

Erie County Fiscal Stability Authority  
June 2, 2009  
Buffalo Library Auditorium

Chairman Glaser: “Welcome everyone to the June 2nd meeting of the ECFSA. We are please to see so many of you in attendance. We have just a few things on the agenda. The first of which is the approval of the minutes of the last meeting. Secretary Keysa?”

Secretary Keysa: “Mr. Chairman, again thanks to the hard work of Ms. Martin you have them before you. They have been edited and distributed prior to the meeting. If there are no questions or changes they are ready for approval.”

Director Kruly moves and Director Thomas seconds and the Board votes unanimously to approve the following resolution:

**Resolution No. 09-46**

**APPROVING MINUTES AND RESOLUTIONS FROM  
THE MAY 26, 2009 MEETING**

BE IT RESOLVED that the Erie County Fiscal Stability Authority approves the minutes of its May 26, 2009 meeting and ratifies and affirms seven resolutions numbered 09-43 09-44 and 09-45 that were approved on May 26, 2009.

This resolution shall take effect immediately.

Chairman Glaser: “The next order of business is a number of contracts that came to us since our last meeting, Mr. Vetter can I turn that over to you?”

Exec. Director Vetter: “Yes Mr. Chairman. We have three slates of contracts that have been submitted to you prior to this meeting. Contracts 1-1 through 2-4 mostly for the Department of Public Works and Social Services that are standard County business and should be considered as a slate and staff recommends that these be approved as a slate.”

Secretary Keysa moves to approve, Director Kruly seconds and the Board votes unanimously to approve the following resolution:

**Resolution No. 09-47**

**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
Central Police-service contract-Software Specialists Services	Maintenance and support of CPS computer programs and systems	\$200,000-all local share
Environment & Planning-grant	Urban County Consortium	\$3,307,548-no local share
Environment & Planning-grant	Emergency Shelter program	\$129,631-no local share
Environment & Planning-grant	Home Investment Partnership grant	\$1,195,159-no local share
Environment & Planning-grant-CDBG	CDBG-Recovery Act	\$878,421-no local share
Erie Community College-purchase contract-Xpedx	Copy paper for ECC-colored and white paper of all sizes	\$75,000-no local share
Erie Community College-Buffalo Public Schools	ECC and Buffalo Public Schools have established a tuition free opportunity program	\$315,000-no local share
Erie Community College-purchase contract-Supplies Now	Purchase toner cartridges for the printers at the College	\$50,000-no local share
Erie Community College-service contract-Veriview LLC	Educational Smart Room Technology systems	\$185,000-no local share
Public Works-Construction Contract-Frey Electric Construction	Ralph Wilson Stadium emergency repairs	\$117,425-all local share
Public Works-purchase contract-Trason Development	Purchase and installation of pre-engineered building – Frank Lloyd Wright boathouse	487,000-all local share
Senior Services-service contract-Personal Computers Inc	Software to maintain and support the Departments client tracking software	\$76,750-\$19,187.50 local share

This resolution shall take effect immediately.

Exec. Director Vetter: “Mr. Chairman, item 2- 5 is related to the department of social services. Secretary Keysa has indicated in the past that he would like to abstain himself from voting on such items. Therefore this is being proposed as a single item slate.”

Director Johnson moves, Director Kruly seconds, Secretary Keysa abstains and the Board votes to approve the following resolution:

**Resolution No. 09-48**

**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
Social Services-service contract – Child & Family Serv, Crisis Serv, Hispanics United	Non-residential domestic violence services expansion	\$143,883-no local share

This resolution shall take effect immediately.

Exec. Director Vetter: “Mr. Chairman the last items are 2-6 through 3-2. They are contract for which Legislative approval is still required. They have been approved in the committees of the Legislature and would be

recommended by staff for approval by the Board contingent upon approval by the Legislature.”

Director Thomas moves and Director Johnson seconds, the board votes unanimously to approve the following resolution:

**Resolution No. 09-49**

**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

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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
Public Works-Locally Administered Federal Aid Program - NYSDOT	2008-2009 Bridge cleaning	\$485,000-97,000 local share
Public Works-purchase contract-Clough Harbour Associates – various vendors	Emergency bridge repair program	\$100,000,000-all local share
Public Works - technical service agreement – ECS&W	Technical service agreement for Stream Maintenance Management program county wide	\$250,000-all local share
Public Works-Fed Aid pass-through - NYSDOT	Greiner Shimerville project	\$1,305,250-\$38,012 local share

Chairman Glaser: “The next item on the agenda is the four year financial plan that was resubmitted to the control board. The way that we are going to proceed with this is to first get a motion to put it on the table. Based upon the work that has been done in the finance committee, especially by Mr. Vetter, Director Kruly and Vice Chairman Goodell who apologizes that he could not be here; based upon our current economic conditions and the available information that we have presented before us we would like to approve the four year plan and make a motion to take the ECFSA to an advisory status. With that could I get a motion to get that on the table.”

Director Louis moved and Director Johnson seconded the motion:

Secretary Keysa: “We need a motion to bring the plan back before us as well as a motion for advisory status. We have that motion and before us and just need to vote on it.”

Chairman Glaser: “All in favor?”

The board votes unanimously to approve the four year plan.

Chairman Glaser “Now a motion to resort to advisor status.”

Director Thomas moves and Director Johnson seconds:

Chairman Glaser: “Before we vote I think we would like to have some discussion Gregory Gach the Erie County Budget Director who has agreed to come over and give us an overview of the four year financial plan and take some of our questions.”

“Welcome.”

Gregory Gach: “Thank you and thank you for giving us the opportunity to modify the modified plan according to your recommendations. I will just give you a brief overview of what we did. From the original plan that we submitted on the 11<sup>th</sup>, we took back and followed your recommendations; you had four recommendations for us.

“The first was property tax assessment growth. You has asked that we change that to a 2%, 3% ad 4% growth. We did that and that reduced the fund balance or surpluses that were in the budget/plan by \$11.6 million.”

“Sales tax growth, we reduced the 5% decline in 2009 from a 3% decline. We also adjusted 2010 to be 3% on top of that rather than 2008 and that resulted in a \$31 million adjustment.”

“The fifty job cuts in 2011 and 2012 we removed them from above the line to below the line as an option for gap closing and that also adjusted that by \$20 million. So what you have in front of you now is a plan that is \$62.5 million different then the plan that we originally submitted on the 11<sup>th</sup>. We believe that this is reasonable and easily attainable.”

“There are a few assumptions in there and we have modified the options to fill the gaps to correspond to the larger gaps of 2011 and 2012. We believe these are all attainable and quite frankly I hope that we will not have those types of gaps but we will see. With that I will open it up to questions.”

Chairman Glaser: “The only question I will ask you is, in your background at the Comptrollers office and now the Budget office...?”

Gregory Gach: “I was the Deputy Budget Director for 12 years, I was in the Comptrollers office for about 4 years, two of them as the Deputy Comptroller and now I am the Budget Director. So you’re right. I also had a brief stint with the Legislature, so I have been on all sides of County government.”

Chairman Glaser: “What is your perception of the four year plan?”

Gregory Gach: “I think it’s doable. It is a balanced plan and I think that when you see the 2010, 2011 and 2012 budgets, you will be looking at balanced budgets with reasonable assumptions and attainable goals similar to what the county has had for the past four years which resulted in surpluses for 2005, 2006, 2007 and 2008. As you see in the plan in front of you, we believe that 2009 will end in a positive manner.”

“Of course a big piece of this is the federal money that is coming in from the Obama administration. Quite frankly if that money did not come in we would be facing the same types of issues other counties are facing; were they are declaring deficits and cutting back. That has allowed us to not have to cut back these years but it leaves the option open in the future that if we need to do cuts we can do cuts.’

Chairman Glaser: “Based upon the reviews that have been going on for quite some time now, it appears that the next two years should be balanced based upon what you just said. So when you get into the out years the visibility gets a little bit foggy. With that I think we do need a bit more clarification on the options that will be taken by the County Executive and the Legislature to close any particular gaps. So my final question for you is, what is the likelihood that we will have four years of budget balances.”

Gregory Gach: ‘You will have four years of budget balances. I have not participated in a budget for Erie County, and I have been doing budgets for Erie County for 20 years, that did not result in a balanced budgets and surpluses. You will get balanced budgets from this administration. We will do whatever it takes to balance the budget and I am sure the Legislature will join with us to make sure that happens.’

Director Thomas: “With regard to the job cuts, is there a specific plan that you are going to follow or is it going to be a restructuring done at the time needed?”

Gregory Gach: “It is going to be a little bit of everything. It is going to be restructuring, there will be efficiency grant savings, there will be six sigma savings and there will be some old fashion budget cuts. This is the only way to do it and with a four year plan where you are assuming your expenses are going to grow faster then your revenues, off course you are going to expect a few gaps. I don’t think there is a government in NYS that projects out into four years under those assumptions that wouldn’t have gaps. Counties in particular have their hands tied because of state mandates and we have all heard of state mandates. There are going to be reorganizations and I have had meetings with the chiefs of staff of various departments. There are going to be reorganizations and in some cases we will get out of businesses that we don’t have to do.”



Director Johnson: “At our last meeting my question focused on any discussions going on between the County, state and Federal government regarding the increase in federal Medicaid assistance payment over and above what we have right now in 2010 and 2011.”

Gregory Gach: “There is that we were just made aware of a program in the Health Department, the kids with special needs program where there is the possibility of accessing over a little over \$1 million a year over the next two years in FMAP payments. That is not solid yet so I have not included that in the plan. The only thing that is in there is the \$70 million plus that has been guaranteed by the governor’s office. So there is the possibility of a couple of more million dollars but nothing concrete.”

Director Johnson: “Also at the last meeting I had asked about the amount of savings that would occur from six sigma efficiency grants that have been awarded by this Authority and provided to Erie County; what is the total dollar amount and total savings? Were you able to get that information?”

Gregory Gach: “I can say that in the base plan there are no six sigma savings put in there to get you to the bottom line. What we do have is an option to fill the gaps with potential six sigma numbers. I have spoken with Bill Carey, he has some estimate numbers of just under \$2 million. Going forward, I think the specific request that Mr. Carey had received from this body was a break down by department. I know he has been working with my staff to get that question answered and I know that you will have that fairly soon.”

Director Johnson: “Since 2005, there has been a significant use of fees the executive branch of the government to fill gaps in the budget. In 2010 and 2011 do you anticipate the additional fees being levied in 2010 and 2011 over and above what is in this report?”

Gregory Gach: “One of the options to fill the gaps are fee increases. I think it is \$500,000 in 2010, \$750,000 in 2011 and \$1 million in 2012. That is how we have handled that. Going forward, my plan and I am just putting together the budget instructions is to, annually have every department look at their fees and make sure the fee covers their expenses. We made adjustments in 2009 with fees and with the approval of the Legislature, all those fees were approved and so far they are tracking very well. I just released a BMR last week and collections seem to be pretty well on track. If you are looking for specific fees, I can’t tell you which ones but I can tell you that our plan is to have, for our fees, the County should cover that expense.”

Secretary Keysa: “Mr. Chairman if I could make a few observations and some comments. First of all this is the most honest four year plan that we have seen and we have been here almost three years now. We very much appreciate that and Mr. Gach, your work on that. I am pleased to see that the reserves are now up nearly to the point that is required by the County Charter. That is helpful to the County and I think people need to understand that going forward that this is particularly helpful to the County’s ability to borrow on its own.”

“I am a little reluctant to vote in favor of the resolutions in front of us today for a number of reasons. One of those reasons is that there are still significant problems facing this county. I don’t want anyone in the media or public to think that if we take the actions that this resolutions call for that the County is out of the water. It is not. There are plenty of issues that the County still has to deal with and as the plan itself acknowledges, there are gaps in the 3<sup>rd</sup> and 4<sup>th</sup> year in this and I think there are reasons to believe that they will grow larger as we go in the out years beyond that. What you have listed is a series of options that if there is the backbone of the Administration and the Legislature, there are some options there that some mix can fill the gaps that are being projected.”

“One comment I want to make is that, I think people have to understand that at the base of all of this, it is not the size of government or some of the small things that attract so much attention but it’s the fact that health care in this country has risen to an enormous level. We have been debating national health care for 50 years. Fifty years ago, the average cost per family was \$100 per year. It is now around \$1,800. In that time frame general inflation would raise the cost from that \$100 to \$1,000. So it means that health care has risen at 18 times the general cost of inflation in our society. We have seen in the past few decades that health care has taken a few of the icons in the American industry to their knees and are in bankruptcy right now. I think the same situation is facing the County as well as the State government. The fact that we have Medicare; that is for people who can not pay that enormous cost of medical care, that is born by the state and the County. That is the real critical part of the problem with Erie County government. I hope that we make this a priority to take a look at those costs and find a way to bring those costs into control. Not that I disregard the benefit of health care; I probably wouldn’t be here if it weren’t for the diagnostic capabilities that are out there and the skills that are available in the medical field and that probably pertains to several other members of the Board, either

present or past. We do need to address that issue and that issues remains the critical issue in my mind as to what is going to impact the County in terms of its financial capabilities.”

Director Kruly:

“Mr. Chairman, I’d like to make a few comments about where we are today and how we got here. First I would like to thank Budget Director Gach County Attorney Greene for their help in working on this plan. I think that bodes well for the future. The County is making progress on balancing budgets but we need to keep in perspective how our recent budgets have been balanced.”

“In the past five years, the annual county property tax levy has increased steadily. The 2009 levy is nearly \$71 million, or 46 percent then 2004. The sales tax rate was raised in two different stages by 3/4 of a percent. Cumulatively, taxpayers have paid an additional \$634 million in taxes over the past five years.”

“In addition over the past several years, the county has also used a series of one-shot revenues, including the sale of tax liens and Erie County Medical Center, and proceeds from the tobacco settlement, all from the previous administration. These one shots have provided more than \$200 million in revenue.”

“All of those hundreds of millions of dollars in tax revenues and one-shots leave the county with a fund balance today that is less than 4 percent of the annual budget.”

“The new financial plan demonstrates that the 2009 county adopted budget approved by the Legislature last December is out of balance by nearly \$39 million. The county will, however, end the year with a balanced budget because of the receipt of \$42.8 million in federal stimulus funds in 2009. The 2009 budget is not and will never be structurally balanced.”

“In 2010 another \$31.2 million in federal bailout money is coming to Erie County. Whether the county can structurally balance the 2010 budget remains to be seen. I am sure my good friend Mr. Gach will find a way to do that. The 2011 and 2012 budget gaps are considerable.”

“The County has suggested options for closing the budget gaps, but except for a 10 percent cut to the library property tax allocation, there are few specifics. The largest potential cut in spending would be the elimination of a \$12.5 million sales tax distribution to cities and towns, but that requires amending state law.”

“The administration also suggests \$20 million in cumulative three-year savings would help close the gap through the elimination of 150 jobs. We have been down this path several times with this administration and the last one. The dollar savings identified would actually require substantially more than 150 job cuts. Services that the public values would substantially be reduced with that scenario. The county executive has ruled out property tax increases over the next three years, so some of those cuts will be necessary.”

“Erie County has had three major fiscal meltdowns since the '70s, and there has been a pattern to all of them. Substantially underestimated expenses; the use of one-shot revenues; and overestimated tax revenues have all been a part of the past three meltdowns.”

“The control board has worked with the administration to craft a four-year plan that makes a conservative and correct presentation to the residents of this county of what the county faces and options available to keep budgets balanced.”

“The fiscal plan that has now been approved will work only if the political will exists to make many very hard decisions. I hope that will be the case.”

“Thank you Mr. Chairman.”

Gregory Gach: “If I could just make one more point, the four year plan includes a column there about 2009 projected. We are not sure what we are going to do but there will be some omnibus or budget balancing resolution to bring the budget in line with those numbers that are there. They will all then be in sync with the four year plan.”

Chairman Glaser: “Okay thank you Mr. Gach. I do have a few comments myself. Everyone will be rushing to take credit for a lot of things in the foreseeable future but the reality of it is that at the end of 2004, the county had a budget deficit in the amount of \$10.8 million. As of the end of December 2008, the County will have a surplus of \$46.2 million. This is an unaudited number but none the less what it shows is that over that period of time there is a \$57 million increase in the amount of reserves which is something a lot of people should take credit for; the County Executive, the Legislature and the Control Board but I would like to particularly say that in the last three years since the control board started, some

of the things that we have instituted have helped out significantly and I hope that they will continue. The first and foremost is the discipline of a four year financial planning process. That along with a hiring freeze that we put in place several years ago has accounted for a lot of those savings.”

“In addition, the borrowing capacity of the control board should still be utilized in the future. As you know, we have borrowed over \$100 million, that borrowing was oversubscribed three times which is almost unheard of in today’s market place. We could easily have sold \$300 million but only sold \$100 million at an interest rate that is a little under 1%. That savings for one year will be a little over \$1.5 million in savings. If we did do the long term savings, we estimate that the savings to the County would be about \$40 - \$50 million. That is a lot of money that would stay in our community and we hope that between the County Executive and the Legislature they would do the borrowing based on who could borrow for less and that we get that acrimonious out of the way. That has been good.’

“Because of the control Board we have created a debt diet for the County and have probably over the years over the borrowing that we didn’t do and the borrowing that we didn’t do and turn back and didn’t do the amount of interest saved I would say that that number is over \$10 – 15 million.’

“Finally we had about \$25 million in efficiency grants, of which close to over \$7 million that has been earmarked already and we have more of that to spend and are working with the County Executive right now for a couple items that will help out the county. That has been the case and I say this because in advisory status it does not mean the control board is going away; it will still have a function as a watchdog for the taxpayer that I think is important but I think that is evident in the progress in the last four or five months that there is the possibility to work together for the benefit of the taxpayer. I would hope that everyone involved and that includes the Legislature, the county executive and the Comptrollers office start working in the same direction and will help out in this effort, it is about the taxpayer at the end of the day.”

“There are many challenges that the county is experiencing that are not in our control but what is in our ability to control is that we manage through it. That we must do. So with that in mind I would like to take a vote on going to advisory.”

Director Thomas: “Just one comment Mr. Chairman, what we are trying to approve here is an indication that the system can work when everyone puts there mind together to solve problems and I think that is what we are close to getting able to accomplish. I think that all the parties involved deserve some credit for it and the folks that benefit from it will be the taxpayers of Erie County.”

Director Johnson: “Mr. Chairman, just to add one other comment from me, a lot of things have been said here from my colleges and I agree whole heartedly but I feel the real caveat here is how we mange through what we still see as a fiscal crisis here in Erie County. The real sense is, with the economy being as it is and the inability of many our taxpayers to absorb a property tax increase. I applaud the County Executive for not awarding an increase in the out years is managing through these conditions in the out years is that making sure our spending in government is commiserate with what we are able to collect in taxes. I do not see any great increase that are coming out of the federal government again such as the \$72 million that is helping us with the Medicare situation. Therefore we will have to rely upon our own ability to control spending based on the tax dollars that we have; sales tax revenues and property taxes. If we don’t do that we are in the same boat that we are trying to get out of.”

Chairman Glaser: “I agree 100% and I would like to thank all my fellow members of the control board for all their hard work over the past three years in getting to this point in time.”

“All in favor of being advisory?”

Secretary Keysa: “I think we need a formal motion for this particular resolution”.

Chairman Glaser: We need a motion to go advisory based on all the facts and circumstances. .

Thomas moves and Director Johnson seconds and the Board voted unanimously to approve the following resolution:

**Resolution No. 09-50**

**FINDING THAT ERIE COUNTY’S REVISED 2009-2012 FINANCIAL PLAN IS COMPLETE AND COMPLIANT WITH NEW YORK PUBLIC AUTHORITIES LAW SECTION 3957, AND TERMINATING THE CONTROL PERIOD UPON ERIE COUNTY**

WHEREAS, Chapter 182 of the New York Laws of 2005 (the “ECFSA Act”), as amended, 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, County Executive Christopher Collins submitted his proposed budget for Erie County (the “County”) for fiscal year 2009, and a four-year financial plan (“Plan”) for fiscal years 2009-2012, to the ECFSA on October 15, 2008; and

WHEREAS, by Resolution 08-101 on November 3, 2008, the ECFSA determined that the 2009-2012 Plan did not “contain actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for each fiscal year,” and thereby violated New York Public Authorities Law (“Public Authorities Law”) section 3957(1); and

WHEREAS, Public Authorities Law section 3959(1)(e) mandates the ECFSA to impose a control period at any time that the County shall have violated any provision of the ECFSA Act; and

WHEREAS, by Resolution 08-101, the ECFSA consequently found that the County’s violation of Public Authorities Law section 3957 (“Section 3957”) in submitting its original 2009-2012 Plan to the ECFSA constituted a condition that would justify continuation of the control period that the ECFSA first imposed upon the County on November 3, 2006; and

WHEREAS, Public Authorities Law section 3957(2) authorizes Erie County (the “County”) to “modify . . . [its] four-year financial plan covering the county and [its] covered organizations . . .;” and

WHEREAS, the County submitted to the ECFSA its adopted 2009 Budget and a modified financial plan for fiscal years 2009-2012 on May 8, 2009; and

WHEREAS, pursuant to Public Authorities Law section 3957(2)(b), “[n]ot . . . more than fifteen days after submission of a financial plan modification, the [ECFSA] shall determine whether the . . . financial plan modification is complete and complies with the provisions of [section 3957] and the other requirements of [the ECFSA Act] . . .;” and

WHEREAS, pursuant to New York General Construction Law section 25-a(1), “[w]hen any period of time, computed from a certain day, within which or after which or before which an act is authorized or required to be done, ends on a Saturday, Sunday, or a public holiday, such act may be done on the next succeeding business day;” and

WHEREAS, Public Authorities Law section 3957(2)(b) therefore required the ECFSA to determine on or before May 26, 2009, whether the modified financial plan submitted on May 8, 2009, complied with the provisions of section 3957; and

WHEREAS, on May 26, 2009, Erie County Attorney Cheryl Green, Esq., on behalf of County Executive Christopher Collins, e-mailed ECFSA Executive Director Kenneth Vetter correspondence requesting that the ECFSA cancel its meeting scheduled for that day, because the County was making further modifications to its four-year financial plan; and

WHEREAS, by this correspondence, the County Attorney confirmed that the 15-day statutory period within which the ECFSA would need to approve or reject those further modifications would begin on May 27, 2009; and

WHEREAS, on May 27, 2009, the County submitted to the ECFSA a further revised financial plan for fiscal years 2009-2012 (the "Revised 2009-2012 Plan"); and

WHEREAS, the members of the ECFSA Board of Directors have reviewed the Revised 2009-2012 Plan, and determined that it contains actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan – including budget year 2009 and out-years 2010 through 2012 – that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for each fiscal year; and

WHEREAS, the Revised 2009-2012 Plan is complete and otherwise complies with the requirements of Section 3957 and the ECFSA Act; and

WHEREAS, Public Authorities Law section 3959(1) requires the ECFSA to terminate the control period upon Erie County when "it determines that none of the conditions which would permit the [ECFSA] to impose a control period exist;" and

NOW, THEREFORE, BE IT RESOLVED that the ECFSA finds that the Revised 2009-2012 Plan is complete and otherwise complies with the requirements of Section 3957 and the ECFSA Act; and

BE IT FURTHER RESOLVED that by virtue of its submission of the Revised 2009-2012 Plan to the ECFSA, the County is no longer in violation of Section 3957; and

BE IT FURTHER RESOLVED that the conditions that would have permitted the control period upon the County to continue – viz., the County's violation of Section 3957 – no longer exist; and

BE IT FURTHER RESOLVED that the ECFSA hereby terminates the control period first imposed upon the County on November 3, 2006; and



BE IT FURTHER RESOLVED that the ECFSA immediately reverts to an advisory period, as described by Public Authorities Law section 3958; and

BE IT FURTHER RESOLVED that ECFSA shall re-impose the control period upon the County whenever the ECFSA determines that any one of the five circumstances listed in Public Authorities Law section 3959(1)(a) through 3959(1)(e) shall have arisen; and

BE IT FURTHER RESOLVED that the ECFSA shall evaluate these five circumstances, and adopt a resolution determining whether to re-impose the control period upon the County, no later than June 1, 2010; and

BE IT FURTHER RESOLVED, that the ECFSA directs the County to submit the following items to the ECFSA no later than June 15, 2009, in accordance with Public Authorities Law section 3957(c):

- (1) the County Executive's certification that the County's adopted 2009 budget and the Revised 2009-2012 Plan are consistent.

This resolution shall take effect immediately.

Chairman Glaser: The next item of business is to adjourn. May I have a motion?

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

Respectfully submitted,

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Stanley J. Keysa  
Secretary

July 23, 2009