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ERIE COUNTY LEGISLATURE

HON. JOSEPH C. LORIGO
LEGISLATOR

June 25, 2012

Hon. Mark C. Poloncarz
Erie County Executive
95 Franklin Street, Room 1600
Buffalo, New York 14202

Re: Borrowing for 2012 Capital Projects

Dear Mr. Poloncarz: Mark

This letter serves as follow-up to many discussions and correspondence regarding borrowing for the 2012 Capital Projects. As you know, I support the Erie County Fiscal Stability Authority ("ECFSA") conducting the borrowing on behalf of Erie County. I believe that it is in the best interests of Erie County taxpayers to do so. As you are likely aware, the Erie County Legislature recently approved Intro. 12-1, which requests that you issue a Declaration of Need for the ECFSA to conduct borrowing on behalf of Erie County. Because there has been more information presented since the introduction of that resolution, I offer this correspondence to the discussion.

I would like to highlight the issues upon which there is no disagreement. There is no precedent for a control board in New York State being terminated prior to the date listed in the enabling legislation. In the case of the ECFSA, this date is in 2039. The life-span of the bond for the 2012 Capital projects falls within the life-span of other bonds currently taken by the ECFSA. As such, the life-span of the ECFSA would not be extended by it conducting the borrowing on behalf of Erie County. By conducting the borrowing on behalf of Erie County, the ECFSA would save taxpayers $860,000 over thirteen years.

It appears that the debate boils down to bond ratings – both present and future. We have heard from your Deputy Budget Director that it is unlikely that Erie County's bond rating will ever be better than the ECFSA's. He stated Erie County's bond rating might be as good as the ECFSA's at some point in the future if we conduct capital borrowing. The Minority Caucus of the Erie County Legislature, of which I am a part, has provided pronouncements from Standard & Poor's and Moody's that are devoid of any mention that how frequent or how recent a municipality has entered the capital bond market is a factor in its bond rating. The Comptroller has stated Standard & Poor's has documented that entering the capital bond market will improve the county's bond rating. To make this conclusion, the Comptroller relies on one statement in a five page document

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which states, "We believe the county still faces several risks, including... [m]arket access risk for purposes of financing operations during low cash-flow periods." Of course, as you know, this statement which seems to be the Comptroller's sole documentary evidence supporting the county's entrance into the capital bond market refers to a Revenue Anticipation Note ("RAN"). A RAN is different from capital borrowing. If I recall correctly, there was some discussion last year that Erie County would receive a Moody's Investment Grade ("MIG") 1 rating for securing a RAN last year, but then it received an inferior MIG 2 rating and the ECFSA saved taxpayers money by conducting the borrowing on behalf of Erie County. Regardless, the Comptroller's assertion that S&P has in some way suggested that Erie County's bond rating will be improved by entering the capital bond market is utterly false.

The same document relied on by the Comptroller lists several other factors, both positive and negative, which may be instructive to Erie County on how to improve its bond rating. The positive factors include, but are not limited to, the ECFSA's reversion to advisory status in 2009 and the county's strong unreserved general fund balance at fiscal year-end 2010. Perhaps utilizing the savings from the ECFSA conducting the borrowing and improving the fund balance would help the county's argument for an increased bond rating. The document also lists the inability to negotiate a contract with CSEA as a risk. Perhaps applying the savings from the ECFSA conducting the borrowing to contract negotiations could help eliminate that risk factor.

In fact, the savings from the ECFSA conducting the borrowing could be used for a list of things. Your Deputy Budget Director stated in caucus that grant funding has been drying up and that county-provided services are in jeopardy because of it. Perhaps the savings could be used to preserve some of those services. The libraries, cultural organizations and Erie Community College have all recently made pleas for increased funding. Perhaps the savings could be used to assist these organizations. Or perhaps the savings could be kept in the pockets of taxpayers who could use the money to balance their families' budgets.

You have stated in the past that you have relied on your experience as an attorney in making decisions in your roles as an elected official. I ask you to do so in the present matter. To support the argument that the county should save taxpayer dollars now and permit the ECFSA to conduct borrowing on behalf of the county, there is undisputed testimony as to the amount of savings and documentary evidence that demonstrates that how frequent or how recent that a municipality enters the bond market is not a factor in capital bond ratings. To support the argument that the county needs to enter the capital bond market now to improve its bond rating, there is conjecture and irrelevant documentary evidence. In deciding the course that serves the best interests of Erie County taxpayers, please disregard the irrelevant information and conjecture. What will remain is proof that the ECFSA should borrow on behalf of Erie County.

I know that the county or the ECFSA must act upon this borrowing soon. Time is of the essence. I ask again that you issue a Declaration of Need for the ECFSA to conduct borrowing for the 2012 capital projects on behalf of Erie County.

If you have any questions regarding this request, please do not hesitate to contact me. Thank you, in advance, for your consideration on this matter.

Sincerely,

Joseph C. Lorigo
Erie County Legislator – District 10

Cc: Erie County Comptroller David J. Shenk
Erie County Fiscal Stability Authority