

Erie County Fiscal Stability Authority

Resolution No. 08-87

COMMENTING ON AND APPROVING THE ISSUANCE OF REVENUE ANTICIPATION NOTES BY ERIE COUNTY FISCAL STABILITY AUTHORITY

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;

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;

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

WHEREAS, on September 6, 2008, pursuant to New York Local Finance Law, the County Legislature delegated to the County Comptroller the powers to authorize the issuance of and to prescribe the terms, form and contents for the sale and credit enhancement of such Revenue Anticipation Notes through approval of its Resolution;

WHEREAS, the ECFSA first imposed a control period upon 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 ECFSA;

WHEREAS, on September 9, 2008, the County Comptroller's Office provided the ECFSA with the County's proposed contract terms for borrowing \$75,000,000 of Revenue Anticipation Notes and requested that the ECFSA approve the borrowing and related contract at its September 15, 2008 Board meeting;

WHEREAS, it has become apparent after discussion with the County Comptroller, that the ECFSA can borrow \$75,000,000 of 2008 Revenue Anticipation Notes at a savings to County taxpayers of approximately \$257,000;

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 such savings for County taxpayers;

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

NOW, THEREFORE, BE IT RESOLVED, that, upon receipt of a request from the County Executive and approval by the County Legislature pursuant to Section 3961 of New York Public Authorities Law, the ECFSA does hereby approve and authorize the Erie County Fiscal Stability Authority issuance of Revenue Anticipation Notes, Series 2008, in an amount not to exceed \$75,000,000, in order to allow the County to meet its short-term obligations;

BE IT FURTHER RESOLVED, that the power to set the financial terms of such Revenue Anticipation Notes, as well as the bonds or notes approved in resolution 08-87 is hereby delegated to the Executive Director of the ECFSA;

BE IT FURTHER RESOLVED, that this approval is contingent upon appropriate approvals to be received from the Erie County legislature at its September 18th meeting, or thereafter;

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.

Stanley J. Keysa
Secretary

Date: September 15, 2008