Minutes of the May 3, 2017

Erie County Fiscal Stability Authority Meeting

Present: Chairman James Sampson, Vice Chairman Peter Marlette, Director Catherine Creighton, Director Craig Speers, Director Lynn Stievater and Executive Director Kenneth Vetter

Chairman Sampson: "I'd like to welcome our guests here today. We have a number of items on the agenda for the Erie county Fiscal Stability Authority to consider as we call this meeting to order. Once of those is the submission of the financial plan that's been submitted by the county Executive, as well as approving the ECFSA audit that you recently had a presentation on and lastly, a number of routine administrative matters we are required to address as a public authority in New York State."

Before beginning the meeting presentations, Chairman Sampson requests a motion to approve minutes from the previous meeting.

Director Speers moves to approve, Director Stievater seconds and the board votes unanimously to approve the following resolution.

Resolution No. 17-10

APPROVING MINUTES FROM

THE MARCH 15, 2017 MEETING

BE IT RESOLVED that the Erie County Fiscal Stability Authority approves the minutes of its MARCH 15, 2017 meeting and affirms six resolutions numbered 17-7, 17-08 and 17-09 that were approved on MARCH 15, 2017.

This resolution shall take effect immediately.

Chairman Sampson: "We last went through the county's budget and 4 year plan at the end of October, 2016. At that time, there were significant unresolved issues related to ECMC. The 2017 Adopted budget version of the county's financial plan has recognized the IGT liability and put forward gap closers to address this issue. Mr.

Keating, the Budget Director for the county is here and I ask that he come up and make a presentation on the revised 2017 budget and financial plan."

Mr. Keating: "The main change is recognizing IGT costs in the four year plan and adopted budget. For instance, in 2017 we realize there will be an additional $18 million in IGT costs, roughly $16 million in'18, $16 million in '19 and roughly $10 million in 2020. Based on that, we would have been $20 million short in 2017. We identified gap closers in '17 to help us close the gap. They include, turnover savings. In '16 we had over $4 million in turnover savings, a $2.2 million reduction in Medicaid (we have the numbers from the state). We have an IGT reconciliation from the state in the amount of $6.2 million, IGT federal payments invalid amounts from '14 and '15 are valid for 2017 and we have discretionary cuts of $2.5 million for 2017. There is debt service savings from the ECFSA refinancing in 2016, and other areas. In the out-years, there are other savings. I am happy to answer any questions at this point."

Director Marlette: "We seem to consistently underestimate overtime costs, particularly in the Sheriff's Department and Jail. I was wondering if you are confident moving forward that we've accurately captured these costs. "

Mr. Keating: "When you talk about overtime, vacancy control is part of that equation. There was $4 million in savings in '16. Overtime is certainly a concern. For the first 3 months both the Sheriff and the jail are over. Other areas of the county are doing fine. They need to manage their overtime better. We work with the Sheriff and jail management to achieve savings there. It's a concern, but manageable."

Chairman Sampson: "With regard to the overtime costs, we go through this every year, and it's always over. Do you see us ever getting out from under that, or budgeting to meet the actuals?"

Mr. Keating: "We have to work with the Sheriff in '18 to give us a real number to make sure it's a realistic number."

Chair Sampson: "In the state budget, there is a change for youngsters in the juvenile justice system. Is that going to have any impact on the county?"

Mr. Keating: "That will have more impact on the out-years. The question is – how much reimbursement we will get from the state. Will we get full reimbursement or some portion? It may be an '18, '19' 20 problem. There are some concerns. We are basically expecting reimbursement for all the juniors."

Chairman Sampson:	“You mention in the budget and plan the phrase – discretionary expenses. What does that include?”
Mr. Keating:	“There’s highway work and fringe benefits. 90% is mandated, the other 10% is optional, like parks.”
Chairman Sampson:	“To bring the 2017 budget into balance, you cannot change property taxes, but there may be some use of ECMC related credits?”
Mr. Keating:	“At this point, in 2017 we are certainly not planning on using any ECMC credits and there is no assumption in the current submission of using any credits. At this point, the credits haven’t even been quantified.”
Director Speers:	“In the future, if the county wanted to use credits as a result of the ECMC transfers, that would be available to them?.
Mr. Keating:	“Yes, once the borrowing is done and the credits are calculated, the credits would be one more opportunity to close the gap.”
Director Speers:	“On overtime, I’m assuming most of that overtime has to do with the Holding Center. Is that true?”
Mr. Keating:	“Typically their overtime spikes in the summertime. It applies to the Corrections Facility and Holding Center.”
Director Spears:	“So the Sheriff refers mainly to Road Patrol?”
Mr. Keating:	“Yes, it does.”
Director Speers:	“Is the problem that these two units need more staffing or the allocation of staff?”
Director Marlette:	“The 34 additional positions in the 2017 budget, what departments are those positions in?”
Mr. Keating:	“I don’t have the information in front of me. I can certainly get it for you.”
Director Stievater	“The current financial plan includes $6 million in fund balance. Where did we end up 2016?”
Mr. Keating:	“We just submitted our budget balancing amendments. Our free and clear fund balance went up by $3 million, but we are using $2.7 million of that for other items, so the net increase will be approximately $300,000. IGT at $1.5 million and Risk Management are the two largest set-asides. The $1.5 million with

	help with this year's IGT expense. Free and clear fund balance will put us at over $100 million."
Chair Sampson:	"What is the charter requirement for fund balance?"
Mr. Keating:	"It's 5% of the general fund budget, roughly $50-55 million."
Chairman Chair Sampson:	"Has the county over the last 5 years actually used any of the fund balance?"
Mr. Keating:	"This year we are using $9.4 million of the total fund balance. The legislature approved us to use over $22 million in fund balance."
Mr. Vetter:	"How is sales tax this year?"
Mr. Keating:	"Sales tax growth is 2.7% so far this year."
Mr. Vetter	"On the gap closers, are these all items you can do as the administration or do you need cooperation to implement them?"
Mr. Keating:	"For instance the IGT payments, there is some legal action, so that isn't something we can take care of ourselves. On the discretionary cuts, that's something we can take steps on. We can also delay hiring."
Chairman Sampson:	Mr. Mills, Chair of the Legislature and Mr. Mychijliw, County Comptroller are here. Would either or both of you like to speak?"
Mr. Mychijliw:	"Erie County in 2016 actually spent $10 million more than it took in. The administration raided the fund balance by $10 million and now wants the legislature to spend another $3 million, which is why they are being cute, saying there's a positive variance of $3 million. These are similar smoke and mirrors tricks that led to the red-green budget crisis. Two of the largest closers – adjusting the property tax rate in the out years and use of potential credits from ECMC. It's our understanding there needs to be a passage through the ECMC board and the Erie county legislature to actually use the credits for the county. We were originally told this credit might be as high as $100 million. We heard at your last meeting it could be as low as $9 million. In 2020 alone, the IGT cost from ECMC is $38 million, according to the Freed Maxick report, in 2022 it's $40 million. Those are stunning numbers. Keep that in mind if you're going to rubber-stamp the plan or ask the administration to come back to the table when there is more firm plans rather than just

ideas. I will defer to the Chairman of the legislature on the possibility of raising taxes."

Chairman Sampson:	"I would like to note before asking Chairman Mills to come to the podium that we received a letter, that's in your packet, from the legislature regarding raising property taxes."
Mr. Mills:	"I am going to speak as a businessman. Politics is my hobby. At the legislature, we are not getting what the correct numbers are. Sales taxes increase is a very positive thing, but we can't rely on it. There is no appetite at the legislature to raise taxes. We think that's inappropriate, there is no need to do that. Cuts to roads and parks are off the table. They are your and our assets. They were devastated in the red-green budget. Because there is a lack of information on revenue streams, I would like to see a hiring freeze, I would like you to recommend that to the administration to short circuit any problems in 2018."
Director Creighton:	"How do you propose keeping the assets of Erie County, the roads and parks, if we have a hiring freeze? You don't have a workforce to maintain the roads and parks."
Mr. Mills:	"Let me re-phrase, I'm referring to new hiring. Years ago in the budget, we funded 27 new DPW workers for roads, bridges and parks. As far as I'm concerned, we are at full capacity.
Director Creighton:	"But every year you have attrition."
Mr. Mills:	"I'm talking about new hires."
Director Creighton:	"I still don't see how you maintain the parks and roads. And at some point, you'll need additional revenues to maintain these assets. So, at the legislature, is there ever going to be additional revenues through taxes?"
Mr. Mills:	"As long as I'm chairman, it's off the table. The legislature understands we're not going to go through the embarrassment of the red-green budget. If someone quits parks, hiring someone is a replacement, not a new hire above and beyond what we have. During red-green the legislature was not watching the henhouse, the county executive. You can't decrease taxes, without increasing revenues somewhere or cutting back on bodies. I think we're all in sync with what we want to do. I think raising taxes, when we

don't need to, is not a good thing for the business community. We're trying to implement a marketing plan that makes sense for Erie County and we are well on our way. The last 5 years, there's been a renaissance. On the front page of the News, they are talking about a new convention center, it's almost an embarrassment. It's inadequate. We need a state of the art convention center."

Director Speers: "Chairman Mills, thank you for coming today to speak before the ECFSA. I appreciate your thoughts. County government is a very complex form of government in the state. It's probably the most complex form in New York State. It's much different that towns and villages. County governments operate under federal and state mandates which create a really tight window of operation. In addition to those mandates, the county has to serve members of our society that are disadvantaged. They also have to provide services on an operational basis, like highways and parks to name a few. Operating this government is not easy, it's not easy for a county executive, not easy for the legislature, and it's not easy for the controller. If all parties work together in a non-partisan vein, these things can be done."

"Take highways, for an example, the county highway system has more lane-miles of road that the state of Rohde Island. That's an enormous expense that has to be undertaken. Roads have to be fixed and bridges replaced. We have to have shared deputies on the road to patrol towns and villages that don't have police forces of their own. That's a burden we have to bear as taxpayers and citizens. This is all part of a collective to provide services. Yes, there are times when taxes have to be increased, but you have to maintain public safety and public services. I'm not advocating for higher taxes, but sometimes you are going to have to consider raising taxes at some point in time. That's the realism of county government. It is my belief that the tax rate in Erie is among the lowest of any in the state. That's a pretty good record. Are there efficiencies that can be made, yes, there are. I have advocated for decades for a reexamination of the county highway system established in the 1920's. When most of the tax base was centered in the 3 cities. That's not the case anymore. As part of that agreement, roads and streets in the cities were specifically excluded from the county highway system. Let's forward to 2017, the cities don't have control of the taxable assessment of the county as a whole. Many of these towns, like Amherst have large taxable assessments. The town of Amherst has a taxable assessment almost as large as the City of Buffalo. Yet there are no county roads in the City of Buffalo. There are county roads in the Town of Amherst, but not in the city of Buffalo. I think those are among the inequities we must address, not right now, but sometime in the future. That's how I see county government operating in 2017. It's a complex system and a very important system with important services that must be delivered to taxpayers and residents. I have worked for 4 decades in the state comptroller's office for years and that's my view."

Mr. Mills: "I agree with most of what you've said. We've been relying on people from Ontario to buoy our sales tax. With that, and if we get a new convention center, we can hopefully see that revenue grow. Down the line, I don't know what's going to happen, but I'm excited about the critical mass, particularly in the city of Buffalo, not the Town of Amherst. Hopefully, our friends in congress and our president will start to move some operations money back to localities. 83% of local infrastructure need repair. Shame on us that we've allowed this to happen. We're spending billions of dollars on other issues."

Chairman Sampson: "Let me call your attention to the resolution in your packet that calls for the ECFSA to maintain an advisory status. That this boarding is opining that there is a balanced budget and financial plan."

Chairman Sampson asked for a motion to approve the resolution to maintain an advisory status. Moved by Director Speers. Second by Director Marlette.

In favor – 5 Opposed – 0

Resolution No. 17-11

FINDING THAT ERIE COUNTY'S 2017-2020 FINANCIAL PLAN IS COMPLETE AND COMPLIANT WITH NEW YORK PUBLIC AUTHORITIES LAW SECTION 3957, AND CONTINUING THE ADVISORY 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, Public Authorities Law section 3957(1) requires the Erie County Executive to "prepare and submit to the [ECFSA] a four-year financial plan and the county executive's proposed county budget, not later than the date required for submission of such budget to the [Erie County] legislature pursuant to the county charter;" and

WHEREAS, the four-year financial plan, as defined by Public Authorities Law section 3951(14), is a "financial plan of [Erie County] and [its] covered organizations"; and

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

WHEREAS, County Executive Mark Poloncarz duly submitted his proposed budget for Erie County (the "County") for fiscal year 2017 on April 19, 2017, and a four-year financial plan for fiscal years 2017-2020, to the ECFSA on April 19, 2017 (the " Plan"); and

WHEREAS, fiscal years 2018 through 2020 constitute the "Out Years" of the Plan; and

WHEREAS, Public Authorities Law section 3957(1) requires that the Plan "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 such fiscal year;" and

WHEREAS, Public Authorities Law section 3957(2)(b) instructs the ECFSA to determine on or before May 3, 2017, whether the Plan complies with the provisions of the ECFSA Act, including section 3957; and

WHEREAS, the ECFSA has developed concerns regarding the reasonableness of the following assumptions underlying the Plan:

1. With regard to the Erie County Medical Center Corporation, the county has recognized $60.3 million in liabilities associated with IGT payments and put forward a plan to close the resulting gap. The ECFSA is looking to the County to internally and cooperatively manage the proposed gap-closers; and

2. Given the volatility of sales tax revenues and prior overestimations, the county has reduced sales tax revenues in the Plan. The county has reported that 2016 sales tax revenues are $5.6 million under budget. Thereby lowering expectations for subsequent years.; and

3. Although overtime expenses are improving, they did not meet expectations in the 2016 budget and are projected to continue to fall short for the Plan; and

4. The county has extended its use of vacancy savings through the period of the Plan, thereby reducing its arsenal of alternatives to address potential other shortfalls; and

5. There is concern that certain fringe benefit costs may exceed county expectations over the period of the Plan; and

6. The county has extended its use of fund balance as a revenue source to balance its budget for the entire period of the Plan. The continued proposed use of fund balance reduces the county's reserves and indicates a structural imbalance between recurring revenues and expenses.

7. Given that the county's Labor Relations Department has settling significant outstanding labor agreements among its goals for 2017, and the county has not specifically budgeted for potential, related salary increases in the plan, we urge the county to prepare for potential negotiations with an eye toward further benefit and/or work rule changes that will foster a stable county labor force, while not overburdening taxpayers.

WHEREAS, the ECFSA, despite the issues previously issued, the county budget and Plan are achievable through internal management processes and cooperation among county leaders; and

WHEREAS, the Plan is complete and otherwise complies with the requirements of Public Authorities Law section 3957 ("Section 3957") and the ECFSA Act; and

NOW, THEREFORE, BE IT RESOLVED that the ECFSA finds that the Plan is complete and that the county budget and the Plan are achievable; and

BE IT FURTHER RESOLVED that the ECFSA remains in advisory status, as described by Public Authorities Law section 3958; and

BE IT FURTHER RESOLVED that the ECFSA shall impose a 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.

This resolution shall take effect immediately.

Chairman Sampson:	"Now on to the ECFSA audit. I would ask Ms. Stievater to quickly recap the Audit Committee presentation that occurred just prior to this meeting."
Director Stievater:	"The audit issued by Freed Maxick contained an unqualified opinion. Their internal control review indicated there are no internal control issues going forward. A few highlights on the summary of the ECFSA financials - one of the major presentation issues is the refinancing of bonds maturing in 2023. Overall sales tax revenue was a very slight decrease. ECFSA cash balance has increased 89% due to less than expected expenditures due to good financial management. Our ECFSA fund balance is up $137,000 resulting in an unassigned fund balance of $266,000. Which I will ultimately recommend repaying a portion of this to the county, reserving some for operating cash."
Chairman Sampson:	"The fund balance you are going to recommend. How much would be transferred?"
Director Stievater:	"I've spoken with Mr. Vetter and we are looking at retaining 3 to 4 months cash and returning the remainder to the county."
Chairman Sampson:	"Do we need to take a vote on that?"
Mr. Vetter:	"You can, but it's not necessary. Assuming it's a directive, this will happen."
Director Stievater:	"We did this a few years ago, so past practice is to retain 3 to 4 months operating cash. No board approval is required."
Director Marlette:	"How close are we cutting this with 3 or 4 months funding? Are we comfortable with that kind of cash balance?"
Mr. Vetter:	"At this point we're good. We also talked about timing. June is a good month for transfer. The last quarter of the year is heavy for cash needs, particularly with the single pension payment having to be made in November, generally a $40 to $50 thousand dollar cash item."

Director Stievater: "I would rather do this now so that we do not accumulate a large cash balance, as in the past."

Chairman Sampson: "Any other questions? I would entertain a motion to approve the 2016 ECFSA financial audit."

Moved by Director Creighton. Second by Director Stievater.

In favor – 5 Opposed – 0

Resolution No. 17-12

APPROVING THE 2016 ECFSA ANNUAL FINANCIAL AUDIT

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 is a public authority of the State of New York and, as such, section 3971(1) of the New York Public Authorities Law ("Public Authorities Law") requires the ECFSA to select an independent certified accountant to perform its annual financial audit; and

WHEREAS, in adopting Resolution 14-15 on October 28, 2014, the ECFSA, approved the firm of Freed, Maxick, Battaglia, P.C., certified public accountants and an approved vendor for statewide auditing and accounting services by the New York State Office of General Services, to provide audit services to the ECFSA for fiscal years 2014, 2015 and 2016; and

WHEREAS, Freed Maxick, Battaglia, P.C., has completed the ECFSA 2016 annual financial audit and has presented it to the ECFSA Board during an open meeting on May 3, 2017; and

WHEREAS, section 2800(3) of the Public Authorities Law further requires the ECFSA to approve a financial audit for fiscal year 2016; and

NOW, THEREFORE, BE IT RESOLVED that the ECFSA hereby approves the 2016 Audit, a copy of which is attached to this resolution; and

BE IT FURTHER RESOLVED that the 2016 Audit be submitted to the Erie County Executive, the Presiding Officer of the Erie County Legislature, the Erie County Comptroller, the Governor, the State Comptroller, the Chair and Ranking Minority

Member of the State Senate Finance Committee, and the Chair and Ranking Minority Member of the State Assembly Ways and Means Committee, as required by section 3971(1) of Public Authorities Law.

This resolution shall take effect immediately.

Chairman Sampson: "Because of its status as a public authority, the ECFSA is required to reiterate certain policies and designations via a board vote each year. There are five resolutions in your packet that I will ask Mr. Vetter to cover. They include:"

- Investment guidelines
- Procurement guidelines
- Designating an internal control officer
- Lobbying guidelines
- Prompt payment guidelines
- Property disposal guidelines

"There must be a vote on each one individually. I will ask Mr. Vetter to cover each and call for a vote for each of the five items after his description."

Mr. Vetter: Mr. Vetter summarized each item, and indicated that none had changed since the last board vote reauthorization in 2016. The Board approved each sequentially, with the following results:

- Investment guidelines – Motion – Director Stievater, Second Director Creighton – Approved – 5-0

- Procurement guidelines - Motion – Director Creighton, Second Director Speers – Approved – 5-0

- Designating an internal control officer - Director Stievater, Second Director Creighton – Approved – 5-0

- Lobbying guidelines – Motion - Director Speers, Second Director Creighton – Approved – 5-0

- Prompt payment guidelines – Motion - Director Creighton, Second Director Speers – Approved – 5-0

- Property disposal guidelines – Motion - Director Creighton, Second Director Speers – Approved – 5-0

Resolution No. 17-13

APPROVING INVESTMENT GUIDELINES

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 is a public authority of the State of New York and, as such, is governed by certain state laws that require the adoption of investment guidelines; and

WHEREAS, in order to comply with state law, it was necessary for the ECFSA to adopt investment guidelines, as required by sections 2925 and 3954 of the New York Public Authorities Law; and

WHEREAS, the ECFSA adopted such investment guidelines in Resolution 07-16 on March 2, 2007; and

WHEREAS, in order further to comply with state law, it is necessary for the ECFSA to review and approve its investment guidelines at least annually; and

WHEREAS, the Board of Directors of the ECFSA has reviewed the investment guidelines currently in effect; and

WHEREAS, upon review of those guidelines and the report on compliance, the ECFSA finds that the investment guidelines be maintained in their current form; and

NOW, THEREFORE, BE IT RESOLVED that the ECFSA hereby approves for use the investment guidelines attached to this resolution.

This resolution shall take effect immediately.

Resolution No. 17-14

APPROVING PROCUREMENT GUIDELINES FOR CERTAIN CONTRACTS

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 requires professional assistance in performing its mission; and

WHEREAS, the ECFSA is a public authority of the State of New York and, as such, is governed by certain state laws that specify the method for the procurement of certain services; and

WHEREAS, in order to comply with state law, it was necessary for the ECFSA to adopt Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts (the "Procurement Guidelines"), as required by sections 2879 and 3960 of the New York Public Authorities Law; and

WHEREAS, the ECFSA adopted its Procurement Guidelines in Resolution 05-10 on August 18, 2005; and

WHEREAS, in order further to comply with state law, it is necessary for the ECFSA to review and approve the Procurement Guidelines at least annually; and

WHEREAS, the Board of Directors of the Authority has reviewed the Procurement Guidelines currently in effect and has determined that such Procurement Guidelines do not need to be amended at this time; and

NOW, THEREFORE, BE IT RESOLVED that the ECFSA hereby approves for use the Procurement Guidelines attached to this resolution.

This resolution shall take effect immediately.

Resolution No. 17-15

DESIGNATING AN INTERNAL CONTROL OFFICER

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 has established and maintained guidelines for a system of internal controls to comply with Public Authorities Law and internal control standards;

WHEREAS, section 2931 of the New York Public Authorities Law ("Public Authorities Law"), requires the governing board of the ECFSA to designate an internal control officer, who shall report to the head of the Authority, to implement, maintain, communicate and review the internal control responsibilities established and maintained for the Authority; and

WHEREAS, through adoption of employee guidelines in Resolution 08-33 on March 7, 2008 the ECFSA Board had previously designated the Financial Advisor as the Authority's Internal Control Officer; and

WHEREAS, the ECFSA Board finds it necessary to designate in name at this time the Authority's Internal Control Officer; and

WHEREAS, section 2932 of Public Authorities Law, requires the governing board of the ECFSA or its designee to determine, and periodically review the determination of, whether an internal audit function within the Authority is required; and

NOW, THEREFORE, BE IT RESOLVED that Financial Analyst is hereby designated the Internal Control Officer responsible for implementation and review of the Authority's internal control responsibilities until such time as his resignation, removal or death; and

BE IT FURTHER RESOLVED that the Authority's designated Internal Control Officer is designated to determine, and periodically review the determination of, whether an internal audit function within the Authority is required and to report to this Board should the need arise.

This resolution shall take effect immediately.

Resolution No. 17-16

APPROVING LOBBYING CONTACT POLICY

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 is subject to New York State Public Authorities Law; and

WHEREAS, therefore in accordance with Section 2987 of the New York State Public Authorities Law the ECFSA is required to establish a Lobbying Contact Policy; and

WHEREAS, the Lobbying Contact Policy requires the ECFSA to maintain a record of all contacts by lobbyists; and

WHEREAS, through the adoption of this policy, each director and employee of the ECFSA is hereby directed to provide accurate records of a contact by any lobbyist to include the following data: date and time of contact, identity of the lobbyist and general summary of the nature of the contact; and

WHEREAS, the Executive Director shall hereby be designated the officer who shall maintain such records for not less than seven years in a filing system designed to organize records in such a manner so as to make such records useful to determine whether the decisions of the authority was influenced by lobbying contacts; and

THEREFORE, BE IT RESOLVED that the Board of Directors of the Authority has reviewed and hereby approves for use the Lobbying Contact Policy attached to this resolution.

This resolution shall take effect immediately.

ERIE COUNTY FISCAL STABILITY AUTHORITY
LOBBYING CONTACT POLICY
Pursuant to Public Authorities Law §2987

In accordance with §2987 of New York State Public Authorities Law, the Erie County Fiscal Stability Authority ("ECFSA") has established this Lobbying Contact Policy to maintain a record of all contacts by lobbyists.

The Erie County Fiscal Stability Authority has appointed the Executive Director as the officer who shall maintain such records for not less than seven years in a filing system designed to organize such records in a manner so as to make such records useful to determine whether the decisions of the authority were influenced by lobbying contacts.

Through adoption of this policy, each director and employee of the ECFSA is hereby directed to provide accurate records of a contact by any lobbyists to include the following data: date and time of the contact, the identity of the lobbyist, and a general summary of the nature of the contact.

Definitions:

"Lobbyist" shall mean every person or organization retained, employed, or designated by any client to engage in lobbying. The term shall not include any officer, director, trustee, employee, counsel or agent of the State, or any municipality or subdivision thereof of New
York when discharging their official duties, except those officers, directors, trustees, employees, counsels, or agents of colleges, as defined by section two of the education law.

“Lobbying” shall mean and include any attempt to influence: (i) the adoption or rejection of any rule or regulation having the force and effect of law by a public authority, **and** (ii) the outcome of any rate making proceeding by a public authority.

"Contact" shall mean any conversation, in person or by telephonic or other remote means, or correspondence between any lobbyist engaged in the act of lobbying and any person within a state authority who can make or influence a decision on the subject of the lobbying on behalf of the authority, and shall include, at a minimum, all members of the governing board and all officers of the state authority.

THE ECFSA BOARD HAS HAD NO LOBBYING CONTACTS DURING THE FISCAL YEAR STARTING APRIL 1, 2016 ENDING MARCH 31, 2017.

PREPARED BY: KENNETH VETTER, DESIGNATED LOBBYING OFFICER
DATE: MARCH 31, 2017

Resolution No. 17-17

APPROVAL OF PROMPT PAYMENT POLICY

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 is a public authority of the State of New York and, as such, is governed by certain state laws that require the adoption of a prompt payment policy; and

WHEREAS, in order to comply with state law, it is necessary for the ECFSA to adopt a prompt payment policy, as required by section 2880 of the New York Public Authorities Law (“Public Authorities Law”);

WHEREAS, upon review of its current prompt payment policy finds that amendments are not needed at this time,

NOW, THEREFORE, BE IT RESOLVED, that the ECFSA hereby adopts the Prompt Payment Policy attached to this resolution; and
This resolution shall take effect immediately.

Prompt Payment Policy

(Adopted Pursuant to Section 2880 of the New York Public Authorities Law)

It is the policy of the Erie County Fiscal Stability Authority (the "Authority") to pay promptly any valid outstanding obligation as soon as is practicable, within prescribed time frames. It is further the policy of the Authority to seek and utilize discounts offered by vendors as incentives for each payment.

I. <u>Procedure for Requesting Payment</u>

Any vendor seeking payment from the Authority for goods or services must submit to the Authority a proper invoice, as defined by Public Authorities Law section 2880(1)(f), which the Office Manager will process. The Authority's Director of Administration will verify the validity of the invoice.

II. <u>Schedule for Prompt Payment</u>

The Authority will make payment on a contract designating a date for payment on or before such date. Otherwise, the Authority will make payment on a proper invoice within thirty (30) calendar days, excluding legal holidays, after the later of: (i) the date on which the Authority receives a proper invoice, or (ii) the date on which the Authority receives the purchased goods, property or services covered by the proper invoice.

Notwithstanding these provisions, the Authority's duty to make prompt payment may be delayed or tolled for reasons identified below in Part V.

III. <u>Rate of Interest When the Authority Fails to Make Prompt Payment</u>

If the Authority fails to satisfy the Schedule for Prompt Payment described above in Part II, the Authority will pay interest at a rate equal to the overpayment rate set by the New York State Commissioner of Taxation and Finance pursuant to New York Tax Law section 1096.

IV. <u>Funding Source for Payment of Interest</u>

The Authority will pay interest with funds drawn from the Authority's general fund, which funds most contracts entered into by the Authority.

V. <u>Circumstances Justifying Extension of the Date for Prompt Payment</u>

The following circumstances justify extension of the date by which the Authority must satisfy its duty to make prompt payment, in order to avoid liability for interest payments under section 2880(7) of the Public Authorities Law and Part III above:

a. Pursuant to contract or statute, payment must be preceded by an inspection period or by an audit to determine the resources applied or used by a contractor in fulfilling the terms of the underlying contract.
b. The State of New York has failed to enact the appropriation necessary to authorize payment by the Authority.

c. Pursuant to contract or statute, the federal government must examine a proper invoice prior to payment by the Authority.
d. The date for prompt payment has been changed or tolled by operation of section 2880(8) of the Public Authorities Law.
e. The contractor anticipating payment has failed to submit to the Authority any documents that the contractor has agreed to provide prior to payment.

VI. Amendment and Annual Reporting

The Authority may amend this Prompt Payment Policy from time to time. Annually, as required by section 2880(11) of the Public Authorities Law, the Authority will report on the scope and implementation of this Prompt Payment Policy.

VII. Governing Law

Any matters concerning prompt payment not otherwise addressed by this policy shall be interpreted consistently with section 2880 of Public Authorities Law.

Resolution No. 17-18

APPROVING PROPERTY DISPOSAL GUIDELINES

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, Section 2896 of the Public Authorities Law requires public authorities to adopt comprehensive guidelines which detail the authority's operative policy on the disposal of personal property valued in excess of fifteen thousand dollars; real property, and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party; and

WHEREAS, the ECFSA has developed and implemented property disposal guidelines to comply with this requirement; and

NOW THEREFORE BE IT RESOLVED that the Erie County Fiscal Stability Authority does hereby affirm the attached property disposal guidelines as required by Section 2896 of the Public Authorities Law; and

BE IT FURTHER RESOLVED, that the Office Manager be designated as the "contracting officer" who shall be responsible for the disposition of property is hereby affirmed. This Resolution shall take effect immediately.

This resolution shall take effect immediately.

Erie County Fiscal Stability Authority

COMPREHENSIVE GUIDELINES REGARDING THE USE, AWARDING, MONITORING AND REPORTING OF CONTRACTS FOR THE DISPOSAL OF PROPERTY

Effective March 2010

INTRODUCTION

In accordance with Section 2896 of the New York Public Authorities Law, the following comprehensive guidelines set forth the Erie County Fiscal Stability Authority's operative policy and instructions regarding the use, awarding, monitoring and reporting of contracts for the disposal of property. Section 2895 of the Public Authorities Law defines property as:

- personal property in excess of $5,000 in value, and
- real property, and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party.

Section 3954(14) of the Public Authorities Law provides that the Authority shall, under no circumstances acquire, hold or transfer title to, lease, own beneficially or otherwise, manage, operate or otherwise exercise control over any real property, any improvement to real property or any interest therein other than a lease or sublease of office space deemed necessary or desirable by the Authority. Therefore, these guidelines are intended to address personal property disposal only.

DEFINITIONS

As used herein the terms set forth below are defined as follows:

1.1 "Authority" means the Erie County Fiscal Stability Authority, a corporate governmental agency and instrumentality of the State of New York, constituting a public benefit Corporation, established pursuant to Chapter 182 of the Laws of 2005 of the State of New York.

1.2 "Property" means personal property in excess of $5,000 in value.

1.3 "Disposal" means transfer of title or any other beneficial interest in property.

1.4 "Contracting Officer" means the officer or employee of a public authority who shall be appointed by resolution of the Board to be responsible for the supervision and direction over the disposition of property.

1.5 "Sole Source" means when only one vendor can receive the property being disposed of by the Authority.

DISPOSAL

The Contracting Officer will periodically inventory all Authority property for the purpose of recommending the disposal and/or replacement of such property. Whenever the Authority wishes to transfer title to a beneficial interest in an item of property or an interest therein it shall first obtain an appraisal of the property if, because of its unique nature, the property is not subject to fair market pricing. However, an appraisal of the property will not be required if an appraisal of the property or similar property has been made within the past two years.

The person or entity to which the property shall be disposed of shall be determined through a procurement process conducted in accordance with Section 2897 of the Public Authorities Law. The Authority shall publicly advertise for proposals for the disposal of property over $15,000 in fair market value in accordance with Section 2897 of the Public Authorities Law, provided that it may dispose of the property without public advertising, obtaining such competition as is feasible under the circumstances, when permitted to do so under such Section. All requirements of the Public Authorities Law and other applicable laws, if any, related to the disposition shall be complied with.

In all cases, property disposal must be approved by the Contracting Officer and the Board of Directors. In addition, disposal documents must be approved and executed by an officer who is an authorized signatory of all agreements of the Authority. In accordance with Section 2897(6)(d) of Public Authorities Law, an explanatory statement shall be prepared by the Contracting Officer for property with an estimated fair market value over $15,000 disposed of by negotiation. Explanatory statements shall be transmitted to the New York State Comptroller, the Director of the Budget, the Commissioner of General Services and the New York State Legislature not less than 90 days in advance of disposal.

The Contracting Officer shall cause a record to be maintained of all property disposed of and shall cause to be prepared and transmitted all reports relating to the disposition of property required by Section 2896 of the Public Authorities Law.

REPORTING

The Authority shall review, approve and file a copy of these comprehensive guidelines, including the name of the Authority's designated contracting officer, with the State Comptroller on or before March 31st of each year. At the time of filing, the approved comprehensive guidelines shall be posted and maintained on the Authority's website until the guidelines for the following year are posted.

The Authority will annually produce a report of all property disposed of during the previous twelve months, if any, and file it with the New York State Comptroller, the Director of the Budget, the Commissioner of General Services and the New York State Legislature. The report will include a full description of the property, the price received for the property and the name of the purchaser.

Chairman Sampson: Indicating there was no further business, asked for a motion to adjourn. Moved by Director Speers. Second by Director Stievater.

In favor – 5 Opposed – 0

The meeting was adjourned.

Respectfully submitted

____

James Sampson, Chairman

June 6, 2017