

Erie County Fiscal Stability Authority

Resolution No. 10-06

AUTHORIZING THE ISSUANCE OF BONDS AND/OR BOND ANTICIPATION NOTES TO FUND ERIE COUNTY'S CAPITAL PROJECTS

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 and 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, New York Public Authorities Law ("Public Authorities Law") section 3961 provides circumstances under which the ECFSA may finance the County of Erie, New York's (the "County") costs, including the costs of capital projects; and

WHEREAS, pursuant to Public Authorities Law section 3961(1), the ECFSA may commence such financing only upon a request "made by and through the county executive after approval by the [county] legislature;" and

WHEREAS, Section 2.06(iii) of the Financing Agreement between the ECFSA and the County dated May 1, 2009 provides that ECFSA shall approve the sale to the public credit markets and issuance by the County of its bonds to be sold at least 75 days prior, and funded at least 60 days prior to the May 19, 2010 maturity date of the Series 2009A Notes issued by ECFSA in May 2009 if a "Trigger Event" as defined in such Financing Agreement shall have occurred at least 120 days prior to such maturity date; and

WHEREAS, on July 23, 2009 the ECFSA entered into an "advisory period" as contemplated by Section 3958 of the ECFSA enabling statute and such event constitutes a "Trigger Event" as defined in such Financing Agreement;

WHEREAS, the Comptroller of the County of Erie is seeking authorization to conduct a bond sale in order to provide proceeds sufficient for the redemption at maturity of the County's \$103,534,867 Bond Anticipation Note for Public Improvements-2009, issued on May 20, 2009 and maturing on May 18, 2010 (the "2009 County Notes"); such bond sale to be conducted in accordance with and as contemplated by Section 2.06(iii) of such Financing Agreement in order to fund the redemption of the ECFSA Series 2009A Notes; and

WHEREAS, in addition to the County's contemplated bond sale to repay the 2009 County Notes, the County desires to issue bonds or notes to fund approximately \$70,000,000 in projects in the County's capital program; and

WHEREAS, the ECFSA can achieve no less than \$21,000,000 in savings for the taxpayers of the County by issuing bonds on notes totaling approximately \$174,000,000 on the County's behalf;

NOW, THEREFORE, BE IT RESOLVED that the ECFSA is hereby authorized, if so requested by the County, to sell and issue up to \$174,014,673 in bonds, and/or notes in anticipation thereof, to fund the repayment of the 2009 County Notes and the County's capital programs, which bonds and/or bond anticipation notes may be secured by the County's sales tax revenues.

This Resolution shall take effect immediately.

Stanley J. Keysa, Secretary

Dated: February 12, 2010