

**ECFSA
Full Board Meeting
September 29, 2008**

Present: Robert Glaser, Vice Chairman, Stanley Keysa, Secretary, Director John Johnson, Director Kenneth Kruly, Director Joseph Goodell, Director Louis Thomas, Executive Director Kenneth Vetter

Vice Chair Glaser: “Welcome to the September 29th meeting of the Erie County Fiscal Stability Authority. We have a few things to go over and don’t expect this meeting to go very long. Our first item on the agenda is the approval of minutes from our September 15th meeting. Secretary Keysa would you like to comment?”

Secretary Keysa: “The minutes have been distributed to you and are in your meeting folders. There have been no suggested changes, so I would recommend a motion to approve.”

Director Goodell moved to approve, Director Thomas seconded and the Directors voted unanimously to approve the minutes of the September 15, 2008 meeting:

Resolution No. 08-92

**APPROVING MINUTES AND RESOLUTIONS FROM
THE SEPTEMBER 15, 2008 MEETING**

BE IT RESOLVED that the Erie County Fiscal Stability Authority approves the minutes of its September 15, 2008 meeting and ratifies and affirms eleven resolutions numbered 08-81, 08-82, 08-83, 08-84, 08-85, 08-86, 08-87, 08-88, 08-89, 08-90 and 08-91 that were approved on September 15, 2008.

This resolution shall take effect immediately.

Vice Chair Glaser: “With that there are three contracts that we need to discuss. Mr. Vetter if you would like to take it from here”

Executive Director Vetter: “Yes Mr. Vice Chairman, there is a matrix in front of you. 1-1 and 1-2 are urgent requests. They have been reviewed by staff and if they are not passed today there is the possibility that the projects will not occur. Staff recommends that funds for Homeland Security are approved as well as the construction bid for Public Works. They can be approved as a slate.”

Secretary Keysa moved to approve, Director Goodell seconded and the Directors voted unanimously to approve the following resolution:

Resolution No. 08-93

**APPROVING CERTAIN CONTRACTS, SETTLEMENTS, AND
OTHER OBLIGATIONS BINDING THE COUNTY OF ERIE**

WHEREAS, Chapter 182 of the New York Laws of 2005 created the Erie County Fiscal Stability Authority (“ECFSA”) to serve as a corporate governmental agency and instrumentality of the State of New York, and as a public benefit corporation to “oversee [Erie] County’s budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings and to finance short-term cash flow or capital needs; and, if necessary, to develop financial plans on behalf of the County if the County is unwilling or unable to take the required steps toward fiscal stability;” and

WHEREAS, the ECFSA first imposed a control period upon the County of Erie (the “County”) by adopting Resolution 06-49 on November 3, 2006; and

WHEREAS, incident to and in furtherance of the imposition of the control period, the ECFSA adopted Resolution 06-51, which authorized a process for approving contracts, settlements, or other obligations binding or purporting to bind the County (“contract approval process”), on November 3, 2006; and

WHEREAS, in adopting Resolution 07-04 on January 11, 2007, the ECFSA renewed and continued the contract approval process authorized by Resolution 06-51; and

WHEREAS, the ECFSA has adopted Resolution 07-10, which replaces and supersedes the contract approval process authorized by Resolution 06-51; and

WHEREAS, the ECFSA must review and approve any contract, settlement, or other obligation, valued at greater than \$50,000, that binds or purports to bind the County or a covered organization, before it takes effect; and

WHEREAS, the County Executive or a “Responsible Official,” as defined in Resolution 07-10, has duly submitted a request for review of the contracts, settlements, and other obligations listed on the attached document; and

WHEREAS, the ECFSA Executive Director, after consultation with the ECFSA Staff, has recommended approval of each contract, settlement, or other obligation via written correspondence to each ECFSA Director;

NOW, THEREFORE, BE IT RESOLVED that the ECFSA approves the contracts, settlements, and other obligations listed on the attached document.

Department	Description	Amount
Emergency Services – Receipt of Grant Funds – Office of Homeland Security	Interoperable Communications grant program. 400 MHZ project between 1 st responder communities.	\$1,612,439 - \$322,487 local share
Public Works – Construction Bid/Change Order - Accadia Site Contracting and Greenman-Pedersen	Tonawanda Creek Rd. Reconstruction agreement with Accadia in the amount of \$1,954,288.33 and a change order with engineers Greenman-Pedersen for \$222,571 and establish a project contingency not to exceed \$435,000	\$2,611,800 - \$326,475 local share

Director Goodell: “I m curious as to why these are both emergencies?”

Executive Director Vetter: “Commissioner Gregory Skibitsky and Commissioner Gerald Sentz are here from Public Works and Emergency Services.”

Gerald Sentz: “I will address the Tonawanda Creek item. This road has been closed for 4 years and we would like to get started on it in the fall. It is good work to do before winter. They will put a slurry mix down now as opposed to when the ground is wet. We have everything in place. The Legislature pushed everything through so that we can get the contractor in October and go ahead with the slurry mix.”

Director Goodell: “When did you become aware of this?”

Gerald Sentz: “FEMA declined our bid for some time. Then on September 11th it was confirmed that we would receive FEMA funding as well from the NYS Emergency Management Office. We have everything in place and a resolution was put together by the Legislature. That is why we are here today.”

Director Goodell: “What would you have done if we did not meet today?”

Gerald Sentz: “We would have....”

Director Goodell: “We are getting far too many last minute requests for contracts.”

Gregory Skibitsky: “This is a homeland security grant.”

Director Goodell: “When did you know about it?”

Gregory Skibitsky: “Four years ago....”

Director Goodell: “So it took you four years? What if we didn’t meet today?”

Gregory Skibitsky: “The reason we can’t wait until you meet again is because the work needs to get underway now. If we don’t order this equipment

now it will affect emergency services and police services. We moved this as quickly as possible. The reason that that timeliness of this is for the power work that needs to be done in late September early October when the ground is hard.”

Director Goodell: “We are tired of getting emergency requests. One of these days we will dig our heels and not approve one of these things”

Gregory Skibitsky: “I fully understand.”

Executive Director Vetter: “Item 1-3 is regarding the Revenue Anticipation Note. At our last meeting we voted to table this item. So procedurally we will have to vote to bring this back on the table.

Director Goodell moves to put it on the table, Director Kruly seconded and the Board voted unanimously to bring the RAN item on the table.

Vice Chair Glaser: “Coming to the market last week of which only \$100 million got through. So the market to say the least was in turmoil and Mr. Poloncarz did keep the private placement on the table which I think is now looking very good to us. Mr. Poloncarz would you like to make a couple of comments or do we have a couple of questions.”

Mark Poloncarz: “Good morning, as you stated the market of course was in complete disarray when it looked like that was the case...I believe that everyone was sincere on this Board in trying to close this loan but when things were going down I contacted and was in complete discussions with Banc of America to ensure that the proposal that that they had originally had on the table. Well I should say one of the proposals that they had on the table would still be available and that was the private placement. We are good to go with that transaction and it is locked in at a rate of 2.99% which is 1% lower than the rate that we closed this deal at last year and approximately 3% lower than what are the going rates right now. If any deal and as Mr. Glaser noted, there are very few of them, the best rate we are getting is 6% and we are locked in at a rate of 2.99% for a 270 day note that would close today , fund tomorrow and be payable on June 30, 2009. Do you have any specific questions?”

Vice Chair Glaser: “The only additional question that I have for you is do you still need the money and if it is going to be available to you tomorrow is that enough time?”

Mark Poloncarz: “As long as I have the money. I am going to have the money wired into our accounts no later than early tomorrow morning. By

the end of tomorrow I have to distribute \$42 million worth of sales taxes to towns, villages, cities and school districts that we otherwise would not be able to do. We have a debt service payment due on the first that we would not be able to pay for about \$6 million and then we have a payroll that we have to prefund on October 2nd which is \$12 million. I would not be able to any of those unless this loan closes. So we are all set. The documents have been signed. At this point all we are waiting for is approval from the Authority. Once we have the signed resolution we will forward that to Banc of America and the attorneys involved at which time we will close the loan and Banc of America will either later today or at the latest early tomorrow wire the finds into our account.”

Vice Chair Glaser: “That’s great.”

Secretary Keysa: “Just a question on that, you are talking about the \$42 million in sales tax to the local governments and school districts. I know that comes through the County. Doesn’t the County serve as a trustee on that which is to say you really can’t tap that money, can you?”

Mark Poloncarz: “That’s correct. It is due tomorrow. We truthfully have the finds for a few extra days and we invest it to the benefit of the County taxpayers but we are required under the agreement to distribute that on the 30th the day of the month. Now we do Quarterly payments where at one time we did monthly payments so we have to make that payment tomorrow. That money is broken apart based on how much each entity gets; it is a certain percentage. It is a complicated percentage and it varies but assuming this is approved we will have the funds and those checks will be in the mail and the municipalities will get them. It is important because it is not just for us. We would not be able to meet our cash flow if this money is not in hand. A lot of these municipalities are expecting these payments to be received and they rely upon them for there own cash flow purposes.”

Vice Chair Glaser: “Okay, are there any other questions?”

“I’d like to say that it was a nice job for you to keep that option open to the County. It was a very good option that way the markets worked out so, nice job.”

Director Kruly moved to approve, Director Goodell seconded and the Directors voted unanimously to approve the following resolution:

Resolution No. 08-94

**COMMENTING ON AND APPROVING THE ISSUANCE OF
REVENUE ANTICIPATION NOTES BY ERIE COUNTY**

WHEREAS, Chapter 182 of the New York Laws of 2005 created the Erie County Fiscal Stability Authority (“ECFSA”), to serve as a corporate governmental agency and instrumentality of the State of New York, and as a public benefit corporation to “oversee [Erie] County’s budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings and to finance short-term cash flow or capital needs; and, if necessary, to develop financial plans on behalf of the County if the County is unwilling or unable to take the required steps toward fiscal stability;” and

WHEREAS, based on County cash flow projections obtained by the ECFSA on September 4, 2008, the County Comptroller’s Office identified a need for the County to issue \$75,000,000 in Revenue Anticipation Notes before the end of September 2008;

WHEREAS, on September 4, 2008 pursuant to New York Local Finance Law, the County Legislature delegated to the County Comptroller the powers to authorize the issuance of and to prescribe the terms, form and contents for the sale and credit enhancement of Revenue Anticipation Notes;

WHEREAS, based upon its evaluation of proposals the County received from investment and commercial banks, the County Comptroller’s Office selected Bank of America, N.A.’s (“BOA”) proposal calling for direct placement of \$75,000,000 in Revenue Anticipation Notes with BOA;

WHEREAS, the ECFSA first imposed a control period upon the County of Erie (the “County”) by adopting Resolution 06-49 on November 3, 2006, and renewed and continued a control period by adopting Resolution 07-04 on January 11, 2007; and

WHEREAS, Section 3959(2)(i) of New York Public Authorities Law requires that, during a control period, the ECFSA review the terms of each proposed issuance of bonds or notes, comment on the prudence of each issuance and indicate approval or disapproval of the proposed borrowing within thirty days after notification;

WHEREAS, Section 3959(2)(i) of New York Public Authorities Law also requires that, during a control period, no such borrowing shall be made by the County unless first reviewed, commented upon and approved by the authority;

WHEREAS, on September 26, 2008 the County Comptroller’s Office provided the ECFSA with the County’s proposed contract terms for borrowing \$75,000,000 of Revenue Anticipation Notes through Bank of America, N.A., and requested that the ECFSA approve the borrowing and related contract at its September 29, 2008 Board meeting;

WHEREAS, the County Comptroller has stated that, without a short-term borrowing of \$75,000,000 by the end of September, 2008 the County will not have sufficient cash to meet its payroll or other obligations;

NOW, THEREFORE, BE IT RESOLVED, that the ECFSA does hereby approve and authorize the issuance of Revenue Anticipation Notes and authorizes the appropriate county officials to

enter into legal agreements required to close the Series 2008A RAN, in an amount not to exceed \$75,000,000, in order to allow the County to meet its short-term obligations; and

BE IT FURTHER RESOLVED, that the Executive Director of the ECFSA be hereby authorized and directed to execute and deliver any agreements, certificates, documents, papers or other written instrument, to make any changes, modifications or amendments as may be necessary, to do all other things and to take all other actions necessary and appropriate to consummate the transactions contemplated by this resolution; and

BE IT FURTHER RESOLVED, that this resolution be provided to the County Executive, the County Comptroller, the County Legislature, the Director of the State Division of the Budget, the Chair of the State Senate Finance Committee, the Chair of the State Assembly Ways and Means Committee and the State Comptroller.

This resolution shall take effect immediately.

Secretary Keysa: "I would like to move that we go into executive session with our legal council to discuss the matter of a potential lawsuit."

Director Goodell seconded and the Directors voted unanimously to enter into executive session.

Vice Chair Glaser: "Thank you everyone. We are going to reconvene after executive session."

EXECUTIVE SESSION

Secretary Keysa: "Mr. Chairman I just want to report that the Board met in executive session with counsel. No votes were taken and that should be reflected in the minutes."

Vice Chair Glaser: "Is there any other business to come before the Board? If not I will entertain a motion to adjourn?"

Director Kruly moved to adjourn, Director Goodell seconded, and the Directors voted unanimously to adjourn the meeting.

Respectfully submitted,

Stanley J. Keysa

November 3, 2008