

BUFFALO FISCAL STABILITY AUTHORITY

RESOLUTION NO. 06-06

**RESOLUTION CONCERNING THE AUTHORIZATION, SALE AND ISSUANCE OF
SALES TAX AND STATE AID SECURED BONDS**

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 and notes 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 additional 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 Supplemental Indentures (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; (v) the costs of issuance of such series of Bonds; (iii) funding, to the extent necessary under the Indenture, the Debt Service Reserve Account; and (iv) capitalized interest on such series of Bonds; and

WHEREAS, the Authority is authorized by the Act to enter into interest rate exchange agreements or similar arrangements under such terms and conditions as the Authority may determine, and in accordance with such authority has adopted an Interest Rate Swap Policy (the “Swap Policy”) and proposes to enter into one or more ISDA Master Agreement, Schedules and related Confirmations, to be dated as of the date of their execution, to complete one or more variable-to-fixed rate interest rate swaps in connection with the issuance of the Series 2006B Bonds (as defined below); and

WHEREAS, the Authority is required to obtain the written approval of the State Comptroller for the sale of the 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 Bonds; and

WHEREAS, the Authority has previously caused to be executed and delivered 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 or notes, including bond anticipation notes, for the purposes set forth therein and containing certain other terms, restrictions and covenants with respect to such Bonds or notes and the security pledged to the payment thereof; and

WHEREAS, the Authority shall caused to be prepared forms of supplemental indentures entitled “Seventh Supplemental Indenture between Buffalo Fiscal Stability Authority and The Bank of New York, as Trustee Authorizing Up To \$35,000,000 Buffalo Fiscal Stability Authority Sales Tax and State Aid Secured Bonds, Series 2006A” (the “Seventh Supplemental Indenture”) and “Eighth Supplemental Indenture between Buffalo Fiscal Stability Authority and The Bank of New York, as Trustee Authorizing Up To \$35,000,000 Buffalo Fiscal Stability Authority Sales Tax and State Aid Secured Bonds, Series 2006B” (the “Eighth Supplemental Indenture” and, collectively, with the Seventh Supplemental Indenture, the “Supplemental Indentures”), pursuant to which the Authority will authorize the issuance of the Sales Tax and State Aid Secured Bonds, Series 2006A and Series 2006B (the “Series 2006 New Money Bonds”) in an aggregate amount not to exceed \$35,000,000 (the General Indenture, as amended and supplemented, including by the Supplemental Indentures, being hereinafter collectively referred to as the “Indenture”); and

WHEREAS, the Authority has previously caused to be executed and delivered 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 or notes 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 2006A Bonds, to be issued as fixed rate bonds and the Series B Bonds, to be issued as auction rate securities; and

WHEREAS, the Authority shall cause to be prepared one or more Preliminary Offering Circulars (the “Preliminary Offering Circulars”), relating to the offering of the Series 2006 New Money Bonds; and

WHEREAS, officers and employees of the Authority will participate in revisions to the Preliminary Offering Circulars and the preparation of final Offering Circulars to be used in connection with the issuance and sale of the Series 2006 New Money Bonds (the “Offering Circulars”) and will negotiate the Contracts of Purchase therefor (the “Purchase Contracts”); and

WHEREAS, the Authority has negotiated a form of contract of purchase between the Authority and the City relating to the purchase by the Authority of the bonds from the City (the “City Bond Purchase Contract”); and

WHEREAS, the Authority has caused to be prepared a Buffalo Fiscal Stability Authority Bonds, Series 2006 New Money Continuing Disclosure Agreement (the “Continuing Disclosure Agreement”) between the Authority 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;

WHEREAS, the duly authorized officers of the Authority shall cause to be prepared an Auction Agency Agreement (the “Auction Agreement”) by and among the Authority, the Trustee and the Auction Agent to be determined by the Authority and set forth in the Eighth Supplemental Indenture (the “Auction Agent”), obligating the Auction Agent to conduct auctions for the Series 2006B Bonds bearing interest at an auction rate and calculate the interest rate that results from such auctions or default interest rates if such auctions are not held; and

WHEREAS, the duly authorized officers of the Authority shall cause to be prepared a Broker-Dealer Agreement (the “Broker-Dealer Agreement”) by and among the Authority, the Auction Agent and each Broker-Dealer to be determined by the Authority and set forth in the Eighth Supplemental Indenture (the “Broker-Dealer”), which obligates each Broker-Dealer to submit bids, sell orders or hold orders to the Auction Agent on behalf of the persons listed in their records as beneficial owners of the Series 2006B Bonds bearing interest at an auction rate or to submit bids on behalf of persons who wish to obtain the beneficial ownership of the Series 2006B Bonds bearing interest at an auction rate under certain conditions; and

WHEREAS, the duly authorized officers of the Authority shall cause to be prepared a Market Agent Agreement (the “Market Agent Agreement”) by and between the Authority and Lehman Brothers Inc. (the “Market Agent”), which obligates the Market Agent to provide index rates for the Series 2006B Bonds bearing interest at an auction rate under certain conditions; and

WHEREAS, the duly authorized officers of the Authority shall cause to be prepared an ISDA Master Agreement, Schedule and Confirmation thereto, in connection with the issuance of all or any portion of the Series 2006B Bonds to complete a variable-to-fixed rate interest rate swap with the counterparty selected by the Authority in accordance with the Swap Policy, which shall be the provider of such swap;

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

I. Seventh Supplemental Indenture

RESOLVED, that the form of Seventh Supplemental Indenture in substantially the form 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 Seventh Supplemental Indenture in substantially such form with such changes thereto prior to the issuance and delivery of the Series 2006 New Money Bonds (which may be issued in one or more series or subseries) as may be approved by an Authorized Officer subject to the terms referred to in item XIV below; and further

II. Eighth Supplemental Indenture

RESOLVED, that the form of Eighth Supplemental Indenture in substantially the form 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 Eighth Supplemental Indenture in substantially such form with such changes thereto prior to the issuance and delivery of the Series 2006 New Money Bonds (which may be issued in one or more series or subseries) as may be approved by an Authorized Officer subject to the terms referred to in item XIV below; and further

III. Declaration 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 a Declaration 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 such Declaration of Need consistent with this resolution; and further

IV. Preliminary Offering Circulars

RESOLVED, that the Preliminary Offering Circulars of the Authority in substantially the form presented to this meeting, copies of which shall be annexed to this resolution as Exhibit C, are hereby approved for use in marketing the Series 2006 New Money Bonds with such changes as any Authorized Officer may approve; and further

V. Offering Circulars

RESOLVED, that any Authorized Officer is authorized to execute and deliver, on behalf of the Authority, the Offering Circulars, with such changes to the Preliminary Offering Circulars 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

VI. Purchase Contracts

RESOLVED, that the Purchase Contracts by and between 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 D, 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

VII. City Bond Purchase Contract

RESOLVED, that the City Bond Purchase Contract by and among the Authority and the City, in substantially the form previously used by the Authority and the City, 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 in substantially the form presented to this meeting, a copy of which shall be annexed to this resolution as Exhibit E, 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 an Authorized Officer may approve; and further

IX. Auction Agreement

RESOLVED, that the form of the Auction Agreement in substantially the form 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 Auction Agreement in substantially such form as is so approved with such changes therein as an Authorized Officer may approve; and further

X. Broker-Dealer Agreement

RESOLVED, that the form of the Broker-Dealer Agreement in substantially the form presented to this meeting, a copy of which shall be annexed to this resolution as Exhibit G, is hereby approved, and any Authorized Officer is hereby authorized to execute and deliver the Broker-Dealer Agreement in substantially such form as is so approved with such changes therein as an Authorized Officer may approve; and further

XI. Market Agent Agreement

RESOLVED, that the form of the Market Agent Agreement in substantially the form presented to this meeting, a copy of which shall be annexed to this resolution as Exhibit H, is hereby approved, and any Authorized Officer is hereby authorized to execute and deliver the Market Agent Agreement in substantially such form as is so approved with such changes therein as an Authorized Officer may approve; and further

XII. ISDA Master Agreement, Schedule and Confirmation thereto

RESOLVED, that the form of the ISDA Master Agreement, Schedule and Confirmation thereto in substantially the form presented to this meeting, a copy of which shall be annexed to this resolution as Exhibit I, are hereby approved, and any Authorized Officer is hereby authorized to execute and deliver the ISDA Master Agreement, Schedule and Confirmation thereto, in substantially such forms as are so approved with such changes therein as an Authorized Officer may approve; and further

XIII. Issuance and Sale of the Series 2006 New Money Bonds

RESOLVED, that the Authority shall issue, award, sell and deliver the Series 2006 New Money 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 2006 New Money 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 2006 New Money Bonds; and further

XIV. Terms of Series 2006 New Money 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 2006 New Money Bonds to determine and carry out the following:

- a. The principal amount of the Series 2006 New Money Bonds to be issued in an aggregate total principal amount not to exceed \$35,000,000; provided, however, that the principal amount of the Series 2006 New Money Bonds may not exceed \$10,800,000, without the prior written affirmation by the Confirming Officers that the individual bond resolutions for each of the projects to be financed have been approved by the Common Council of the City;
- b. The date or dates, maturity date or dates and principal amount of each series and maturity of the Series 2006 New Money Bonds, the amount and date of each sinking fund installment, if any, and which Series 2006 New Money Bonds, if any, are serial bonds or term bonds; provided, however, that the Series 2006 New Money Bonds shall mature no later than June 30, 2037;
- c. The interest rate or rates of each series of the Series 2006 New Money Bonds (including a zero interest rate), the dates from which interest on each series of the Series 2006 New Money Bonds shall accrue, the interest payment dates, if any, therefor and the interest rate mode or modes thereof; provided, however, that the true interest cost of the Series 2006 New Money Bonds, either fixed or synthetically fixed (as determined by an Authorized Officer of the Authority, which determination shall be conclusive) shall not exceed 8% per annum and that any Series 2006A and Series 2006B Bonds issued at an auction rate shall

be subject to a maximum interest rate of not greater than 15% per annum, or such higher rate or rates as determined by an Authorized Officer;

- d. The redemption price or redemption prices, if any, and the redemption terms, if any, for each series of the Series 2006 New Money Bonds; provided; however, that the redemption price of any Series 2006 New Money Bond subject to redemption at the election of the Authority or in accordance with the General Indenture shall not be greater than one hundred one percent (101%) of the principal amount of the Series 2006 New Money 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 2006 New Money Bonds and for the delivery thereof not otherwise set forth herein, including, but not limited to, provisions for the negotiated sale thereof and preparation and approval of the Series 2006 New Money Bonds;
- f. Directions for the application of the proceeds of the Series 2006 New Money Bonds and investment thereof not in conflict with the provisions hereof;
- g. Convert from time to time, the interest rate mode or modes of the Series 2006B Bonds, as provided in the Eighth Supplemental Indenture;
- h. The advisability of entering into one or more swap transactions as described in and subject to the terms referred to in item XV below;
- i. 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, changing the designation of the Series 2006 New Money Bonds and/or the Supplemental Indentures, incorporating bond insurance or other form of credit enhancement, acquiring mirror bonds from the City, or changes to address rating agency considerations, in each case to the extent that an Authorized Officer of the Authority determine that such changes would be in the best interest of the Authority; and further

XV. Swap Transactions

RESOLVED, that, consistent with the Swap Policy, the Authorized Officers are hereby authorized, in connection with all or any portion of the Series 2006 New Money Bonds, from time to time to enter into one or more swap agreements and other documents necessary or appropriate to completing a variable-to-fixed rate interest rate swap, substantially in the forms of the standard ISDA Master Agreement, Schedule and Confirmation thereto, and to negotiate the terms thereof with Lehman Brothers Inc. or an affiliate of Lehman Brothers Inc., as the counterparty, which shall be the provider of such swap, or competitively bid such swap in accordance with the Swap Policy among such other parties selected by the Confirming Officers, with such changes therein as the Confirming Officers may approve, provided, however, that the notional amount of such

interest rate swap agreement or agreements shall not exceed the limit prescribed by the Act and, provided, further, (i) the notional amount of any such swap transaction shall not exceed \$35,000,000, (ii) the average synthetically fixed yield on such swap transaction, including costs, shall be not less than 30 basis points lower than the average yield on a comparable fixed rate transaction, and (iii) the variable rate on such swap transaction shall be LIBOR based, with such structuring elements deemed prudent by the Confirming Officers, to reduce basis risk; and further

XVI. Authorized Officers and Confirming 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" and either the Executive Director or the Chief Financial Officer, acting with either the Chairperson or the Vice Chairperson, are designated "Confirming Officers" for the purposes of the foregoing resolutions; and further

RESOLVED, that the Confirming Officers are hereby authorized to find and determine on behalf of the Authority the reasons for entering into any such swap transaction, including that such transactions are reasonably expected to, among other things, reduce the Authority's exposure to changes in interest rates and/or are projected to result in a lower net cost of borrowing than other alternatives; and further

RESOLVED, that the Confirming Officers are hereby further authorized in connection with any such swap agreement entered into in accordance with the provisions of the Eighth Supplemental Indenture to terminate, amend, supplement, replace, extend or otherwise modify such swap agreement at any time during the term thereof for purposes including, but not limited to, the effectuation of a change in the basis for or timing of the payments to be made thereunder, modifications of the terms or provisions relating to termination provisions, the provision of collateral thereunder, or the granting of option rights to the counterparty, as the Confirming Officers determine to be necessary or desirable and consistent with the terms and provisions of the Swap Policy; and further

XVII. Appointment of Underwriter

RESOLVED, that the firm of Lehman Brothers Inc. is hereby appointed as senior managing underwriter for the financings authorized by this resolution. Additional co-managing underwriters may be designated by the Authorized Officers; and further

XVIII. Negotiated Sale

RESOLVED, that the use of a negotiated underwriting in connection with the sale of the Series 2006 New Money Bonds is found to be appropriate; and further

XIX. 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 2006 New Money Bonds; and further

XX. 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 2006 New Money 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 2006 New Money 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 2006 New Money Bonds by any Authorized Officer, or his or her designee, are hereby ratified and approved.

This Resolution shall take effect immediately.

Approved January 25, 2006

/S/ Rev. Richard A. Stenhouse
Richard A. Stenhouse
Secretary