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COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

May 16, 2013

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

Re: Account Receivable – Buffalo Zoological Gardens Bridge Loan

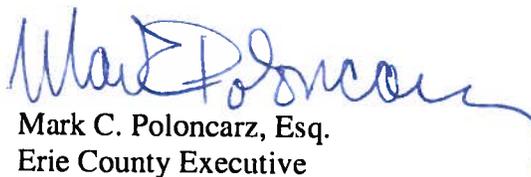
Dear Honorable Members:

Please find enclosed for your approval a resolution from the Division of Budget and Management requesting cancellation of an account receivable from the Buffalo Zoological Gardens ("Zoo") based on "bridge loan" made by the Giambra Administration in 2001 and approved via legislative resolutions by your Honorable Body in July 2001 and November 2002.

Given certain factors, it is impracticable for the County to recover this loan and I am therefore requesting your Honorable Body memorialize the cancelling of the account receivable to allow the 2012 fiscal year to be closed.

If you have any questions, please contact Director of Budget and Management Robert Keating. Thank you.

Sincerely yours,



Mark C. Poloncarz, Esq.
Erie County Executive

MCP/tcc

cc: Erie County Comptroller Stefan Mychajliw
Robert W. Keating, Director of Budget and Management

MEMORANDUM

TO: Erie County Legislature
FROM: Robert W. Keating, Director of Budget and Management
RE: Account Receivable – Buffalo Zoological Gardens Bridge Loan
DATE: May 16, 2013

SUMMARY

Approval is requested to cancel an account receivable from the Buffalo Zoological Gardens (“Zoo”) based on “bridge loan” made by the Giambra Administration in 2001 and approved via legislative resolutions by your Honorable Body in July 2001 and November 2002.

Given certain factors, it is impracticable for the County to recover this loan and I am therefore requesting your Honorable Body memorialize the cancelling of the account receivable to allow the County’s 2012 fiscal year to be closed.

FISCAL IMPLICATIONS

The County’s total fund balance total would be reduced by \$300,000.

BACKGROUND INFORMATION

In 2001, with the City of Buffalo coordinating, the Buffalo Zoo undertook a \$3 million capital project for a new Main Animal Building, financed with \$2 million from the County, and with a State commitment of \$350,000. However, there was a \$650,000 shortfall. The local state delegation pledged that the State Legislature would contribute \$650,000. However, for construction timing purposes, the City and Zoo said they needed funds immediately.

On July 5, 2001, at the request of the Giambra Administration, the Erie County Legislature approved Comm. 14E-64, providing a \$650,000 “bridge loan” to the Buffalo Zoo for the project. Under the resolution, the State was to reimburse the County the \$650,000 after adoption of the State’s 2001/2002 Budget. An agreement called the “First Amendatory Agreement to the December 27, 2000 Agreement by and Between the County of Erie, City of Buffalo, and Buffalo Zoological Society” was entered into and executed in November 2001.

In October 2002, the State provided the City/Zoo a grant totaling \$350,000 for the project. Rather than repay the County, the Zoo and City used it for the project costs, seemingly as the State’s share.

On November 21, 2002, the County Legislature approved Comm. 20E-19, allowing the Zoo/City to utilize the \$350,000, stating that the \$350,000 in State funds was a “partial repayment for the County bridge loan.” The County ultimately spent \$2,650,000 for the project and the State provided \$350,000.

Due to Comm. 20E-19 (2002), the County has maintained a \$300,000 bridge loan receivable as of year-end 2002.

The Department of Law has opined that under state law, because more than six years has passed since the agreement between the County, City and Zoo was in effect breached by the Zoo and City, the County has no legal recourse to pursue recovery of the account receivable.

In addition, based on the Zoo's fiscal situation and ongoing fundraising efforts for other capital projects, it appears impracticable that the County could recover the \$300,000.

CONSEQUENCES OF A NEGATIVE ACTION

The County will continue to inaccurately report on its financial statements an account receivable that will never be collected.

STEPS FOLLOWING APPROVAL

The Division of Budget and Management will work with the Comptroller's Office to cancel the account receivable.

**A RESOLUTION SUBMITTED BY:
DIVISION OF BUDGET AND MANAGEMENT**

RE: Account Receivable – Buffalo Zoological Gardens Bridge Loan

WHEREAS, in 2001, the Buffalo Zoo and City of Buffalo undertook a \$3 million capital project for a new Main Animal Building, financed with \$2 million from the County, and with a State commitment of \$350,000, and

WHEREAS, the project maintained a \$650,000 shortfall and the local state delegation pledged that the State Legislature would contribute \$650,000, and

WHEREAS, due to construction timing purposes, the City and Zoo said they needed funds immediately in 2001, and

WHEREAS, on July 5, 2001, at the request of the Giambra Administration, the Erie County Legislature approved Comm. 14E-64, providing a \$650,000 “bridge loan” to the Buffalo Zoo for the project, and

WHEREAS, the State was to reimburse the County the \$650,000 after adoption of the State’s 2001/2002 Budget, and

WHEREAS, an agreement called the “First Amendatory Agreement to the December 27, 2000 Agreement by and Between the County of Erie, City of Buffalo, and Buffalo Zoological Society” was entered into and executed in November 2001, and

WHEREAS, in October 2002, the State provided the City/Zoo a grant totaling \$350,000 for the project, and

WHEREAS, on November 21, 2002, the County Legislature approved Comm. 20E-19 stating that the \$350,000 in State funds was a “partial repayment for the County bridge loan”, and

WHEREAS, the County ultimately spent \$2,650,000 for the project and the State provided \$350,000, and

WHEREAS, due to Comm. 20E-19 (2002), the County has maintained a \$300,000 bridge loan receivable as of year-end 2002, and

WHEREAS, the Department of Law has opined that under state law, because more than six years has passed since the agreement between the County, City and Zoo was in effect breached by the Zoo and City, the County has no legal recourse to pursue recovery of the account receivable, and

WHEREAS, based on the Zoo’s fiscal situation and ongoing fundraising efforts for other capital projects, it appears impracticable that the County could recover the \$300,000 from the

Zoo or City of Buffalo and it is necessary to address this outstanding issue to help close the County's 2012 audited financial statements.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby forgive the Buffalo Zoological Gardens from repayment of the remaining \$300,000 bridge loan balance made under Comm. 14E-62 (2001) and Comm. 20E-19 (2002) pursuant to the "First Amendatory Agreement to the December 27, 2000 Agreement by and Between the County of Erie, City of Buffalo, and Buffalo Zoological Society", and be it further

RESOLVED, that the Erie County Division of Budget and Management and the Office of County Comptroller are directed to cancel the 2002 year-end \$300,000 account receivable for the Buffalo Zoo, and are hereby authorized to make the necessary entries and adjustments to the County's audited financial statements, and be it further

RESOLVED, that certified copies of this resolution be transmitted to the County Executive, Department of Law, Division of Budget and Management, Office of the Comptroller, and Department of Environment and Planning.