

BUFFALO FISCAL STABILITY AUTHORITY
RESOLUTION 04-69

CONCERNING THE AUTHORIZATION, SALE AND ISSUANCE OF
SALES TAX AND STATE AID SECURED BONDS,
SERIES 2004A

WHEREAS, the Buffalo Fiscal Stability Authority Act, incorporated in chapter 122 of the laws of 2003, as amended from time to time (the "Act") authorizes the Buffalo Fiscal Stability Authority (the "Authority") to issue bonds for the purpose of financing Financeable Costs, as defined in the Act and to make the proceeds thereof available to the City of Buffalo (the "City"); and

WHEREAS, the Authority is authorized by the Act, upon submission by the City to the Authority of an approved declaration of need in accordance with the Act, to enter into agreements, in the Authority's discretion, providing for the financing of Financeable Costs by the Authority and to issue its bonds, notes, or other obligations therefor; and

WHEREAS, the Act authorizes the Authority to enter into appropriate and necessary contracts with its bondholders and others to provide for the issuance thereof, and the Directors of the Authority hereby intend to provide for the authorization, issuance and sale of the initial series of its sales tax and state aid secured bonds (the "Bonds") through the approval of appropriate documentation, including, without limitation, the approval of the First Supplemental Indenture (as such term is defined below), the issuance, sale and delivery of such series of Bonds, and the preparation, negotiation and approval of appropriate documents in connection therewith; and

WHEREAS, the proceeds of such series of Bonds will be used to finance Financeable Costs under the Act, which may include but are not limited to (i) refunding, repayment or restructuring of certain outstanding indebtedness of the City; (ii) cash flow needs of the City; (iii) capital projects; (iv) operating costs of the City; and (v) the costs of issuance of such series of Bonds; and

WHEREAS, the Authority is required to obtain the written approval of the State Comptroller for the sale of each series of Bonds and the terms thereof if such sale be a private sale to other than the State Comptroller; and

WHEREAS, the Authority will obtain the required approval of the State Comptroller prior to the delivery of the initial series of Bonds; and

WHEREAS, the Authority has caused to be prepared an indenture entitled "Indenture between Buffalo Fiscal Stability Authority and The Bank of New York, as Trustee, dated as of June 1, 2004" (the "General Indenture"), authorizing the issuance of one or more series of Bonds for the purposes set forth therein and containing certain other terms, restrictions and covenants with respect to such Bonds and the security pledged to the payment thereof; and

WHEREAS, the Authority has caused to be prepared a form of supplemental indenture entitled “First Supplemental Indenture between Buffalo Fiscal Stability Authority and The Bank of New York, as Trustee Authorizing \$_____ Buffalo Fiscal Stability Authority Sales Tax Secured Bonds, Series 2004A dated as of June 1, 2004” (the “First Supplemental Indenture”), pursuant to which the Authority will authorize the issuance of the Sales Tax and State Aid Secured Bonds, Series 2004A (the “Series 2004A Bonds”) (the General Indenture, as amended and supplemented, being hereinafter collectively referred to as the “Indenture”); and

WHEREAS, the Authority has caused to be prepared a financing agreement dated as of June 1, 2004 (the “Financing Agreement”), by and between the Authority and the City, pursuant to which the City has made certain agreements and covenants relating to the issuance of Bonds by the Authority, and has agreed to the pledge of said covenants to the Trustee on behalf of the Bondholders; and

WHEREAS, pursuant to the Act and the Financing Agreement, the City has requested and has submitted an approved Declaration of Need in accordance with the Financing Agreement in form satisfactory to the Authority that the Authority undertake this financing through the issuance of the Series 2004A Bonds at a fixed rate; and

WHEREAS, the Authority has caused to be prepared a form of a Preliminary Offering Circular (the “Preliminary Offering Circular”), relating to the Series 2004A Bonds; and

WHEREAS, officers and employees of the Authority will participate in revisions to the Preliminary Offering Circular and the preparation of a final Offering Circular to be used in connection with the issuance and sale of the Series 2004A Bonds (the “Offering Circular”) and have negotiated the Contract of Purchase therefor (the “Purchase Contract”); and

WHEREAS, the Authority has caused to be prepared a Buffalo Fiscal Stability Authority Sales Tax and State Aid Secured Bonds, Series 2004A Continuing Disclosure Agreement (the “Continuing Disclosure Agreement”) between the Authority, the City and the Trustee in order to assist the Underwriter (as defined below) in complying with the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission (the “SEC”) under the Securities Exchange Act of 1934, as amended:

NOW, THEREFORE, the Authority, hereby adopts the following resolutions:

I. General Indenture

RESOLVED, that the form of General Indenture presented to this meeting, a copy of which shall be annexed to this resolution as Exhibit A, is hereby approved, and any Authorized Officer is hereby authorized to execute and deliver the General Indenture in substantially such form with such changes thereto prior to the issuance and delivery of the Series 2004A Bonds (which may be issued in one or more series or subseries) as may be approved by the Authorized Officer subject to the terms referred to in item IX below; and further

II. First Supplemental Indenture

RESOLVED, that the form of First Supplemental Indenture presented to this meeting, a copy of which shall be annexed to this resolution as Exhibit B, is hereby approved, and any Authorized Officer is hereby authorized to execute and deliver the First Supplemental Indenture in substantially such form with such changes thereto prior to the issuance and delivery of the Series 2004A Bonds (which may be issued in one or more series or subseries) as may be approved by the Authorized Officer subject to the terms referred to in item IX below; and further

III. Financing Agreement

RESOLVED, that the form of Financing Agreement presented to this meeting, a copy of which shall be annexed to this resolution as Exhibit C, is hereby approved with such changes as an Authorized Officer may approve, and any Authorized Officer is hereby authorized and directed to execute the same on behalf of the Authority; and further

IV. Declarations of Need

RESOLVED, that pursuant to the Act and the Financing Agreement, the City has requested the Authority to undertake this financing and has submitted Declarations of Need in substantially the form set forth in the Financing Agreement and any Authorized Officer is hereby authorized to execute and deliver an acceptance of said Declarations of Need consistent with this resolution; and further

V. Preliminary Offering Circular

RESOLVED, that the Preliminary Offering Circular of the Authority in substantially the form presented to this meeting, a copy of which shall be annexed to this resolution as Exhibit D, is hereby approved for use in marketing the Series 2004A Bonds with such changes as an Authorized Officer may approve; and further

VI. Offering Circular

RESOLVED, that any Authorized Officer is authorized to execute and deliver, on behalf of the Authority, the Offering Circular, with such changes to the Preliminary Offering Circular as may be approved by an Authorized Officer, said execution being conclusive evidence of such approval, and any amendments or supplements thereto which may be necessary or desirable; and any Authorized Officer is further hereby authorized and directed to execute the same on behalf of the Authority, as well as any certificates necessary in connection therewith to allow the Underwriter to comply with SEC rules; and further

VII. Purchase Contract

RESOLVED, that the Purchase Contract by and among the Authority and the Underwriter, in substantially the form presented to this meeting, a copy of which shall be

annexed to this resolution as Exhibit E, is hereby approved with such changes as an Authorized Officer may approve, and any Authorized Officer is hereby authorized and directed to execute the same on behalf of the Authority; and further

VIII. Continuing Disclosure Agreement

RESOLVED, that the Continuing Disclosure Agreement presented to this meeting, a copy of which shall be annexed to this resolution as Exhibit F, is hereby approved, and any Authorized Officer is hereby authorized to execute and deliver the Continuing Disclosure Agreement in substantially such form as is so approved with such changes therein as the Authorized Officer executing the same may approve, such approval to be evidenced by such Authorized Officer's execution thereof, and further

IX. Terms of Series 2004 Bonds

RESOLVED, that there is hereby delegated to any Authorized Officer of the Authority, subject to the limitations, if any, contained in the Indenture, the power with respect to the Series 2004A Bonds to determine and carry out the following:

(a) The principal amount of the Series 2004A Bonds to be issued in an aggregate total principal amount up to \$35,000,000;

(b) The date or dates, maturity date or dates and principal amount of each series and maturity of the Series 2004A Bonds, the amount and date of each sinking fund installment, if any, and which Series 2004 Bonds, if any, are serial bonds or term bonds; provided, however, that the Series 2004A Bonds shall mature no later than June 30, 2037;

(c) The interest rate or rates of each series of the Series 2004A Bonds (including a zero interest rate), the dates from which interest on each series of the Series 2004A Bonds shall accrue, the interest payment dates, if any, therefor; provided, however, that the true interest cost of the Series 2004A Bonds (as determined by an Authorized Officer of the Authority, which determination shall be conclusive) shall not exceed 6% per annum;

(d) The redemption price or redemption prices, if any, and the redemption terms, if any, for each series of the Series 2004A Bonds; provided; however, that the redemption price of any Series 2004 Bond subject to redemption at the election of the Authority or in accordance with the General Indenture shall not be greater than one hundred three percent (103%) of the principal amount of the Series 2004A Bonds or portion thereof to be redeemed, plus accrued interest thereon to the date of redemption;

(e) Additional provisions for the sale or exchange of the Series 2004A Bonds and for the delivery thereof not otherwise set forth herein;

(f) Directions for the application of the proceeds of the Series 2004A Bonds and investment thereof not in conflict with the provisions hereof,

(g) Any other provisions deemed necessary or advisable by an Authorized Officer of the Authority, not in conflict with the provisions hereof or of the Indenture, including, without limitation, incorporating bond insurance or other form of credit enhancement to the extent that an Authorized Officer of the Authority determines that such changes would be in the best interest of the Authority; and further

X. Issuance and Sale of the Series 2004 Bonds

RESOLVED, that the Authority shall issue, award, sell and deliver the Series 2004A Bonds to the Underwriter upon the terms and conditions set forth in the Purchase Contract at a purchase price of not less than ninety-five percent (95%) of the aggregate original principal amount (issuance value) of the Series 2004A Bonds to be sold and shall apply the proceeds thereof in accordance with the provisions of the Indenture and certain other certificates to be delivered upon issuance of the Series 2004A Bonds; and further

XI. Authorized Officers

RESOLVED, that each of the Chairperson, the Vice Chairperson, the Executive Director, the Chief Financial Officer, the Chief Counsel, the Treasurer and the Corporate Secretary of the Authority, and any person duly authorized to act in such capacity, is designated an "Authorized Officer" for the purposes of the foregoing resolutions; and further

XII. Appointment of Underwriter

RESOLVED, that the firm of Lehman Brothers Inc. is hereby appointed as senior managing underwriter for the Series 2004A Bonds.

XIII. Negotiated Sale

RESOLVED, that the use of a negotiated underwriting in connection with the sale of the Series 2004A Bonds is found to be appropriate:

XIV. Appointment of Bond Counsel

RESOLVED, that the law firm of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. is hereby appointed bond counsel for the Series 2004A Bonds; and further

XV. Appointment of Trustee

RESOLVED, that The Bank of New York is hereby appointed as Trustee under the Indenture and, for each series of Bonds, shall signify its acceptance of the duties and obligations of the Trustee under the Indenture by executing and delivering to the Authority a written instrument of acceptance; and further

XVI. Further Action

RESOLVED, that the Authorized Officers or their designee(s) are each hereby authorized and directed to approve and execute such documents or certifications (including certifications as to the federal tax status of interest on the Series 2004A Bonds), make such payments and take such other actions, in the name of the Authority and on its behalf, as he or she may reasonably deem necessary or appropriate to carry out the foregoing resolutions, including without limitation the execution, sale and delivery of the Series 2004A Bonds, any amendment to the Financing Agreement deemed necessary or convenient in carrying out the intent of this resolution, and that all such actions heretofore taken in connection with the Series 2004A Bonds by any Authorized Officer, or his or her designee, are hereby ratified and approved.

Approved June 9, 2004

/S/ Richard M. Tobe
Secretary