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ERIE COUNTY COMPTROLLER  
KEVIN R. HARDWICK

June 18, 2025

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

**RE: Erie County Sewer District No. 3  
Proposed Increase and Improvement of Facilities (2024)  
Final Order / Bond Resolution**

Dear Honorable Members:

Enclosed please find a memorandum and Bond Resolution from the Department of Environment and Planning, Division of Sewerage Management, pertaining to an Increase and Improvement of Facilities for Erie County Sewer District No. 3.

Should your Honorable Body require further information, please contact Joseph Fiegl, Deputy Commissioner of Sewerage Management. Thank you for your consideration on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "K. R. Hardwick", is written over a light blue circular stamp that partially overlaps the signature.

Kevin R. Hardwick, Ph.D.  
Erie County Comptroller

Enclosure

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. 3  
Proposed Increase and Improvement of Facilities (2024)  
Final Order / Bond Resolution  
**Date:** June 18, 2025

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### **SUMMARY**

The Erie County Legislature is requested to approve the attached final order and amending bond resolution for the proposed Increase and Improvement of Facilities in Erie County Sewer District (ECSD) No. 3. This resolution requires a roll call favorable vote of not less than two-thirds of all members of the Legislature.

### **FISCAL IMPLICATIONS**

Approving this resolution will have no effect on Erie County's general fund. The rate payers and customers of Sewer District 3 will be responsible for the debt service payments and costs of this project and borrowing.

### **REASONS FOR RECOMMENDATION**

The Erie County Legislature approved the Increase and Improvement of Facilities for this project on October 24, 2024, per Legislative Comm. 17E-9 (2024), noting that an application shall be prepared and submitted to the New York State Comptroller's office. The New York State Comptroller's office reviewed said application and on June 3, 2025 determined that the public interest will be served by the Increase and Improvement of Facilities. The New York State Comptroller's office further determined that the additional cost from the Increase and Improvement of Facilities will not be an undue burden on those that are to bear the cost. The last step to finalize this action is to approve the enclosed final order and amending bond resolution.

### **BACKGROUND INFORMATION**

ECSD No. 3 is advancing improvements to the Southtowns Advanced Wastewater Treatment Facility, existing pumping stations, and collection systems components. The original bond resolution for this project was passed by the Erie County Legislature on July 20, 2023. On April 17, 2024, the ECSD No. 3 Board of Managers reviewed the latest information and cost estimates for the project, and approved a map, plan, and report recommending the Increase and Improvement of Facilities. The map, plan, and report more fully describing the proposed project and estimates was filed with the Erie County Legislature in July 2024 pursuant to Legislative Comm. 13E-4 (2024). Following New York State County Law, Article 5A, Section 268, the Erie County Legislature approved a resolution on July 25, 2024 (Legislative Comm. 13E-5 (2024)) calling for a public hearing related to an amended Increase and Improvement of

Facilities. The public hearing was held on September 9, 2024, and no objections or concerns were raised.

**CONSEQUENCES OF A NEGATIVE ACTION**

The County would not be able to fund the necessary improvements in ECSD No. 3.

**STEPS FOLLOWING APPROVAL**

ECSD No. 3 will advance the necessary improvements.

EXTRACT OF MINUTES

Meeting of the County Legislature of the

County of Erie, New York

\_\_\_\_\_, 2025

\* \* \*

A meeting of the County Legislature of the County of Erie, New York (the "County") was held at the Chambers of the Erie County Legislature, in the Erie County Hall, Buffalo, New York, in said County, on \_\_\_\_\_ o'clock p.m., local time.

The meeting was called to order by \_\_\_\_\_ and, upon roll being called, the following Legislators were:

PRESENT:

ABSENT:

ALSO PRESENT:

The following resolution was offered for consideration upon motion by Legislator \_\_\_\_\_, with the motion for consideration being seconded by Legislator \_\_\_\_\_, to wit;

RESOLUTION NO. \_\_\_\_\_, 2025

**AN AMENDING AND RESTATING FINAL ORDER / BOND RESOLUTION, DATED \_\_\_\_\_, 2025, OF THE LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK (THE "COUNTY"), AMENDING THE BOND RESOLUTION THAT WAS ADOPTED ON JULY 20, 2023, AND AUTHORIZING THE INCREASE AND IMPROVEMENT OF FACILITIES OF ERIE COUNTY SEWER DISTRICT NO. 3 (THE "PROJECT") STATING THE TOTAL ESTIMATED MAXIMUM COST OF THE PROJECT TO BE \$215,000,000, APPROPRIATING SUCH AMOUNT THEREFOR AND AUTHORIZING THE ISSUANCE OF UP TO \$215,000,000 OF BONDS OR OTHER OBLIGATIONS OF THE COUNTY (COLLECTIVELY, THE "OBLIGATIONS") TO FINANCE SUCH APPROPRIATION; AND FURTHER AUTHORIZING ANY AMOUNT RECEIVED FROM THE UNITED STATES OF AMERICA AND/OR THE STATE OF NEW YORK OR ANY OTHER SOURCE FOR THE PROJECT TO BE EXPENDED TOWARDS THE COST OF THE PROJECT AS INDICATED HEREIN, OR TOWARDS THE REDEMPTION OF ANY OF THE OBLIGATIONS ISSUED THEREFOR, OR TO BE BUDGETED AS AN OFFSET TO THE TAXES FOR PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE OBLIGATIONS AND MAKING OTHER DETERMINATIONS IN CONNECTION WITH SUCH PROJECT.**

(Introduced) \_\_\_\_\_, 2025

(Adopted) \_\_\_\_\_, 2025

WHEREAS, on July 20, 2023, the County Legislature of the County of Erie (the "Legislature"), New York (the "County") adopted a certain bond resolution (the "Original Bond Resolution") entitled:

**BOND RESOLUTION DATED JULY 20, 2023**

**BOND RESOLUTION OF THE LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK (THE "COUNTY"), AUTHORIZING THE INCREASE AND IMPROVEMENT OF THE FACILITIES OF ERIE COUNTY SEWER DISTRICT NO. 3 (THE "PROJECT"), STATING THE TOTAL ESTIMATED MAXIMUM COST OF THE PROJECT TO BE \$100,000,000, APPROPRIATING SUCH AMOUNT THEREFOR AND AUTHORIZING THE ISSUANCE OF UP TO \$100,000,000 OF BONDS OR OTHER OBLIGATIONS OF THE COUNTY (COLLECTIVELY, THE "OBLIGATIONS") TO FINANCE SUCH APPROPRIATION; AND FURTHER AUTHORIZING ANY AMOUNTS RECEIVED FROM THE UNITED STATES OF AMERICA AND/OR THE STATE OF NEW YORK**

**OR ANY OTHER SOURCE FOR THE PROJECT TO BE EXPENDED TOWARDS THE COST OF THE PROJECT AS INDICATED HEREIN, OR TOWARDS THE REDEMPTION OF ANY OF THE OBLIGATIONS ISSUED THEREFOR, OR TO BE BUDGETED AS AN OFFSET TO THE TAXES FOR PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE OBLIGATIONS.**

WHEREAS, the Legislature has, pursuant to County Law, created Erie County Sewer District No. 3 (the "District"), and

WHEREAS, the County determined that it was the public interest to undertake the increase and improvement of facilities of Erie County Sewer District No. 3 (the "District" and "Project"), generally consisting of improvements to the Southtowns Advanced Wastewater Treatment Facility, existing pumping stations, and the sanitary sewer collection system; and

WHEREAS, the cost of the Project has increased from original estimates due to major inflationary pressures, material and labor shortages as well as an overall increase in the cost of the project due to these factors; and

WHEREAS, the scope of the improvements has not materially changed from the Project identified in the Original Bond Resolution; and

WHEREAS, the Legislature adopted Resolution No. 176-2022 being a resolution setting forth and adopting certain findings reached in accordance with procedures called for under the New York State Environmental Quality Review Act and its implementing regulations at 6 NYCRR Part 617 (collectively, "SEQRA") relating to the proposed improvements to the Erie County Sewer District No. 3; and

WHEREAS, the provisions of Resolution No. 176-2022 are incorporated herein and by this reference and made a part hereof; and

WHEREAS, pursuant to New York State County Law, application was made to the Office of the New York State Comptroller for permission to undertake the increase and improvement of facilities of the District at the increased estimated maximum amount; and

WHEREAS, the County received permission on June 3, 2025 from the Office of the New York State Comptroller that it may proceed with the increase and improvement of facilities of the District at the increased amount of \$215,000,000, pursuant to County Law, a copy of which has been duly filed in the Office of the Clerk of this County Legislature; and

WHEREAS, pursuant to County Law §259, the Legislature desires to adopt this resolution, being a resolution authorizing an order for the increase and improvement of facilities in accordance with the aforesaid order granting approval by the New York State Comptroller and an Amending Bond Resolution; and

WHEREAS, the Clerk to the Erie County Legislature is hereby authorized and directed to cause a certified copy of this Final Order / Bond Resolution to be recorded in the

Office of the Clerk of the County of Erie and filed in the Office of the New York State Comptroller - Department of Audit and Control at Albany, New York, in accordance with the provisions of County Law §259; and

WHEREAS, the Legislature has determined to authorize such project and the financing of the estimated maximum cost of such project through the issuance of serial bonds (or notes issued in anticipation of such bonds) of the County in an aggregate principal amount not to exceed \$215,000,000 and has determined that such project is in the public interest of the County.

NOW, THEREFORE, BE IT

RESOLVED, by the Legislature (by the favorable vote of not less than two-thirds of all the members of the Legislature) as follows:

SECTION 1. This resolution shall constitute the authorization by the Legislature, pursuant to County Law §259, for such project identified in greater detail within this resolution.

SECTION 2. The Legislature is hereby authorized to undertake a capital improvements project generally consisting of substantial improvements to the Southtowns Advanced Wastewater Treatment Facility, such work being currently anticipated to include, but not necessarily be limited to, disinfection and effluent pumping improvements, ORF and outfall modifications, bioclarifier and aeration/UNOX system improvements including the rehabilitation of existing tanks, solids handling improvements, electrical improvements, equipment replacements and upgrades to backup power generator(s), IT infrastructure and HVAC system improvements, as well as other upgrades that are identified in the additional facility needs evaluation, along with improvements to existing pumping stations and the sanitary sewer collection system, and as more fully identified in (or contemplated by) the map, plan and report prepared in connection with such project, with the foregoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the "Purpose"). The amended estimated maximum cost of the Purpose is \$215,000,000.

SECTION 3. The increased maximum estimated cost of the Project is \$215,000,000, and unless paid for from other sources or charges, such cost will be apportioned among the benefitted real properties in the District in accordance with charges based on usage and/or special assessments based on units, assessed value and/or footage, as these or other applicable cost apportionment standards may be specified in the District's Benefit and User Charge formulas (as those currently exist or as they may be amended from time to time in accordance with the County's sewer rents local law and the rules and procedures adopted by the Board of Managers of the District).

SECTION 4. It is hereby determined that said purpose is an object or purpose described in subdivision 4 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years.

SECTION 5. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 6. The Legislature recognizes, and hereby explicitly approves, that such plan of financing for the Purpose may be, and likely will be, for a period in excess of 20 years (given the long-term nature of the Purpose, and in order to utilize monies available under New York State or other funding programs, so as to maximize the potential economic benefit to the County).

SECTION 7. The faith and credit of the County are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall be the assessment, levy and collection of special assessments from the several lots and parcels of land within the District which the Legislature shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on such bonds as the same become due and payable, except as provided by law. Should the assessments or charges upon benefited real property be insufficient to pay the principal of and interest on such bonds, there shall annually be levied on all the taxable real property of the County a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

SECTION 8. Subject to the provisions of this resolution and of the Local Finance Law, and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and of Section 50.00, Sections 56.00 to 60.00, Section 62.00, Section 62.10, Section 63.00, and Section 164.00 of the Local Finance Law, the powers and duties of the Legislature pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and details as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the County Comptroller, the chief fiscal officer of the County. Without in any way limiting the scope of the foregoing delegation of powers, the County Comptroller, to the extent permitted by Section 58.00(f) of the Local Finance Law, is specifically authorized to accept bids submitted in electronic format for any bonds or notes of the County.

SECTION 9. The County Comptroller is hereby authorized to execute by manual or facsimile signature on behalf of the County all serial bonds issued pursuant to this resolution and all bond anticipation notes issued in anticipation of the issuance of such serial bonds, and the Clerk of the County is hereby authorized to affix the seal of the County (or to have imprinted a facsimile thereof) to or on all such serial bonds and all such bond anticipation notes and to attest such serial bonds and such bond anticipation notes.



SECTION 10. To the extent not previously authorized, the temporary use of available funds of the County, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in this resolution.

SECTION 11. This resolution shall constitute the declaration (or reaffirmation) of the County's "official intent" to reimburse the expenditures authorized in this resolution with the proceeds of the bonds, notes or other obligations authorized herein, as required by United States Treasury Regulations Section 1.150-2.

SECTION 12. The County Comptroller is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and may designate the bonds authorized by this resolution, and any notes issued in anticipation thereof, as "qualified tax-exempt bonds" in accordance with Section 265(b)(3) of the Code.

SECTION 13. To the extent applicable, the County Comptroller is hereby authorized to execute and deliver in the name and on behalf of the County a project financing agreement prepared by the New York State Environmental Facilities Corporation (the "Project Financing Agreement"). To the extent applicable, the County Comptroller, Clerk of the County, and the Clerk of the Legislature and all other officers, employees and agents of the County are hereby authorized and directed for and on behalf of the County to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby, including, but not limited to, the Project Financing Agreement.

SECTION 14. In the absence or unavailability of the County Comptroller, the Deputy Comptroller is hereby specifically authorized to exercise the powers delegated to the County Comptroller in this resolution.

SECTION 15. The County Comptroller is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 16. The County Comptroller is further authorized to call in and redeem any outstanding obligations that were authorized hereunder (at such times and in such amounts and maturities as may be deemed appropriate after consultation with County officials and the County's municipal advisor), to approve any related notice of redemption, and to take such actions and execute such documents as may be necessary to effectuate any such calls for redemption pursuant to Section 53.00 of the Local Finance Law, with the understanding that no such call for redemption will be made unless such notice of redemption shall have first been filed with the Clerk of the Legislature.

SECTION 17. Prior to the issuance of obligations authorized to be issued by this resolution, the Legislature of the County shall comply (to the extent not previously accomplished) with all, if any, relevant provisions prescribed in Article 8 of the Environmental Conservation Law, all regulations promulgated thereunder by the New York State Department of Environmental Conservation, and all applicable Federal Laws and Regulations in connection with environmental quality review relating to the Project (collectively, the "Environmental Compliance Proceedings"). In the event that any of the applicable Environmental Compliance Proceedings are not completed, or require amendment or modification subsequent to the date of adoption of this bond resolution, the Legislature of the County will re-adopt, amend or modify this bond resolution prior to the issuance of obligations authorized to be issued herein upon the advice of bond counsel. It is hereby determined by the Legislature of the County that to the extent the Environmental Compliance Proceedings may apply to the Project, the Project will not have a significant effect on the environment.

SECTION 18. Following adoption of this resolution, the Clerk of the Legislature shall cause the same, or a summary thereof, to be published, together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law, in the *Buffalo Challenger*, *Lancaster Bee* and the *Hamburg Sun*, newspapers having general circulation in the County and published in the County, respectively. The validity of such serial bonds (and of bond anticipation notes issued in anticipation of the issuance of such serial bonds) may be contested only if such obligations are authorized for an object or purpose for which the County is not authorized to expend money, or the provisions of law which should have been 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 if such obligations are authorized in violation of the provisions of the Constitution of the State of New York.

SECTION 19. Nothing in this Resolution shall affect the validity of the Original July 20, 2023 Bond Resolution, or any actions taken thereunder, and any such actions are hereby ratified.

SECTION 20. This Resolution is effective immediately upon approval by the County Executive.

The adoption of the foregoing final order / bond resolution was moved by  
Legislator \_\_\_\_\_ and seconded by Legislator \_\_\_\_\_, before being duly put to a  
vote on roll call, which resulted as follows:

AYES:

NOES:

ABSENT:

Dated: Buffalo, New York,

\_\_\_\_\_, 2025

The foregoing final order / bond resolution was thereupon declared duly adopted.

\_\_\_\_\_  
Mark C. Poloncarz  
County Executive

\_\_\_\_\_, 2025.

I, Olivia Owens, HEREBY CERTIFY that the County Executive of Erie County approved a final order / bond resolution of which the foregoing is a certified copy and returned the same for filing in the office of the Erie County Legislature.

\_\_\_\_\_, 2025.

\_\_\_\_\_  
Olivia Owens  
Clerk of the Erie County Legislature

APPROVED AS TO CONTENT:

By \_\_\_\_\_  
Erie County Comptroller

APPROVED AS TO FORM:

By \_\_\_\_\_  
Erie County Attorney

# CERTIFICATE

I, Olivia Owens, 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 \_\_\_\_\_, 2025, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of the 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 the County on \_\_\_\_\_, 2025.

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Olivia Owens  
Clerk of the Erie County Legislature