

MEETING NO. 14
June 18, 2004

ERIE COUNTY LEGISLATURE

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MEETING NO. 14
SPECIAL SESSION
June 18, 2004

The Legislature was called to order by Chairman Holt.

All Members Present.

A moment of silence was held.

The Pledge of Allegiance was led by Ms. Marinelli.

Item 1 – Minutes of the previous meeting were tabled.

COMMUNICATIONS DISCHARGED FROM COMMITTEE

FROM THE COUNTY EXECUTIVE

Item 2 – MS. MARINELLI moved to discharge the GOVERNMENT AFFAIRS COMMITTEE from further consideration of Comm. 11E-28 (2004). MR. DEBENEDETTI seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 274

Re: Inter-Municipal Agreement for Management & Operation of Buffalo Parks System & Agreement with Olmsted Conservancy for Operation of Buffalo Parks. (Comm. 11E-28)

WHEREAS, providing recreational opportunities to all residents is of the utmost importance and it is the responsibility of the public sector to enhance and assist in the improvement of these recreational opportunities in the County of Erie; and

WHEREAS, it is the desire of the City of Buffalo to contract with the County of Erie for the County to manage and operate the City's park and recreational facilities; and

WHEREAS, operation of parks and recreational facilities is a proper purpose of both the City and the County and therefore can be the subject of an inter-municipal cooperation agreement pursuant to General Municipal Law Article 5-G: and

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WHEREAS, the complexity of an inter-municipal cooperation agreement affecting some 180 park and recreational facilities and over 1800 acres requires the use of creative management methods, use of unique and innovative community-based management groups and operational plans maximizing County resources; and

WHEREAS, the Buffalo Olmsted Conservancy, Inc. has proposed a unique professional and technical management plan for operation of the Olmsted parks and parkway system in the City of Buffalo which must be implemented immediately; and

NOW, THEREFORE, BE IT

RESOLVED, the Erie County Executive is hereby authorized to enter into an agreement with the City of Buffalo as outlined in the enclosed document and such ancillary agreements necessary or appropriate to effectuate the management and operation of the City of Buffalo's parklands as set forth in the attached agreement, including an agreement with the Buffalo Olmsted Conservancy, Inc.; and be it further

RESOLVED, that the Erie County Legislature hereby finds that there is a necessity that the special service or skill that the Buffalo Olmsted Conservancy, Inc will provide under the terms of the ancillary agreement contemplated by the agreement with the City of Buffalo must be provided immediately and hereby waives any requirement for procuring proposals for the provision of such services pursuant to Erie County Administrative Code section 19.08; and be it further

RESOLVED, the sources of revenues outlined in the enclosed document shall be deposited in an account or accounts to be determined by the Erie County Department of Parks, Recreation and Forestry and Erie County Budget Office for the purposes of offsetting cost associated with the inter-municipal cooperation agreement for management and operation of the City of Buffalo parks and recreational facilities; and be it lastly;

RESOLVED, that the Clerk of the Legislature be directed to send certified copies of this resolution to the Director of the Division of Budget, Management and Finance, the Commissioner of the Department of Parks, Recreation and Forestry, the Commissioner of the Department of Environment and Planning, and the County Comptroller.

MS. MARINELLI moved to amend the resolution with Amendment "A". MR. DEBENEDETTI second.

CARRIED UNANIMOUSLY.

- **DELETE** communication 11E-28 in its entirety and **REPLACE** with the following RESOLUTION and the ATTACHED INTERMUNICIPAL COOPERATION AGREEMENT:

WHEREAS, providing recreational opportunities to all residents is of the utmost importance and it is the responsibility of the public sector to enhance and assist in the improvement of these recreational opportunities in the County of Erie; and

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WHEREAS, it is the desire of the City of Buffalo to contract with the County of Erie for the County to manage and operate the City's park and recreational facilities; and

WHEREAS, operation of parks and recreational facilities is a proper purpose of both the City and the County and therefore can be the subject of an inter-municipal cooperation agreement pursuant to General Municipal Law Article 5-G: and

WHEREAS, the complexity of an inter-municipal cooperation agreement affecting some 180 park and recreational facilities and over 1800 acres requires the use of creative management methods, use of unique and innovative community-based management groups and operational plans maximizing County resources; and

WHEREAS, the Buffalo Olmsted Conservancy, Inc. has proposed a unique professional and technical management plan for operation of the Olmsted parks and parkway system in the City of Buffalo which must be implemented immediately; and

NOW, THEREFORE, BE IT

RESOLVED, the Erie County Executive is hereby authorized to enter into an agreement with the City of Buffalo as outlined in the enclosed document and such ancillary agreements necessary or appropriate to effectuate the management and operation of the City of Buffalo's parklands as set forth in the attached agreement, including an agreement with the Buffalo Olmsted Conservancy, Inc.; and be it further

RESOLVED, that the Erie County Legislature hereby finds that there is a necessity that the special service or skill that the Buffalo Olmsted Conservancy, Inc will provide under the terms of the ancillary agreement contemplated by the agreement with the City of Buffalo must be provided immediately and hereby waives any requirement for procuring proposals for the provision of such services pursuant to Erie County Administrative Code section 19.08; and be it further

RESOLVED, the sources of revenues outlined in the enclosed document shall be deposited in an account or accounts to be determined by the Erie County Department of Parks, Recreation and Forestry and Erie County Budget Office for the purposes of offsetting cost associated with the inter-municipal cooperation agreement for management and operation of the City of Buffalo parks and recreational facilities; and be it further;

RESOLVED, that the Erie County Legislature hereby calls upon the County Executive and the County Administration to establish a process which would offer county management services for municipal parks on a fee basis, similar to this agreement with the City of Buffalo, to other municipalities that wish to opt in; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send certified copies of this resolution to the Director of the Division of Budget, Management and Finance, the Commissioner of

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the Department of Parks, Recreation and Forestry, the Commissioner of the Department of Environment and Planning, and the County Comptroller.

**INTERMUNICIPAL COOPERATION AGREEMENT
 FOR OPERATION, MANAGEMENT AND IMPROVEMENT OF
 CITY OF BUFFALO PARKLANDS**

This Agreement dated as of _____, 2004 ("Agreement") by and between the City of Buffalo, a municipal corporation of the State of New York, having its principal office at City Hall, Buffalo, New York 14202 ("City") and the County of Erie, a municipal corporation of the State of New York having its principal office at 95 Franklin Street, Buffalo, New York 14202 ("County").

RECITALS:

WHEREAS, the City is the current fee simple owner of various parks, parkways, recreation and recreational facilities, collectively, "parklands" lying and being in the City; and

WHEREAS, it is in the best interests of the residents of the City of Buffalo and the County of Erie that the operation, management and improvement of the City parklands be undertaken in a cooperative manner by the City and the County that will maximize state, federal and private funding for park purposes, increase community involvement, maximize efficiencies, decrease City costs, provide for transfer opportunities to City Division of Parks employees to County positions and generally improve and maintain the public trust in which the parklands are held by the City.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the City and County agree as follows:

ARTICLE I – AUTHORITY

This Agreement is hereby entered into under the authority of Section 119-0, Article 5-G, of the General Municipal Law of the State of New York. Pursuant to "Article 5-G", in addition to any other general or special powers vested in municipal corporations and districts for the performance of their respective functions, powers or duties on an individual, cooperative, joint or contract basis, municipal corporations and districts shall have the power to inter into, amend, cancel, and terminate agreements for the performance among themselves or one for the other of their respective functions, powers and duties on a cooperative or contract basis or for the provision of a joint service.

ARTICLE II

2.1 Representations and Warranties by the City. The City hereby represents and warrants the following to the County:

- (a) The City is a municipal corporation duly organized, validly existing and in good standing under the laws of the State of New York and has the power and authority to execute, deliver and perform this Agreement.
- (b) The execution, delivery and performance of this Agreement and the consummation of the transactions herein contemplated have been duly authorized by all requisite corporation actions on the part of the City and will not violate any provision of law, any order of any court or agency of government, or the charter of the City, or any indenture, agreement or other instrument to which the City is a party or by which it or any of its property is bound, or be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any indenture, other instrument or result in the agreement or imposition of any lien, charge or encumbrance of any nature whatsoever other than permitted encumbrances such as utility easements and other minor defects, irregularities, easements, rights of way and the like.
- (c) The City owns, operates and manages all of the parks, parkways, recreation areas and recreational facilities, including all buildings and structures thereon, (hereinafter referred to as the "Parklands") as shown, depicted and numbered on a certain map entitled "Erie County Parks Acquisition Map" attached hereto as Exhibit "A", together with such parks which may be acquired by the City in replacement of Parklands which are no longer used by the City for park purposes, subject to the approval of such replacement by the County, which approval shall not which be unreasonably withheld, but not including the buildings and structures owned or operated by the Buffalo and Erie County Historical Society, the Buffalo Fine Art Academy, the Buffalo and Erie County Public Library System, the Buffalo Museum of Science, the Buffalo Board of Education, the Buffalo Police Department or the Buffalo Zoological Society.
- (d) This Agreement constitutes the legal, valid and binding obligation of the City enforceable against the City in accordance with its terms.

2.2 Representations and Warranties by the County. The County hereby makes the following representations and warranties to the City:

- (a) The County is a municipal corporation duly organized, validly existing and in good standing under the laws of the State of New York, and has the power and authority to execute, deliver and perform this Agreement.
- (b) The execution, delivery and performance of this Agreement and the consummation of the transactions herein contemplated have been duly authorized by all requisite corporate or governmental action on the part of the County and any other governmental entity required to authorize same.
- (c) This Agreement constitutes the legal, valid and binding obligation of the County enforceable against the County in accordance with its terms.

ARTICLE III**Term, Expiration and Termination**

- 3.1 The term of this Agreement shall be fifteen (15) years commencing July 1, 2004 and expiring on June 30, 2019, unless this Agreement shall be terminated prior thereto pursuant to the termination provisions set forth herein.
- 3.2 The City may terminate this Agreement with or without cause upon one (1) year's written notice to the County.
- 3.3 The County may terminate this Agreement for cause only 1 upon one (1) year's written notice to the City.

ARTICLE IV**Effective Date/Implementation Date**

The effective date ("Effective Date") is the later date of execution of this Agreement either by the County or the City. The implementation date ("Implementation Date") of this Agreement is July 1, 2004.

ARTICLE V**Equipment and Personal Property to be transferred**

As of the Implementation Date of this Agreement, all City-owned equipment and personal property including but not limited to, vehicles, machines and tools used by the City primarily for the maintenance of its Parklands shall be transferred to the County for the continued operation, management and improvement of such Parklands. An inventory of such equipment and personal property shall be prepared by the City and delivered to the County by July 1, 2004, and such inventory, together with all corrections and modifications agreed to by the Parties, shall be counter-signed and appended hereto as Schedule 1. The City shall promptly transfer all registration, warranties, manuals, or other documents relating to the ownership of such equipment and personal property to the County. The City shall also transfer, and provide an accounting thereof, to the County by July 1, 2004 all revenues received by the City with respect to all leases, permits, licenses, concessions, fees or other charges collected by the City which apply to Parklands activities or uses after July 1, 2004, pro rated as appropriate. The County shall honor and manage, provided that the City shall continue to be responsible for it's obligations (if any) thereunder with respect to capital improvements and utilities, any existing lease, permit, license and concession presently in effect and which it is made aware of by the City but reserves the right to terminate the same in accordance with the terms thereof and to issue such new or additional permits, licenses and concessions as it may deem appropriate, consistent with the terms and conditions of this Agreement. Any such permits, licenses or concessions for a term in excess of two (2) years shall be subject to review and approval by the City's Commissioner of Public Works, Parks and Streets, which shall not be unreasonably withheld or delayed.

ARTICLE VI
Costs and Revenues

As consideration for providing operation and management services to the City for its Parklands, the City shall pay to the County the initial annual sum of one million eight hundred thousand dollars (\$1.8 million), payable in equal quarterly installments of four hundred fifty thousand dollars (\$450,000). The first installment shall be due on or before July 1, 2004 and the second installment shall be due on or before October 1, 2004. Thereafter, installments shall be due on or before January 1 ("First Quarterly Payment"; April 1 ("Second Quarterly Payment"); July 1 ("Third Quarterly Payment"); and October 1 ("Fourth Quarterly Payment") of each calendar year.

ARTICLE VII
Escalation Clause

- 7.1 The amount of the Quarterly Payments shall remain stable until July 1, 2008. At the end of the third full calendar year of this Agreement (2007), and at the end of every third calendar year thereafter, the County and the City shall review the expenses and revenues associated with this Agreement and negotiate an increase or decrease (if any) in the Annual Payment (such an increase or decrease shall be known as an "Adjustment"). The review (hereinafter "Review") shall consider, among other factors, additional capital improvements made by the County to the Parklands, increases or decreases in personnel and operating cost of the Parklands reduction of public employees assigned to the Olmsted Parks as provided in Article XIII of this Agreement, change in costs due to replacement of Parklands, increases or decreases in Parkland-related revenues and the fiscal impact of changes in laws and regulations relating to the operation of the Parklands, if any. The Adjustment shall be factored into the Annual Payment (hereinafter "Adjusted Annual Payment"), and the first adjusted quarterly payment (hereinafter "Adjusted Quarterly Payment") shall be due at the Third Quarterly Payment following each Review (i.e., July 1, 2008, July 1, 2011, July 1, 2014, etc.).
- 7.2 During each review, the City Comptroller, or other fiscal officer as may be designated by the City, shall have the right to audit the finances of the County Department of Parks, Recreation and Forestry, pursuant to Article IX below, for the purpose of calculating the appropriate Adjustment. Such audit shall be at the sole cost and expense of the City.
- 7.3 The City and the County shall make a concerted, good faith effort to arrive at an appropriate Adjustment during each Review. However, if the County and the City cannot agree upon an Adjustment before the due date of the Third Quarterly Payment following each Review or otherwise agree on an alternative dispute resolution process, the Annual Payment will be increased for the next three years by the lesser of: (1) the cumulative increase in the Buffalo Area Consumer Price Index ("CPI") for the previous three years; or 7.5%, constituting an average of 2.5% per year for the previous three years. The first Adjusted Quarterly Payment will be payable beginning with the Third Quarterly Payment following each Review.

EXAMPLE: In the fourth quarter of the third full calendar year (2007) of the Agreement, the Parties shall commence the Review process. If they cannot agree upon an Adjustment before the Third Quarterly Payment in the fourth full calendar year of this Agreement (July 1, 2008), increases in the CPI for 2005, 2006 and 2007 will be used for determining the Adjustment. If the CPI in 2005 was 2%, in 2006 it was 3%, and in 2007 it was 2%, the Adjustment would be 7% of the Annual Payment, or \$126,000.00, and the Adjusted Annual Payment will be \$1,926,000.00 (\$1,800,000.00 + \$126,000.00). The Adjusted Quarterly Payment would therefore be \$481,000.00 (\$1,926,000.00 + 4 annual payments). The first payment based upon this Adjusted Annual Payment will be due at the Third Quarterly Payment (July 1, 2008). Every three years thereafter (July 1, 2011, July 1, 2014, etc.), the Adjusted Quarterly Payments will be altered to reflect changes in the Adjusted Annual Payment. If, however, the cumulative CPI for the three previous years total more than 7.5%, then the Annual Payment will increase by no more than 7.5%, or \$135,000.00, for an Adjusted Quarterly Payment of \$483,750.00.

ARTICLE VIII
Failure to Make Payments

Should the City fail to make one or more Quarterly Payments to the County, the County may, at its sole discretion, terminate this Agreement for cause, or withhold payment to the City of its distributive share of the sales tax in an amount equal to the payment(s) owed by the City hereunder. Upon termination, the County shall have no further obligations or responsibilities to operate, manage or improve any City Parklands provided, however, the provisions of Article XVIII shall continue to be applicable.

ARTICLE IX
Audit

The County, upon reasonable notice from the City, shall make available to the City such books, papers and other items which evidence the County's revenues and expenses relating to providing operation, management and improvement to the City for its Parklands.

ARTICLE X
Capital Improvements

Any capital improvements (which shall include major repairs, replacement and removal of capital assets as well as construction of new capital assets) to be made to the Parklands shall be mutually agreed upon by the parties, and with respect to the Olmsted Parks, shall also be consistent with the 20 year Master Plan which the City and the Buffalo Olmsted Conservancy are currently preparing. In view of the limited term of this Agreement and the City's continuing ownership of the Parklands, the parties acknowledge that the County can only have a limited role in the provision or financing of capital improvements and the City has a continuing responsibility to maintain, repair and replace its Parklands capital assets. The City and the County shall establish a Capital Improvement Committee which shall include the County Commissioner of Parks, Recreation and Forestry and the City Commissioner of Public Works, Parks and Streets, and the Buffalo Olmsted Conservancy to periodically review the capital needs of the Parklands and to make recommendations

to the City and the County for the same. No capital improvements shall be made by the County that would be in conflict with any continuing covenants of any State, Federal or other grant or gift that the City has accepted with respect to the Parklands. Capital improvements will be reviewed with the Buffalo Arts Commission as appropriate. The County shall have no obligation to make or contribute to the cost of any capital improvement which could have a period of probable usefulness as determined by the Local Finance Law beyond the remaining term of this Agreement, without a legally binding commitment by the City to share in the cost of such capital improvement on a pro rata basis which reflects the period beyond the remaining term of this Agreement and the remainder value of the improvement beyond the period of probable usefulness, if any. The parties will determine which party is most appropriate to undertake the financing and performance of mutually agreeable capital improvements and how each party will contribute their share thereof. All capital improvements will be reviewed and made in conformance with all applicable City/County/State and Federal laws, rules, regulations and codes, including, but not limited to, environmental and historic preservation review requirements.

ARTICLE XI

Personnel

Any and all City employees presently assigned to duties and responsibilities in the City's Parklands, without exception, shall be eligible for transfer to the County in accordance with and pursuant to the provisions of Schedule 2, attached hereto and made a part hereof, addressing matters including, but not limited to, job titles, seniority, collective bargaining units, fringe benefits, and other employer/employee issues.

ARTICLE XII

Assignment, Successors and Assigns

This Agreement and all of the covenants hereof shall inure to the benefit of and be binding upon the County and the City respectively and their successors, assigns and representatives. Neither the County nor the City shall have the right to assign, transfer or sublet its interests or obligations hereunder without the written consent of the other Party.

ARTICLE XIII

Management and Operations

13.1 Subject to the terms and conditions of this Agreement, the County shall operate, maintain, and manage the Parklands, including but not limited to having the power, discretion and responsibility to provide routine repairs, regulate special events and permitted uses, establish fees, charges, and rentals, contract with sub-contractors, licensees and concessionaires, apply for, accept and spend grants and gifts, and generally exercise the same day-to-day powers, responsibilities and duties it does with respect to County-owned parks and recreation facilities. Nothing in this Agreement shall be deemed to limit or decrease the duties and responsibilities of the City of Buffalo Police and Fire Departments with respect to the Parklands and the activities and use thereof. The County and the City Special Events Committee shall develop protocols to jointly review special events (as defined in City Code

chapter 414) permit applications submitted to either the City or the County on or adjacent to Parklands.

- 13.2 Any fees or charges established by the County for the use or activities to be conducted at the ice rinks that are part of the Parklands shall continue the current practice of the City to provide for a discount for City residents as opposed to non-City residents.
- 13.3 The County shall provide for emergency and non-emergency tree trimming and removal of broken or dangerous limbs of City owned trees in City rights-of-way outside of the Parklands in the same manner as the City currently undertakes with City Division of Parks workers and consistent, to the extent that funds and personnel are available, with the guidelines set forth in the City's adopted "Buffalo Urban Forest Master Plan" dated _____, incorporated herein by reference. Nothing herein shall obligate the County to provide for r tree replacement in such rights-of-way. The City acknowledges that an extensive City-wide tree care and maintenance program as described in the Buffalo Urban Forest Master Plan is a capital project which requires the commitment of capital funds by the City pursuant to Article X of this Agreement.
- 13.4 The City and the County shall establish an oversight committee to periodically review the operation of the Parklands as provided for in this Agreement and to make non-binding recommendations with respect thereto. The committee shall include representatives of the respective administrations, legislative bodies and unions. The County and the City will also continue to work with such neighborhood or community advisory bodies as may be currently established for any of the Parklands.
- 13.5 The Parties hereto consent and agree that the Buffalo Olmsted Parks Conservancy, Inc. (the "Conservancy"), shall operate, manage and maintain the City's Olmsted Parks and Parkways as identified in, and pursuant to, the terms and provisions set forth in Schedule 3 attached hereto and made a part hereof.
- 13.6 All Parklands not provided for in Schedule 3 shall be operated, managed and maintained by the County pursuant to the terms and provisions set forth in Schedule 4 attached hereto and made a part hereof. It is the intention of the parties hereto that the level and quality of the County's operation, maintenance and management of the Parklands shall be not less that that performed by the City during the twelve months prior to the effective date of this Agreement.

ARTICLE XIV
Insurance

The County and the City each have their own program of risk management self-insurance for general liability, automobile liability, medical malpractice and workers' compensation coverage. Such self-insurance coverage shall cover the County's and the City's respective activities with regard to the operation, management and improvement of the City's Parklands. In the event one of the Parties purchases an insurance policy or policies, or cause one or more of its contractors, licensees, permittees, concessionaires, agents or subcontractors to purchase an insurance policy or policies

covering its respective activities and obligations regarding the maintenance or operation of the Parklands, the party purchasing the insurance or causing the purchase of such insurance shall notify the other Party in writing no later than ten (10) days after the effective day of the insurance policy(ies) and shall cause the other party to be named as an additional insured on the policy(ies).

ARTICLE XV
Indemnification

- 15.1 Each party agrees to defend, indemnify and hold harmless the other Party and its agents, employees and representatives, against all claims, losses, damages, injuries or other disputes which result directly or indirectly from the ownership of the City's Parklands and from the services provided by each respective Party pursuant to this Agreement except as provided in 15.2.
- 15.2 The County and the City shall be jointly responsible and shall jointly defend any and all claims and lawsuits relating to pollution, hazardous waste, materials or substances, latent or otherwise, relating to the Parklands until the date on which the cause of action accrued can be conclusively established. With respect to the causes of action relating to pollution, hazardous waste, materials or substances, latent or otherwise, the County shall defend, indemnify and hold the City harmless from any and all liability from causes of action which have been conclusively established to have accrued after the Implementation Date of this Agreement so long as any Parkland has not reverted to the City pursuant to this Agreement and provided the City has not directly contributed to any cause of action contemplated by this paragraph. With respect to causes of action relating to pollution, hazardous waste, materials or substances, latent or otherwise, the City shall defend, indemnify and hold harmless from any and all liability from causes of action which have been conclusively established to have accrued before the Implementation Date of this Agreement.

ARTICLE XVI
Utilities

The City shall continue to cause all gas, electric, water, and sewer utilities to be provided to the Parklands at the City's sole cost and expense and at no cost or expense to the County, except as may be agreed to elsewhere with respect to the Buffalo Zoological Gardens. The County shall, at its cost and expense, develop a plan by December 31, 2005 to audit and manage Parklands utility usage and costs, with the goals of decreasing utility costs, decreasing energy and water consumption and improving the environment. Such plan will include, but not be limited to, the installation of utility meters and sub-meters as future capital improvements are made, maximizing State and Federal energy conservation grants and other funding, and improving operating efficiencies.

ARTICLE XVII
Parkways and Traffic Circles

The City shall be solely responsible for the maintenance (except sidewalk snow removal), repair, replacement, costs and expenses of all paved, brick, stone, or masonry areas, including streets, sidewalks and curbs located within, or abutting or contiguous to the parkways and traffic circles identified in Exhibit "A". The County shall have no responsibility, financially or otherwise, regarding said described areas.

ARTICLE XVIII
Events Upon Termination

In the event that either party gives notice to the other of its exercise of the right to terminate this Agreement, for cause or otherwise, prior to the expiration of the original term of this Agreement, within thirty (30) days of the receipt of such notice, the parties shall form a Transition Committee, including union representatives, to provide for the orderly transfer of employees back to the City, the return of any remaining equipment, vehicles tools and other personal property originally transferred by the City to the County, if any, and the payment by the City to the County the remaining value, if any, of Parklands-related capital improvements made by the County prior to such termination. Each party's warranties and covenants under this Agreement with respect to indemnification and insurance with respect to any claim cause of action or liability that arose prior to the effective date of such termination shall survive such termination. Upon termination, the City shall assume all rights, duties and obligations of the County under the County's agreement with the Buffalo Olmsted Conservancy as provided for in Article XII of this Agreement and any Parklands permits, concessions and licenses that the County was authorized to enter into pursuant to this Agreement.

ARTICLE XIX
Notices

Any notice required or permitted to be given hereunder shall be in writing and deemed to have been properly given when personally delivered or deposited in the United States mail, postage prepaid, certified or express mail, return receipt requested, addressed to County or City, as the case may be, as follows:

If to the County:

Erie County Executive
 95 Franklin Street
 1600 Rath Building
 Buffalo, NY 14202

With a copy to:

Erie County Department of Law
 69 Delaware Avenue -Suite 300
 Buffalo, NY 14202

If to the City:

Mayor -City of Buffalo
 65 Niagara Square
 201 City Hall
 Buffalo, NY 14202

With a copy to:

City of Buffalo Department of Law
 65 Niagara Square
 1100 City Hall
 Buffalo, NY 14202

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Each Party may designate other addresses for receipt of notices upon written notice to the other Party.

ARTICLE XX
Scope of Agreement

This Agreement constitutes the entire agreement and understanding between the Parties hereto, and it is agreed that any change in, addition to, amendment or modification of the terms hereof shall be of no effect unless reduced to writing and executed by both parties hereto.

ARTICLE XXI
Separability Clause

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

ARTICLE XXII
New York Law Applies

This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

ARTICLE XXIII
Execution in Counterparts

This Agreement may be signed in counterparts.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first above written.

COUNTY OF ERIE

CITY OF BUFFALO

JOEL A. GIAMBRA
County Executive
Dated: _____

ANTHONY M. MASIELLO
Mayor
Dated: _____

APPROVED AS TO CONTENT

APPROVED AS TO CONTENT

LAURENCE K. RUBIN
Commissioner
Department of Environment and
Planning
Dated: _____

Joseph N. Giambra
Commissioner
Department of Public Works, Parks
and Streets
Dated: _____

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APPROVED AS TO FORM

 GREGORY J. DUDEK
 Assistant County Attorney
 Document No. _____
 Dated: _____

APPROVED AS TO FORM

 MICHAEL B. RISMAN
 Corporation Counsel
 Dated: _____

APPROVED AS TO CONTENT

 LAWRENCE D. JASINSKI
 Commissioner
 Department of Parks, Recreation
 and Forestry
 Dated: _____

MS. MARINELLI moved to further amend the resolution with Amendment "B". MR. DEBENEDETTI seconded.

CARRIED UNANIMOUSLY.

- **ADD** the following:

WHEREAS, the Department of Social Services and the Department of Parks, Recreation and Forestry are seeking approval to create positions in the 2004 Adopted County budget and to fund these positions with a combination of program funding from local, state and federal sources, and

WHEREAS, the two main components in this transfer of parks staff which will be funded as an employment focused initiative at fifty percent Federal share and recreation staff which will be funded as a community optional preventive services focused initiative at sixty-five percent State share, and

WHEREAS, the inter-municipal agreement between the City of Buffalo and the County of Erie to have the County Parks department manage the City of Buffalo Parks and Recreation system will require substantial planning for a smooth workforce transition and will result in considerable redeployment and reinvention of the parks system into a community-wide employment and services focused organization, and

WHEREAS, it is envisioned that parks staff and programming will take on a much more integrated role with other regional assets and resources to become a model for regionalism and cooperative governmental shared responsibility.

NOW, THEREFORE, BE IT

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RESOLVED, that the Commissioner of Parks, Recreation and Forestry, the Commissioner of Social Services and/or the County Executive are authorized to enter into all agreements as necessary for program implementation, and be it further

RESOLVED, that the following budget amendments are hereby authorized in the 2004 Adopted Budget:

Department of Parks, Recreation and Forestry, Fund 110, Department 164

<u>ACCOUNT</u>	<u>DESCRIPTION</u>	<u>INCREASE</u>
500000	Personal Services – Full time Permanent	\$1,061,964
500000	Personal Services – Seasonal	159,503
500200	Fringe Benefits – Full time Permanent (30%)	318,495
500200	Fringe Benefits – Seasonal (15%)	28,148
505000	Office Supplies	500
506200	Maintenance and Repair	5,000
515000	Utility Charges (telephones)	6,350
516010	Non Profit Purchase of Services (Olmsted Conservancy)	94,375
516020	Professional Services Contracts and Fees (chlorine)	36,104
516030	Maintenance Contracts (refrigeration)	22,500
530000	Other Expenses (agriculture, cleaning, gasoline, misc)	67,650
561430	Buildings and Grounds – Heavy Equipment	<u>5,000</u>
	Total Expenditures	<u>\$1,805,589</u>
916400	Interfund – Social Services	\$530,477
xxxxxx	City of Buffalo	900,000
xxxxxx	Fees	<u>375,112</u>
	Total Revenues	<u>\$1,805,589</u>

and be it further ,

RESOLVED, that the following budget amendments are hereby authorized in the 2004 Adopted Budget:

Department of Social Services, Fund 110, Department 120

<u>ACCOUNT</u>	<u>DESCRIPTION</u>	<u>INCREASE</u>
916400	Interfund – Parks	<u>\$530,477</u>
	Total Expenditures	<u>\$530,477</u>
407680	State Aid – Service for Recipients	\$283,576

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411630	Federal Aid – FA Employment	<u>246,901</u>
	Total Revenues	<u>\$530,477</u>

RESOLVED, that the following (61) full time permanent positions are hereby created effective July 1, 2004 in Department 164, Fund 110:

Number	Title	Job Grade
1	Assistant Deputy Commissioner	14
1	Budget Examiner	11
1	Carpenter	7
1	City Parks Forester	8
5	Community Recreation Aide	5
1	Director of Recreation	13
1	Greens Keeper	9
1	Head Grower	7
1	Head Stadium Grounds Keeper	8
2	Laborer II	3
1	Motor Equipment Maintenance Supervisor	7
3	Motor Equipment Mechanic	9
4	Park Supervisor I	8
24	Park Utility Worker	5
12	Recreation Instructor	6
1	Stenographer	3
1	Supervisor Rinks and Pools	7

and be it further

RESOLVED, that the following (110) seasonal positions are hereby created effective July 1, 2004 in Department 164, Fund 110:

Number	Title	Hourly Rate
16	Seasonal Parks	\$ 7.50
76	Life Guard	6.73
16	Supervising Life Guards	7.27
2	Engineer	9.00

RESOLVED, that because these special services are needed immediately, the County Administrative Code requirement in Section 19.08 for a Request for Proposals (RFP) is hereby waived, and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive, the Commissioner of parks, Recreation and Forestry, the Commissioner of the

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Department of Social Services, the Erie County Comptroller and the Director of the Division of Budget, Management and Finance.

MS. MARINELLI moved the approval of the resolution as amended. MR. DEBENEDETTI seconded.

CHAIRMAN HOLT directed that a roll call vote be taken.

AYES: CHASE, McCARVILLE, RANZENHOFER, SWANICK, WEINSTEIN, DEBENEDETTI, HOLT, MARINELLI, SCHROEDER & SMITH. NOES: CUSACK, MARSHALL, DUSZA, KUWIK & WROBLEWSKI. (AYES 10, NOES 5).

CARRIED.

COMMUNICATIONS FROM ELECTED OFFICIALS

FROM CHAIRMAN HOLT

Item 3 – (Comm. 14E-1) Calling Special Meeting.

RECEIVED, FILED & PRINTED.

June 16, 2004

Kevin Kelley
 Clerk
 Erie County Legislature
 25 Delaware Avenue
 Buffalo, NY 14202

RE: SPECIAL MEETING OF LEGISLATURE – JUNE 18, 2004

Dear Mr. Kelley:

As Chairman of the Erie County Legislature, and under Section 2.02 of the Erie County Legislature's 2004 Rules of Order, I hereby announce my intention to hold a **SPECIAL MEETING** of the Legislature on **FRIDAY, JUNE 18, 2004 at 11:30 am** in the Chambers of the Erie County Legislature, 92 Franklin Street, 2nd Floor (Part 6).

The purpose of the meeting will be to consider adopting the inter-municipal cooperation agreement between the City of Buffalo and Erie County for the operation and management of the City of Buffalo's Parks System and the agreement with The Buffalo Olmsted Conservancy for the

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management and operation of the Buffalo Olmsted Parks and Parkway System, as outlined in the communications listed below, which may be amended during special session:

Comm. 11E-28 – the inter-municipal cooperation agreement and proposal for Erie County to assume management of the City of Buffalo parks system.

Comm. 13D-16 – the inter-municipal cooperation agreement draft dated 5/28/04.

Comm. 13D-17 – City-County inter-municipal cooperation agreement fact sheet.

Comm. 13M-13 – Olmsted Parks letter.

Intro 13-14 – Inter-Municipal Cooperation Agreement.

Please notify legislators, the administration and the public of this meeting.

Thank you for your courtesies.

Sincerely,

George A. Holt, Jr.
 Chairman

COMMUNICATIONS FROM THE DEPARTMENTS

FROM THE CLERK OF THE LEGISLATURE

Item 4 - (Comm. 14D-1) Special Meeting Notice.

RECEIVED, FILED & PRINTED.

To: All Erie County Legislators
 From: Kevin Kelley, Clerk of the Legislature
 Date: June 16, 2004
 Subject: SPECIAL MEETING OF THE LEGISLATURE

PLEASE TAKE NOTICE that under the direction of Legislature Chair George A. Holt, Jr., the Legislature will hold a **SPECIAL MEETING** on **FRIDAY, JUNE 18, 2004 at 11:30 AM** in the Chambers of the Erie County Legislature, 92 Franklin Street, 2nd Floor (Part 6).

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The purpose of the meeting will be to consider adopting the inter-municipal cooperation agreement between the City of Buffalo and Erie County for the operation and management of the City of Buffalo's Parks System and the agreement with The Buffalo Olmsted Conservancy for the management and operation of the Buffalo Olmsted Parks and Parkway System, as outlined in the communications listed below, which may be amended during special session:

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Comm. 13D- 17 – City-County inter-municipal cooperation agreement fact sheet.

Comm. 13M-13 – Olmsted Parks letter.

Intro 13-14 – Inter-Municipal_Cooperation Agreement.

ADJOURNMENT

Item 5 – At this time, there being no further business to transact, the Chairman announced that the Chair would entertain a Motion to Adjourn.

MS. MARINELLI moved that the Legislature adjourn until 2 p.m. Thursday, June 24, 2004.
MR. McCARVILLE seconded.

CARRIED UNANIMOUSLY.

The Chairman declared the Legislature adjourned until Thursday, June 24, 2004 at 2 p.m. Eastern Standard Time.

KEVIN M. KELLEY
CLERK