Comptroller, Richard Stanton, Assistant County Attorney, and Joseph Fiegl, P.E., Department of Environment and Planning.
(4-0)

6. COMM. 2E-29 (2023)
COUNTY EXECUTIVE
WHEREAS, climate change increasingly poses a threat to life and property in Erie County; and

WHEREAS, Erie County is preparing an equity-focused Community Climate Action Plan (CCAP); and

WHEREAS, it is important that the community is engaged and has a voice in the CCAP development so that resulting County climate action projects and programs best reflect the needs of the community; and

WHEREAS, the Urban Sustainability Directors Network (USDN), of which Erie County is a member, has a competitive grant program to help strengthen community relationships regarding climate work; and

WHEREAS, Erie County applied for a grant with the Omega Mentoring Program at the Johnnie B. Wiley Amateur Athletic Sports Pavilion to support a “Climate Connections for Buffalo’s East Side Youth” Project; and

WHEREAS, a grant agreement between the USDN and the Omega Mentoring Program will be executed, and the County will not be party to the grant agreement; and

WHEREAS, in order for USDN to fund the project, USDN requires that the execution of a Memorandum of Understanding between USDN and the County, with the County agreeing to help facilitate the project using existing staff capacity.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive or Deputy County Executive is hereby authorized to execute a Memorandum of Understanding with the Urban Sustainability Directors Network, with the County agreeing to help facilitate the “Climate Connections for Buffalo’s East Side Youth” Project; and be it further

RESOLVED, that certified copies of this resolution shall be furnished to the Office of the County Executive; the Director of the Division of Budget and Management; the Office of the County Attorney; the Office of the County Comptroller; Daniel Castle, Commissioner of Environment and Planning, and Bonnie Lawrence, Deputy Commissioner of Environment and Planning.
(4-0)

JEANNE M. VINAL
ACTING CHAIR