

TO THE COMMON COUNCIL

DATE: February 26, 2010

FROM THE EXECUTIVE DEPARTMENT

SUBJECT: Extend Downtown Stadium
Leasing Arrangements with
Buffalo Bisons through
March 31, 2011

I am writing to request that Your Honorable Body approve another one-year extension of the City of Buffalo's leasing arrangements with the Buffalo Bisons under essentially the same terms and provisions as last year's one year extension. The current leasing arrangements will expire on March 31, 2010. I have attached the proposed agreement for your review and approval.

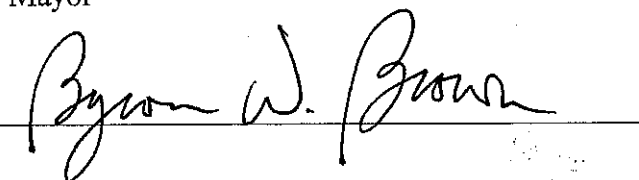
Neither the City nor the Bisons are committing to any obligation for "City Capital Repairs" during the one-year extended term. The City and the Bisons will continue to work in good faith in an attempt to reach a formal long-term agreement for extending the lease of the stadium.

Given that the current lease arrangements are due to expire on March 31, 2010, I respectfully request that Your Honorable Body approve this one-year extension at your earliest opportunity.

DEPARTMENT HEAD NAME: Byron W. Brown

TITLE: Mayor

SIGNATURE OF DEPARTMENT HEAD:

A handwritten signature in cursive script, reading "Byron W. Brown", is written over a horizontal line.

1A

**THIRD AMENDMENT TO STADIUM LEASE
AGREEMENT, SUBLEASE AND SECOND SUBLEASE**

THIS THIRD AMENDMENT TO STADIUM LEASE AGREEMENT, SUBLEASE AND SECOND SUBLEASE (the "Third Amendments") are made as of the ___ day of February, 2010, by and between the **CITY OF BUFFALO**, a municipal corporation of the State of New York, having its principal place of business at City Hall, No. 65 Niagara Square, in the City of Buffalo, County of Erie and State of New York 14202 (the "City"), and **BISON BASEBALL, INC.**, a Delaware corporation duly authorized to do business in the State of New York, having its principal office or place of business at 275 Washington Street, Buffalo, New York 14203 (the "Bisons").

WITNESSETH:

WHEREAS, the City and the Bisons are parties to a certain Bison Baseball, Inc. Stadium Lease Agreement, dated as of February 25, 1986, as amended by a certain Agreement, dated as of October 20, 1993 and as further amended by an Amendment to Stadium Lease Agreement dated as of March 27, 2008 and the Second Amendments to Stadium Lease Agreement, Sublease and Second Sublease dated as of March 17, 2009 (said Bison Baseball, Inc. Stadium Lease Agreement, as so amended, being herein called the "Prime Lease"), pursuant to which Prime Lease the City is leasing to the Bisons the Downtown Stadium (as such term is defined in the Prime Lease) located on property in the City of Buffalo, County of Erie and State of New York and more particularly described in Exhibit A attached to the Prime Lease; and

WHEREAS, the Bisons and the City are parties to a certain Sublease, dated as of January 1, 2003 as amended by an Amendment to Sublease dated as of March 27, 2008 and the Second Amendments to Stadium Lease Agreement, Sublease and Second Sublease dated as of March 17, 2009 (the "Sublease", with all capitalized terms not otherwise defined in this Amendment having the meanings given to such terms in the Sublease), pursuant to which Sublease the Bisons are subleasing to the City the Stadium; and

WHEREAS, the City and the Bisons are parties to a certain Second Sublease, dated as of January 1, 2003 as amended by an Amendment to the Second Sublease dated as of March 27, 2008 and the Second Amendments to Stadium Lease Agreement, Sublease and Second Sublease dated as of March 17, 2009 (the "Second Sublease", with all capitalized terms not otherwise defined in this Amendment having the meanings given to such terms in the Second Sublease), pursuant to which Second Sublease the City is subleasing to the Bisons the Stadium; and

WHEREAS, the City and the Bisons have agreed to further amend the Prime Lease, the Sublease and Second Sublease so that the terms of the Prime Lease, the Sublease and Second Sublease will be extended for an additional period of one (1) year, in the manner and upon the terms and conditions hereinafter provided;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, it is hereby agreed by the parties as follows:

1. These Amendments shall be construed with and as part of the Prime Lease, the Sublease and Second Sublease.
2. Notwithstanding any term, covenant or conditions contained in the Prime Lease, the Sublease and/or Second Sublease to the contrary, the language herein shall be given full force and effect.
3. Section 3(a) of the Prime Lease is hereby deleted in its entirety and the following is hereby inserted in lieu thereof:

"The term of this Lease Agreement shall be for a period of twenty-three (23) years, commencing on the first day of April, 1988, and expiring on the 31st day of March, 2011."

4. Effective on and after the Extended Term Commencement Date, Section 2.2 of the Sublease is hereby deleted in its entirety and the following is hereby inserted in lieu thereof:

"2.2. Term. The term of this Sublease shall commence on the date hereof and shall continue through and including March 31, 2011 ("Term"), unless sooner terminated in accordance with the provisions hereof."

5. Effective on and after the Extended Term Commencement Date, Section 3.2 of the Second Sublease is hereby deleted in its entirety and the following is hereby inserted in lieu thereof:

"3.2. Term. The term of this Second Sublease shall commence on the date hereof and shall continue through and including March 31, 2011 ("Term"), unless sooner terminated in accordance with the provisions hereof."

6. The Utility Payment Reimbursement By City provisions in Section 4.4 of the Second Sublease shall also be extended by one (1) year. By way of clarification, it is understood and agreed that the City's obligation under this provision shall not exceed \$30,000 in any one year.
7. Paragraph 8 of the Amendment to Second Sublease is amended to replace reference to August 31, 2008 with March 31, 2011.
8. Neither the Bisons nor the City are obligated to perform any capital repairs to the Stadium between the date hereof and March 31, 2011. Notwithstanding the foregoing, through March 31, 2011, the City agrees to work in good faith with the Bisons to provide minor capital and maintenance repairs to the Stadium of a nature substantially similar to the repairs and maintenance provided by the City from April

1, 2008 through the date of these Third Amendments. The parties acknowledge and agree that the Stadium is of an age where it is anticipated that material capital repairs will likely be necessary on an ongoing basis to ensure that the Stadium is fit for its intended purpose and does not pose a safety hazard to the personnel working at the Stadium or the general public attending events, games and functions at the Stadium. Examples of capital repair items of a material nature that may possibly become necessary during the Term of this Agreement are such items as are set forth in the HOK Facility Analysis report commissioned in mid-2008. The revenues at the Stadium are not sufficient to cover the expense of any such items and the City does not have the financial budget to account for such items. Consequently, recognizing that the Stadium constitutes an asset for not only the Western New York area but also New York State, the Bisons have appointed Jonathan A. Dandes and the Honorable Byron W. Brown, the Mayor of the City of Buffalo, has appointed _____ as designated representatives to approach the State of New York as soon as practical with respect to funding needed for capital repair items to the extent that they occur between the date of these Amendments and March 31, 2011.

9. Except as modified herein all terms and provisions of the Prime Lease, Sublease and Second Sublease shall remain in full force and effect.
10. This Amendment shall inure to the benefit of, and shall be binding upon, the City and the Bisons and their respective successors and permitted assigns.

IN WITNESS WHEREOF, the City and the Bisons have executed these Amendments as of the day and year first above written.

THE CITY OF BUFFALO

BISON BASEBALL, INC.

BY: _____
Byron W. Brown, Mayor

BY: _____
Jonathan A. Dandes, President

APPROVED AS TO FORM ONLY

By: _____
John V. Heffron
Assistant Corporation Counsel

STATE OF NEW YORK)
COUNTY OF ERIE) ss:
CITY OF BUFFALO)

On this _____ day of February, 2010, before me, the undersigned, a Notary Public in and for said State, personally appeared

BYRON W. BROWN,

personally known to me, or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as the Mayor of **THE CITY OF BUFFALO**, the corporation described within instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

Commissioner of Deeds, Buffalo, New York
My Commission expires:

or

Notary Public, Erie County, New York
My Commission expires:

STATE OF NEW YORK)
COUNTY OF ERIE) ss:
CITY OF BUFFALO)

On this ____ day of February, 2010, before me the undersigned, a Notary Public in and for said State, personally appeared

JONATHAN A. DANDES,

personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person on behalf of which the individual acted as President of **BISON BASEBALL, INC.**, executed the instrument.

Notary Public, Erie County, New York

My Commission expires:

Increased Appropriation

Fund Balance
Capital Outlay

We, Byron W. Brown, Mayor and Andrew A. SanFilippo, Comptroller, do hereby certify, pursuant to §20-11 of the Charter, that an increase in the sum of **\$2,000,000** in the estimate for the fiscal year beginning July 1, 2009 is necessary in Public Works, Parks & Streets Capital Outlay to meet a contingency which could not have been reasonably foreseen when the budget was adopted. The amount of increased appropriation will be met from the Reserved Fund Balance-Capital Outlay, not otherwise appropriated for any other purpose. The details of the requirements are set forth below:

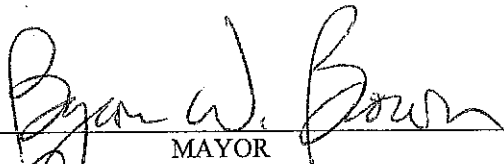
That, the Comptroller be and hereby is authorized and directed to transfer \$2,000,000 from the Reserved Fund Balance-Capital Outlay to meet this increased appropriation as detailed below:

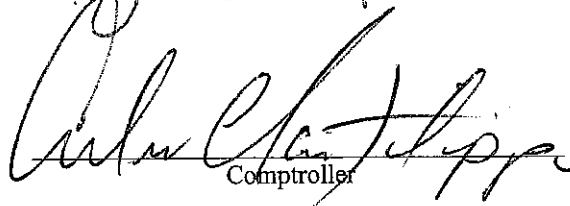
From:	
10700096 -397200 Reserved Fund Balance-Capital Outlay	<u>\$2,000,000</u>

To:
To meet the increased appropriation as set forth below:

14160007 - 474100 Equipment	<u>\$1,200,000</u>
14160007 - 474200 Vehicles	<u>\$ 800,000</u>

Dated: Buffalo, NY, February 25, 2010


MAYOR


Comptroller

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SINGLE PAGE COMMUNICATION TO THE COMMON COUNCIL

TO: THE COMMON COUNCIL:
DATE: March 1, 2010
FROM: DEPARTMENT: Mayor/Executive
SUBJECT: [:Mayor Byron W. Brown
[:Out of Town Travel
[:
[:

PRIOR COUNCIL REFERENCE: (IF ANY)
Ex. (Item No. xxx, C.C.P. xx/xx/xx)

Pursuant to Section 4-4 of the City of Buffalo Charter, I will be out of state from Tuesday, March 2, 2010 until Wednesday, March 3, 2010 evening.

I hereby designate Commissioner Steve Stepniak, Public Works, Parks and Streets to perform the Mayor's duties in my absence.

SIGNATURE
DEPARTMENT HEAD TITLE : 
Mayor, City of Buffalo

18A

**Young Adult Children
Health Insurance
Legislation**

Dear Valued Member:

Thank you for choosing BlueCross BlueShield of Western New York as your health insurance provider. This letter is to alert you of recent legislation that may affect your family.

New York Governor David Paterson recently signed legislation ("Age 29 Law"), which allows an eligible unmarried "young adult" who exceeds the age for dependent coverage under his or her parent's group or group remittance health insurance policy or contract to elect to independently purchase coverage. This law allows a "young adult" to purchase coverage under a parent's group or group remittance health insurance policy or contract through age 29, regardless of their financial dependence (the "Young Adult Option").

To qualify for this coverage, the young adult must meet the following requirements:

- be unmarried;
- be 29 years of age or under;
- cannot be insured by or eligible for comprehensive (i.e. medical and hospital) health insurance through his or her own employer;
- live, work or reside in New York State or the health insurance company's service area;
- not be covered under Medicare; and
- must be the child of an employee or other group member insured under a group, or group remittance health insurance policy or contract to which the law applies.

Please note that the young adult does not have to live with a parent, be financially dependent on a parent, or be a student. A young adult's children are not eligible for coverage under the Young Adult Option, but may be eligible for health insurance coverage under other programs.

The Age 29 Law, which became effective September 1, 2009, provides two methods for young adults to secure coverage:

- by the purchase of an individual policy through the parent's employer (Young Adult Option); or
- by enrolling the young adult under the parent's family policy if the employer purchases a rider to provide that coverage (Make Available Option)

The Young Adult Option provides for an initial 12-month open enrollment period, which runs for 12 months following the date that coverage through the Young Adult Option first becomes available under the policy or contract. The Young Adult Option does not first become available under a parent's particular group or group remittance health care insurance policy or contract until the first date on or after September 1, 2009 when the insurer renews, modifies, alters or amends the particular group or group remittance health insurance policy or contract.

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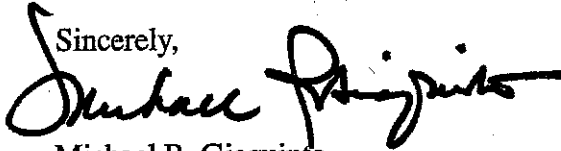
over, please



If you have eligible, or potentially eligible, young adult children, please contact your employer for more information about enrollment and premium rates.

Please visit the New York State Department of Insurance web site for more information:
http://www.ins.state.ny.us/faqs/faqs_S6030_Age29_young.htm. You may also contact the Insurance Department's Consumer Services Bureau at 1-212-480-6400 or 1-800-342-3736.

Sincerely,



Michael R. Giaquinto
Senior Vice President
Operations

FILED
CITY CLERK
2010 MAR -1 PM 3: 29

RESOLUTION

Sponsors: Mr. Franczyk; Mr. Fontana; and Mr. Kearns

Subject: Revised FEMA Digital Flood Insurance Rate Maps and Flood Insurance Study

WHEREAS, Pursuant to the National Flood Insurance Program ("NFIP"), which is administered by the Federal Emergency Management Agency ("FEMA"), Flood Insurance Rate Maps ("FIRMs") and a Flood Insurance Study report ("FIS") for Erie County, including the City of Buffalo, are in the process of being revised to reflect new data; and

WHEREAS, These new FIRMs and FIS will illustrate the extent of flood hazards in our community by depicting flood risk zones and will be used to determine who will be legally required to purchase flood insurance and the floodplain development regulations that will apply in the City of Buffalo and Erie County; and

WHEREAS, Under the NFIP, participating communities are required to designate a "Flood Plain Administrator" to, among other things, act as a point of contact for communications with FEMA regarding the NFIP and to assist with accessing and analyzing FIRMs and the FIS; and

WHEREAS, At this time, FEMA information indicates that the Flood Plain Administrator for the City of Buffalo is the "Deputy Mayor;" and

WHEREAS, It is critical that the Common Council be kept up to date on all information relating to the City's ongoing involvement and participation in the NFIP, particularly as pertains to discussions with and information supplied by FEMA concerning the development of new FIRMS and a new FIS, because Common Council action will ultimately be required to effectuate these changes and these updates will have a significantly impact on the lives of many city residents; and

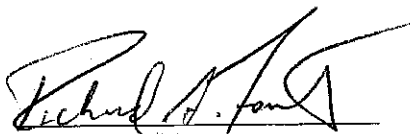
NOW THEREFORE BE IT RESOLVED,

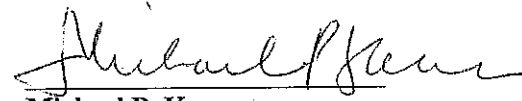
That the City of Buffalo Common Council respectfully requests that, with all possible expediency, the Mayor of the City of Buffalo file or cause to be filed with the City Clerk, current contact information for the City's Floodplain Administrator to include that individual's name, title, postal address, telephone number and email address; and

BE IT FURTHER RESOLVED,

That the City of Buffalo Common Council respectfully requests that, with all possible expediency, the Mayor of the City of Buffalo file or cause to be filed with the City Clerk, all information supplied by FEMA, the New York State Dept. of Environmental Conservation ("NYSDEC") and/or other government agencies regarding changes to the FIRMs and FIS applicable to the City of Buffalo.


David A. Franczyk
Fillmore District Council Member


Richard A. Fontana
Lovejoy District Council Member


Michael P. Kearns
South District Council Member

Handwritten initials and number: rj 36A

BY MESSERS FRANCYK, KEARNS AND FONTANA

RE: FIGHT NEW FEMA PLAN PUTTING OLD 1ST WARD, ETC. IN FLOODPLAIN

WHEREAS: The revised 2010 Federal Emergency Management Agency (FEMA) is once again proposing a preliminary map which puts the Old First Ward, parts of the South Buffalo, Lovejoy and other city areas into the 100-year flood plain; and,

WHEREAS: The inclusion of the Old First Ward into the 100-year floodplain would have an extremely negative impact on some property owners in the Ward, who might be forced by FEMA to buy expensive flood insurance. According to FEMA regulations, property owners who currently hold mortgages or home improvement loans on properties located in designated floodplains are required to purchase flood insurance policies on their property; and,

WHEREAS: It is in the interest of the City of Buffalo to aggressively challenge the FEMA findings in order to prevent the Old First Ward's designation into the 100-year flood plain; and,

WHEREAS: The City of Buffalo has previously contracted with the URS company to analyze the data and methodology utilized by FEMA and the New York State Department of Environmental Conservation (DEC) in calculating the flood zone, which was proven to be flawed; and,

WHEREAS: FEMA results reportedly suggest that the LIDAR airborne surveying technology used to calculate land elevation in the Old First Ward pushes the neighborhood into the 100-year flood plain by a mere fraction of a percentage point; and,

WHEREAS: The Old First Ward was previously in a 500-year flood plain, which has no adverse impact on property owners, but FEMA's recent 580.08 2007 elevation reading puts the Old First Ward at just below the flood plain free rating of 581; and,

WHEREAS: At the March 2, 2010 FEMA informational meeting in City Hall it was stated by FEMA's technical representative that the LIDAR surveying technology could be wrong by as many as eight inches;

NOW THEREFORE BE IT RESOLVED:

That the Common Council is opposed to the inclusion of the Old First Ward and other city areas, into the 100-year floodplain map, which would cause great hardship for property owners, as well as stifle economic development on Buffalo's waterfront, which is on the cusp of true revitalization;

BE IT FURTHER RESOLVED:

*MFB
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That the city considers a number of strategies to combat the city flood plain designations including but not limited to:

* Formally appealing the designation of the floodplain in the ninety day protest period, scheduled for the spring of 2010;

* contracting and hiring a survey firm to survey the subject parcels to determine if they fall out of the floodplain, given the up to 8 inch room for error in LIDAR technology;

- Estimate costs and budget for of a flood wall or berm (if other strategies fail) along a portion of the Buffalo River taking the Old First Ward out of the floodplain;

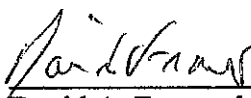
BE IT FURTHER RESOLVED:

That the Brown Administration be requested to outline its strategy in fighting to get the Old First Ward and other city areas out of the 100-year FEMA floodplain map during the FEMA allowed flood elevation Appeal Period beginning ion the spring of 2010;

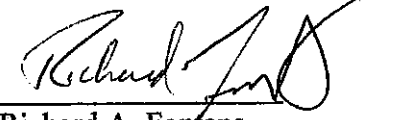
BE IT FURTHER RESOLVED:

That our federal delegation which has effectively challenged the FEMA floodplain designation in South Buffalo and Kaisertown be requested to aggressively work to prevent the Old First Ward from being included in the permanent adopted 100-year floodplain map;

BE IT FINALLY RESOLVED: That copies of this resolution be forward to United States Senators Chuck Schumer and Kirsten Gillibrand, Reps. Brian Higgins and Louise Slaughter, New York State Senator William Stachowski and Mark Schroeder, FEMA and the DEC.


David A. Franczyk


Michael P. Kearns


Richard A. Fontana

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By: Mr. Kearns

Increased Appropriation

**Fund Balance
Capital Outlay**

That, Pursuant to §20-11 of the Charter and the Certificate of the Mayor and the Comptroller submitted to the Common Council, the appropriation in Public Works, Parks & Streets Capital Outlay for the current fiscal year, be and the same hereby is increased in the sum of **\$2,000,000**. The increased appropriation will be met from money in the Reserved Fund Balance-Capital Outlay.

That, the Comptroller be and hereby is authorized and directed to transfer \$2,000,000 from the Reserved Fund Balance-Capital Outlay to meet this increased appropriation as detailed below:

From:	
10700096 -397200 Reserved Fund Balance-Capital Outlay	<u>\$2,000,000</u>

To:
To meet the increased appropriation as set forth below:

14160007 - 474100 Equipment	<u>\$1,200,000</u>
14160007 - 474200 Vehicles	<u>\$ 800,000</u>

38A

PA

RESOLUTION

Sponsor: Mr. LoCurto

Re: Appointment to the Bicycle/Pedestrian Advisory Board

Whereas: There currently exists at least one opening on the Bicycle/Pedestrian Advisory Board; and

Whereas: Pursuant to § 6-60 (Appointment of members; terms of office) of the Code of the City of Buffalo, the Advisory Board shall consist of 15 members. There shall be 11 voting members, appointed by the Buffalo Common Council and approved by the Mayor. At least five members shall be active cyclists, and at least four members shall be active pedestrians. One member shall be a member of the Disability Advisory Council. One member shall be an employee of the Department of Public Works. There shall also be four nonvoting members appointed by the Buffalo Common Council and approved by the Mayor and shall include one representative from each of the following departments: the Buffalo Common Council, the Buffalo Police Department, the Traffic Engineer and the Office of Strategic Planning; and

Whereas: Lynn Magdol resides within the City of Buffalo at 166 Lancaster Avenue and has a demonstrated history of service to her community, having formerly served as a liaison to the Buffalo Niagara Medical Campus project and on the board of a community food cooperative and block club; and

Whereas: Lynn Magdol is both an active cyclist and pedestrian, having been a bicycle commuter since the 1960's. Ms. Magdol commutes to work by bicycle when weather permits; and

Whereas: Appointing Lynn Magdol to the Bicycle/Pedestrian Advisory Board would be beneficial to the City of Buffalo; and

Now, Therefore, Be It Resolved:

That, effective immediately, Lynn Magdol is hereby appointed by the Common Council of the City of Buffalo to serve as a voting member on the Bicycle/Pedestrian Advisory Board.



Michael J. LoCurto
Delaware District Council Member

4/17
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RESOLUTION

By: Council Member Michael J. LoCurto

Re: Discharge Community Development from consideration of the following item:

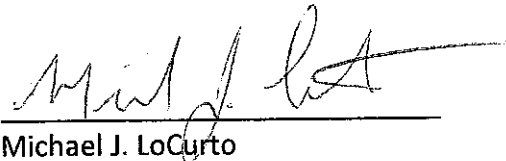
**"Report of Sale- 74 Richlawn Avenue (Mas)
(No 65, C.C.P. December 22, 2009)**

Whereas: The above item is currently in the Community Development Committee; and

Whereas: It is no longer necessary for this item to be considered by that committee;

Now, Therefore Be It Resolved:

That this Common Council does hereby discharge the Community Development Committee from further consideration of Item **No 65, C.C.P. December 22, 2009, "Report of Sale-74 Richlawn Avenue"** and said item is now before the Common Council for its consideration.



Michael J. LoCurto
Delaware District Council Member
Community Development Chair

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PJ