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ERIE COUNTY COMPTROLLER
HON. STEFAN I. MYCHAJLIW

March 20, 2019

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

RE: Official FOIA Request for Book Deal Documents

Dear County Executive Poloncarz:

On March 18, 2019, you publicly tweeted that you were finishing up a final review of proofs for your soon to be released book, "Beyond the X's and O's; Keeping the Bills in Buffalo." In the tweet, you noted that the book will be published by SUNY Press this September. An elected official potentially profiteering – financially or otherwise – on intellectual property, materials, and information owned by the taxpayers requires a thorough review. As Comptroller, I intend to examine the propriety of your book deal with SUNY Press.

I have two primary concerns. First, standing to profit off of information obtained in your official capacity is troubling, and possibly in violation of law. Second, I question whether or not it is in the best interest of taxpayers to reveal the strategy and insights applied on their behalf during this process, especially considering the process will start again soon.

As you are aware, the Erie County Charter mandates that the County Executive "shall devote his or her whole time to the duties of his or her office." At the time that you participated in the negotiation of the stadium lease, you were County Executive. If the book is released as planned in September, you will still be County Executive. As such, with regard to any work that you performed regarding the negotiations, you have been compensated. Further, using a portion of your "whole time" to pen a book about your work product while still County Executive means that you have been paid by the taxpayers of Erie County to compose that book, regardless of their desire for you to spend your work time that way. I firmly believe that any information used to draft this book, and in fact the book itself, is the property of the taxpayers, not yours personally.

Therefore, pursuant to the Freedom of Information Law, New York State Public Officers Law, Section 84, I am requesting copies of the following documents you submitted to SUNY Press:

- A Copy of your Book Proposal to SUNY Press, including:
 - Book Proposal Cover Letter
 - Statement of the purpose and scope of your book
 - The market you identified for your book

OFFICE OF ERIE COUNTY COMPTROLLER STEFAN I. MYCHAJLIW • 95 FRANKLIN STREET • ROOM 1100 • BUFFALO, N.Y. • 14202
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WHISTLEBLOWER HOTLINE FOR REPORTING WASTE, FRAUD & ABUSE: (716) 858-7722 OR E-MAIL: WHISTLEBLOWER@ERIE.GOV

- Table of Contents
 - Chapter-by-Chapter Outline
 - Timeline for Completion
 - Illustrations (figures, tables, photos, etc.)
 - A list of contributors and their affiliations
- Any contract, agreement or arrangement between yourself and SUNY Press relating to any book you have written, are in the process of writing or plan to write.

These documents are outlined as required materials/submission guidelines in order for your book to be considered by SUNY Press. Assuming you were not given any extraordinary treatment or considerations that members of the public cannot enjoy, they must exist.

With regard to the negotiation of the lease, the legislature had requested information in the past and such information was not forthcoming, due to the sensitive nature of the negotiations. As such, please provide the following information:

- Any notes, correspondence, emails, recordings (audio and/or visual), files (electronic and/or hardcopy) relating to the contract negotiations prepared or received by any individual acting on behalf of Erie County. This includes any employee, elected official, or firm or individual utilized pursuant to securing a lease agreement involving Erie County.

This request is not limited to information created or exchanged prior to or concurrent with the signing of the lease. Notably, the law firm contracted to negotiate the lease has been paid over \$400,000 to date, with the last payment with regard to the 2012 negotiation made for services rendered in October 2018 and paid on December 14, 2018. Our request extends to the full time period of the lease negotiations, including services provided in 2013, 2014, 2015, 2016, 2017, 2018 and, if applicable, 2019. Further, the request is not limited to just information used to prepare the lease agreement. It refers to all information regarding the negotiations and subsequent lease, including the subsequent use of work product created during the negotiation and execution of the lease.

If you require clarification on any of these requests, please do not hesitate to ask. Thank you for your anticipated prompt attention and cooperation with this request.

Sincerely,



STEFAN I. MYCHAJLIW, JR.
Erie County Comptroller



ERIE COUNTY COMPTROLLER
HON. STEFAN I. MYCHAJLIW

March 20, 2019

SUNY Press
Ms. Donna Dixon – Co-Director
353 Broadway
State University Plaza
Albany, New York 12246-0001

SUNY Press
Mr. James Peltz – Co-Director
353 Broadway
State University Plaza
Albany, New York 12246-0001

RE: FOIA Request for Book Deal Documents

Dear Directors Dixon and Peltz:

Recently Erie County Executive Mark C. Poloncarz put out a public statement that your organization will be publishing his book, "Beyond the Xs and Os, Keeping the Bills in Buffalo," this September. Your summary of the book describes it as an *"inside account of the negotiations between the football Bills, New York State, and Erie County to sign a long term stadium lease and thereby keep the team in Buffalo."* As Comptroller, I believe the information used to produce this book is the property of the taxpayers, and therefore I am commencing a review of Mr. Poloncarz's book deal.

Therefore, pursuant to the Freedom of Information Law, New York State Public Officers Law, Section 84, I am requesting copies of the following documents that Mr. Poloncarz submitted to SUNY Press:

- A Copy of the book proposal for "Beyond the Xs and Os, Keeping the Bills in Buffalo," including:
 - Book Proposal Cover Letter
 - Statement of the purpose, scope, and market of the book
 - Table of Contents
 - Chapter-by-Chapter Outline
 - Timeline for Completion
 - Illustrations (figures, tables, photos, etc.)
 - A list of contributors and their affiliations
- Any contract, agreement or arrangement between SUNY Press and Mark C. Poloncarz relating to this book deal
- Any payments that have been made to Mr. Poloncarz.

These documents are outlined as required materials/submission guidelines in order for a book to be considered by SUNY Press, and should be in your possession.

Additionally, I am requesting any materials that may have been provided to you by Mr. Poloncarz for development of this book, including:

- Any notes, correspondence, emails, recordings (audio and/or visual), files (electronic and/or hardcopy) relating to the contract negotiations prepared or received by any individual acting on behalf of Erie County. This includes any employee, elected official, or firm or individual utilized pursuant to securing a lease agreement involving Erie County.

If you require clarification on any of these requests, please do not hesitate to ask. Thank you for your anticipated prompt attention and cooperation with this request.

Sincerely,

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

STEFAN I. MYCHAJLIW, JR.
Erie County Comptroller