

## **Erie County Fiscal Stability Authority**

Resolution No. 07-58

### **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, by adopting Resolution 07-23 on March 26, 2007, the ECFSA urged the County Executive, the County Comptroller, and the County Legislature to seek opportunities for Erie County (the “County”) to issue new debt through the ECFSA, upon considering the fiscal benefits that will result;

WHEREAS, certified copies of Resolution 07-23 were sent to County Executive, the County Comptroller, and the Chair of the County Legislature;

WHEREAS, Resolution 07-23 stated that, on account of its high bond rating, the ECFSA can issue new debt at a lower cost than the County can;

WHEREAS, Resolution 07-23 stated that, by issuing new debt through the ECFSA at lower interest rates, the County can reduce its cost of borrowing, and thereby save taxpayer dollars;

WHEREAS, Resolution 07-23 stated that, by issuing new debt through the ECFSA, the County will not affect the longevity of the ECFSA, which shall periodically intercept a portion of County tax revenues and New York State aid through December 31, 2039, pursuant to Section 3964 of New York Public Authorities Law; and

WHEREAS, Resolution 07-23 stated that, the issuance of new debt by the County through the ECFSA will not predetermine the status of the ECFSA as an advisory board or as a control board; and

WHEREAS, based on County cash flow projections, the County Comptroller’s Office identified a need for the County to issue \$100,000,000 in Revenue Anticipation Notes before the end of June 2007;

WHEREAS, on June 7, 2007, 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 through approval of Resolution No. 158-2007;

WHEREAS, regardless, on May 1, 2007, the Comptroller issued a Request for Proposals to financial institutions to serve as purchase, placement agent and/or underwriter for an amount not

to exceed \$100,000,000 in Revenue Anticipation Notes to finance the County's short-term cash flow needs;

WHEREAS, based upon First Southwest Company's 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 \$100,000,000 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 June 6, 2007, the County Comptroller's Office provided the ECFSA with the County's proposed contract terms for borrowing \$100,000,000 of Revenue Anticipation Notes through Bank of America, N.A., and requested that the ECFSA approve the borrowing and related contract at its June 8, 2007 Board meeting;

WHEREAS, on June 8, 2007, the County Comptroller presented on and answered a number questions posed by the ECFSA Board on the proposed issuance of \$100,000,000 in Revenue Anticipation Notes;

WHEREAS, after considerable discussion the ECFSA Board tabled action on the proposed borrowing to allow for time to comment on the terms of the borrowing as required by New York Public Authorities Law;

WHEREAS, it has become apparent after discussion with the County Comptroller, that the ECFSA can borrow \$100,000,000 of 2007 Revenue Anticipation Notes at a savings to County taxpayers of \$146,000;

WHEREAS, the County Executive has yet to request County Legislature approval of an ECFSA borrowing on behalf of the County, as required by Section 3961 of New York Public Authorities Law, to enable the ECFSA to realize savings for County taxpayers;

WHEREAS, the County Comptroller has stated that, without a short-term borrowing of at least \$50,000,000 by the end of June 2007, the County will not have sufficient cash to meet its payroll or other obligations;

NOW, THEREFORE, BE IT RESOLVED, that, absent a request from the County Executive and approval by the County Legislature pursuant to Section 3961 of the New York Public Authorities Law, the ECFSA does hereby approve and authorize the issuance of Revenue Anticipation

Notes, Series 2007, in an amount not to exceed \$100,000,000, in order to allow the County to meet its short-term obligations; and

BE IT FURTHER RESOLVED, that the ECFSA reiterates its previous recommendations and advice that the County refinance pre-existing debt and issue new debt through the ECFSA given the cost savings that it will achieve for County taxpayers;

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.

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Stanley J. Keysa  
Secretary

Date: June 15, 2007