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ERIE COUNTY COMPTROLLER
HON. STEFAN I. MYCHAJLIW

February 6, 2017

The Honorable
Erie County Legislature
95 Franklin Street – 4th Floor
Buffalo, New York 14202

RE: BOND RESOLUTION – ECMCC Capital Debt Authorization up to \$100M

Dear Honorable Legislators:

Pursuant to my responsibilities outlined in the Erie County Charter I am submitting for your consideration a bond resolution authorizing the issuance of up to \$100 million in County bonds to finance new capital projects at ECMCC.

As Comptroller, my position on this matter is fairly well documented. I don't think the hospital can afford the debt, and I remain opposed to any scheme or plan that allows the county to skirt its financial responsibilities. The root of my opposition is in the administration and hospital's refusal to explore other options that are clearly better for the hospital, not in the merits of the proposed projects.

Should you have any questions about this resolution, please feel free to contact me. My staff and I will be available at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Stefan I. Mychajliw", with a long horizontal flourish extending to the right.

STEFAN I. MYCHAJLIW
Erie County Comptroller

EXTRACT OF MINUTES
Meeting of the County Legislature of
the County of Erie, New York.

_____, 2017

* * *

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 _____, 2017, at _____ o'clock P.M. (Prevailing Time).

The following Legislators were present:

There were absent:

Also present: Karen M. McCarthy, Clerk of the Legislature

* * *

Legislator _____ offered the following resolution and moved
its adoption:

RESOLUTION NO. __-2017

BOND RESOLUTION DATED _____, 2017

BOND RESOLUTION OF THE COUNTY OF ERIE, NEW YORK, AUTHORIZING THE ISSUANCE OF \$100,000,000 BONDS OF THE COUNTY TO FINANCE THE COST OF LOANS TO THE ERIE COUNTY MEDICAL CENTER CORPORATION FOR VARIOUS CAPITAL IMPROVEMENTS TO HOSPITAL AND RELATED FACILITIES INCLUDED IN THE 2017 CAPITAL BUDGET PLAN OF SAID CORPORATION, STATING THE TOTAL ESTIMATED MAXIMUM COST OF SUCH IMPROVEMENTS IS \$120,000,000; STATING THE PLAN OF FINANCING SAID COST INCLUDES THE ISSUANCE OF \$100,000,000 BONDS HEREIN AUTHORIZED AND THE APPLICATION OF \$20,000,000 CURRENT ERIE COUNTY MEDICAL CENTER CORPORATION FUNDS; PROVIDING FOR A TAX TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AND PROVIDING FOR REIMBURSEMENT BY SAID CORPORATION TO THE COUNTY OF ERIE.

(Introduced) _____, 2017

(Adopted) _____, 2017

WHEREAS, the County of Erie is authorized pursuant to applicable provisions of state law to lend its credit to or in aid of the Erie County Medical Center Corporation (“ECMCC”) for the purpose of providing health related facilities or hospital facilities, and for facilities incidental or appurtenant thereto; and

WHEREAS, the County has agreed pursuant to applicable state law and the Sale, Purchase and Operation Agreement dated January 1, 2004 between the County and ECMCC, as amended (the “SPO Agreement”) to issue County bonds for the purpose of making loans to

ECMCC to fund capital projects of ECMCC upon satisfaction of certain conditions as set forth in the SPO Agreement; and

WHEREAS, ECMCC's Governing Board has adopted on October 13, 2016 its resolution attached hereto as Exhibit A requesting that this Legislature authorize the issuance of County bonds in an amount not to exceed \$100,000,000 for the purpose of making loans to ECMCC in order to enable ECMCC to finance, over a term of thirty years, a portion of the costs of various capital improvements to ECMCC healthcare facilities at the estimated maximum cost of \$120 million as described in the attached Appendix A, together with related costs of issuance; and

WHEREAS, ECMCC proposes to issue to the County its Senior Revenue Bonds, Series 2017 (the "2017 ECMCC Bonds") in the aggregate principal amount of up to \$100,000,000, pursuant to the Master Trust Indenture between ECMCC and HSBC Bank USA, National Association, as Master Trustee (the "Master Trustee"), dated as of August 1, 2004 (the "Master Trust Indenture") and a supplemental indenture between ECMCC and the Master Trustee (the "Supplement") in order to secure repayment of such loans by the County to ECMCC; and

WHEREAS, the financing of such loans to ECMCC through the issuance of County bonds with repayment of such bonds secured by the 2017 ECMCC Bonds is expected to provide significant annual debt service savings to ECMCC over the thirty year term of such bonds for the funding of such capital improvements, and in consideration of such savings ECMCC has proposed to pay certain amounts to the County ("Points") equal to the present value of such debt service savings; the exact amount of such Points to be determined when the County's bonds are sold to capital market investors and such present value has been finalized; and

WHEREAS, ECMCC issued its Erie County-Guaranteed Senior Revenue Bonds, Series 2004 (Federally Taxable) (the "2004 ECMCC Bonds") pursuant to the Master Trust Indenture

and the First Supplemental Indenture between ECMCC and the Master Trustee dated as of August 1, 2004; and

WHEREAS, ECMCC issued its Senior Revenue Bonds, Series 2011 registered in the name of the County as owner (the “2011 ECMCC Bonds”) pursuant to the Master Trust Indenture and the Second Supplemental Indenture between ECMCC and the Master Trustee dated as of August 1, 2011; and

WHEREAS, the County and ECMCC are parties to that certain Guaranty Agreement No. 2 dated as of August 1, 2004 (the “Guaranty”), pursuant to which the County guaranteed the punctual payment of the 2004 ECMCC Bonds; and

WHEREAS, pursuant to Section 9.05 of the Master Trust Indenture, the County by having issued the Guaranty is deemed the owner of the 2004 ECMCC Bonds for purposes of Article IX of the Master Trust Indenture, including Section 9.02 thereof providing for, among other things, consent to and approval of the execution of certain indentures supplemental to the Master Trust Indenture; and

WHEREAS, the County is the owner of the 2011 ECMCC Bonds for purposes of Article IX of the Master Trust Indenture, including Section 9.02 thereof providing for, among other things, consent to and approval of the execution of certain indentures supplemental to the Master Trust Indenture; and

WHEREAS, ECMCC may not execute and deliver the 2017 ECMCC Bonds without the consent of the County pursuant to Section 2 of the Guaranty;

NOW, THEREFORE, BE IT

RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK (by the affirmative vote of not less than two-thirds of the voting strength of said Legislature), AS FOLLOWS:

Section 1. Pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the "Law"), the Public Authorities Law, constituting Chapter 43-A of the Consolidated Laws of the State of New York, the provisions of other laws applicable thereto, and in accordance with the terms and conditions of the SPO Agreement, the County of Erie, New York (herein called "County"), is hereby authorized to make loans to ECMCC in an aggregate amount not to exceed \$100,000,000 to fund a portion of the costs of various capital improvements to ECMCC healthcare facilities at the respective estimated costs as described in the attached Appendix B. Said amount is hereby appropriated therefor pursuant to the duly adopted 2017 Capital Budget for the County, as amended. To the extent that the details set forth in this resolution are inconsistent with any details set forth in the 2017 Capital Budget of the County, such Budget shall be deemed and is hereby amended. The plan of financing includes the application of \$20,000,000 of current ECMCC funds, the issuance of \$100,000,000 aggregate principal amount of bonds of the County, or so much thereof as may be necessary, and any bond anticipation notes issued in anticipation of the sale of such bonds to finance said appropriation, and to the extent necessary the levy and collection of taxes on all the taxable real property in the County to pay the principal of said bonds and notes and the interest thereon as the same shall become due and payable; the said principal and interest to be reimbursed to the County by ECMCC through debt service payments to be made by ECMCC on the 2017 ECMCC Bonds.

Section 2. Bonds of the County in the amount not to exceed \$100,000,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law") to finance said appropriation.

Section 3. The period of probable usefulness for said classes of objects or purposes for which said bonds herein authorized are to be issued, within the limitations of §11.00 a. 75 of the Law, is thirty (30) years.

Section 4. The County intends to finance, and the Comptroller of the County is hereby authorized to advance such amounts as are necessary to pay the costs of the loans described in Section 1 hereof, prior to the issuance of the bonds or bond anticipation notes herein authorized, out of any available funds of the County on an interim basis, which respective amounts are reasonably expected to be reimbursed with the proceeds of debt to be incurred by the County pursuant to this Resolution, in the maximum amounts of bonds herein authorized. This Resolution is a declaration of official intent adopted pursuant to the requirements of Treasury Regulation Section 1.150-2.

Section 5. Subject to the provisions of this Resolution and of the Law, and pursuant to the provisions of §21.00 relative to the issuance of bonds having substantially level or declining annual debt service, §30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals thereof, and of §§50.00, 56.00 to 60.00 and 168.00 of said Law, the powers and duties of the County Legislature relative to authorizing the issuance of any notes in anticipation of the sale of the respective amounts of bonds herein authorized, or the renewals thereof, relative to providing for substantially level or declining annual debt service, relative to prescribing the terms, form and contents and as to the sale and issuance of the

respective amounts of bonds herein authorized, and of any notes issued in anticipation of the sale of said bonds or the renewals of said notes, and relative to executing agreements for credit enhancement, are hereby delegated to the Comptroller of the County, as the chief fiscal officer of the County.

Section 6. Each of the bonds authorized by this Resolution and any bond anticipation notes issued in anticipation of the sale thereof shall contain the recital of validity prescribed by §52.00 of said Local Finance Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the County of Erie, payable as to both principal and interest by general tax upon all the taxable real property within the County. The faith and credit of the County are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds or the renewals of said notes, and provision shall be made annually in the budgets of the County by appropriation for (a) the amortization and redemption of the notes and bonds to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 7. The County Executive is authorized on behalf of the County to execute a consent to and approval of the execution and delivery by ECMCC of the Supplement and the 2017 ECMCC Bonds. The County Executive and County Comptroller are each hereby authorized to execute all agreements, certificates, instruments and other documents on behalf of the County that are necessary or desirable for carrying out the transactions contemplated by this Resolution and the Supplement, as may be deemed necessary upon advice of counsel and other retained professionals.

Section 8. The validity of the bonds authorized by this Resolution and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

(a) such obligations are authorized for an object or purpose for which the County is not authorized to expend money, or

(b) the provisions of law which should be 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

(c) such obligations are authorized in violation of the provisions of the Constitution.

Section 9. This Resolution shall take effect immediately upon approval by the County Executive.

* * *

* * *

The adoption of the foregoing resolution was seconded by Legislator _____
_____ and duly put to a vote on roll call, which resulted as follows:

AYES:

NOES:

THE RESOLUTION WAS DECLARED ADOPTED.

* * *

APPENDIX A

ECMCC BOARD RESOLUTION ADOPTED OCTOBER 13, 2017

APPENDIX B

ECMCC CAPITAL PROJECT DESCRIPTIONS AND ESTIMATED COSTS

Dated: Buffalo, New York,

_____, 2017

The foregoing Bond Resolution is hereby approved

County Executive

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

_____, 2017.

Karen M. McCarthy
Clerk of the Erie County
Legislature

APPROVED AS TO CONTENT:

By _____
Erie County Comptroller

APPROVED AS TO FORM:

By _____
Erie County Attorney

Legislator _____ offered the following resolution and moved its adoption:

RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. The Clerk of the Erie County Legislature is hereby directed to publish the foregoing bond resolution, in summary, in the _____, _____ and the _____ the official newspapers of the County for such publication, together with a notice in substantially the form prescribed in Section 81.00 of the Local Finance Law of the State of New York.

Section 2. This resolution shall take effect immediately.

* * *

CERTIFICATE

I, Karen M. McCarthy, 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 _____, 2017, 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 _____, 2017.

Karen M. McCarthy
Clerk of the Erie County
Legislature

(NOTICE TO BE ATTACHED TO AND **TO BE PUBLISHED**
WITH COPY OF RESOLUTION AFTER ADOPTION)

NOTICE

The resolution, a summary of which is published herewith, has been adopted by the County Legislature on the ____ day of _____, 2017 and the validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which the County of Erie, New York, is not authorized to expend money or if the provisions of law which should have been complied with as of the date of publication of this Notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the publication of this Notice, or such obligations were authorized in violation of the provisions of the constitution.

KAREN M. MCCARTHY
Clerk of the County Legislature

RESOLUTION NO. _____ OF 2017

BOND RESOLUTION DATED _____, 2017

BOND RESOLUTION OF THE COUNTY OF ERIE, NEW YORK, AUTHORIZING THE ISSUANCE OF \$100,000,000 BONDS OF THE COUNTY TO FINANCE THE COST OF LOANS TO THE ERIE COUNTY MEDICAL CENTER CORPORATION FOR VARIOUS CAPITAL IMPROVEMENTS TO HOSPITAL AND RELATED FACILITIES INCLUDED IN THE 2017 CAPITAL BUDGET PLAN OF SAID CORPORATION, STATING THE TOTAL ESTIMATED MAXIMUM COST OF SUCH IMPROVEMENTS IS \$120,000,000; STATING THE PLAN OF FINANCING SAID COST INCLUDES THE ISSUANCE OF \$100,000,000 BONDS HEREIN AUTHORIZED AND THE APPLICATION OF \$20,000,000 CURRENT ERIE COUNTY MEDICAL CENTER CORPORATION FUNDS; PROVIDING FOR A TAX TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AND PROVIDING FOR REIMBURSEMENT BY SAID CORPORATION TO THE COUNTY OF ERIE.

object or purpose: to make loans to ECMCC in an aggregate amount not to exceed \$100,000,000 to fund a portion of the costs of various capital improvements to ECMCC healthcare facilities

period of probable usefulness: thirty (30) years

amount of obligations to be issued: \$100,000,000

A complete copy of the Bond Resolution and appendices summarized above shall be available for public inspection during normal business hours at the office of the Clerk of the Erie County Legislature, in Buffalo, New York.

Dated: _____, 2017
Buffalo, New York

**Resolution Requesting Loans From County of Erie to Finance
ECMCC Capital Borrowing and 2011 Loan Refinancing.**

Approved October 13, 2016

WHEREAS, the Corporation is authorized by section 3630 of the New York Public Authorities Law to borrow funds to continue its mission to provide access to high quality health care services to the citizens of Western New York; and

WHEREAS, the Corporation has identified certain capital funding needs in order to continue to serve the citizens of Western New York, including a new Emergency Department and Trauma Center facility, emergency generators, heating/ventilating/air conditioning equipment, improvements to the building envelope, nursing unit renovations, clinic renovations, and an education center; and

WHEREAS, the Corporation also desires to refinance existing debt, particularly the 2011C Revenue Bonds that were issued by the Erie County Fiscal Stability Authority to finance the related loan by the County to the Corporation which funded the construction of Terrace View Long Term Care Facility; and

WHEREAS, the Board of Directors of the Corporation previously authorized the Corporation's officers to negotiate with the County of Erie to determine the terms and conditions under which a borrowing by the Corporation from the County for the above purposes may be structured;

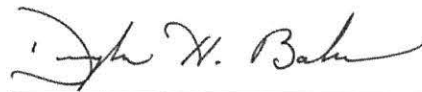
NOW, THEREFORE, the Board of Directors resolves as follows:

1. The Corporation is in need of financing for new money projects to maintain the quality of, and access to, its health care services for the citizens of Western New York and also to refinance the 2011 County loan and convert that loan to a thirty (30) year term at lower current interest rates.
2. The Corporation acknowledges that the interest cost of borrowing by the County of Erie is more favorable than the interest rate that would be charged to the Corporation without the County's assistance and that assistance from the County will save the Corporation many millions of dollars at present value.
3. The Corporation formally requests that the County provide financial assistance through the issuance of up to \$100 million in County bonds to provide new money financing for the capital projects noted on the attached exhibit with such bonds having a term of thirty (30) years.
4. The Corporation formally requests that the County provide financial assistance through the issuance of up to \$88 million of County bonds with a maximum term

of up to thirty (30) years to refinance the 2011 loan from the County to the Corporation with the proceeds of such bonds being used to defease the 2011 ECFSA bonds and thereby substitute lower interest cost County debt for the currently outstanding 2011 ECFSA project financing.

5. That the officers of the Corporation remain authorized to continue their work negotiating the terms and conditions of these transactions, to cooperate in providing all information requested by the County to induce the County to provide the requested financial assistance, and to otherwise obtain all necessary approvals of these transactions by the Erie County Legislature, the New York State Department of Health and any other governmental entities.

6. This resolution shall take effect immediately.

A handwritten signature in cursive script, appearing to read "Douglas H. Baker", written in black ink.

Douglas H. Baker
Corporation Secretary

New Money Projects Request to County of Erie—10/13/2016

Trauma Center / ED Project	45
Land Acquisition and Parking	3
Energy Projects	
Energy Controls / Management	13
Boilers and Chillers	15
Generators	<u>10</u>
Total Energy Projects	38
Building Envelope	15
Elevators	3
Clinics	5
Education Center	1
Nursing Unit Renovations	<u>10</u>
Total Capital Requirements	120
Capital Campaign Funding	<u>(20)</u>
Net Capital Requirements	<u>100</u>

Erie County Medical Center Corporation
Summary of Uses of 2016 Bond Proceeds

Trauma Center

ECMCC is Western New York's Adult Trauma and Burn Center and is proud to have recently earned accreditation from the American College of Surgeons (ACS) as the Level I Adult Trauma Center for our region without any cited deficiencies. ECMCC is also the region's only Comprehensive Psychiatric Emergency Department for the eight counties that make up Western New York. While these services have received many accreditation and third party measures that affirm the quality of care being delivered, the main Emergency Department needs to be reconfigured to meet current volume demands and improve technology to keep up with current trends that keep it state-of-the-art. The ECMCC favorable survey results were based on the quality of the physicians and nurses providing care that have developed life saving care coordination so that patient care is never compromised; however, the work processes are not as cost efficient as what a new physical plant could accomplish. The ACS surveyors strongly encouraged ECMCC to have a new physical plant in operation at the time of their next survey. ECMCC has worked with an accomplished architectural firm to evaluate various alternatives and has concluded that a new structure on the ground floor be constructed in front of the current emergency department space for easier access for over 65,000 patient visits per year. Another factor in the decision to build a new emergency department, rather than renovate, was to be the least disruptive to current operations. The costs of the project include the cost to construct the new building as well as purchase and install the equipment required to support the service including state-of-the-art imaging, patient monitors and others.

Land Acquisition and Parking

The new Emergency Department and Trauma Center structure will displace parking spaces for patients and employees and put pressure on an already crowded system of parking. The current crowded parking is the result of the investments that ECMCC has made in its clinical programs and the growth we have enjoyed in terms of patients seeking ECMCC as their choice for health care services as well as the employees that support the provision of that health care. The costs for this project include the acquisition of land immediately adjacent to the ECMCC campus and the transformation of that land into necessary and suitable parking.

Energy Projects

There are several components of the ECMCC tower that are the original equipment installed at the time of its construction. They include emergency back-up generators for electricity as well as boilers and chillers. In addition, while some limited modifications have been made over time, there are many energy controls and management systems that require upgrade that will provide energy savings over time. The projects funded by the bond proceeds include the replacement equipment and its installation in the ECMCC tower.

Building Envelope

Similar to the energy projects noted above, the windows and other building exterior components are the originals installed at the time of construction of the tower. The costs of the project include the

evaluation of the entire building envelope including windows and roofs and the replacement of the necessary components.

Elevators

Continuing on the theme noted above related to original equipment, there are several elevators that are originals and in need of replacement. The replacement elevators funded by the project will not only save energy costs, but will also save on the significant repair and maintenance costs being incurred.

Clinics

The outpatient Orthopedic clinic (The Center for Orthopaedic Care) has recently been renovated to accommodate the significant growth of patients seeking their care at ECMCC. The hospital's remaining clinics are in need of similar renovations to reflect the state-of-the-art practice of medicine and to accommodate the continuing growth in health care service lines throughout ECMCC. In addition, with the reconfiguration of the health care system shifting patients from inpatient services to outpatient services, including the mandated DSRIP initiative, the volume of patients requiring care at the ECMCC clinics is expected to continue to grow well into the future.

Education Center

As a major teaching hospital affiliate of the University at Buffalo School of Medicine and Dentistry, as well as other affiliated teaching programs in other medical professions, ECMCC requires dedicated space with which to meet its mission as an educational institution. The education center funded by the proceeds will not only provide this much needed space, but will also provide space for staff education and training to maintain their professional skills and continue to learn best practices in the provision of health care as the science evolves.

Nursing Unit Renovations

With the reconfiguration of the health care system and the shift from inpatient services to outpatient and other services, ECMCC must reposition itself for the most cost-effective and productive use of its physical plant in generating sufficient revenues to support the operations of ECMCC. The renovations funded by the proceeds will position ECMCC to use its space in the most cost effective fashion as patient care units are transformed to meet the needs of the community.

	<u>Bond Proceeds Capital Expenditure</u>				<u>Useful Life</u>
	<u>Total</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
Trauma Center / ED Project	45	3	20	22	30
Land Acquisition and Parking	3	1	2		30
Energy Projects					
Energy Controls / Management	13		13		25
Boilers and Chillers	15			15	40
Generators	10		10		40
Total Energy Projects	38				
Building Envelope	15		2	5	8
Elevators	3		1	1	1
Clinics	5		1	2	2
Education Center	1			1	
Nursing Unit Renovations	10	-	2	4	4
Total Capital Requirements	120	4	51	50	15
Capital Campaign Funding	(20)	-	-	(10)	(10)
Net Capital Requirements	100	4	51	40	5