

BUFFALO FISCAL STABILITY AUTHORITY

RESOLUTION NO. 04 - 35

WAGE FREEZE

WHEREAS, in June 2003, the New York State Legislature declared that a condition of fiscal difficulty had existed in the City of Buffalo (the "City") for several years, that the City was in a state of fiscal crisis that is threatening the welfare of the inhabitants thereof, and that action should be taken to preserve essential services to City residents while ensuring that taxes remain affordable; and

WHEREAS, the Buffalo Fiscal Stability Authority ("BFSA") was created by Chapter 122 of the Laws of 2003 to be a corporate governmental agency and instrumentality of the State of New York constituting a public benefit corporation to oversee the financial and capital plans of the City and of "Covered Organizations" as defined in Section 3851(13) of the Buffalo Fiscal Stability Authority Act (the "Act") and, if necessary, to develop financial plans on behalf of the City and/or Covered Organization, if the City and/or Covered Organization is unwilling or unable to take the required steps toward fiscal stability; and

WHEREAS, on October 21, 2003, the BFSA approved a four year financial plan (the "Revised Financial Plan") designed to assist in resolving the fiscal crisis facing the City; and

WHEREAS, BFSA has continued to review the economic conditions of the City and Covered Organizations; and

WHEREAS, the BFSA Approved Revised Financial Plan is already out of balance, and the City is projecting multiple increases in recurring expenditures, primarily relating to recurring personnel-related costs which will have a material impact on the financial plan going forward, as well as the current year budget; and

WHEREAS, the City is projecting an increase in the 2004-2005 gap more than \$20 million over the \$26 million gap projected in the BFSA approved financial plan, and the projected cumulative gap over the next Financial Plan exceeds \$250 million; and

WHEREAS, the increase in the City's gap is likely to have a negative impact on the resources it will be able to make available to all Covered Organizations in the 2004-2005 fiscal year and thereafter; and

WHEREAS, BFSA determined in its September 16, 2003 Report on the City's Proposed Financial Plan that employees and retirees represent the largest cost to the City, representing 90 percent of all spending; and

WHEREAS, the Act clearly recognizes the financial interdependence of the City and Covered Organizations; and

WHEREAS, the New York State Legislature enacted the Act and provided BFSA with a broad range of financial control and oversight powers upon a finding that (i) “the city has repeatedly relied on annual extraordinary increases in State aid to balance its budget, and that the State cannot continue to take such extraordinary actions on the city’s behalf”, and that (ii) “the maintenance of a balanced budget by the city of Buffalo is a matter of overriding State concern requiring the legislature to intervene to provide a means whereby the long term fiscal stability of the city will be assured, the confidence of investors in the city’s bonds and notes is preserved, and the economy of the region and the State as a whole is protected”; and

WHEREAS, the Act, recognizing that labor costs constitute the great majority of the expenses incurred by the City and Covered Organizations, empowers BFSA to impose a wage freeze in order to ensure the fiscal stability of the City, in addition to reviewing and approving budgets and financial plans; and

WHEREAS, based upon the findings set forth herein, upon the previous financial analysis performed by BFSA, and upon all of the relevant factors prompting the financial crisis and the requirement for the legislation creating BFSA, it is determined that a wage freeze, with respect to the City and all Covered Organizations that are not exempt and remain non-exempt pursuant to BFSA resolution, under the authority granted in Section 3851(13) of the Act (the “Non-exempt Covered Organizations”), as hereinafter set forth, is essential to the maintenance of the Revised Financial Plan and to the adoption and maintenance of future financial plans and budgets that are in compliance with the Act; now, therefore, it is hereby

1. RESOLVED AND ORDERED, that a wage freeze, with respect to the City and all Covered Organizations, is essential to the maintenance of the Revised Financial Plan and to the adoption and maintenance of future budgets and financial plans that are in compliance with the Act; and be it further

2. RESOLVED AND ORDERED, that effective immediately, there shall be a freeze with respect to all wages, wage rates, and salary amounts for all employees of the City and all Non-exempt Covered Organizations, to the full extent authorized by the Act (the “Wage Freeze”); and be it further

3. RESOLVED AND ORDERED, that this Wage Freeze shall apply to prevent and prohibit any increase in wage rates, wages or salaries for any employee of the City or a Non-exempt Covered Organization, including, but not limited to, any increased payments for holiday and vacation differentials, shift differentials, salary adjustments according to plan and step-ups or increments; and including increases in wage rates, wages, or salaries pursuant to any plan or schedule for advancement or promotion; and including any increases in wage rates, wages or salaries provided for under collective bargaining agreements, interest arbitration awards,

employment agreements, or discretionary increases to non-represented employees, provided that such suspended salary or wage increases shall not be considered as part of compensation or final compensation or annual salary earned or earnable for the purpose of computing the pension base of any retirement allowances; and be it further

4. RESOLVED AND ORDERED, that the foregoing Wage Freeze shall apply to prevent and prohibit any increase in wage rates, wages or salaries that is scheduled to commence or otherwise take effect on or after the effective date of the Wage Freeze, notwithstanding that (a) the increase was bargained for, provided for in an existing collective bargaining agreement, or otherwise planned prior to the effective date of the Wage Freeze, and/or; (b) the increase is designated as retroactive, or otherwise purports to relate to work performed prior to the effective date of the Wage Freeze; and be it further

5. RESOLVED AND ORDERED, that the foregoing Wage Freeze shall remain in full force and effect until a further resolution of BFSAs; and be it further

6. RESOLVED AND ORDERED, that the City and all Non-exempt Covered Organizations shall certify in writing to BFSAs, within 15 calendar days of the effective date of the Wage Freeze, and thereafter not later than the beginning of each calendar quarter, commencing April 1, 2004, that it is in compliance with the provisions of this Resolution; and be it further

7. RESOLVED AND ORDERED, that if any portion of this Resolution shall be determined to be invalid or unenforceable in whole or in part by a court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remaining portions and any partially enforceable portions of this Resolution, but shall be confined in its operations to the clause, sentence, paragraph, section or part hereof which is determined to be invalid or unenforceable.

This Resolution shall take effect immediately.

Approved April 21, 2004

/S/ Richard Tobe
Secretary