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## County of Erie

MARK C. POLONCARZ  
COMPTROLLER

FM

June 13, 2011

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

**Re: Bond Resolution Refunding Series 2004B Bonds**

Dear Honorable Members:

Please find attached a proposed bond resolution dated June 30, 2011, authorizing the refunding of all or a portion of the outstanding Public Improvement Serial Bonds-Series 2004B Bonds in the amount not to exceed \$35,000,000. The bond resolution is the county administration's submission to your Honorable Body. I am transmitting the resolution to you as required under the Erie County Charter.

Representatives of this office, the Department of Public Works, the Department of Law and the Division of Budget and Management are available to answer questions you may have concerning this resolution. Thank you in advance for your consideration.

Sincerely yours,

Mark C. Poloncarz, Esq.  
Erie County Comptroller

MCP/dt  
Encl.

13E-5

EXTRACT OF MINUTES

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

June 30, 2011

\* \* \*

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 June 30, 2011, at \_\_\_\_\_ 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. \_\_-2011

BOND RESOLUTION DATED JUNE 30, 2011

REFUNDING BOND RESOLUTION OF THE COUNTY OF ERIE, NEW YORK,  
AUTHORIZING THE REFUNDING OF ALL OR A PORTION OF THE OUTSTANDING  
PUBLIC IMPROVEMENT SERIAL BONDS-SERIES 2004B BONDS OF SAID COUNTY,  
STATING THE PLAN OF REFUNDING, APPROPRIATING AN AMOUNT NOT TO  
EXCEED \$35,000,000 THEREFOR, AUTHORIZING THE ISSUANCE OF \$35,000,000  
REFUNDING BONDS OF SAID COUNTY, OR SO MUCH THEREOF AS MAY BE  
NECESSARY, TO FINANCE SAID APPROPRIATION, AND MAKING CERTAIN  
DETERMINATIONS ALL RELATIVE THERETO.

(Introduced) \_\_\_\_\_, 2011

(Adopted) \_\_\_\_\_, 2011

WHEREAS, the County of Erie, New York (herein called "County"), has  
heretofore issued: on August 19, 2004 its \$72,300,000 Public Improvement Serial Bonds-Series  
2004B (herein called the "2004B Bonds"), now outstanding in the principal amount of  
\$44,800,000; such bonds bearing interest at the rates and on the dates, and being subject to prior  
redemption as set forth in each such respective bond; and

WHEREAS, Section 90.10 of the Local Finance Law, constituting Chapter 33-a  
of the Consolidated Laws of the State of New York (herein called "Law"), permits the County to  
refund all or a portion of the outstanding unredeemed maturities of such bonds by the issuance of  
new bonds, the issuance of which will result in present value debt service savings for the County;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY LEGISLATURE  
OF THE COUNTY OF ERIE, NEW YORK (BY THE FAVORABLE VOTE OF NOT LESS  
THAN TWO-THIRDS OF ALL THE MEMBERS OF SAID LEGISLATURE), AS FOLLOWS:

Section 1. In this resolution, the following definitions apply, unless a different meaning clearly appears from the context:

- a. "Bond To Be Refunded" or "Bonds To Be Refunded" means all or a portion of the outstanding and unredeemed 2004B Bonds of the County of Erie, New York.
- b. "Escrow Contract" means the contract to be entered into by and between the County and the Escrow Holder pursuant to Section 9 hereof.
- c. "Escrow Holder" means the bank or trust company designated as such pursuant to Section 9 hereof.
- d. "Present Value Savings" means the dollar savings which result from the issuance of the Refunding Bonds computed by discounting the principal and interest payments on both the Refunding Bonds and the Bonds To Be Refunded from the respective maturities thereof to the date of issue of the Refunding Bonds at a rate equal to the effective interest cost of the Refunding Bonds. The effective interest cost of the Refunding Bonds shall be that rate which is arrived at by doubling the semi-annual interest rate (compounded semi-annually), necessary to discount the debt service payments on the Refunding Bonds from the maturity dates thereof to the date of issue of the Refunding Bonds and to the bona fide initial public offering price including estimated accrued interest, or, if there is no public offering, to the price bid including estimated accrued interest.
- e. "Redemption Date" means April 1, 2014.

- f. "Refunding Bond" or "Refunding Bonds" means a portion or all of the \$35,000,000 bonds of the County of Erie, authorized pursuant to Section 2 hereof.
- g. "Refunding Bond Amount Limitation" means an amount of Refunding Bonds sufficient to pay the sum of the principal amount of Bonds To Be Refunded plus the aggregate amount of unmatured interest payable on each Bond To Be Refunded to and including the applicable Redemption Date, plus redemption premiums payable on such Bonds To Be Refunded as of such applicable Redemption Date, as hereinabove referred to in the Recitals hereof, plus costs and expenses incidental to the issuance of the Refunding Bonds including the development of the refunding financial plan, and of executing and performing the terms and conditions of the Escrow Contract and all fees and charges of the Escrow Holder as referred to in Section 9 hereof.

Section 2. The Legislature of the County (herein called "Legislature"), hereby authorizes the refunding of the Bonds To Be Refunded of the County, more particularly described and referred to in the Recitals hereof, and appropriates an amount not to exceed \$35,000,000 therefor to accomplish such refunding. The plan of financing said appropriation includes the issuance of not to exceed \$35,000,000 Refunding Bonds and the levy and collection of a tax upon all the taxable real property within the County to pay the principal of and interest on said Refunding Bonds as the same shall become due and payable. Bonds of the County in the maximum principal amount of \$35,000,000, are hereby authorized to be issued pursuant to the provisions of the Law. The proposed financial plan for the refunding in the form attached hereto as Exhibit A (the "refunding financial plan") prepared for the County by Roosevelt & Cross, Inc. and hereby accepted and approved, includes the deposit of all the proceeds of said Refunding Bonds with an Escrow Holder pursuant to an Escrow Contract as authorized in Section 9 hereof,

the payment of all costs incurred by the County in connection with said refunding from such proceeds, and the investment of a portion of such proceeds by the Escrow Holder in certain obligations, the principal of and interest, together with the balance of such proceeds to be held uninvested, shall be sufficient to pay (1) the principal of and interest on the Bonds To Be Refunded becoming due and payable on and prior to each applicable Redemption Date and (2) the principal of and premium on the Bonds To Be Refunded to be called for redemption prior to maturity on each applicable Redemption Date.

Section 3. The Bonds To Be Refunded referred to in Section 1 hereof are the aggregate unmatured outstanding balance of an issue of bonds originally issued pursuant to various bond resolutions of the County, adopted on their respective dates authorizing various capital improvements for the County. In accordance with the refunding financial plan, the Refunding Bonds have been allocated to the component issues of the Bonds To Be Refunded, and shall mature in amounts and at dates to be determined. The Comptroller, the chief fiscal officer of the County, is hereby authorized to approve all details of the refunding financial plan not contained herein.

Section 4. The issuance of the Refunding Bonds will not exceed the Refunding Bond Amount Limitation. The maximum period of probable usefulness ("PPU") of each issue comprising the Bonds to be Refunded, commencing at the date of issuance of the first bond anticipation notes issued in anticipation of the sale of said bonds, is set forth in the following table:

<u>2004B Bonds</u>		
<u>Reso. Date</u>	<u>Project</u>	<u>Maximum Life</u>
Various	Courthouse Renovations	20
4/5/2001	Asbestos Abatement	15
4/11/2002	Code Compliance	15
4/11/2002	Emery Park Waterlines - Phase II	40
Various	CPS Training Academy	30
4/11/2002 & 4/28/2004	Hwy & DPW Fuel Tank Env Upgrade	10
5/8/2003	Fire Alarm & Sec System Rath Bldg	15

## 2004B Bonds

<u>Reso. Date</u>	<u>Project</u>	<u>Maximum Life</u>
5/8/2003	Ext Bldg & Env Rehab - Ph II	15
5/8/2003	Existing EC Corr Facility	15
	Improvements	
5/8/2003	Hazmat Response	25
	Organizational Bldg	
5/8/2003	Lobby Security Improvements	15
	- Holding Center	
5/8/2003	Wireless Communication	10
	Infrastructure Imp	
5/8/2003 & 7/10/2003	Parks Bldg Const & Rehab	15
5/8/2003	Emery Park Water Line -	40
	Phase III	
5/8/2003	Parks Roadways	15
7/3/2003	Urban Brownfields	15
	Development	
7/10/2003	Energy Imp - Various County	10
	Facilities	
5/8/2003	Pavement Life Enhancements	15
5/8/2003 & 11/13/2003	Bridge Design/Reconstruction	20
5/8/2003 & 11/13/2003	Culvert	20
	Design/Reconstruction	
7/3/2003	Capital Overlay Program	10
5/8/2003	Central Library Int Renov - Ph	15
	I	
4/28/2004	Rehabilitation Ralph Wilson	15
	Stadium	
4/28/2004	Computer Intrusion	15
	Avoidance	
4/28/2004	04 Capital Road	15
	Reconstruction	
4/28/2004	Capital Overlay Program	15
4/28/2004	Highway Safety	15
	Enhancements	
4/28/2004	Pavement Life Enhancements	15
5/8/2003	Central Library Asbestos &	15
	Envir Remediation	
4/1/2004	County Clerk Court	15
	Renovations	
4/11/2002	Botanical Gardens Dome &	15
	Misc. Reconstruction	
5/8/2003 & 4/28/2004	Botanical Gardens Master	15
	Plan Reconstruction	

### 2004B Bonds

<u>Reso. Date</u>	<u>Project</u>	<u>Maximum Life</u>
4/28/2004	Botanical Gardens Master Plan Reconstruction	15
4/28/2004	Tow Path Park Phase II	15
5/8/2003 & 10/2/2003	Times Beach Access-Design	15
5/8/2003	Grover Cleveland Water Lines - Phase II	40
4/28/2004	Grover Cleveland Water Lines - Phase III	40

Section 5. The aggregate amount of estimated Present Value Savings as set forth in the proposed refunding financial plan attached hereto as Exhibit A, computed in accordance with subdivision two of paragraph b of Section 90.10 of the Law, is \$1,105,779.12.

Section 6. (a) Said Refunding Bonds shall be sold at private sale to the Erie County Fiscal Stability Authority and the Comptroller, the chief fiscal officer of the County, is hereby authorized to execute a purchase contract on behalf of the County for the sale of said Refunding Bonds, provided that the terms and conditions of such sale shall be approved by the State Comptroller, and further providing that prior to the issuance of the Refunding Bonds the Comptroller shall have filed with the Legislature a certificate approved by the State Comptroller setting forth the Present Value Savings to the County resulting from the issuance of the Refunding Bonds; and (b) the Comptroller is hereby further authorized and directed to take any and all actions necessary to accomplish said refunding, and to execute any contracts and agreements for the purchase of and payment for services rendered or to be rendered the County in connection with said refunding including the preparation of the refunding financial plan referred to in Section 2.

Section 7. Each of the Refunding Bonds authorized by this resolution shall contain the recital of validity prescribed by Section 52.00 of the Law and said Refunding Bonds shall be general obligations of the County payable as to both principal and interest by a general tax upon all the taxable real property within the County without limitation as to rate or amount. The faith and credit of the County are hereby irrevocably pledged to the punctual payment of the principal of and interest on said Refunding Bonds and provision shall be made annually in the



budget of the County for (a) the amortization and redemption of the Refunding Bonds to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 8. Subject to the provisions of this resolution and of the Law, and pursuant to the provisions of Sections 21.00, 50.00, 56.00, and 90.10 of the Law, the powers and duties of the Legislature relative to providing for substantially level or declining annual debt service, prescribing the terms, form and contents and as to the sale and issuance of the Refunding Bonds, and to executing any arbitrage certification relative thereto, as well as to executing the Escrow Contract described in Section 9, are hereby delegated to the Comptroller, the chief fiscal officer of the County.

Section 9. Prior to the issuance of the Refunding Bonds, the County shall contract with a bank or trust company located and authorized to do business in this state, for the purpose of having such bank or trust company act as the Escrow Holder of the proceeds, inclusive of any premium from the sale of the Refunding Bonds, together with all income derived from the investment of such proceeds. The Escrow Contract shall contain such terms and conditions as shall be necessary in order to accomplish the refunding financial plan, including provisions for the Escrow Holder without further authorization or direction from the County, except as otherwise provided therein, (a) to make all required payments of principal, interest and redemption premiums to the appropriate paying agent with respect to the Bonds To Be Refunded, (b) to pay costs and expenses incidental to the issuance of the Refunding Bonds, including the development of the refunding financial plan, and of executing and performing the terms and conditions of the Escrow Contract and all of its fees and charges as the Escrow Holder, (c) at the appropriate time or times to cause to be given on behalf of the County the notices of redemption authorized to be given pursuant to Section 12 hereof, and (d) to invest the moneys held by it consistent with the provisions of the refunding financial plan. The Escrow Contract shall be irrevocable and shall constitute a covenant with the holders of the Refunding Bonds.

Section 10. The proceeds, inclusive of any premium, from the sale of the Refunding Bonds, immediately upon receipt, shall be placed in escrow by the County with the Escrow Holder in accordance with the Escrow Contract. All moneys held by the Escrow Holder shall be invested only in direct obligations of the United States of America or in obligations the

principal of and interest on which are unconditionally guaranteed by the United States of America, which obligations shall mature or be subject to redemption at the option of the holder thereof not later than the respective dates when such moneys will be required to make payments in accordance with the refunding financial plan. Any such moneys remaining in the custody of the Escrow Holder after the full execution of the Escrow Contract shall be returned to the County and shall be applied by the County only to the payment of the principal of or interest on the Refunding Bonds then outstanding.

Section 11. That portion of such proceeds from the sale of the Refunding Bonds, together with interest earned thereon, which shall be required for the payment of the principal of and interest on the Bonds To Be Refunded, including any redemption premiums, in accordance with the refunding financial plan, shall be irrevocably committed and pledged to such purpose and the holders of the Bonds To Be Refunded shall have a lien upon such moneys and the investments thereof held by the Escrow Holder. The pledge and lien provided for herein shall become valid and binding upon the issuance of the Refunding Bonds and the moneys and investments held by the Escrow Holder shall immediately be subject thereto without any further act. Such pledge and lien shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the County irrespective of whether such parties have notice thereof. Neither this resolution, the Escrow Contract, nor any other instrument relating to such pledge and lien, need be filed or recorded.

Section 12. In accordance with the provisions of Section 53.00 and of paragraph h of Section 90.10 of the Law, the Legislature hereby elects to call in and redeem all the Bonds To Be Refunded which are subject to prior redemption according to their terms on the Redemption Date. The sum to be paid therefor on the Redemption Date shall be the par value thereof and the accrued interest to the Redemption Date. The Escrow Holder is hereby authorized and directed to cause notices of such call for redemption to be given in the name of the County by mailing such notice to the registered holder at least thirty and not more than sixty days prior to the Redemption Date. Upon the issuance of the Refunding Bonds, the election to call in and redeem the Bonds To Be Refunded subject to prior redemption and the direction to the Escrow Holder to cause notice thereof to be given as provided in this Section shall become irrevocable and the provisions of this Section shall constitute a covenant with the holders, from

time to time, of the Refunding Bonds, provided that this Section may be amended from time to time as may be necessary to comply with the publication requirements of paragraph a of Section 53.00 of the Law, as the same may be amended from time to time.

Section 13. This resolution shall take effect immediately upon approval of the County Executive.

Exhibit A

Proposed Refunding Financial Plan

\* \* \*

The adoption of the foregoing resolution was seconded Legislator

\_\_\_\_\_ by and duly put to a vote on roll call, which resulted as follows:

AYES:

NOES:

The resolution was declared adopted.

Dated: Buffalo, New York,

\_\_\_\_\_, 2011

The foregoing Refunding Bond Resolution  
is hereby approved.

\_\_\_\_\_  
County Executive

I, Robert M. Graber, HEREBY CERTIFY, that the County Executive of Erie  
County, approved a Refunding Bond Resolution of which the foregoing is a certified copy and  
returned the same for filing in the office of the Erie County Legislature.

\_\_\_\_\_, 2011.

\_\_\_\_\_  
Robert M. Graber  
Clerk of the Erie County  
Legislature

Approved as to Content

Approved as to Form

By: \_\_\_\_\_  
Comptroller

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

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 June 30, 2011, 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 June,  
2011.

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Robert M. Graber  
Clerk of the Erie County  
Legislature

