

NEW ROCHELLE
LEGAL NOTICE

NOTICE IS HEREBY GIVEN that the resolution summarized below has been adopted by the City Council of the City of New Rochelle, Westchester County, New York, on April 20, 2011 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 said City 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 date of publication of this notice, or such obligations were authorized in violation of the provisions of the Constitution.

Bennie F. Giles, III, City Clerk

BOND RESOLUTION DATED APRIL 20, 2011, AUTHORIZING THE SSUANCE OF BONDS OF THE CITY OF NEW ROCHELLE, NEW YORK IN THE PRINCIPAL AMOUNT OF \$20,000,000 TO FINANCE THE ACQUISITION OF PERMANENT REAL PROPERTY INTERESTS IN A CERTAIN PARCEL OF LAND AND THE PARKING GARAGE THEREON AT THE NEW ROC CENTER, CURRENTLY SUBLEASED BY THE CITY FROM THE NEW ROCHELLE LOCAL DEVELOPMENT CORPORATION

(Adopted April 20, 2011-Res. No. 74)

Period of probable usefulness: 30 years.

Specific Object or Purpose: to finance the acquisition of permanent interests in a certain parcel of land and the parking garage thereon at the New Roc Center, currently subleased by the City from the New Rochelle Local Development Corporation, including incidental expenses in connection therewith, for which \$20,000,000 principal amount of bonds is authorized herein.

Amount of obligations to be issued: \$20,000,000

The complete text of the bond resolution is as follows:

BOND RESOLUTION DATED APRIL 20, 2011 AUTHORIZING THE ISSUANCE OF BONDS OF THE CITY OF NEW ROCHELLE, NEW YORK IN THE PRINCIPAL AMOUNT OF \$20,000,000 TO FINANCE THE ACQUISITION OF PERMANENT REAL PROPERTY INTERESTS IN A CERTAIN PARCEL OF LAND AND THE PARKING GARAGE THEREON AT THE NEW ROC CENTER, CURRENTLY SUBLEASED BY THE CITY FROM THE NEW ROCHELLE LOCAL DEVELOPMENT CORPORATION.

WHEREAS, the City Council of the City of New Rochelle (the "Council" and the "City", respectively) hereby determines that it is in the public interest of the City to provide for the financing of the acquisition of permanent interests in a certain parcel of land and the parking garage thereon at the New Roc Center (the "Real Property"), currently subleased by the City from the New Rochelle Local Development Corporation (the "Corporation") under that certain Amended and Restated Sublease Agreement dated as of February 1, 1998 (the "Sublease Agreement");

WHEREAS, the Sublease Agreement requires the City to pay rent to the Corporation;

WHEREAS, the rent includes pass-through payments to the Corporation of principal and interest on the presently outstanding \$18,675,000 principal amount of the New Rochelle Industrial Development Agency (the "Agency") \$24,800,000 Taxable

Parking Lease Revenue Bonds, Series 1997 (New Rochelle Local Development Corporation Project) (the "Agency Bonds"), including any amount due upon redemption of the Bonds;

WHEREAS, the Agency Bonds are secured by rental payments on the Real Property and by a letter of credit issued by The Bank of New York Mellon Corporation (the "Letter of Credit");

WHEREAS, The Bank of New York Mellon Corporation has indicated that the Letter of Credit, which is due to expire May 12, 2011, subject to an anticipated 60-day temporary extension, is not to be renewed;

WHEREAS, the Bonds are subject to mandatory redemption, at par, if a letter of credit from a bank rated at least AA cannot be maintained to secure the Bonds;

WHEREAS, market conditions have reduced the number of such banks and have reduced the willingness of such banks to issue letters of credit suitable as security for the Bonds, and it is not presently known whether a replacement letter of credit can be obtained under reasonable terms or obtained at all;

WHEREAS, if no such replacement letter of credit is obtained, and the Letter of Credit expires, The Bank of New York Mellon Corporation will be required to pay the existing Bondowners and the City will become indirectly obligated to The Bank of New York Mellon Corporation under the terms of that certain Letter of Credit and Reimbursement Agreement dated May 1, 2005;

WHEREAS, it appears advantageous to authorize the issuance of bonds to finance the acquisition of permanent interests in the Real Property from the Agency, on the condition that the Agency use the proceeds of the sale to repay the Bonds or, if the Bonds have been redeemed by The Bank of New York Mellon Corporation, to satisfy the repayment obligations thereunder and pay costs incidental thereto;

WHEREAS, it appears that the principal and interest payments on general obligation bonds issued for this purpose would be lower, in present value, than the remaining Sublease Agreement rental payments currently expected to be due thereunder;

WHEREAS, the Council has not taken any action or adopted any local law which would require the effectiveness of this bond resolution to be subject to a permissive or mandatory referendum, and the provisions of the State Environmental Quality Review Act have been complied with to the extent necessary to authorize the financing contemplated; therefore,

BE IT RESOLVED, by the Council of the City of New Rochelle, County of Westchester, State of New York, by affirmative vote of at least two-thirds of its members, as follows:

Section 1. There are hereby authorized to be issued bonds of the City of New Rochelle, New York, in the principal amount of \$20,000,000 pursuant to the Local Finance Law, in order to finance the specific object or purpose hereinafter described.

Section 2. The specific object or purpose to be financed pursuant to this bond resolution is the acquisition of permanent interests in a certain parcel of land and the parking garage thereon at the New Roc Center, currently subleased by the City from the New Rochelle Local Development Corporation under the Sublease Agreement. The estimated maximum cost of such specific object or purpose is \$20,000,000, and the principal amount of bonds authorized herein for such specific object or purpose is \$20,000,000. The period of probable usefulness of such specific object or purpose is thirty years under subdivision ninety-four of paragraph a of Section 11.00 of the Local Finance Law, as such specific object or purpose consists of items which can be assigned a period of probable usefulness of thirty years under subdivision eleven or twenty-one of said paragraph a. The bonds shall have a maximum maturity not to exceed the period of probable usefulness of the specific object or purpose for which they are issued, computed from the earlier of (a) the date of the first issue of such bonds for such specific object or purpose or (b) the date of the first bond anticipation note issued in anticipation of the issuance of such bonds.

Section 3. The Council has determined and hereby states that (a) the estimated maximum cost of the specific object or purpose in Section 2 above is \$20,000,000; (b) no money has been authorized to be applied to the payment of the costs of such specific object or purpose; and (c) the Council plans to finance the costs of such specific object or purpose from funds raised by the issuance of obligations authorized herein.

Section 4. Subject to the terms and conditions of this bond resolution and the Local Finance Law, and pursuant to the provisions of Sections 21.00, 30.00, 50.00 and 56.00 to 60.00, inclusive, of the Local Finance Law, the power to authorize bond anticipation notes in anticipation of the issuance of the bonds authorized by this bond resolution and the renewal of such bond anticipation notes and the power to prescribe the terms, form and contents of such bonds and such bond anticipation notes, including renewals thereof, including the power to issue bonds with substantially level or declining debt service, and the power to issue, sell and deliver such bonds and such bond anticipation notes, including renewals thereof, is hereby delegated to the Commissioner of Finance, as chief fiscal officer of the City, provided, however, that such powers shall not be exercised unless and until the Commissioner of Finance has determined that a replacement letter of credit as described in the preambles to this resolution cannot, after diligent efforts, be obtained on reasonable terms and in a timely manner. The Commissioner of Finance is hereby authorized to execute on behalf of the City all bonds issued pursuant to this bond resolution and all bond anticipation notes, including renewals thereof, issued in anticipation of the issuance of such bonds, and the City Clerk is hereby authorized to affix the seal of the City of all such bonds and all such bond anticipation notes, including renewals thereof, and to attest such seal. Such bonds, if, as and when issued shall be authenticated by the countersignature of a fiscal agent of the City or by the appropriate designated officer of the City pursuant to Section 70.00 of the Local Finance Law. The Commissioner of Finance is hereby authorized to contract with a fiscal agent for the City in connection with the issuance of the obligations authorized hereby, or, at the option of the Commissioner of Finance, may elect to act as fiscal agent. In the absence of the Commissioner of Finance, the Deputy Commissioner of Finance is hereby authorized to exercise the powers delegated to the Commissioner of Finance by this Resolution. The Commissioner of Finance is hereby authorized to take all actions necessary or convenient to sell such bonds at a discount under Section 57.00 e of the

Local Finance Law and at negotiated sale under Section 57.00 f of the Local Finance Law, if the Commissioner of Finance shall determine that such sale would be in the best interests of the City.

Section 5. The City Clerk of the City shall cause this bond resolution to be published together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law in *The Journal News*, a newspaper having a general circulation in the City, which is hereby designated the official newspaper of the City for this purpose. The validity of the bonds authorized by this resolution and of bond anticipation notes issued in anticipation of the sale of such bonds may be contested only if such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or if the provisions of law which should be complied with at the date of the publication of this bond resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication, or if such obligations are authorized in violation of the provisions of the Constitution of the State.

Section 6. The faith and credit of the City are hereby and shall be irrevocably pledged for the punctual payment of the principal of and interest on all obligations authorized and issued pursuant to this bond resolution, as the same shall become due.

Section 7. The City intends to issue the obligations authorized by this bond resolution to finance the cost of the aforesaid specific object or purpose. The City covenants for the benefit of the holders of the obligations authorized herein that, unless such obligations are sold as taxable obligations, it will not make any use of the proceeds of such obligations, any funds reasonably expected to be used to pay the principal of or interest on such obligations or any other funds of the City, and will not make any use of the facilities financed with the proceeds of such obligations which would cause the interest on such obligations to become subject to federal income taxation under the Internal Revenue Code of 1986, as amended (the "Code") (except for the alternative minimum tax imposed on corporations by section 55 of the Code) or subject the City to any penalties under section 148 of the Code, and that it will not take any action or omit to take any action with respect to such obligations, the proceeds thereof or any facilities financed thereby if such action or omission would cause the interest on such obligations to become subject to federal income taxation under the Code (except for the alternative minimum tax imposed on corporations by section 55 of the Code) or subject the City to any penalties under section 148 of the Code. The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of such obligations until the date which is 60 days after the final maturity date or earlier prior redemption date thereof. The proceeds of the bonds and any bond anticipation notes issued in anticipation of the sale of bonds may be applied to reimburse expenditures or commitments made for such purpose on or after a date which is not more than one year prior to the date of adoption of this bond resolution. The City expects to expend general funds or other available moneys for the aforesaid specific object or purpose which are expected to be reimbursed from the proceeds of such obligations.

Section 8. It is hereby determined by the Council of the City that the aforesaid specific object or purpose will not have significant effect on the environment within the meaning of the State Environmental Quality Review Act, constituting Article 8

of the Environmental Conservation Law, and the regulations promulgated thereunder by the New York State Department of Environmental Conservation.

Section 9. The City hereby covenants for the benefits of holders of obligations authorized herein to enter into agreements with or for the benefit of certain purchasers of the obligations authorized hereby to enable them to comply with Rule 15c2-12 of the Securities Exchange Act of 1934, as amended (the "Rule"), by providing to a nationally recognized municipal securities information repository, if and when required by the Rule: (i) at least annually, current financial information concerning the City, including annual audited financial statements and pertinent operating information, and (ii) notice of any material events as set forth in the Rule, unless an exemption from such requirement exists as provided in the Rule.

Section 10. This bond resolution shall take effect immediately upon its adoption by the Council of the City.