Erie County Fiscal Stability Authority

Resolution No. 07-83

PRELIMINARY RESOLUTION REGARDING ISSUANCE OF CERTAIN ECFSA BONDS

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 step toward fiscal stability;" and

WHEREAS, the ECFSA is a public authority of the State of New York; and

WHEREAS pursuant to Section 3954(6) of the New York Public Authorities Law ("Public Authorities Law") the ECFSA has the power to "borrow money and issue bonds, notes or other obligations, or to refund the same, and to provide for the rights of the holders of its bonds, notes or other obligations"; and

WHEREAS, the County of Erie ("County") is contemplating certain capital expenditures of $50,935,000 (the "Capital Expenditures") and the County has stated its intention to fund the Capital Expenditures with proceeds of bond financing;

WHEREAS, the County must seek and obtain the prior approval of the ECFSA before issuing bonds; and

WHEREAS, the County has not yet sought the ECFSA's approval of a bond issuance to fund the Capital Expenditures; and

WHEREAS, the ECFSA is anticipating a request from the County for the ECFSA's approval of a bond issuance by the County to fund the Capital Expenditures and the ECFSA desires to avoid any hardship or increased expense to the taxpayers of the County that might arise as a consequence of the County's failure to seek approval of the bond issuance in a timely fashion; and

WHEREAS, the ECFSA has determined in consultation with its advisors that the County can lower the cost of borrowing by requesting that the ECFSA issue bonds to fund the Capital Expenditures; and

WHEREAS, the County has not requested the ECFSA to so issue such bonds; and

WHEREAS, the County's financial circumstances and anticipated future financial circumstances should cause the County, in the interest of responsible fiscal management, to declare its request pursuant to Public Authorities Law § 3961(1) that the ECFSA undertake a bond issuance to fund the Capital Expenditures; and

WHEREAS, the ECFSA has recommended to the County, and hereby reiterates such recommendation, that, in the interest of responsible fiscal management and to take advantage of the ECFSA's bond rating, the County declare its request pursuant to Public Authorities Law § 3961(1) that the ECFSA undertake a bond issuance to fund the Capital Expenditures; and

WHEREAS, in anticipation of the County's request to the ECFSA pursuant to Public Authority's Law § 3961(1), and to ensure to the County that the ECFSA stands ready to undertake a bond issuance to fund the Capital Expenditures, the ECFSA is willing to give its preliminary approval of such a bond issuance by the ECFSA and to advise the County of the terms available to the ECFSA; and

WHEREAS, the ECFSA desires to advise the County of the terms for a bond issuance by the County that would be acceptable to the ECFSA in the event that the County elects to seek ECFSA approval of such a bond issuance by the County to fund the Capital Expenditures; and

WHEREAS, if the County is able to obtain terms for a bond issuance by the County to fund the Capital Expenditures that are equal to or better than those available to the ECFSA as set forth below, the ECFSA advises the County that the ECFSA will be favorably inclined to approve a request from the County for such bond issuance, and ECFSA recommends to the County that it seek the ECFSA's approval of such issuance without further delay; and

NOW, THEREFORE, BE IT RESOLVED, that the ECFSA hereby gives its preliminary approval for the issuance of its tax exempt and/or taxable bonds, for the benefit of the County in an amount not to exceed $52,000,000 including costs of issuance, such bonds to tentatively include undertaking of or reimbursement for the following:

> Series A for $32,685,000 in certain capital projects as enumerated in correspondence between the County and the ECFSA,
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> Series B for $3,250,000 in certain sewer projects, and
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> Series C for $15,000,000 in certain Erie County Medical Center Corporation expenditures; and

BE IT FURTHER RESOLVED that the statements contained in this Resolution with respect to the reimbursement of the expenditures described in this Resolution are intended to be statements of official intent as required by, and in conformance with, the provisions of Treasury Regulation Section 1.150-2(e); and

BE IT FURTHER RESOLVED that, in anticipation of the issuance of such bonds, Phillips Lytle LLP, bond counsel to the ECFSA, is hereby requested to prepare the necessary documents and perform the necessary due diligence so as to prepare for such issuance; and

BE IT FURTHER RESOLVED the Executive Director of the ECFSA is hereby requested to negotiate, subject to final approval by the Board of ECFSA, appropriate arrangements with the County and third parties, and to take all other actions that he deems necessary and appropriate so as to facilitate the issuance of such bonds; and

BE IT FURTHER RESOLVED that such bonds, when issued through the higher rated ECFSA (Aa2/NR/AA), will save money for the taxpayers of the County (Baa3/BBB-/BBB) by reducing the overall cost of the Capital Expenditures. However, in the event that the County Comptroller can assure the ECFSA that the County can obtain terms for a bond issuance by the County that are equal to or better than those available to the ECFSA as set forth below, the ECFSA will be favorably inclined to approve a request by the County to undertake an issuance of bond financing to fund the Capital Expenditures.

(i) total cost of issuance (including fees and expenses for bond counsel, financial advisor, rating agencies, paying agent, printing, mailing and advertisement) must not exceed $3.00 per bond;

(ii) total underwriter's compensation (including takedown, expenses and underwriter's counsel) must not exceed $4.25 per bond;

(iii) municipal bond insurance premium, from an 'AAA' rated insurer, must not exceed 20 basis points;

(iv) interest rates for the three (3) tax-exempt series, in aggregate, must not exceed a weighted average spread, weighted by par value in each maturity, of 14 basis points to 'AAA' MMD benchmark yields,

or, if the Series C Bonds are issued as federally taxable obligations, then

interest rates for the two (2) tax-exempt series, in aggregate, must not exceed a weighted average spread of 18 basis points to 'AAA' MMD benchmark yields and the taxable series must not exceed a weighted average spread of 80 basis points to Treasury Securities of a directly comparable maturity; and

(v) the proposed debt structure is in compliance with the guidelines as set forth in the appendix to the County's Request for Proposal for Underwriting Services dated July 19, 2007; and

BE IT FURTHER RESOLVED that in the event that terms equal to or better than those stated above are not available to the County, the ECFSA hereby advises and recommends that the County request the ECFSA to undertake the bond issuance.

This Resolution shall take effect immediately.

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Stanley J. Keysa
Secretary

Date: August 30, 2007