

NEW ISSUE—BOOK-ENTRY ONLY

RATINGS: UNINSURED SERIES 2004A BONDS: Moody's: "Aa3"

Fitch: "AA-"

INSURED SERIES 2004A BONDS: Moody's: "Aaa"

S&P: "AAA"

Fitch: "AAA"

(See "SECTION VII: RATINGS" herein.)

*In the opinion of Bond Counsel, under existing law, and assuming compliance with the tax covenants referred to herein, interest on the Series 2004A Bonds is excluded from gross income for federal income tax purposes pursuant to section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and such interest is not treated as a preference item in calculating the alternative minimum tax that may be imposed on individuals and corporations; such interest, however, is includable in the adjusted current earnings of certain corporations for purposes of calculating the alternative minimum tax imposed on such corporations. See "SECTION VI: TAX MATTERS" herein. It is also the opinion of Bond Counsel that interest on the Series 2004A Bonds is exempt from personal income taxes imposed by or under the authority of the State of New York (the "State") or any political subdivision thereof (including The City of New York).*

**\$25,745,000**



**BUFFALO FISCAL STABILITY AUTHORITY**

(A Public Benefit Corporation of the State of New York)

**SALES TAX AND STATE AID SECURED BONDS, SERIES 2004A**

**Dated: Date of Delivery**

**Due: August 15, as shown on the inside front cover**

The Sales Tax and State Aid Secured Bonds, Series 2004A (the "Series 2004A Bonds") are being issued as Senior Bonds pursuant to an Indenture, dated as of June 1, 2004, as amended and supplemented from time to time (the "Indenture"), including as supplemented by the First Supplemental Indenture, dated as of June 1, 2004 (the "First Supplemental Indenture"), each by and between the Buffalo Fiscal Stability Authority (the "Authority"), a corporate governmental agency and instrumentality of the State constituting a public benefit corporation created pursuant to the Buffalo Fiscal Stability Authority Act, as amended (the "Act"), and The Bank of New York, New York, New York, as trustee (the "Trustee").

Provided certain statutory and contractual conditions are met, other Series of Bonds on a parity with or subordinate to the Series 2004A Bonds may be issued (all Series of Bonds hereafter issued under the Indenture, including the Series 2004A Bonds, the "Bonds"). See "SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—Additional Bonds."

Pursuant to the Act, the Bonds are payable from the Revenues of the Authority, which are primarily derived from (i) the City of Buffalo's share (the "City Tax Revenues") of the sales and compensating use taxes imposed by and within Erie County, New York (the "County") pursuant to authorization of the State (the "Local Sales Tax"); (ii) the Buffalo City School District's share (the "School District Tax Revenues") of the Local Sales Tax; and (iii) any aid appropriated by the State (the "State Aid Revenues") as local government assistance for the benefit of the City of Buffalo (the "City"). Neither the State, the County nor the City is prohibited from amending, modifying, repealing or otherwise altering existing sales and compensating use taxes, subject, with respect to the County and the City, to limitations set forth in the Act. The Act provides that (i) the City will have no right, title or interest in or to City Tax Revenues or State Aid Revenues required to be paid to the Authority, and (ii) the Buffalo City School District will have no right, title or interest in or to School District Tax Revenues required to be paid to the Authority, in each case except after payment of debt service, replenishment of reserves and payment of operating expenses of the Authority and then as provided in the Authority's agreements with the City. See "SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS."

The Series 2004A Bonds will be issued only as fully registered bonds, registered in the name of The Depository Trust Company, New York, New York, or its nominee ("DTC"). Purchases of beneficial interests in the Series 2004A Bonds will be made in book-entry form in denominations of \$5,000 principal amount or whole multiples thereof. Purchasers will not receive physical delivery of the Series 2004A Bonds, except under the limited circumstances described herein. See "SECTION III: THE SERIES 2004A BONDS—Book-Entry Only System."

Principal and redemption price of and interest on the Series 2004A Bonds (with interest accruing from the delivery date and payable on February 15, 2005, and thereafter on August 15 and February 15 of each year) will be payable to DTC by the Trustee. So long as DTC remains the registered owner, disbursements of such payments to DTC Participants are the responsibility of DTC and disbursements of such payments to the purchasers of the Series 2004A Bonds are the responsibility of DTC Participants, as described herein.

Payment when due of the principal of and interest on the Series 2004A Bonds maturing in the years 2007 through 2014, inclusive, will be insured by a financial guaranty insurance policy issued by MBIA Insurance Corporation simultaneously with the delivery of the Series 2004A Bonds, as further described herein.

The Series 2004A Bonds are not subject to optional redemption prior to maturity.

THE BONDS ARE PAYABLE SOLELY FROM AND SECURED BY A LIEN ON THE REVENUES OF THE AUTHORITY AND RELATED ACCOUNTS HELD BY THE TRUSTEE. THE BONDS ARE NOT A DEBT OF EITHER THE STATE, THE COUNTY OR THE CITY, AND NEITHER THE STATE, THE COUNTY NOR THE CITY SHALL BE LIABLE THEREON, NOR SHALL THE BONDS BE PAYABLE OUT OF ANY FUNDS OTHER THAN THOSE OF THE AUTHORITY.

This cover page contains information for quick reference only. It is not a summary of this issue. Potential investors must read the entire Offering Circular to obtain information essential to making an informed investment decision.

*The Series 2004A Bonds are offered, subject to prior sale, when, as and if issued by the Authority and accepted by the Underwriter, subject to the approval of legality of the Series 2004A Bonds and certain other matters by Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., New York, New York, Bond Counsel to the Authority. Certain legal matters will be passed upon for the Authority by its Chief Counsel, Darryl McPherson, Esq., and its General Counsel, Harris Beach LLP, New York, New York. Certain legal matters will be passed upon for the Underwriter by its counsel, Nixon Peabody LLP, New York, New York. It is expected that the Series 2004A Bonds will be available for delivery in New York, New York, on or about June 29, 2004.*

Lehman Brothers

Dated: June 18, 2004

**\$25,745,000 SALES TAX AND STATE AID SECURED BONDS, SERIES 2004A**

<u>August 15</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>CUSIPS**</u>
2005	\$2,035,000	4.00%	1.80%	119683AA8
2006	2,125,000	5.00	2.37	119683AB6
2007†	2,235,000	5.00	2.70	119683AC4
2008†	2,350,000	5.00	3.06	119683AD2
2009†	2,475,000	5.25	3.33	119683AE0
2010†	2,610,000	5.25	3.55	119683AF7
2011†	2,750,000	5.25	3.73	119683AG5
2012†	2,895,000	5.25	3.90	119683AH3
2013†	3,055,000	5.25	4.06	119683AJ9
2014†	3,215,000	5.25	4.20	119683AK6

† Insured by MBIA Insurance Corporation.

\*\* CUSIP numbers have been assigned by an independent company not affiliated with the Authority and are included solely for the convenience of the holders of the Series 2004A Bonds. The Authority is not responsible for the selection or uses of these CUSIP numbers, nor is any representation made as to their correctness on the Series 2004A Bonds or as indicated above.

The information in this Offering Circular has been provided by the Authority, the City and other sources considered by the Authority to be reliable. All estimates and assumptions contained herein are believed to be reliable, but no representation is made that such estimates or assumptions are correct or will be realized.

The Underwriter has provided the following sentence for inclusion in this Offering Circular. The Underwriter has reviewed the information in this Offering Circular in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

No dealer, broker, salesperson or other person has been authorized by the Authority or the Underwriter to give any information or to make any representation with respect to the Series 2004A Bonds other than those contained in this Offering Circular, and, if given or made, such other information or representation must not be relied upon as having been authorized by any of the foregoing. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Offering Circular nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the parties referred to above since the date hereof. This Offering Circular does not constitute an offer to sell or a solicitation of an offer to buy, nor shall there be any sale of the Series 2004A Bonds, by any person, in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale.

This Offering Circular contains forecasts, projections and estimates that are based on current expectations. In light of the important factors that may materially affect economic conditions in the City and the amount of the Revenues (as defined herein), the inclusion in this Offering Circular of such forecasts, projections and estimates should not be regarded as a representation by the Authority or the Underwriter that such forecasts, projections and estimates will occur. Such forecasts, projections and estimates are not intended as representations of fact or guarantees of results.

If and when included in this Offering Circular, the words “expects,” “forecasts,” “projects,” “intends,” “anticipates,” “estimates” and analogous expressions are intended to identify forward-looking statements, and any such statements inherently are subject to a variety of risks and uncertainties that could cause actual results to differ materially from those projected. Such risks and uncertainties include, among others, general economic and business conditions, changes in political, social and economic conditions, regulatory initiatives and compliance with governmental regulations, litigation and various other events, conditions and circumstances, many of which are beyond the control of the Authority. These forward-looking statements speak only as of the date of this Offering Circular. The Authority disclaims any obligation or undertaking to release publicly any updates or revisions to any forward-looking statement contained herein to reflect any change in the Authority’s expectations with regard thereto or any change in events, conditions or circumstances on which any such statement is based.

Other than with respect to information concerning MBIA Insurance Corporation (the “Bond Insurer”) contained under the heading “SECTION III: THE SERIES 2004A BONDS—Bond Insurance Policy” herein and in “APPENDIX D—SPECIMEN FINANCIAL GUARANTY INSURANCE POLICY,” none of the information in this Offering Circular has been supplied or verified by the Bond Insurer, and the Bond Insurer makes no representation or warranty, express or implied, as to (i) the accuracy or completeness of such information, (ii) the validity of the Series 2004A Bonds, or (iii) the tax status of the interest on the Series 2004A Bonds.

**THE SERIES 2004A BONDS HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY CORPORATION. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.**

**IN CONNECTION WITH THIS OFFERING, THE UNDERWRITERS MAY OVER-ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SERIES 2004A BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.**

(This page was left blank intentionally.)

## SUMMARY OF TERMS

*The following is qualified in its entirety by reference to the information appearing elsewhere in this Offering Circular. Terms used in this summary and not defined herein are defined in “APPENDIX B—SUMMARY OF INDENTURE AND FINANCING AGREEMENT.”*

Issuer ..... The Buffalo Fiscal Stability Authority (the “Authority”) is a corporate governmental agency and instrumentality of the State of New York (the “State”) constituting a public benefit corporation created by the Buffalo Fiscal Stability Authority Act, Chapter 122 of the Laws of 2003, as amended from time to time (the “Act”).

Securities Offered..... Sales Tax and State Aid Secured Bonds, Series 2004A (the “Series 2004A Bonds”) are to be issued as Senior Bonds pursuant to an Indenture, dated as of June 1, 2004, as amended and supplemented from time to time (the “Indenture”), including as supplemented by the First Supplemental Indenture, dated as of June 1, 2004 (the “First Supplemental Indenture”), each by and between the Authority and The Bank of New York (the “Trustee”). See “SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS.”

The Series 2004A Bonds (along with other Series of Bonds hereafter issued under the Indenture, the “Bonds”) will be payable from Revenues, which consist primarily of City Tax Revenues, School District Tax Revenues and State Aid Revenues required by the Act to be paid to the Authority as described herein. See “SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS.”

Trustee..... The Bank of New York, New York, New York. See “SECTION XIV: TRUSTEE.”

Sales Tax Collection..... The New York State Department of Taxation and Finance collects City Tax Revenues and School District Tax Revenues, each described below, and reports the amount of such collections to the State Comptroller. See “SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—Servicing—Sales Tax Collection.”

Disbursement of Revenues ..... Collections of City Tax Revenues and School District Tax Revenues are remitted to the State Comptroller who holds such collections, together with any State Aid Revenues appropriated for the benefit of the City, in trust for the Authority. The State Comptroller deposits such Revenues with the Trustee, in accordance with instructions from the Authority, for payment of Debt Service and other expenses of the Authority. Such Revenues are applied, in accordance with the Act, in the following general order of priority: first, pursuant to the Authority’s contracts with bondholders, including payment of Debt Service, then to replenish any reserve funds securing the obligations of the Authority, then to pay Authority expenses not otherwise provided for, and then, pursuant to the Financing Agreement, dated as of June 1, 2004 (the “Financing Agreement”), between the Authority and the City, to the City and the School District, as frequently as practicable. For information regarding payment of Revenues to the Authority, see “SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—City Tax Revenues,” “SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—School District Tax Revenues” and “SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—State Aid Revenues.”

Not Debt of State, County or City..... The Bonds are not a debt of either the State, the County or the City, and neither the State, the County nor the City shall be liable thereon. The Bonds are not payable out of any funds other than the Revenues of the Authority.

Bankruptcy Prohibition ..... The Authority is not authorized by State law to file a petition in bankruptcy pursuant to Title 11 (the “Bankruptcy Code”) of the United States Code. In addition, under the Act, the City and the Covered Organizations are prohibited from filing any petition with any United States district court or court of bankruptcy for the composition or adjustment of municipal indebtedness without the approval of the Authority and the State Comptroller, and no such petition may be filed while Authority bonds or notes remain Outstanding.

Purpose of Issue..... The proceeds from the sale of the Series 2004A Bonds will be deposited in the Bond Proceeds Fund established under the Financing Agreement (or deposited in escrow accounts in the case of refundings or restructurings) hereinafter defined and held by the Trustee to be used, along with other funds of the Authority, if any, to provide for the payment of Financeable Costs, consisting of operating costs of the City, and to pay costs of issuance.

Revenues ..... The Bonds are payable from the Authority’s Revenues, which consist of (i) City Tax Revenues, which are paid or payable to the Authority pursuant to Section 1261 of the State Tax Law; (ii) School District Tax Revenues, which are paid or payable to the Authority pursuant to Section 1261 of the State Tax Law; (iii) State Aid Revenues, which are paid or payable to the Authority pursuant to the Act; and (iv) all other aid, rents, fees, charges, gifts, payments and other income and receipts paid or payable to the Authority or a trustee for the account of the Authority, to the extent such amounts are pledged to Bondholders.

City Tax Revenues ..... City Tax Revenues are presently defined as that portion, payable to the City under the agreement among the City, the County and the cities of Lackawanna and Tonawanda (the “Local Sales Tax Agreement”), authorized by Section 1262(c) of the State Tax Law, of the County’s net collections from sales and compensating use taxes, penalties and interest authorized by the State and imposed by the County, currently at the rate of 4%, on the sale and use of tangible personal property and services in the County (the “Local Sales Tax”). The Act requires the County to impose the Local Sales Tax at a rate of no less than 3% for the period ending June 30, 2037. Under the Local Sales Tax Agreement, the City is presently entitled to receive a pro rata share, on the basis of population, of (i) an amount equal to 10.0087% of the net collections from such 3%, which amount is shared among the City, Lackawanna and Tonawanda, and (ii) an amount equal to 25.6858% of the net collections from such 3%, which amount is shared among the City, Lackawanna, Tonawanda and the towns within the County. See “SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—City Tax Revenues.” In the event that the City, with the approval of the Authority, imposes sales and compensating use taxes pursuant to the authority of Section 1210 of the State Tax Law, City Tax Revenues will also include net collections from such City-imposed taxes. The Act provides that the City has no right, title or interest in or to City Tax Revenues required to be paid to the Authority, until after (i) payment of debt service, (ii) replenishment of reserves, and (iii) payment of operating expenses of the Authority pursuant to the Authority’s contracts with bondholders, and then only as provided in the Authority’s agreement with the City. City Tax Revenues collected by the State Comptroller for transfer

to the Authority are not subject to appropriation by the State, the County or the City.

School District Tax Revenues ..... School District Tax Revenues are defined as that portion of the County’s net collections from the Local Sales Tax that is payable to the School District by the County pursuant to Section 1262(a) of the State Tax Law. The Act requires the County to impose the Local Sales Tax at a rate of no less than 3% for the period ending June 30, 2037. The School District presently receives a pro rata share, on the basis of average daily attendance of public school pupils who are residents of the County, of an amount equal to 29% of the net collections from such 3%, which amount is shared among all school districts with territory in the County. See “SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—School District Tax Revenues.” The Act provides that the School District has no right, title or interest in or to School District Tax Revenues required to be paid to the Authority, until after (i) payment of debt service, (ii) replenishment of reserves, and (iii) payment of operating expenses of the Authority pursuant to the Authority’s contracts with bondholders, and then only as provided in the Authority’s agreement with the City. School District Tax Revenues collected by the State Comptroller for transfer to the Authority are not subject to appropriation by the State, the County or the City.

State Aid Revenues..... State Aid Revenues are defined as all general purpose local government aid; emergency financial assistance to certain cities; emergency financial assistance to eligible municipalities; supplemental municipal aid; and any successor type of aid and any new aid appropriated by the State as local government assistance for the benefit of the City, which are paid or payable to the Authority pursuant to the Act. See “SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—State Aid Revenues.” The Act provides that the City has no right, title or interest in or to State Aid Revenues required to be paid to the Authority, until after (i) payment of debt service, (ii) replenishment of reserves, and (iii) payment of operating expenses of the Authority pursuant to the Authority’s contracts with bondholders, and then only as provided in the Authority’s agreement with the City. Any provision of the Act with respect to State aid or State Aid Revenues shall be deemed executory only to the extent of moneys available, and no liability shall be incurred by the State beyond the moneys available for that purpose. Any payment by the State Comptroller to the Authority of State Aid Revenues is subject to annual appropriation of State aid by the State Legislature.

Enabling Legislation..... The Act provides for the issuance of bonds, notes and other evidence of indebtedness by the Authority, including the Bonds; the payment of the Bonds from the Revenues; the execution of swap contracts; the issuance of obligations of the City to the Authority in connection with the issuance of the Authority’s bonds, notes or other obligations for purposes other than deficit financing; and the statutory and contractual covenants of the Authority, the County, the City and the State.

Agreement of the State ..... The Act and the Indenture contain the covenant of the State with the Bondholders (the “State Covenant”) that the State shall not limit, alter or impair the rights vested in the Authority by the Act to fulfill the terms of the Indenture, or in any way impair the rights and remedies of such holders of the Bonds or the security for the Bonds until such Bonds, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders of the Bonds, are fully paid and discharged.

The State Constitution allows the State to amend, repeal, modify or otherwise alter statutes imposing or relating to the Local Sales Tax. City Tax Revenues and School District Tax Revenues collected by the State Comptroller for transfer to the Authority are not subject to appropriation by the State, the County or the City.

The Act does not restrict any right of the State to amend, repeal, modify or otherwise alter Section 54 of the State Finance Law or any other provision of State law relating to State aid to municipalities. Any payment by the State Comptroller to the Authority of State Aid Revenues is subject to annual appropriation of State aid by the State Legislature.

The State is not obligated to make any additional payments, impose any taxes or make available any additional State aid to satisfy the Debt Service obligations of the Authority. For more information regarding the State Covenant, see “SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—Agreements of the State, the County and the City.”

Agreement of the County ..... The Act and the Indenture contain the covenant of the County with the Bondholders (the “County Covenant”) that the County shall not limit, alter or impair the rights vested in the Authority by the Act to fulfill the terms of the Indenture, or in any way impair the rights and remedies of such holders of the Bonds or the security for the Bonds until such Bonds, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders of the Bonds, are fully paid and discharged. Nothing contained in the Act restricts any right the County may have to amend, modify, repeal or otherwise alter local laws, ordinances or resolutions affecting or relating to the Local Sales Tax, or appropriations relating to the Local Sales Tax, or the setting aside of net collections for educational purposes pursuant to Section 1262(a) of the State Tax Law, so long as, after giving effect to such amendment, modification or other alteration, the aggregate amount projected by the Authority of City Tax Revenues and School District Tax Revenues to be available to the Authority during each of its fiscal years following the effective date of such amendment, modification or other alteration is not less than 200% of maximum annual debt service on all Authority bonds then outstanding.

The Act requires the County to impose the Local Sales Tax at a rate of no less than 3% for the period ending June 30, 2037. The County is not obligated to make any payments or impose any taxes or set aside net collections for educational purposes pursuant to the authority of Section 1262(a) of the State Tax Law, except that the County shall impose the Local Sales Tax at a rate of no less than 3% for the period ending June 30, 2037. For more information regarding the County Covenant, see “SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—Agreements of the State, the County and the City.”

Agreement of the City ..... In accordance with the Act, the City has, in the Financing Agreement, pledged and agreed with the Bondholders (the “City Covenant”) that the City will not limit, alter or impair the rights and remedies of such Bondholders or the security for the Bonds until the Bonds, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders of the Bonds, are fully paid and discharged. Nothing contained in the Act or the Financing Agreement restricts the right of the City to amend, modify, repeal or otherwise alter any local law, ordinance or resolution affecting or relating to the City Tax Revenues, or appropriations relating to the City Tax Revenues, so long as, after giving effect to such amendment, modification or other alteration, the



aggregate amount projected by the Authority of City Tax Revenues and School District Tax Revenues to be available to the Authority during each of its fiscal years following the effective date of such amendment, modification or other alteration is not less than 200% of maximum annual debt service on all Authority bonds then outstanding.

The City further agrees that (i) it will not, without the Authority's prior approval, take any action, including the imposition of sales and compensating use taxes preempting the County's imposition of the Local Sales Tax, to terminate or alter the terms of the Local Sales Tax Agreement so as to reduce or eliminate the amount of net collections that the County distributes or is to distribute to the City, and (ii) if the City does impose sales and compensating use taxes, it shall do so pursuant to Section 1210 of the State Tax Law at the maximum rate authorized by such Section. The City is not obligated to make any payments or impose any taxes; except that, if the City imposes sales and compensating use taxes, it shall do so pursuant to Section 1210 of the State Tax Law at the maximum rate authorized by such Section. For more information regarding the City Covenant, see "SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—Agreements of the State, the County and the City."

Other Series of Bonds  
and Notes.....

Other Series of Bonds and Notes are expected to be issued from time to time by the Authority. See "SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—Additional Bonds."

The Act authorizes the issuance of bonds, notes and other obligations to finance (a) the refunding, repayment or restructuring of a portion of the City's outstanding indebtedness or that of any Covered Organization; (b) cash flow needs of the City or any Covered Organization; (c) any object or purpose of the City or any Covered Organization for which a period of probable usefulness is prescribed in Section 11.00 of the State Local Finance Law; (d) amounts necessary to finance a portion of the operating costs of the City or any Covered Organization, as provided under the Act and approved by the Authority; (e) debt service reserve funds in connection with such bonds, notes and other obligations; and (f) incidental costs in connection with such issuance; provided, however, that the aggregate principal amount of such bonds, notes or other obligations outstanding at any one time may not exceed \$175,000,000. The Authority may also issue bonds, notes or other obligations to refund obligations previously issued by the Authority. Bonds, notes or other obligations of the Authority issued (i) to pay reasonable costs of issuance, (ii) to establish debt service reserve funds, (iii) to refund or advance refund any outstanding bonds or notes of the City or the Authority, or (iv) as Cash Flow Borrowings will not count against the \$175,000,000 limitation described above. In any event, however, the Act limits to \$145,000,000 the aggregate principal amount of Cash Flow Borrowings that may be outstanding at any one time, and the Indenture limits the aggregate principal amount of outstanding Senior Bonds and Senior Notes to \$300,000,000. No Bond of the Authority may mature later than June 30, 2037, or more than 30 years from its date of issue.

The Indenture provides that (i) other Series of Bonds or Notes means those Bonds and Notes that may be issued: (A) as Senior Bonds or Senior Notes on a parity with other Series of Senior Bonds or Senior Notes, or (B) as Subordinate Bonds or Subordinate Notes; but (ii) no Series of Senior Bonds or Senior Notes on a parity with other Series of Senior Bonds and Senior Notes shall be authenticated and delivered unless the amount of City Tax

Revenues and School District Tax Revenues received by the Authority for the twelve consecutive calendar months ended not more than three months prior to the calculation date is at least three (3) times the amount of annual Debt Service, including Debt Service on the Series of Senior Bonds or Senior Notes proposed to be issued, for each fiscal year such Bonds or Notes will be Outstanding.

Upon the issuance of additional Senior Bonds, under the circumstances and in the amounts described herein under “SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—Additional Bonds,” the Authority will be required to deposit the amounts required in the Debt Service Reserve Account, which amounts will be available to pay Debt Service on all Senior Bonds. See “APPENDIX B—SUMMARY OF INDENTURE AND FINANCING AGREEMENT.”

Interest and Principal..... Interest on the Series 2004A Bonds will accrue from their dated date at the rates set forth on the inside cover page hereof and will be payable semiannually, commencing February 15, 2005. The record date for payment of interest on the Series 2004A Bonds is the last business day of the month preceding the interest payment date.

Principal will be due on the annual serial maturities and sinking fund installments as shown on the inside cover page and herein.

Interest and principal on the Bonds will be paid from the Revenues on deposit in the Bond Account or Redemption Account, if applicable. Revenues shall be deposited into the Bond Account in accordance with the retention schedule as described in “Retention Procedures” below.

Bond Insurance..... The scheduled payment of principal of and interest on the Series 2004A Bonds maturing in the years 2007 through 2014, inclusive (the “Insured Bonds”), will be insured by a financial guaranty insurance policy (the “Bond Insurance Policy”) issued by MBIA Insurance Corporation (the “Bond Insurer”) simultaneously with the delivery of the Series 2004A Bonds.

Form and Denomination..... The Series 2004A Bonds will be issued in book-entry form and will be denominated in principal amounts of \$5,000 and integral multiples thereof.

Indenture..... The Indenture provides for the issuance of the Bonds pursuant to the Act, including the Authority’s pledge to the Trustee of the Revenues, accounts and statutory and contractual covenants contained therein. The Trustee is authorized to enforce the Indenture and such covenants against the Authority, the County, the City and the State.

Financing Agreement ..... The Financing Agreement provides for the application of bond proceeds to pay Financeable Costs, including funding certain expenditures of the City, and includes covenants of the City pledged to the benefit of Bondholders.

Collection Account..... The State Comptroller is required by the Act, on or before the twelfth day of each month, to pay City Tax Revenues and School District Tax Revenues collected during the next preceding calendar month (with partial payments to be made on or before the last day of June and December consisting of collections made during the first 25 days of such months) to the Authority for application in accordance with the Act. The State Comptroller is also required to pay State Aid Revenues to the Authority pursuant to the Act. The Authority has instructed the State Comptroller to pay City Tax

Revenues, School District Tax Revenues and State Aid Revenues directly to the Trustee for application in accordance with the Act and the Indenture. See “Application of Revenues” below.

All Revenues received by the Authority are deposited immediately into the Collection Account.

Bond Account..... The Bond Account is held by the Trustee in accordance with the terms of the Indenture. The Trustee shall deposit amounts from the Collection Account into the Bond Account (i) in accordance with the procedures described below for the payment of Debt Service, and (ii) to provide for the payment of Notes and Senior Agreements, if any, that are to be paid out of the Bond Account on a parity with the Senior Bonds. Currently the Authority is not a party to any Senior Agreements.

Application of Revenues ..... All Revenues in the Collection Account shall be applied upon receipt by the Trustee in the following order of priority: first, to the Bond Account or Redemption Account to pay Debt Service in accordance with the Retention Procedures described in the paragraph below and the amount, if any, necessary to replenish the Debt Service Reserve Account to the extent of any withdrawal therefrom; second, to pay debt service on any Subordinate Bonds or Subordinate Notes and the amount, if any, necessary to replenish any reserve accounts established in connection therewith, and any other amounts pursuant to Supplemental Indentures for the benefit of Subordinate Noteholders, Subordinate Bondholders and parties to Subordinate Agreements; third, to the Authority’s operating expenses, including deposits to the Redemption Account for optional redemption of the Senior Bonds, if any, and any reserves held by the Authority for payment of operating expenses; and fourth, to the City and the School District, as soon as practicable, free and clear of the lien of the Indenture.

Retention Procedures..... At the beginning of each calendar month, the Trustee will first transfer Revenues from the Collection Account to the Bond Account in an amount equal to Accrued Debt Service. In order to provide for the timely payment of Debt Service on each payment date, Accrued Debt Service has been defined under the Indenture to account for a number of variables, such as: any accrued or capitalized interest deposited in the Bond Account and available for the payment of Debt Service on a given payment date; any other amounts held by the Trustee and irrevocably pledged to the payment of Debt Service; actual rates of interest on Notes or Bonds; any interim purchase or redemption of Notes or Bonds that reduces the amount of Debt Service payable on the next payment date; and other similar factors. In addition, the Indenture provides that sufficient moneys will in any event be retained in the Bond Account to ensure that the amount of moneys required to pay Debt Service on the next succeeding payment date will be available for such purpose two months prior to such payment date; provided, however, that any failure so to retain sufficient moneys will not constitute an Event of Default under the Indenture.

Tax Exemption ..... In the opinion of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., Bond Counsel to the Authority, under existing law, interest on the Series 2004A Bonds is exempt from personal income taxes imposed by the State and its political subdivisions, and, assuming compliance with the tax covenants referred to herein, interest on the Series 2004A Bonds is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended. See “SECTION VI: TAX MATTERS.”

Ratings..... The Series 2004A Bonds, other than the Insured Bonds, are rated “Aa3” by Moody’s Investors Service, Inc. (“Moody’s”) and “AA-” by Fitch Ratings (“Fitch”). The ratings on the Insured Bonds will be based on the Bond Insurance Policy. The Insured Bonds are rated “Aaa” by Moody’s, “AAA” by Standard & Poor’s, a division of The McGraw-Hill Companies, Inc., and “AAA” by Fitch. A security rating should be evaluated independently of similar ratings of different types of securities. A rating is not a recommendation to buy, sell or hold securities and may be subject to a revision or withdrawal at any time by the assigning rating organization. See “SECTION VII: RATINGS.”

Authority Contact..... Ms. Bertha H. Mitchell, Chief Financial Officer  
Buffalo Fiscal Stability Authority  
Market Arcade Building, Suite 400  
617 Main Street  
Buffalo, New York 14203  
Phone Number: (716) 853-0907

## SECTION I: INTRODUCTION

This Offering Circular of the Buffalo Fiscal Stability Authority (the “Authority”) sets forth information concerning the Authority in connection with the sale of the Authority’s Sales Tax and State Aid Secured Bonds, Series 2004A (the “Series 2004A Bonds”). All Series of Bonds issued hereafter under the Indenture (defined below), including the Series 2004A Bonds, are hereinafter referred to as the “Bonds.” The Authority is a corporate governmental agency and instrumentality of the State of New York (the “State”) constituting a public benefit corporation created by the Buffalo Fiscal Stability Authority Act, Chapter 122 of the Laws of 2003, as amended from time to time (the “Act”).

The Series 2004A Bonds are being issued as Senior Bonds pursuant to an Indenture, dated as of June 1, 2004, as amended and supplemented from time to time (the “Indenture”), including as supplemented by the First Supplemental Indenture, dated as of June 1, 2004 (the “First Supplemental Indenture”), each by and between the Authority and The Bank of New York, as trustee (the “Trustee”). See “SECTION XIV: TRUSTEE.” The Authority and the City of Buffalo, New York (the “City”) have entered into a Financing Agreement, dated as of June 1, 2004 (the “Financing Agreement”), which provides, among other things, for the application of Bond proceeds. A summary of certain provisions of the Indenture and the Financing Agreement, together with certain defined terms used therein and in this Offering Circular, are contained in “APPENDIX B—SUMMARY OF INDENTURE AND FINANCING AGREEMENT.”

The proceeds of the Series 2004A Bonds will be deposited in the Bond Proceeds Fund established under the Financing Agreement (or in escrow accounts in the case of refundings or restructurings) and held by the Trustee to be used, along with other moneys of the Authority, if any, to provide for the payment of certain Financeable Costs, consisting of operating costs of the City, and to pay costs of issuance.

The Bonds are payable from the Authority’s Revenues which consist primarily of City Tax Revenues, School District Tax Revenues and State Aid Revenues (each as defined herein). In accordance with the Act, Revenues are applied in the following general order of priority: first, pursuant to the Authority’s contracts with bondholders, including for the payment of Debt Service and to replenish any reserve funds securing the obligations of the Authority, then, in the order of priority provided in the Indenture and the Financing Agreement, to pay Authority expenses not otherwise provided for, and then to the City and the City’s dependent school district (the “School District”), as frequently as practicable. Concurrently with the delivery of the Series 2004A Bonds, MBIA Insurance Corporation (the “Bond Insurer”) will issue a financial guaranty insurance policy (the “Bond Insurance Policy”) with respect to the Series 2004A Bonds maturing in the years 2007 through 2014, inclusive (the “Insured Bonds”). Pursuant to the Bond Insurance Policy, the Bond Insurer will insure the scheduled payment when due of principal of and interest on the Insured Bonds.

On July 3, 2003, the Governor signed into law the Act creating the Authority. Under the Act, the Authority has a broad range of financial control and oversight powers with respect to the City’s finances and the finances of any non-exempted covered organizations, including the School District (“Covered Organizations”). Under the Act, the Authority began its existence during a City “control period”, which means that the Authority commenced operation with its maximum authorized complement of financial control and oversight powers. As such, the Authority is required to review and comment on the terms of each proposed borrowing of the City, including the prudence of each proposed issuance of bonds or notes to be issued by the City, and no such borrowing can be undertaken unless first reviewed, commented upon and approved by the Authority. In addition, following a declaration of need by the City, the Act authorizes the Authority to issue its own bonds, notes and other obligations on behalf of the City to pay Financeable Costs, all as more fully described below. See “SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—Additional Bonds.”

Amendments to the Act were passed by the State Legislature and signed into law by the Governor on May 26, 2004. Among other things, the amendments provide the Authority with (i) additional financial resources for the payment and security of the Authority’s bonds; (ii) expanded bond issuance authority; and (iii) enhanced covenants regarding minimum debt service coverage and non-impairment of bondholders’ rights.

The Act authorizes the issuance of bonds, notes and other obligations to finance (a) the refunding, repayment or restructuring of a portion of the City’s outstanding indebtedness or that of any Covered Organization; (b) cash flow needs of the City or any Covered Organization; (c) any object or purpose of the City or any Covered Organization for which a period of probable usefulness is prescribed in Section 11.00 of the State Local Finance

Law; (d) amounts necessary to finance a portion of the operating costs of the City or any Covered Organization, as provided under the Act and approved by the Authority; (e) debt service reserve funds in connection with such bonds, notes and other obligations; and (f) incidental costs in connection with such issuance; provided, however, that the aggregate principal amount of such bonds, notes or other obligations outstanding at any one time may not exceed \$175,000,000. The Authority may also issue bonds, notes or other obligations to refund obligations previously issued by the Authority. Bonds, notes or other obligations of the Authority issued (i) to pay reasonable costs of issuance, (ii) to establish debt service reserve funds, (iii) to refund or advance refund any outstanding bonds or notes of the City or the Authority, or (iv) as Cash Flow Borrowings will not count against the \$175,000,000 limitation described above. In any event, however, the Act limits to \$145,000,000 the aggregate principal amount of Cash Flow Borrowings that may be outstanding at any one time, and the Indenture limits the aggregate principal amount of outstanding Senior Bonds and Senior Notes to \$300,000,000. No Bond of the Authority may mature later than June 30, 2037, or more than 30 years from its date of issue. For additional information regarding the issuance of parity or subordinate obligations of the Authority, see “SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—Additional Bonds.” The Act also provides for the execution of swap contracts; the issuance of obligations of the City to the Authority in connection with the issuance of the Authority’s bonds, notes or other obligations for purposes other than deficit financing; and the statutory and contractual covenants of the Authority, the County, the City and the State.

## **SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS**

### **General**

The Act authorizes the Authority to issue debt and to secure the repayment of such debt with a pledge of the Authority’s right, title and interest in the Revenues of the Authority, which are required by the Act to be paid to the Authority. In accordance with the Act, Revenues are applied in the following general order of priority: first, pursuant to the Authority’s contracts with bondholders, including for the payment of Debt Service and to replenish any reserve funds securing the obligations of the Authority, then, in the order of priority provided in the Indenture and the Financing Agreement, to pay Authority expenses not otherwise provided for, and then to the City and the School District, as frequently as practicable. The Authority’s Revenues, which consist primarily of City Tax Revenues and School District Tax Revenues, which are paid or payable to the Authority pursuant to Section 1261 of the State Tax Law, State Aid Revenues which are paid or payable to the Authority pursuant to the Act, and investment earnings on money and investments on deposit in the Accounts established under the Indenture, are the only source of payment for the holders of the Bonds. See “SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—City Tax Revenues” below. Pursuant to the Act and the Indenture, the Authority has pledged the Revenues to the Trustee for payment of the Bonds. The Act provides that the Authority’s pledge of its Revenues represents a perfected first security interest on behalf of the holders of the Bonds. The lien of the Indenture on the Revenues for the security of the Bonds is prior to all other liens thereon.

The Authority does not have, nor is it expected to have, any significant assets or sources of funds other than City Tax Revenues, School District Tax Revenues, State Aid Revenues and amounts on deposit pursuant to the Indenture. Neither the City, the County, the State nor the Trustee will insure or guarantee the Series 2004A Bonds. The State is not obligated to make any additional payments, impose any taxes or make available any additional State aid to satisfy the Debt Service obligations of the Authority. The County is not obligated to make any payments or impose any taxes or set aside net collections for educational purposes pursuant to the authority of Section 1262(a) of the State Tax Law, except that the County shall impose the Local Sales Tax (defined below) at a rate of no less than 3% for the period ending June 30, 2037. The City is not obligated to make any payments or impose any taxes; except that, if the City imposes sales and compensating use taxes, it shall do so pursuant to Section 1210 of the State Tax Law at the maximum rate authorized by such Section.

Under the Act, the Authority is not authorized to file a petition in bankruptcy pursuant to Title 11 (the “Bankruptcy Code”) of the United States Code. The Act also prohibits the City and the Covered Organizations from filing any petition with any United States district court or court of bankruptcy for the composition or adjustment of municipal indebtedness without the approval of the Authority and the State Comptroller, and no such petition may be filed while Authority bonds or notes remain Outstanding. Under the Act, the term Covered Organizations specifically includes the Buffalo City School District, the Joint Schools Construction Board, described in Chapter 605 of the Laws of 2000, as amended, and the Buffalo Municipal Housing Authority, and any governmental agency, public authority or public benefit corporation which receives or may receive moneys directly, indirectly or contingently from the City (other than the Authority and any State public authority defined in Section 201 of the

State Civil Service Law). Any such governmental agency, public authority or public benefit corporation may be exempted from the provisions of the Act by order of the Authority upon a finding by the Authority that such exemption does not materially affect the ability of the City to adopt and maintain a budget pursuant to the provisions of the Act. The Act also provides that the Authority may terminate any exemption granted by it upon a determination that the circumstances upon which the exemption was granted are no longer applicable. Under the authority of the Act, on January 21, 2004, the Authority adopted a resolution which (i) specifically determined that the Buffalo City School District, the Buffalo Municipal Housing Authority, the Buffalo Sewer Authority, the Buffalo Urban Renewal Agency, the Joint Schools Construction Board, the Buffalo Water Board and the Buffalo Water Finance Authority are to be Covered Organizations; and (ii) granted exemptions from the Authority's financial control and oversight powers to the Buffalo Sewer Authority, the Buffalo Water Board, and the Buffalo Municipal Water Finance Authority.

## **Revenues**

The Bonds are payable from the Authority's Revenues, which consist of (i) City Tax Revenues, which are paid or payable to the Authority pursuant to Section 1261 of the State Tax Law; (ii) School District Tax Revenues, which are paid or payable to the Authority pursuant to Section 1261 of the State Tax Law; (iii) State Aid Revenues, which are paid or payable to the Authority pursuant to the Act; and (iv) all other aid, rents, fees, charges, gifts, payments and other income and receipts paid or payable to the Authority or a trustee for the account of the Authority, to the extent such amounts are pledged to Bondholders.

### **City Tax Revenues**

City Tax Revenues are presently defined as that portion of the County's net collections from sales and compensating use taxes, penalties and interest that is payable to the City under the agreement among the City, the County and the cities of Lackawanna and Tonawanda (the "Local Sales Tax Agreement") authorized by Section 1262(c) of the State Tax Law. Such sales and compensating use taxes are authorized by the State and imposed by the County, currently at the rate of 4%, on the sale and use of tangible personal property and services in the County (the "Local Sales Tax"). The Act requires the County to impose the Local Sales Tax at a rate of no less than 3% for the period ending June 30, 2037. Under the Local Sales Tax Agreement, the City is presently entitled to receive a pro rata share, on the basis of population, of (i) an amount equal to 10.0087% of the net collections from such 3%, which amount is shared among the City, Lackawanna and Tonawanda, and (ii) an amount equal to 25.6858% of the net collections from such 3%, which amount is shared among the City, Lackawanna, Tonawanda and the towns within the County. The Act provides that the City has no right, title or interest in or to City Tax Revenues required to be paid to the Authority, until after payment of debt service, replenishment of reserves and payment of operating expenses of the Authority pursuant to the Authority's contracts with bondholders and then as provided in the Authority's agreement with the City. City Tax Revenues collected by the State Comptroller for transfer to the Authority are not subject to appropriation by the State, the County or the City. The Local Sales Tax is one of the major sources of revenue for the City, accounting for approximately 16% of City revenues in the City's general fund for the fiscal year ending June 30, 2003. The current total sales tax rate in the County is 8¼%, of which 4¼% is the State's share and 4% is the Local Sales Tax. For a description of the servicing and application of City Tax Revenues, see "SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—Servicing—Sales Tax Collection" and "SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—Application of Revenues" below.

Pursuant to authorizing legislation enacted by the State in 1965, the County has imposed a Local Sales Tax since August 1, 1965, at a base rate initially of 2%, which base rate was increased to 3% in 1972. In addition, since 1984, with the exception of a nine-day period in January 1988, enabling legislation has been enacted periodically by the State permitting the County to increase the Local Sales Tax rate by one percent, from the base rate of 3% to 4%; the additional 1% has historically been used solely for County purposes.

The County Legislature has adopted local laws to implement the State's authorization to impose the additional 1% through February 28, 2005, the current limit of the State's authorization for such incremental increase. No assurance can be given that either the County Legislature or the State will enact legislation extending the effective date of the additional 1% component of the Local Sales Tax beyond February 28, 2005. If such provisions are not renewed, the County is required by the Act to maintain the existing 3% base rate.

In the event that the City, with the approval of the Authority, imposes sales and compensating use taxes pursuant to the authority of Section 1210 of the State Tax Law, City Tax Revenues will also include net collections from such City-imposed taxes. The Act provides that if the City imposes such sales and compensating use taxes, it must do so at the maximum rate authorized by the Tax Law. There can be no assurance that the City will independently impose such sales and compensating use taxes. Moreover, the amount of future City Tax Revenues to be collected depends upon various factors including the economic conditions in the County. Economic conditions in the County have reflected numerous cycles of growth and recession. There can be no assurance that historical data relating to economic conditions in the County are predictive of future trends. For more information regarding the economic conditions in the County, see "APPENDIX A—INFORMATION REGARDING THE CITY OF BUFFALO." In addition, the State has in the past enacted amendments to the Tax Law to exempt specified goods and services from the imposition of the sales and compensating use tax, or to reduce the rate of the sales tax on such goods and services. There can be no assurance that future proposals will not result in additional exemptions or reductions.

The following table sets forth the history of the City's revenue from the County's Local Sales Tax collections since fiscal year ending 1987. From fiscal year ending 1987 to fiscal year ending 2003, the average annual compound growth rate for City revenue from Local Sales Tax collections was approximately 3.20%.

**CITY TAX REVENUE FROM  
SALES TAX COLLECTIONS**

<u>Fiscal Year</u>	<u>Actual City Tax Revenues</u>	<u>Fiscal Year</u>	<u>Actual City Tax Revenues</u>
1987	\$36,338,925.33	1996	\$51,870,157.01
1988	37,121,635.76	1997	52,901,642.59
1989	41,528,172.12	1998	52,238,482.39
1990	43,518,406.59	1999	55,117,269.04
1991	43,797,461.04	2000	59,794,784.11
1992	44,814,394.22	2001	56,757,198.52
1993	47,090,721.39	2002	58,349,059.95
1994	47,254,401.84	2003	60,170,259.58
1995	49,995,910.79	2004	37,257,153.00*

\* Through eight months, per Authority calculations based on State Department of Taxation and Finance data. The same eight month figure in fiscal year ending 2003, as calculated by the Authority, was \$35,551,692.00.  
SOURCE: County.

As set forth in the following table of New York State's top retailing counties, the most recent economic census in 1997 showed the County to be ranked sixth in the State for retail sales.

**NEW YORK STATE TOP RETAILING COUNTIES  
(000's omitted)**

	<u>1997 Rank</u>	<u>1997 Retail Trade</u>	<u>1992 Rank</u>	<u>1992 Retail Trade</u>
New York (Manhattan)	1	\$19,502,446	1	\$17,442,237
Nassau	2	16,483,581	2	13,752,351
Suffolk	3	13,509,684	3	10,795,088
Westchester	4	9,188,974	4	7,441,033
Queens	5	8,755,996	5	7,331,563
Erie	6	8,036,261	6	7,244,316
Kings	7	7,983,578	7	6,922,469
Monroe	8	6,513,211	8	5,607,577
Onondaga	9	4,372,310	9	3,814,020
Albany	10	3,567,220	10	3,045,916

SOURCE: U.S. Census Bureau, Retail Trade.



**School District Tax Revenues**

School District Tax Revenues are presently defined as that portion of the County’s net collections from the Local Sales Tax that is payable to the School District by the County pursuant to Section 1262(a) of the State Tax Law. The Act requires the County to impose the Local Sales Tax at a rate of no less than 3% for the period ending June 30, 2037. The School District presently receives a pro rata share of an amount equal to 29% of the net collections from such 3%, which amount is shared among all school districts with territory in the County; the School District’s pro rata share is calculated on the basis of average daily attendance of public school pupils who are residents of the County. The Act provides that the School District has no right, title or interest in or to School District Tax Revenues required to be paid to the Authority, until after payment of debt service, replenishment of reserves and payment of operating expenses of the Authority pursuant to the Authority’s contracts with bondholders and then as provided in the Authority’s agreement with the City. School District Tax Revenues collected by the State Comptroller for transfer to the Authority are not subject to appropriation by the State, the County or the City.

The following table sets forth the history of the School District’s revenue from the County’s Local Sales Tax collections since fiscal year ending 1987. From fiscal year ending 1987 to fiscal year ending 2003, the average annual compound growth rate for School District revenue from Local Sales Tax collections was approximately 2.99%.

**SCHOOL DISTRICT TAX REVENUE FROM SALES TAX COLLECTIONS**

<u>Fiscal Year</u>	<u>Actual School District Tax Revenues</u>	<u>Fiscal Year</u>	<u>Actual School District Tax Revenues</u>
1987	\$18,826,221.53	1996	\$26,470,333.55
1988	19,255,728.32	1997	27,043,167.74
1989	21,758,304.53	1998	26,514,382.75
1990	22,800,257.17	1999	27,703,966.06
1991	23,502,354.07	2000	29,601,721.33
1992	24,186,025.32	2001	28,905,983.32
1993	25,312,650.55	2002	29,228,923.38
1994	24,964,824.71	2003	30,150,448.52
1995	25,810,287.75	2004*	18,687,910.00

\* Through eight months, per Authority calculations based on State Department of Taxation and Finance data. The same eight month figure in fiscal year ending 2003, as calculated by the Authority, was \$17,832,464.00.  
SOURCE: County.

The amount of future School District Tax Revenues to be collected depends upon various factors including the economic conditions in the County. Economic conditions in the County have reflected numerous cycles of growth and recession. There can be no assurance that historical data relating to economic conditions in the County are predictive of future trends. For more information regarding the economic conditions in the County, see “APPENDIX A—INFORMATION REGARDING THE CITY OF BUFFALO.” In addition, the State has in the past enacted amendments to the Tax Law to exempt specified goods and services from the imposition of the sales and compensating use tax, or to reduce the rate of the sales tax on such goods and services. There can be no assurance that future proposals will not result in additional exemptions or reductions.

**Sales Tax Collection and Distribution**

Sales tax is collected by vendors and service providers in the County and remitted to the New York State Department of Taxation and Finance monthly, quarterly or annually based on the volume of sales. The New York State Department of Taxation and Finance reports the amounts of such collections to the State Comptroller, and such amounts are deposited daily with such banks, banking houses or trust companies as may be designated by the State Comptroller, to the credit of the State Comptroller in trust for the Authority to the extent net collections from Local Sales Tax imposed by the County are payable to the Authority. After retaining such amount as the State Commissioner of Taxation and Finance may determine to be necessary for refunds and for the reasonable costs of the State Tax Commissioner in administering, collecting and distributing such taxes, on or before the twelfth day of

each month, the State Comptroller is required to pay to the Authority all City Tax Revenues and School District Tax Revenues collected during the next preceding calendar month; provided, however, that the State Comptroller is required to make a partial payment on or before the last day of June and December consisting of collections made during and including the first 25 days of such months. The amount of City Tax Revenues and School District Tax Revenues received by the Authority each month in a year may vary from the amount for such month received by the Authority in prior years because of the impact of amounts deducted from or added to such payments to reflect the recalculation by the New York State Department of Taxation and Finance of actual amounts of Local Sales Tax collected. The Authority has instructed the State Comptroller to pay City Tax Revenues and School District Tax Revenues directly to the Trustee for application in accordance with the Act and the Indenture. For more information regarding the application of City Tax Revenues upon receipt by the Trustee, see "SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—Application of Revenues" below. The following tables set forth, on a cash basis, monthly distributions of the City's share and the School District's share, respectively, of Local Sales Tax collections since January 2000.

**MONTHLY CITY TAX  
REVENUE DISTRIBUTIONS**

<u>Month</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
January	\$2,337,105	\$1,563,147	\$1,800,154	\$1,353,323	\$1,206,847*
February	4,831,613	4,495,483	4,938,537	4,627,455	5,071,600*
March	3,549,941	3,371,971	3,612,731	3,725,415	4,221,452*
April	6,336,499	6,774,992	5,614,839	6,838,554	5,131,402*
May	4,256,554	4,186,320	4,414,755	4,277,663	4,822,963*
June	8,568,134	8,456,110	8,352,873	8,881,495	
July	1,875,575	1,423,708	1,495,682	1,742,482*	
August	4,867,883	4,443,691	4,470,996	4,856,774*	
September	4,301,496	4,212,318	4,309,011	4,641,642*	
October	5,757,417	5,196,631	6,061,427	5,776,391*	
November	4,590,363	3,937,301	4,397,964	4,515,651*	
December	8,972,215	8,798,825	8,835,834	9,445,765*	
<b>TOTALS</b>	<b>\$60,244,795</b>	<b>\$56,860,497</b>	<b>\$58,304,803</b>	<b>\$60,682,610</b>	<b>\$20,454,264</b>

\* Received by Authority.  
SOURCE: Authority

**MONTHLY SCHOOL DISTRICT  
TAX REVENUE DISTRIBUTIONS**

<u>Date</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
January	\$1,140,289	\$ 782,677	\$ 902,944	\$ 678,817	\$ 605,345
February	2,357,376	2,250,916	2,477,133	2,321,097	2,543,877
March	1,732,040	1,688,366	1,812,119	1,868,640	2,108,753
April	3,091,620	3,392,280	2,816,361	3,430,167	2,563,302
May	2,076,801	2,096,116	2,214,408	2,145,644	2,409,227*
June	4,180,449	4,234,026	4,189,739	4,454,892	
July	915,105	712,859	750,223	874,016	
August	2,375,072	2,224,983	2,242,618	2,436,121	
September	2,098,728	2,109,133	2,161,368	2,328,213	
October	2,809,082	2,601,985	3,040,367	2,897,395	
November	2,190,410	1,974,921	2,205,986	2,265,017	
December	4,281,324	4,413,425	4,431,988	4,737,925	
<b>TOTALS</b>	<b>\$29,248,296</b>	<b>\$28,481,687</b>	<b>\$29,245,254</b>	<b>\$30,437,944</b>	<b>\$10,230,504</b>

\* Under the Act, School District Tax Revenues will be distributed to the Authority beginning July 1, 2004.  
SOURCE: Authority

Historically, both the City and the School District have received a portion of the County-wide, 3% sales tax collected by the State. This tax is in addition to the 4.25% State sales tax, the proceeds of which remain with the State, and a 1% County sales tax retained entirely by the County. The 3% that is not retained entirely by the County is distributed in accordance with the Local Sales Tax Agreement, effective January 1, 1978. The Local Sales Tax Agreement provides that any party thereto may terminate the agreement upon one year's prior written notice. In the Act, the City has covenanted and agreed that (i) it will not take any action, without the Authority's consent, which would terminate or alter the terms of the Local Sales Tax Agreement and thereby reduce or eliminate the amount to be received by the City thereunder, including without limitation the imposition by the City of sales and compensating use taxes preempting the County's imposition of the Local Sales Tax; and (ii) if the City imposes such sales and compensating use taxes, it will do so at the maximum rate authorized by Section 1210 of the Tax Law.

**State Aid Revenues**

State Aid Revenues are defined as all general purpose local government aid; emergency financial assistance to certain cities; emergency financial assistance to eligible municipalities; supplemental municipal aid; and any successor type of aid and any new aid appropriated by the State as local government assistance for the benefit of the City, which are paid or payable to the Authority pursuant to the Act. The Act provides that the City will have no right, title or interest in or to State Aid Revenues required to be paid to the Authority, except after payment of debt service and operating expenses of the Authority pursuant to the Authority's contracts with bondholders and then as provided in the Authority's agreement with the City.

Any provision of the Act with respect to State aid or State Aid Revenues shall be deemed executory only to the extent of moneys available, and no liability shall be incurred by the State beyond the moneys available for that purpose. Any payment by the State Comptroller to the Authority of State Aid Revenues is subject to annual appropriation of State aid by the State Legislature.

The City has previously entered into agreements with the New York State Municipal Bond Bank Authority (the "MBBA"), pursuant to which certain local government assistance aid otherwise payable to the City is applied to the payment of debt service on \$25,180,000 original principal amount of Special Program Bonds issued by the MBBA (the "MBBA Bonds") for the benefit of the City on December 5, 1991. A portion of the proceeds of the MBBA Bonds was used to finance the repayment of property taxes required to be returned to taxpayers by the City as a result of the decision of the New York State Court of Appeals in 1974 in Hurd v. City of Buffalo and related litigation. The City is obligated to make annual payments to the MBBA for payment of debt service on the MBBA Bonds and related expenses in the amount of approximately \$2.766 million through March 15, 2006.

The following table sets forth the history of the City's State Aid Revenues on a State fiscal year basis since the fiscal year of the State ending 1990. The amount of State Aid Revenues received by the City is subject to annual State appropriation and other factors, and historical State Aid Revenues cannot be relied upon to predict future State Aid Revenues.

**ANNUAL STATE AID REVENUE  
DISTRIBUTIONS**

<u>Fiscal Year</u>	<u>State Aid Revenues</u>	<u>Fiscal Year</u>	<u>State Aid Revenues</u>
1990	\$72,216,396	1998	\$66,124,223
1991	66,884,290	1999	74,065,223
1992	56,036,606	2000	80,731,890
1993	47,646,383	2001	102,772,529
1994	47,646,383	2002	102,772,529
1995	52,413,847	2003	102,772,529
1996	52,962,359	2004	102,772,529*
1997	59,413,847		

\* Of the total amount shown, \$51,955,464 was received by Authority in March 2004.  
SOURCE: Authority.

## Authority Bonds

Pursuant to the Act, the Authority has the power to issue its bonds, notes and other obligations to finance (a) the refunding, repayment or restructuring of a portion of the City's outstanding indebtedness or that of any Covered Organization; (b) cash flow needs of the City or any Covered Organization; (c) any object or purpose of the City or any Covered Organization for which a period of probable usefulness is prescribed in Section 11.00 of the State Local Finance Law; (d) amounts necessary to finance a portion of the operating costs of the City or any Covered Organization, as provided under the Act and approved by the Authority; (e) debt service reserve funds in connection with such bonds, notes and other obligations; and (f) incidental costs in connection with such issuance. Bonds may only be issued by the Authority upon a request therefor by the City made by the Mayor and approved by the City Council. Any such issuance of Bonds shall be at the discretion of the Authority. No Bond of the Authority may mature later than June 30, 2037, or more than 30 years from its date of issue. Bonds of the Authority may be issued, amortized, redeemed and refunded without regard to the provisions of the State's Local Finance Law.

The total anticipated Debt Service payable on the Series 2004A Bonds is set forth herein in the table entitled "Debt Service on Series 2004A Bonds" under the heading "SECTION III: THE SERIES 2004A BONDS—Debt Service Requirements."

## Debt Service Coverage on Senior Bonds

The Authority cannot predict the amounts of additional Senior Bonds, if any, that the Authority will issue as requested by the City and approved by the Authority, except that in any event the Indenture limits the aggregate principal amount of outstanding Senior Bonds and Senior Notes to \$300,000,000. The following table shows coverage of maximum annual Debt Service on the Series 2004A Bonds by historical City Tax Revenues, School District Tax Revenues and State Aid Revenues. Maximum annual Debt Service on the Series 2004A Bonds will be \$3,304,050 occurring in fiscal year ending 2011. See "SECTION III: THE SERIES 2004A BONDS—Debt Service Requirements."

### DEBT SERVICE COVERAGE ON SERIES 2004A BONDS BY HISTORICAL CITY TAX REVENUES, SCHOOL DISTRICT TAX REVENUES AND STATE AID REVENUES

<u>Year</u>	<u>City Tax/School District Tax Revenues</u>	<u>City Tax/School District Tax/ State Aid Revenues</u>	<u>Maximum Annual Debt Service Coverage (City Tax/School District Tax Revenues)</u>	<u>Maximum Annual Debt Service Coverage (All Revenues)</u>
1990	\$66,318,664	\$138,535,060	20.07	41.93
1991	67,299,815	134,184,105	20.37	40.61
1992	69,000,420	125,037,026	20.88	37.84
1993	72,430,372	120,076,755	21.92	36.34
1994	72,219,227	119,865,610	21.86	36.28
1995	75,806,199	128,220,046	22.94	38.81
1996	78,340,491	131,302,850	23.71	39.74
1997	79,944,810	139,358,657	24.20	42.18
1998	78,752,865	144,877,088	23.84	43.85
1999	82,821,235	156,886,458	25.07	47.48
2000	89,396,505	170,128,395	27.06	51.49
2001	85,663,182	188,435,711	25.93	57.03
2002	87,577,983	190,350,512	26.51	57.61
2003	90,320,708	193,093,237	27.34	58.44

## Additional Bonds

The aggregate principal amount of the Authority's bonds, notes or other obligations that may be Outstanding at any one time may not exceed \$175,000,000. The Authority may also issue its bonds, notes or other

obligations to refund obligations previously issued by the Authority. Bonds, notes or other obligations of the Authority issued (i) to pay reasonable costs of issuance, (ii) to establish debt service reserve funds, (iii) to refund or advance refund any outstanding bonds or notes of the City or the Authority, or (iv) as Cash Flow Borrowings will not count against the \$175,000,000 limitation described above. In any event, however, the Act limits to \$145,000,000 the aggregate principal amount of Cash Flow Borrowings that may be outstanding at any one time, and the Indenture limits the aggregate principal amount of outstanding Senior Bonds and Senior Notes to \$300,000,000. No Bond of the Authority may mature later than June 30, 2037, or more than 30 years from its date of issue.

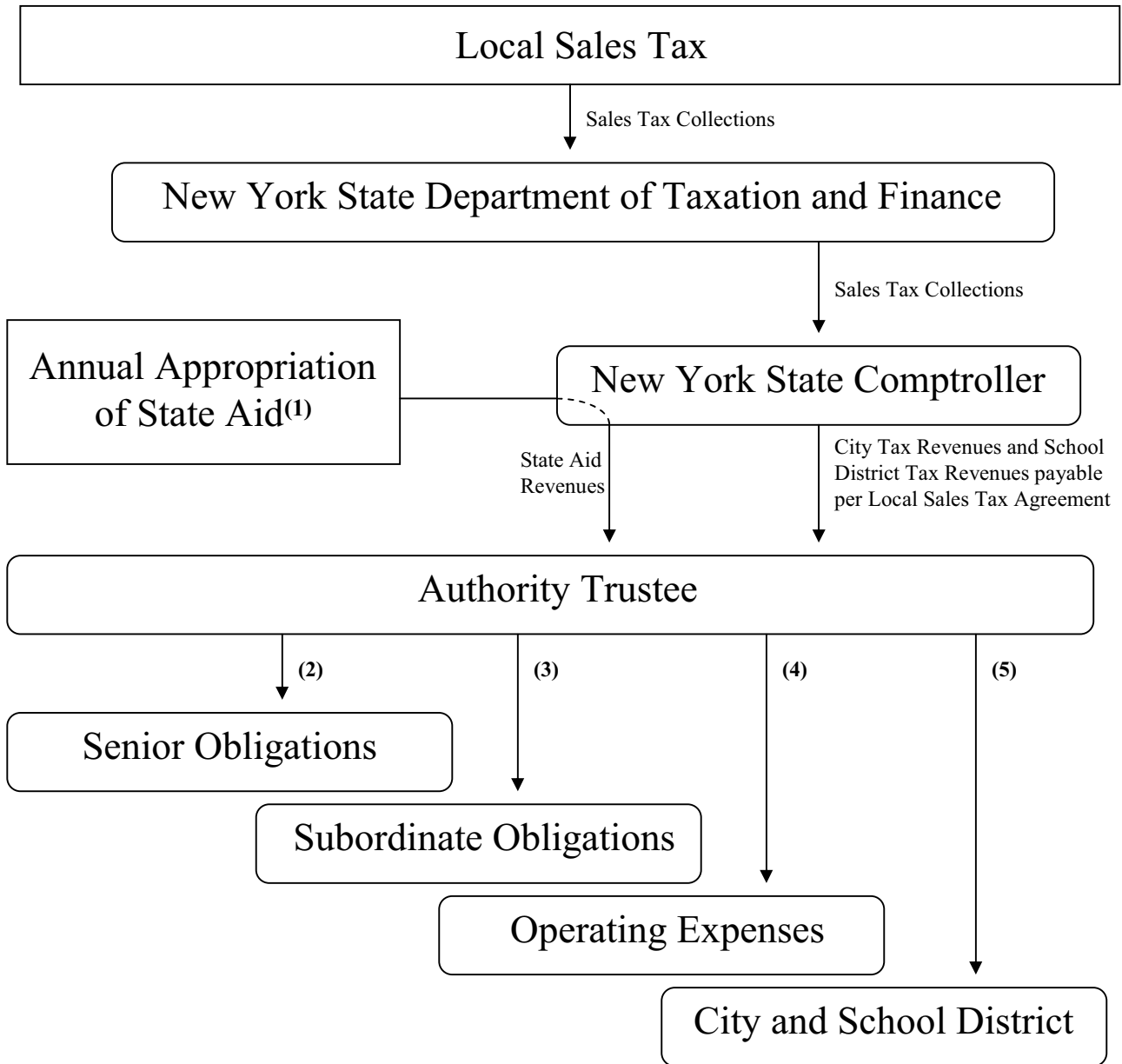
The Indenture provides that (i) other Series of Bonds or Notes may be issued only (A) as Senior Bonds or Senior Notes on a parity with other Series of Senior Bonds or Senior Notes, or (B) as Subordinate Bonds or Subordinate Notes; but (ii) no Series of Senior Bonds or Senior Notes on a parity with other Series of Senior Bonds or Senior Notes shall be authenticated and delivered unless the amount of City Tax Revenues and School District Tax Revenues received by the Authority for the twelve consecutive calendar months ended not more than three months prior to the calculation date is at least three (3) times the amount of annual Debt Service (excluding any accrued or capitalized interest), including Debt Service on such Series of Senior Bonds and Senior Notes proposed to be issued, for each Fiscal Year such Bonds or Notes will be Outstanding. See “APPENDIX B—SUMMARY OF INDENTURE AND FINANCING AGREEMENT.”

In addition, no Senior Bonds may be issued unless there is deposited to the Debt Service Reserve Account from the proceeds of such Bonds the amount required to satisfy the applicable Debt Service Reserve Account Requirement. Amounts on deposit in the Debt Service Reserve Account are held in trust under the Indenture and applied to remedy any shortfall in the Bond Account in amounts due on Debt Service, except that money on deposit in such account in excess of the Debt Service Reserve Account Requirement will be transferred to the Collection Account. The Debt Service Reserve Requirement means the amount equal to the maximum total Principal Installments and interest becoming due in the current or any future Fiscal Year on Senior Bonds, including on the Senior Bonds to be issued contemporaneously with such computation, using the Estimated Average Interest Rate for any variable interest rate Senior Bonds (or any reimbursement obligations issued in connection therewith which are deemed to be Bonds pursuant to the related Supplemental Indenture). The Authority may provide for a letter of credit, surety agreement, insurance agreement or other type of agreement or arrangement which provides for the availability of an amount which, together with other deposits, if any, will at least be equal to the Debt Service Reserve Account Requirement. See “APPENDIX B—SUMMARY OF INDENTURE AND FINANCING AGREEMENT.”

### **Application of Revenues**

Upon receipt of City Tax Revenues, School District Tax Revenues and State Aid Revenues required to be paid to the Authority in accordance with the Authority’s instructions to the State Comptroller, the Trustee must deposit such amounts into the Collection Account held by the Trustee. Under the Indenture, the priority for the use by the Authority of its Revenues is as follows: *first*, to the Bond Account or Redemption Account to pay or set aside for Debt Service in accordance with the procedures described below under “SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS—Retention Procedures” and to reserve the amount, if any, necessary to replenish the Debt Service Reserve Account to the extent of any withdrawal therefrom; *second*, to pay debt service on any Subordinate Bonds or Subordinate Notes and to reserve the amount, if any, necessary to replenish any reserve accounts established in connection therewith, and to pay any other amounts pursuant to Supplemental Indentures for the benefit of Subordinate Noteholders, Subordinate Bondholders and parties to Subordinate Agreements; *third*, to the Authority’s operating expenses, including deposits to the Redemption Account for optional redemption of the Senior Bonds, if any, and any reserves held by the Authority for payment of operating expenses; and *fourth*, to the City and the School District, as soon as practicable, free and clear of the lien of the Indenture. The chart on the following page illustrates the collection of City Tax Revenues, School District Tax Revenues and State Aid Revenues and the flow of funds under the Indenture, as described below.

**APPLICATION OF CITY TAX REVENUES, SCHOOL DISTRICT TAX REVENUES AND STATE AID REVENUES**



**Notes:**

- (1) State aid is subject to the prior lien of the holders of the MBBA Bonds. See SECTION II: Sources of Payment and Security for the Bonds—State Aid Revenues.
- (2) Revenues will be retained by the Trustee for the payment of Debt Service on Outstanding Senior Bonds and Senior Notes and for the payment of Senior Agreement providers, if any, in accordance with the retention procedures detailed below, and for the payment of the amount, if any, necessary to replenish the Debt Service Reserve Account to the extent of any withdrawal therefrom.
- (3) Revenues are next applied pursuant to Supplemental Indentures for the benefit of Subordinate Bondholders, Subordinate Noteholders and parties to Subordinate Agreements.
- (4) After Revenues are retained by the Trustee for the payment of Debt Service, the replenishment of the Debt Service Reserve Account and payments for the benefit of Subordinate Bondholders, Subordinate Noteholders and Subordinate Agreement providers, if any, such Revenues are paid to the Authority for its operating expenses.
- (5) After the payments described in (2), (3) and (4) above are made, subject to the Agreement, remaining Revenues are paid to the City and the School District, as frequently as practicable.

## **Retention Procedures**

At the beginning of each calendar month, the Trustee will first transfer Revenues from the Collection Account to the Bond Account in an amount equal to Accrued Debt Service. In order to provide for the timely payment of Debt Service on each payment date, Accrued Debt Service has been defined under the Indenture to account for a number of variables, such as: any accrued or capitalized interest deposited in the Bond Account and available for the payment of Debt Service on a given payment date; any other amounts held by the Trustee and irrevocably pledged to the payment of Debt Service; actual rates of interest on Notes or Bonds; any interim purchase or redemption of Notes or Bonds that reduces the amount of Debt Service payable on the next payment date; and other similar factors. In addition, the Indenture provides that sufficient moneys will in any event be retained in the Bond Account to ensure that the amount of moneys required to pay Debt Service on the next succeeding payment date will be available for such purpose two months prior to such payment date; provided, however, that any failure so to retain sufficient moneys will not constitute an Event of Default under the Indenture.

After all payments are made to the Bond Account and Redemption Account and to the Debt Service Reserve Account, if necessary to replenish the amount of any withdrawal therefrom, moneys on deposit in the Collection Account will be used in the following order of priority: for the benefit of Subordinate Bondholders, Subordinate Noteholders parties to Subordinate Agreements, to the extent required by Supplemental Indentures, for the payment of the Authority's operating expenses and, as soon as practicable, to the City and the School District, free and clear of the lien of the Indenture. The City has covenanted to provide the Authority with a schedule of forecasted collections of City Tax Revenues and School District Tax Revenues before the beginning of each fiscal year and each month during such fiscal year. In the event projected collections from City Tax Revenues, School District Tax Revenues and State Aid Revenues are anticipated to be insufficient during any month to completely provide for the amount required to be retained in such month, the Trustee is required to withhold additional City Tax Revenues, School District Tax Revenues and State Aid Revenues in subsequent months. See "APPENDIX B—SUMMARY OF INDENTURE AND FINANCING AGREEMENT."

## **Agreements of the State, the County and the City**

### *State*

In the Act, the State pledges and agrees with the holders of the Bonds that the State will not limit, alter or impair the rights vested in the Authority by the Act to fulfill the terms of the Indenture, or in any way impair the rights and remedies of such holders of the Bonds or the security for the Bonds until such Bonds, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders of the Bonds, are fully paid and discharged. The State is not obligated to make any additional payments, impose any taxes or make available any additional State aid to satisfy the Debt Service obligations of the Authority. The State Constitution allows the State to amend, repeal, modify or otherwise alter statutes imposing or relating to the Local Sales Tax. City Tax Revenues and School District Tax Revenues collected by the State Comptroller for transfer to the Authority are not subject to appropriation by the State, the County or the City. The Act does not restrict any right of the State to amend, repeal, modify or otherwise alter Section 54 of the State Finance Law or any other provision of State law relating to State aid to municipalities. Any payment by the State Comptroller to the Authority of State Aid Revenues is subject to annual appropriation of State aid by the State Legislature.

### *County*

The Act also contains the covenant of the County that it will not limit, alter or impair the rights vested in the Authority by the Act to fulfill the terms of the Indenture, or in any way impair the rights and remedies of such holders of the Bonds or the security for the Bonds until such Bonds, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders of the Bonds, are fully paid and discharged. Nothing contained in the Act restricts any right the County may have to amend, modify, repeal or otherwise alter local laws, ordinances or resolutions affecting or relating to the Local Sales Tax, or appropriations relating to the Local Sales Tax, or the setting aside of net collections for educational purposes pursuant to Section 1262(a) of the State Tax Law, so long as, after giving effect to such amendment, modification or other alteration, the aggregate amount projected by the Authority of City Tax Revenues and School District Tax Revenues to be available to the Authority during each of its fiscal years following the effective date of such amendment, modification or other alteration is not less than 200% of maximum annual Debt Service on all Authority bonds then outstanding. The Act requires the County to impose the Local Sales Tax at a rate of no less than 3% for the period

ending June 30, 2037. The County is not obligated to make any payments or impose any taxes or set aside net collections for educational purposes pursuant to the authority of Section 1262(a) of the State Tax Law, except that the County shall impose the Local Sales Tax at a rate of no less than 3% for the period ending June 30, 2037.

#### *City*

In accordance with the Act, the City will pledge and agree with the holders of the Bonds that the City will not limit, alter or impair the rights and remedies of such Bondholders or the security for the Bonds until the Bonds, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders of the Bonds, are fully paid and discharged. Nothing contained in the Act or the Financing Agreement restricts the right of the City to amend, modify, repeal or otherwise alter any local law, ordinance or resolution affecting or relating to the City Tax Revenues, or appropriations relating to the City Tax Revenues, so long as, after giving effect to such amendment, modification or other alteration, the aggregate amount projected by the Authority of City Tax Revenues and School District Tax Revenues to be available to the Authority during each of its fiscal years following the effective date of such amendment, modification or other alteration is not less than 200% of maximum annual Debt Service on all Authority bonds then outstanding. The City further agrees that (i) it will not, without the Authority's prior approval, take any action, including the imposition of sales and compensating use taxes preempting the County's imposition of the Local Sales Tax, to terminate or alter the terms of the Local Sales Tax Agreement so as to reduce or eliminate the amount of net collections that the County distributes or is to distribute to the City, and (ii) if the City does impose sales and compensating use taxes, it shall do so pursuant to Section 1210 of the State Tax Law at the maximum rate authorized by such Section. The City is not obligated to make any payments or impose any taxes; except that, if the City imposes sales and compensating use taxes, it shall do so pursuant to Section 1210 of the State Tax Law at the maximum rate authorized by such Section. For a further description of the covenants of the City set forth in the Financing Agreement, see "APPENDIX B—SUMMARY OF INDENTURE AND FINANCING AGREEMENT."

THE BONDS ARE NOT A DEBT OF EITHER THE STATE, THE COUNTY OR THE CITY, AND NEITHER THE STATE, THE COUNTY NOR THE CITY IS LIABLE THEREON.

The covenants of the City, the County and the State described above shall be of no force and effect with respect to any Bond if there is on deposit in trust with a bank or trust company sufficient cash or Defeasance Collateral to pay when due all principal of and applicable redemption premium, if any, and interest on such Bond.

### **SECTION III: THE SERIES 2004A BONDS**

#### **General**

The Series 2004A Bonds will be dated, will bear interest at the rates and will mature on the dates as set forth on the cover and inside cover page of this Offering Circular unless redeemed prior to maturity. All of the Series 2004A Bonds will be issued in book-entry only form.

The Series 2004A Bonds will be issued in denominations of \$5,000 or any whole multiple thereof, and will bear interest calculated on the basis of a 360-day year of 30-day months.

The Series 2004A Bonds are not subject to optional redemption prior to maturity.

#### **Notice of Redemption**

When redemption of Series 2004A Bonds is required pursuant to the Indenture, the Trustee is to give notice of such redemption by mail to the holders of Series 2004A Bonds to be redeemed at least 30 days prior to the date set for redemption. Failure by a particular Bondholder to receive notice, or any defect in the notice to such Bondholder, will not affect the redemption of any other Series 2004A Bond.

#### **Bond Insurance Policy**

Concurrently with the issuance of the Series 2004A Bonds, the Bond Insurer will issue a financial guaranty insurance policy with respect to the Insured Bonds. The Bond Insurance Policy guarantees the scheduled payment



of principal of and interest on the Insured Bonds when due as set forth in the form of the Bond Insurance Policy included “APPENDIX D—SPECIMEN FINANCIAL GUARANTY INSURANCE POLICY.” The Bond Insurance Policy is not covered by any insurance security or guaranty fund established under New York, California, Connecticut or Florida insurance law.

The following information pertaining to the Bond Insurer and to the Bond Insurance Policy has been supplied by the Bond Insurer. The Authority makes no representation as to the accuracy or adequacy of such information or as to the absence of material adverse changes in such information subsequent to the dates indicated.

Summaries of or references to the Bond Insurance Policy to be issued by the Bond Insurer are made subject to all the detailed provisions thereof, to which reference is hereby made for further information, and do not purport to be complete statements of any or all of such provisions. Reference is made to “APPENDIX D—SPECIMEN FINANCIAL GUARANTY INSURANCE POLICY” for a specimen of the Bond Insurance Policy.

*MBIA Insurance Corporation Insurance Policy*

The following information has been furnished by the Bond Insurer for use in this Offering Circular.

The Bond Insurance Policy unconditionally and irrevocably guarantees the full and complete payment required to be made by or on behalf of the Authority to the Paying Agent or its successor of an amount equal to (i) the principal of (either at the stated maturity or by an advancement of maturity pursuant to a mandatory sinking fund payment) and interest on the Insured Bonds as such payments shall become due but shall not be so paid (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed by the Bond Insurance Policy shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration); and (ii) the reimbursement of any such payment which is subsequently recovered from any owner of the Insured Bonds pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such owner within the meaning of any applicable bankruptcy law (a “Preference”).

The Bond Insurance Policy does not insure against loss of any prepayment premium which may at any time be payable with respect to any Insured Bond. The Bond Insurance Policy does not, under any circumstance, insure against loss relating to: (i) optional or mandatory redemptions (other than mandatory sinking fund redemptions); (ii) any payments to be made on an accelerated basis; (iii) payments of the purchase price of the Insured Bonds upon tender by an owner thereof; or (iv) any Preference relating to (i) through (iii) above. The Bond Insurance Policy also does not insure against nonpayment of principal of or interest on the Insured Bonds resulting from the insolvency, negligence or any other act or omission of the Paying Agent or any other paying agent for the Insured Bonds.

Upon receipt of telephonic or telegraphic notice, such notice subsequently confirmed in writing by registered or certified mail, or upon receipt of written notice by registered or certified mail, by the Bond Insurer from the Paying Agent or any owner of an Insured Bond the payment of an insured amount for which is then due, that such required payment has not been made, the Bond Insurer on the due date of such payment or within one business day after receipt of notice of such nonpayment, whichever is later, will make a deposit of funds, in an account with U.S. Bank Trust National Association, in New York, New York, or its successor, sufficient for the payment of any such insured amounts which are then due. Upon presentment and surrender of such Insured Bonds or presentment of such other proof of ownership of the Insured Bonds, together with any appropriate instruments of assignment to evidence the assignment of the insured amounts due on the Insured Bonds as are paid by the Bond Insurer, and appropriate instruments to effect the appointment of the Bond Insurer as agent for such owners of the Insured Bonds in any legal proceeding related to payment of insured amounts on the Insured Bonds, such instruments being in a form satisfactory to U.S. Bank Trust National Association, U.S. Bank Trust National Association shall disburse to such owners or the Paying Agent payment of the insured amounts due on such Insured Bonds, less any amount held by the Paying Agent for the payment of such insured amounts and legally available therefor.

### *Bond Insurer*

The Bond Insurer is the principal operating subsidiary of MBIA Inc., a New York Stock Exchange listed company (the “Company”). The Company is not obligated to pay the debts of or claims against the Bond Insurer. The Bond Insurer is domiciled in the State of New York and licensed to do business in and subject to regulation under the laws of all 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands of the United States and the Territory of Guam. The Bond Insurer has three branches, one in the Republic of France, one in the Republic of Singapore and one in the Kingdom of Spain. New York has laws prescribing minimum capital requirements, limiting classes and concentrations of investments and requiring the approval of policy rates and forms. State laws also regulate the amount of both the aggregate and individual risks that may be insured, the payment of dividends by the Bond Insurer, changes in control and transactions among affiliates. Additionally, the Bond Insurer is required to maintain contingency reserves on its liabilities in certain amounts and for certain periods of time.

The Bond Insurer does not accept any responsibility for the accuracy or completeness of this Offering Circular or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding the Bond Insurer’s policy and the Bond Insurer set forth under the heading “SECTION III: THE SERIES 2004A BONDS—Bond Insurance Policy”. Additionally, the Bond Insurer makes no representation regarding the Series 2004A Bonds or the advisability of investing in the Series 2004A Bonds.

The Bond Insurance Policy is not covered by the Property/Casualty Insurance Security Fund specified in Article 76 of the New York Insurance Law.

### *Bond Insurer Financial Information*

The following documents filed by the Company with the Securities and Exchange Commission (the “SEC”) are incorporated herein by reference:

- (1) The Company’s Annual Report on Form 10-K for the year ended December 31, 2003; and
- (2) The Company’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2004.

Any documents filed by the Company pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, after the date of this Offering Circular and prior to the termination of the offering of the securities offered hereby shall be deemed to be incorporated by reference in this Offering Circular and to be a part hereof. Any statement contained in a document incorporated or deemed to be incorporated by reference herein, or contained in this Offering Circular, shall be deemed to be modified or superseded for purposes of this Offering Circular to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Offering Circular.

The Company files annual, quarterly and special reports, information statements and other information with the SEC under File No. 1-9583. Copies of the SEC filings (including (1) the Company’s Annual Report on Form 10-K for the year ended December 31, 2003, and (2) the Company’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2004) are available (i) over the Internet at the SEC’s web site at <http://www.sec.gov>; (ii) at the SEC’s public reference room in Washington, D.C.; (iii) over the Internet at the Company’s web site at <http://www.mbia.com>; and (iv) at no cost, upon request to MBIA Insurance Corporation, 113 King Street, Armonk, New York 10504. The telephone number of the Bond Insurer is (914) 273-4545.

As of December 31, 2003, the Bond Insurer had admitted assets of \$9.9 billion (audited), total liabilities of \$6.2 billion (audited), and total capital and surplus of \$3.7 billion (audited) determined in accordance with statutory accounting practices prescribed or permitted by insurance regulatory authorities. As of March 31, 2004, the Bond Insurer had admitted assets of \$10.3 billion (unaudited), total liabilities of \$6.5 billion (unaudited), and total capital and surplus of \$3.8 billion (unaudited) determined in accordance with statutory accounting practices prescribed or permitted by insurance regulatory authorities.

*Financial Strength Ratings of the Bond Insurer*

Moody's Investors Service, Inc. rates the financial strength of the Bond Insurer "Aaa."

Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., rates the financial strength of the Bond Insurer "AAA."

Fitch Ratings rates the financial strength of the Bond Insurer "AAA."

Each rating of the Bond Insurer should be evaluated independently. The ratings reflect the respective rating agency's current assessment of the creditworthiness of the Bond Insurer and its ability to pay claims on its policies of insurance. Any further explanation as to the significance of the above ratings may be obtained only from the applicable rating agency.

The above ratings are not recommendations to buy, sell or hold the Insured Bonds, and such ratings may be subject to revision or withdrawal at any time by the rating agencies. Any downward revision or withdrawal of any of the above ratings may have an adverse effect on the market price of the Insured Bonds. The Bond Insurer does not guaranty the market price of the Insured Bonds nor does it guaranty that the ratings on the Insured Bonds will not be revised or withdrawn.

The Bond Insurance Policy is not covered by the Property/Casualty Insurance Security Fund specified in Article 76 of the New York Insurance Law.

*MBIA Insurance Corporation Surety Bond*

Application has also been made to the Bond Insurer for a commitment to issue a surety bond (the "Surety Bond"). The Surety Bond will provide that upon notice from the Trustee to the Bond Insurer to the effect that insufficient amounts are on deposit in the Bond Account or the Redemption Account to pay the principal of (at maturity or pursuant to mandatory redemption requirements) and interest on the Series 2004A Bonds, the Bond Insurer will promptly deposit with the Trustee an amount sufficient to pay the principal of and interest on the Series 2004A Bonds or the available amount of the Surety Bond, whichever is less. Upon the later of: (i) three (3) days after receipt by the Bond Insurer of a Demand for Payment in the form attached to the Surety Bond, duly executed by the Trustee; or (ii) the payment date of the Series 2004A Bonds as specified in the Demand for Payment presented by the Trustee to the Bond Insurer, the Bond Insurer will make a deposit of funds in an account with U.S. Bank Trust National Association, in New York, New York, or its successor, sufficient for the payment to the Trustee of amounts which are then due to the Trustee (as specified in the Demand for Payment) subject to the Surety Bond Coverage, as defined in the Surety Bond.

The available amount of the Surety Bond is the initial face amount of the Surety Bond less the amount of any previous deposits by the Bond Insurer with the Trustee which have not been reimbursed by the Authority. The Authority and the Bond Insurer will enter into a Financial Guaranty Agreement, dated as of June 29, 2004 (the "Financial Guaranty Agreement"). Pursuant to the Financial Guaranty Agreement, the Authority is required to reimburse the Bond Insurer, within one year of any deposit, the amount of such deposit made by the Bond Insurer with the Trustee under the Surety Bond. Such reimbursement shall be made only after all required deposits to the Bond Account and the Redemption Account have been made.

Under the terms of the Financial Guaranty Agreement, the Trustee is required to reimburse the Bond Insurer, with interest, until the face amount of the Surety Bond is reinstated before any transfer is made to the City and the School District. No optional redemption of Series 2004A Bonds may be made until the Bond Insurer's Surety Bond is reinstated. The Surety Bond will be held by the Trustee in the Debt Service Reserve Account and is provided as an alternative to the Authority depositing funds equal to the Debt Service Reserve Account Requirement for Outstanding Series 2004A Bonds. The Surety Bond will be issued in the face amount equal to such Debt Service Reserve Account Requirement, and the premium therefor will be fully paid by the Authority at the time of delivery of the Series 2004A Bonds.

**Debt Service Requirements**

The following schedule sets forth, for each 12-month period ending June 30 of the years shown, on a cash basis, the anticipated amounts required to be paid by the Authority for the payment of principal and sinking fund installments of, and interest on, the Series 2004A Bonds payable on their respective payment dates of each such period.

**Debt Service On Series 2004A Bonds**

<b>12-Month Period Ending June 30</b>	<b>Series 2004A Bonds Principal Amounts</b>	<b>Series 2004A Bonds Interest Payments</b>	<b>Total Series 2004A Bonds Debt Service</b>
2005	--	\$822,012	\$822,012
2006	\$2,035,000	1,268,700	3,303,700
2007	2,125,000	1,174,875	3,299,875
2008	2,235,000	1,065,875	3,300,875
2009	2,350,000	951,250	3,301,250
2010	2,475,000	827,531	3,302,531
2011	2,610,000	694,050	3,304,050
2012	2,750,000	553,350	3,303,350
2013	2,895,000	405,169	3,300,169
2014	3,055,000	248,981	3,303,981
2015	3,215,000	84,394	3,299,394
Totals*	\$25,745,000	\$8,096,187	\$33,841,187

\* Totals may not add due to rounding.

**Plan of Finance and Use of Proceeds**

The proceeds from the sale of the Series 2004A Bonds will be deposited in the Bond Proceeds Fund established under the Financing Agreement (or deposited in escrow accounts in the case of refundings or restructurings) and held by the Trustee and will be used, along with other funds of the Authority, if any, to provide for the payment of certain Financeable Costs, consisting of operating costs of the City, and to pay costs of issuance, as set forth in the table below. Bond proceeds are not pledged or available to pay any indebtedness of the Authority.

**Sources and Uses of Funds**

Set forth below are the sources and uses of the proceeds of the Series 2004A Bonds:

**SOURCES OF FUNDS**

Par amount of the Series 2004A Bonds .....	\$25,745,000.00
Plus Original Issue Premium .....	<u>2,038,045.40</u>
Total Sources of Funds .....	<u>\$27,783,045.40</u>

**USES OF FUNDS**

Deposits for the payment of operating costs of the City.....	\$26,865,000.00
Underwriter’s discount, bond insurance premium, Debt Service Reserve Account surety premium and other costs of issuance .....	<u>918,045.40</u>
Total Uses of Funds.....	<u>\$27,783,045.40</u>

**Book-Entry Only System**

Beneficial ownership interests in the Bonds will be available in book-entry-only form, in the principal amount of \$5,000 or integral multiples thereof. Purchasers of beneficial ownership interests in the Series 2004A Bonds will not receive certificates representing their interests in the Series 2004A Bonds purchased.

DTC will act as securities depository for the Series 2004A Bonds. The Series 2004A Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2004A Bond certificate will be issued for each principal amount of Series 2004A Bonds bearing interest at a specified interest rate, each in the aggregate principal amount of such quantity of Series 2004A Bonds, and will be deposited with DTC.

DTC, the world's largest depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 2 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments from over 85 countries that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC, in turn, is owned by a number of Direct Participants of DTC and Members of the National Securities Clearing Corporation, Government Securities Clearing Corporation, MBS Clearing Corporation, and Emerging Markets Clearing Corporation (NSCC, GSCC, MBSCC, and EMCC, also subsidiaries of DTCC), as well as by the New York Stock Exchange, Inc., the American Stock Exchange, LLC, and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has Standard & Poor's highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of the Series 2004A Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2004A Bonds on DTC's records. The ownership interest of each actual purchaser of each Series 2004A Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2004A Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Series 2004A Bonds, except in the event that use of the book-entry system for the Series 2004A Bonds is discontinued.

To facilitate subsequent transfers, all Series 2004A Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Series 2004A Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2004A Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2004A Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Series 2004A Bonds unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Authority as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Series 2004A Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and dividend payments on the Series 2004A Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detailed information from the Authority or the Trustee, on a payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee, or the Authority, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Authority or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Series 2004A Bonds at any time by giving reasonable notice to the Authority or the Trustee. Under such circumstances, in the event that a successor depository is not obtained, the Series 2004A Bond certificates are required to be printed and delivered.

The Authority may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Series 2004A Bond certificates will be printed and delivered.

The information in this section under the heading "SECTION III: THE SERIES 2004A BONDS—Book-Entry Only System" concerning DTC and DTC's book-entry system has been obtained from sources that the Authority believes to be reliable, but the Authority takes no responsibility for the accuracy thereof.

#### **Other Information**

For additional information regarding the Series 2004A Bonds and the Indenture including the events of default under the Indenture and the remedies of the Bondholders thereunder, which include acceleration of the Series 2004A Bonds under certain circumstances, see "APPENDIX B—SUMMARY OF INDENTURE AND FINANCING AGREEMENT."

### **SECTION IV: THE AUTHORITY**

#### **Purpose and Operations**

The Authority is a corporate governmental agency and instrumentality of the State constituting a public benefit corporation created by the Act in July 2003 with a broad range of financial control and oversight powers, including the power to issue its bonds and notes for various City purposes, including the restructuring of a portion of the City's outstanding debt. The Authority shall continue in existence until its oversight, control or other responsibilities and its liabilities, which include the payment of Authority bonds and notes, including the Series 2004A Bonds, have been met or discharged, which in no event may be later than June 30, 2037. In addition, the Authority has certain powers under the Act to control, oversee and monitor the City's finances, including Covered Organizations. During a "control period," the Authority possesses significantly expanded oversight authority, all as more fully described below under "Authority Financial Control and Oversight Functions."

The Authority is not authorized by State law to file a petition in bankruptcy. In addition, under the Act, the City and the Covered Organizations are prohibited from filing any petition with any United States district court or court of bankruptcy for the composition or adjustment of municipal indebtedness without the approval of the Authority and the State Comptroller, and no such petition may be filed while Authority bonds or notes remain Outstanding.

#### **Directors and Management**

The Authority is governed by a board of nine directors, seven of which are to be appointed by the Governor of the State. Of the seven directors appointed by the Governor, one must be a resident of the City, one is to be appointed following the recommendation of the State Comptroller, and one is to be appointed on the joint recommendation of the Temporary President of the Senate and the Speaker of the Assembly. The Mayor of the City

and the County Executive serve as ex officio directors. The Governor designates the Chairperson and Vice Chair from among the directors. Five directors constitute a quorum.

#### *Directors and Officers*

As of the date of this Offering Circular, the following individuals have been appointed directors and officers:

Thomas E. Baker, Director and Chairperson. Mr. Baker is the President of The John R. Oishei Foundation and former managing partner of the Buffalo office of a national accounting firm.

John J. Faso, Director. Mr. Faso is a partner in Manatt, Phelps and Phillips, LLP, a law and consulting firm, and former minority leader of the New York State Assembly.

Joel A. Giambra, Director. Mr. Giambra is the Erie County Executive.

Anthony M. Masiello, Director. Mr. Masiello is the Mayor of the City of Buffalo.

H. Carl McCall, Director and Treasurer. Mr. McCall is Vice Chairman and Managing Director of HealthPoint, a New York City-based finance firm, and former New York State Comptroller and Senator.

Rev. Richard Stenhouse, Director. Rev. Stenhouse is the Pastor of the Bethel AME Church, Executive Director of Bethel Head Start and a member of the Board of Regents of Canisius College.

Richard Tobe, Director and Secretary. Mr. Tobe is Vice President for programs at the Community Foundation for Greater Buffalo, a community trust dedicated to improving life in Greater Buffalo, and former economic development chief under former Erie County Executive Dennis Gorski.

Alair Townsend, Director and Vice Chair. Mr. Townsend is Publisher of *Crain's New York Business* and former New York City Budget Director and Deputy Mayor for Finance and Economic Development.

Robert G. Wilmers, Director. Mr. Wilmers is President and Chief Executive Officer of M & T Bank Corporation.

#### *Staff*

The following is a brief description of certain officers and staff members of the Authority:

Dorothy A. Johnson, M.S., Executive Director. Ms. Johnson is a former principal budget examiner for the New York State Division of the Budget.

Darryl McPherson, Esq., Chief Counsel. Mr. McPherson is the former Deputy Corporation Counsel for the City of Buffalo Department of Law.

Bertha H. Mitchell, MBA, Chief Financial Officer. Ms. Mitchell is a former corporate banker and senior credit officer.

#### **Financing Agreement**

In accordance with the provisions of the Act described above, the Authority and the City have entered into the Financing Agreement, dated as of June 1, 2004, providing for, among other things, the issuance of bonds and notes by the Authority to finance various City purposes authorized under the Act. See "APPENDIX B—SUMMARY OF INDENTURE AND FINANCING AGREEMENT."

## **Authority Financial Control and Oversight Functions**

The Act provides that the Authority shall have different financial control and oversight powers depending upon whether the City's financial condition causes it to be in a "control period" (which, under the current Authority-approved financial plan, would end no earlier than the City's fiscal year ending June 30, 2011) or an "advisory period". Under the Act, the Authority began its existence during a City control period, which means that the Authority commenced operation with its maximum authorized complement of financial control and oversight powers. In the event that the City's finances improve sufficiently in the future to cause the Authority to determine that an advisory period should be in effect, the Authority would operate with a reduced set of financial oversight powers and responsibilities. After an advisory period has been established, a control period could be reimposed on the City upon a determination by the Authority that a fiscal crisis is imminent or that any of the following events has occurred or that there is a substantial likelihood and imminence of its occurrence: (a) the City shall have failed to adopt a balanced budget, financial plan or budget modification as required by Sections 3856 and 3857 of the Act; (b) the City shall have failed to pay the principal of or interest on any of its bonds or notes when due; (c) the City shall have incurred an operating deficit of one percent or more in the aggregate results of operations of any major fund of the City or a Covered Organization during its fiscal year assuming all revenues and expenditures are reported in accordance with generally accepted accounting principles, subject to the provisions of the Act; (d) the chief fiscal officer's certification at any time, at the request of the Authority or on the chief fiscal officer's initiative, which certification shall be made from time to time as promptly as circumstances warrant and reported to the Authority, that on the basis of facts existing at such time such officer could not make the certification described in subdivision one of Section 3851 of the Act; or (e) the City shall have violated any provision of the Act.

During a control period, the Authority is empowered, among other things, (i) to approve or disapprove contracts, including collective bargaining agreements to be entered into by the City or any Covered Organization, binding or purporting to bind the City or any Covered Organization; (ii) to approve or disapprove the terms of borrowings by the City and Covered Organizations; (iii) to approve, disapprove or modify the City's financial plans and take any action necessary in order to implement the financial plan should the City or any Covered Organization fail to comply with any material action necessary to fulfill the plan, including issuing binding orders to the appropriate local officials; (iv) to set a maximum level of spending for any proposed budget of any Covered Organization; (v) to impose a wage or hiring freeze, or both, with respect to employees of the City or any Covered Organization; (vi) to review the operation, management, efficiency and productivity of the City and any Covered Organization; and (vii) to terminate the control period upon finding that no condition exists which would permit imposition of a control period.

During an advisory period, as defined in the Act, the Authority is empowered, among other things, to review the operation, management, efficiency and productivity of City operations and of any Covered Organization's operations, and to make reports and recommendations thereon; to audit compliance with the City's financial plans; to review and comment on the terms of any proposed borrowing, including the prudence of each proposed issuance of bonds or notes by the City; and to impose a control period upon making one of the statutory findings.

## **Authority Oversight Actions During the City's 2003–04 Fiscal Year**

The Authority came into existence on July 3, 2003, just after the commencement of the City's 2003–04 fiscal year. A chronology of some of the more significant oversight actions taken by the Authority during the City fiscal year beginning July 1, 2003, is as follows: On September 16, 2003, the Authority disapproved the version of the City's four-year Financial Plan for the 2004–07 period initially submitted to the Authority for its review on September 2, 2003, but approved a revised version of the City's four-year Financial Plan on October 21, 2003. The Authority has also reviewed updated financial information of the City and the Covered Organizations on a quarterly basis. On December 15, 2003, the Authority adopted a resolution mandating a hiring freeze for all City employment positions, effective immediately. Subsequently, at the request of the Mayor of the City, the Authority approved approximately 306 individual exceptions to the hiring freeze and expects to continue to issue waivers on a selective basis. As noted above, on January 21, 2004, the Authority adopted a resolution determining that the Buffalo City School District, the Buffalo Municipal Housing Authority, the Buffalo Urban Renewal Agency and the Joint Schools Construction Board were to be non-exempted Covered Organizations. On April 21, 2004, the Authority adopted a resolution mandating a wage freeze applicable to all employees of the City and non-exempted Covered Organizations, effective immediately. A new budget and four-year Financial Plan for the City and its Covered Organizations were submitted by the Mayor on May 3, 2004, but such budget and four-year Financial Plan were



deemed by the Authority to be incomplete and not in compliance with the Act at the Authority's board meeting on May 19, 2004. The recommendations of the Authority with respect to such budget and four-year Financial Plan were sent by the Authority to the Mayor on May 24, 2004. The Authority recommended that the City eliminate the \$7.4 million in speculative savings in the 2004-05 budget prior to adoption, and identified an aggregate \$42 million in speculative revenues in the final three years of the four-year Financial Plan. The Authority also recommended that the School District establish a reserve fund and policies related to its future use. The Authority also noted a high level of risk in the School District's assumption of additional State aid and sales tax receipts—an aggregate of \$78 million over the final three years of the four-year Financial Plan. A revised version of the budget and Financial Plan, submitted to the Authority on June 2, 2004, was approved by the Authority on June 9, 2004. Finally, throughout the City's 2003-04 fiscal year, the Authority has approved a broad range of City contracts, arbitration awards and collective bargaining agreements, as well as a City cash flow borrowing and two general obligation bond financings.

#### **SECTION V: NO LITIGATION**

There is not now pending any litigation (i) restraining or enjoining the issuance or delivery of the Series 2004A Bonds or questioning or affecting the validity of the Series 2004A Bonds or the proceedings and authority under which they are issued or will be issued, respectively; (ii) contesting the creation, organization or existence of the Authority, or the title of the directors or officers of the Authority to their respective offices; (iii) questioning the right of the Authority to perform its obligations under the Indenture or the Financing Agreement and to pledge the Revenues and funds and other moneys and securities purported to be pledged by the Indenture in the manner and to the extent provided in the Indenture; or (iv) questioning or affecting the levy or collection of the Local Sales Tax in any material respect, or the application of the Local Sales Tax and State aid for the purposes contemplated by the Act, or the procedure thereunder.

#### **SECTION VI: TAX MATTERS**

##### **Opinion of Bond Counsel**

In the opinion of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., Bond Counsel to the Authority, under existing law and assuming continuing compliance with certain tax covenants described herein, (i) interest on the Series 2004A Bonds is excluded from gross income for federal income tax purposes pursuant to section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and (ii) interest on the Series 2004A Bonds is not treated as a preference item in calculating the alternative minimum tax imposed on individuals and corporations under the Code; such interest, however, is included in the adjusted current earnings of certain corporations for purposes of calculating the alternative minimum tax imposed on such corporations. In rendering its opinion, Bond Counsel has relied on certain representations, certifications of fact, and statements of reasonable expectations made by the Authority, the Director of the Budget and the City in connection with the Series 2004A Bonds, and Bond Counsel has assumed compliance by the Authority and the City with certain ongoing covenants to comply with applicable requirements of the Code to assure the exclusion of interest on the Series 2004A Bonds from gross income under section 103 of the Code.

In addition, in the opinion of Bond Counsel, by virtue of the Act, interest on the Series 2004A Bonds is exempt from personal income taxes imposed by the State or any political subdivision thereof (including The City of New York).

Bond Counsel expresses no opinion regarding any other federal or state tax consequences with respect to the Series 2004A Bonds. Bond Counsel renders its opinion under existing statutes and court decisions as of the issue date, and assumes no obligation to update its opinion after the issue date to reflect any future action, fact or circumstance, or change in law or interpretation, or otherwise. Bond Counsel expresses no opinion on the effect of any action hereafter taken or not taken in reliance upon an opinion of other counsel on the exclusion from gross income for federal income tax purposes of interest on the Series 2004A Bonds, or under state and local tax law.

##### **Certain Ongoing Federal Tax Requirements and Covenants**

The Code establishes certain ongoing requirements that must be met subsequent to the issuance, and delivery of the Series 2004A Bonds in order that interest on the Series 2004A Bonds be and remain excluded from

gross income under section 103 of the Code. These requirements include, but are not limited to, requirements relating to use and expenditure of gross proceeds of the Series 2004A Bonds, yield and other restrictions on investments of gross proceeds, and the arbitrage rebate requirement that certain excess earnings on gross proceeds be rebated to the federal government. Noncompliance with such requirements may cause interest on the Series 2004A Bonds to become included in gross income for federal income tax purposes retroactive to their issue date, irrespective of the date on which such noncompliance occurs or is discovered. The Authority and the City have covenanted to comply with certain applicable requirements of the Code to assure the exclusion of interest on the Series 2004A Bonds from gross income under section 103 of the Code.

### **Certain Collateral Federal Tax Consequences**

The following is a brief discussion of certain collateral federal income tax matters with respect to the Series 2004A Bonds. It does not purport to address all aspects of federal taxation that may be relevant to a particular owner of a Series 2004A Bond Prospective investors, particularly those who may be subject to special rules, are advised to consult their own tax advisors regarding the federal tax consequences of owning and disposing of the Series 2004A Bonds.

Prospective owners of the Series 2004A Bonds should be aware that the ownership of such obligations may result in collateral federal income tax consequences to various categories of persons, such as corporations (including S corporations and foreign corporations), financial institutions, property and casualty and life insurance companies, individual recipients of Social Security and railroad retirement benefits, individuals otherwise eligible for the earned income tax credit, and taxpayers deemed to have incurred or continued indebtedness to purchase or carry obligations the interest on which is not included in gross income for federal income tax purposes. Interest on the Series 2004A Bonds may be taken into account in determining the tax liability of foreign corporations subject to the branch profits tax imposed by section 884 of the Code.

### **Bond Premium**

In general, if an owner acquires a Series 2004A Bond for a purchase price (excluding accrued interest) or otherwise at a tax basis that reflects a premium over the sum of all amounts payable on the Series 2004A Bond after the acquisition date (excluding certain “qualified stated interest” that is unconditionally payable at least annually at prescribed rates), that premium constitutes “bond premium” on that Series 2004A Bond (a “Premium Bond”). In general, under section 171 of the Code, an owner of a Premium Bond must amortize the bond premium over the remaining term of the Premium Bond, based on the owner’s yield over the remaining term of the Premium Bond, determined based on constant yield principles. An owner of a Premium Bond must amortize the bond premium by offsetting the qualified stated interest allocable to each interest accrual period under the owner’s regular method of accounting against the bond premium allocable to that period. In the case of a tax-exempt Premium Bond, if the bond premium allocable to an accrual period exceeds the qualified stated interest allocable to that accrual period, the excess is a nondeductible loss. Under certain circumstances, the owner of a Premium Bond may realize a taxable gain upon disposition of the Premium Bond even though it is sold or redeemed for an amount less than or equal to the owner’s original acquisition cost. Owners of any Premium Bonds should consult their own tax advisors regarding the treatment of bond premium for federal income tax purposes, including various special rules relating thereto and state and local tax consequences, in connection with the acquisition, ownership, amortization of bond premium on, sale, exchange, or other disposition of Premium Bonds.

### **Possible Government Action**

Legislation affecting municipal bonds is regularly under consideration by the United States Congress. In addition, the Internal Revenue Service has established an expanded audit program for tax-exempt bonds. There can be no assurance that legislation enacted or proposed or an audit initiated by the Internal Revenue Service involving either the Bonds or other tax-exempt bonds will not have an adverse effect on the tax-exempt status or market price of the Series 2004A Bonds. There can be no assurance that legislation enacted or proposed after the date of issuance of the Series 2004A Bonds will not have an adverse effect on the tax-exempt status or market price of the Series 2004A Bonds.

## **SECTION VII: RATINGS**

The Series 2004A Bonds, other than the Insured Bonds, are rated “Aa3” by Moody’s Investors Service, Inc. (“Moody’s”) and “AA-” by Fitch Ratings (“Fitch”). The ratings on the Insured Bonds will be based on the Bond Insurance Policy. The Insured Bonds are rated “Aaa” by Moody’s, “AAA” by Standard & Poor’s, a division of The McGraw-Hill Companies, Inc. (“S&P”), and “AAA” by Fitch (each of Moody’s, S&P and Fitch are herein referred to as a “Rating Agency”). A security rating should be evaluated independently of similar ratings of different types of securities. A rating is not a recommendation to buy, sell or hold securities. There is no assurance that a particular rating will continue for any given period of time or that any such rating will not be revised downward or withdrawn entirely if, in the judgment of the Rating Agency originally establishing the rating, circumstances so warrant. A downward revision or withdrawal of such ratings, or any of them, may have an effect on the market price of the Series 2004A Bonds.

## **SECTION VIII: UNDERWRITING**

The Series 2004A Bonds are being purchased for reoffering by Lehman Brothers Inc. The Underwriter has agreed, subject to certain conditions, to purchase the Series 2004A Bonds from the Authority at an underwriter’s discount of \$433,926.25 and to make an initial public offering of the Series 2004A Bonds at prices that are not in excess of the initial public offering prices, or at yields below the yields, set forth on the inside cover page of this Offering Circular. The Underwriter will be obligated to purchase all such Series 2004A Bonds if any such Series 2004A Bonds are purchased.

The Series 2004A Bonds may be offered and sold to certain dealers (including the Underwriter) at prices lower than such public offering prices, and such public offering prices may be changed from time to time by the Underwriter.

## **SECTION IX: APPROVAL OF LEGALITY**

All legal matters incident to the authorization, issuance and delivery of the Series 2004A Bonds are subject to the approval of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., Bond Counsel to the Authority. Certain legal matters are subject to the approval of the Authority’s Chief Counsel, Darryl McPherson, Esq., and its General Counsel, Harris Beach LLP, and to the approval of Nixon Peabody LLP, counsel to the Underwriter.

## **SECTION X: FINANCIAL STATEMENTS**

The Authority was created in July 2003. The Authority will retain an independent accountant. The first financial statements of the Authority will be prepared following completion of the Authority’s partial fiscal year ending June 30, 2004, and are expected to be available not later than 185 days after the end of the fiscal year.

## **SECTION XI: CONTINUING DISCLOSURE UNDER RULE 15c2-12**

In order to assist the Underwriter in complying with Rule 15c2-12 promulgated by the Securities and Exchange Commission, the Authority and the Trustee will enter into a written undertaking (the “Continuing Disclosure Agreement”) for the benefit of the holders of the Series 2004A Bonds to provide continuing disclosure. The Authority will undertake for the benefit of the holders of the Series 2004A Bonds to provide each Nationally Recognized Municipal Securities Information Repository (a “Repository”), and if and when one is established, the New York State information depository (the “State Depository”), on an annual basis on or before 185 days after the end of each fiscal year, commencing with the fiscal year ending June 30, 2004, financial information and operating data concerning the Authority of the type included in this Offering Circular referred to herein as “Authority Annual Information” and described in more detail below. The Authority will undertake to provide no later than 185 days after the end of each of its fiscal years, commencing with the fiscal year ending June 30, 2004, the Authority’s annual financial statements for such year, prepared in accordance with GAAP and audited by an independent firm of certified public accountants in accordance with generally accepted auditing standards, to each Repository and to any State Depository, provided, however, that if audited financial statements are not then available, unaudited financial statements shall be so provided and such audited financial statements shall be provided to each Repository and to the State Depository if and when available. In addition, the Authority will undertake, for the benefit of the holders of

the Series 2004A Bonds, to provide to each such Repository or to the Municipal Securities Rulemaking Board (“MSRB”), and any State Depository, in a timely manner, the notices described below.

The Authority Annual Information shall consist of financial information and operating data of the type included in this Offering Circular under the heading “SECTION II: SOURCES OF PAYMENT AND SECURITY FOR THE BONDS,” including information under the subheadings “City Tax Revenues” (excluding the chart entitled “NEW YORK STATE TOP RETAILING COUNTIES”), “School District Tax Revenues”, “Sales Tax Collection and Distribution” and “State Aid Revenues” relating to the material taxes and other revenues that constitute a source of payment and security for the Series 2004A Bonds, a historical summary of such revenue, if available, together with an explanation of the factors affecting collection levels, for a period of at least the five most recent completed fiscal years then available. The Authority Annual Information may contain such narrative explanation as may be necessary to avoid misunderstanding and to assist the reader in understanding the presentation of financial information and operating data and in judging the financial condition of the Authority.

The notices described above include notices of any of the following events with respect to the Series 2004A Bonds, if material: (1) principal and interest payment delinquencies; (2) non-payment related defaults; (3) unscheduled draws on debt service reserves reflecting financial difficulties; (4) unscheduled draws on credit enhancements reflecting financial difficulties; (5) substitution of credit or liquidity providers, or their failure to perform; (6) adverse tax opinions or events affecting the tax status of the Series 2004A Bonds; (7) modifications to the rights of Bondholders; (8) bond calls; (9) defeasances; (10) release, substitution or sale of property securing repayment of the Series 2004A Bonds; and (11) rating changes.

The sole and exclusive remedy for breach or default under the Continuing Disclosure Agreement to provide continuing disclosure described above is an action to compel specific performance of the undertakings of the Authority, and no person, including the holder of the Series 2004A Bonds, may recover monetary damages thereunder under any circumstances. Any Bondholder, including any beneficial owner, may enforce the Continuing Disclosure Agreement. A breach or default under the Continuing Disclosure Agreement shall not constitute an Event of Default under the Indenture. In addition, if all or any part of Rule 15c2-12 ceases to be in effect for any reason, then the information required to be provided under the Continuing Disclosure Agreement, insofar as the provision of Rule 15c2-12 no longer in effect required the provision of such information, shall no longer be required to be provided.

The foregoing undertakings are intended to set forth a general description of the type of financial information and operating data that will be provided; the descriptions are not intended to state more than general categories of financial information and operating data; and where an undertaking calls for information that no longer can be generated or is no longer relevant because the operations to which it related have been materially changed or discontinued, a statement to that effect will be provided. As a result, the parties to the Continuing Disclosure Agreement do not anticipate that it often will be necessary to amend the informational undertakings. The Continuing Disclosure Agreement, however, may be amended or modified under certain circumstances set forth therein.

## **SECTION XII: LEGAL INVESTMENT**

Pursuant to the Act, the Bonds of the Authority are securities in which all public officers and bodies of the State and all public corporations, municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, conservators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the State, may properly and legally invest funds, including capital, in their control or belonging to them. Pursuant to the Act, the Series 2004A Bonds may be deposited with and may be received by all public officers and bodies of the State and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized.

## **SECTION XIII: TRUSTEE**

The Bank of New York, New York, New York, is acting as Trustee in connection with the Series 2004A Bonds.

#### **SECTION XIV: FINANCIAL ADVISOR**

Public Financial Management of Philadelphia, Pennsylvania, has acted as financial advisor to the Authority in connection with the issuance of the Series 2004A Bonds. Public Financial Management is not obligated to undertake, and has not undertaken, an independent verification of, nor has assumed responsibility for, the accuracy, completeness or fairness of the information contained in this Official Statement. Public Financial Management is an independent advisory firm and is not engaged in the business of underwriting, trading or distributing municipal securities or other public securities.

#### **SECTION XV: MISCELLANEOUS**

The references herein to the Act, the Indenture, the Financing Agreement and the Bond Insurance Policy are brief summaries of certain provisions thereof. Such summaries do not purport to be complete and reference is made to the Act, the Indenture, the Financing Agreement and the Bond Insurance Policy for full and complete statements of such provisions. Copies of the Act, the Indenture, the Financing Agreement and the Bond Insurance Policy are available at the offices of the Trustee.

The agreements of the Authority with holders of the Series 2004A Bonds are fully set forth in the Indenture. Neither any advertisement of the Series 2004A Bonds nor this Offering Circular is to be construed as a contract with purchasers of the Series 2004A Bonds.

Any statements in this Offering Circular involving matters of opinion, projections or estimates, whether or not expressly stated, are intended merely as expressions of opinion, projections or estimates and not as representation of fact.

The delivery of this Offering Circular has been duly authorized by the Authority.

BUFFALO FISCAL STABILITY AUTHORITY

By: /s/ Dorothy A. Johnson  
DOROTHY A. JOHNSON, EXECUTIVE DIRECTOR

(This page was left blank intentionally.)

**APPENDIX A—**

**INFORMATION REGARDING THE CITY OF BUFFALO**

*The information contained in this section has been extracted from the Official Statement of the City relating to the City’s \$15,245,000 General Improvement Serial Bonds-2004-B and \$2,700,000 School Serial Bonds-2004-C and discusses certain major economic and demographic factors in the City and the County which may affect Revenues of the Authority. Sources of information are indicated in the text or immediately following the tables. The Authority has made no independent verification of the information presented herein and does not warrant its accuracy.*

**General**

The City of Buffalo was incorporated in 1832. It is the second largest city in New York State encompassing a land area of 42 square miles with a 2000 population of 292,648. The City is located in Erie County in western New York State on the eastern shore of Lake Erie.

**Employment**

The economy of the Buffalo area underwent a transition in the decade from 1980 to 1990, as shown by the following table. Traditionally dominated by heavy manufacturing and petrochemical industries, the area lost manufacturing jobs between 1980 and 1990 in part from the decline in steelmaking employment at both Bethlehem Steel and Republic Steel. However, these losses were offset by increases in employment in trade, government, services, finance, insurance and real estate and contract construction. Overall, total Buffalo area non-agricultural employment increased every year from 1983 to 1990. While total employment declined slightly from 1990-1996, it recovered in 1997 due to growth in both the service and financial categories. The growth in the finance category was influenced by expansion of financial institutions in the area.

As a result of the aforementioned trends, the area’s employment mix is significantly more diverse than in past years. While significantly lower than in 1980, manufacturing employment as a percent of total employment has remained relatively stable from 1990 to 2001 and has moved closer to the national average.

Major employers in the Buffalo area include the State of New York, General Motors, the City of Buffalo, the U.S. Government, Niagara Frontier Services (wholesale and retail food distributor), Erie County, Verizon Communications, University of Buffalo, Ford Motor Company and HSBC Bank USA.

**TRENDS IN EMPLOYMENT BY CATEGORY IN THE BUFFALO METROPOLITAN  
STATISTICAL AREA (“MSA”) 1980-2001  
(000’s Omitted)**

Category (1)	<u>1980</u>	<u>1990</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>
Manufacturing	133.5	97.7	88.5	86.8	86.4	82.9
Trade	112.7	136.6	129.2	129.9	129.9	128.1
Government	88.0	89.6	87.5	88.0	90.6	91.2
Services	101.1	144.4	165.3	171.9	173.2	172.7
Transportation, Communication and Public Utilities	27.5	27.2	25.9	26.9	26.6	27.3
Finance, Insurance & Real Estate	22.2	29.3	29.6	30.7	30.3	30.9
Contract Construction	16.4	22.9	19.6	21.0	21.0	20.5
Total Non-Agricultural	501.4	547.7	545.6	555.2	557.9	554.2

Source: New York State Department of Labor, Division of Research and Statistics, 2002.

1. Does not include all categories of employment.

TRENDS IN EMPLOYMENT BY CATEGORY IN THE BUFFALO MSA (2)  
2002  
(000'S Omitted)

<u>Category (1)</u>	<u>2002</u>
Manufacturing	72.0
Trade, Transportation & Utilities	104.8
Retail Trade	63.1
Wholesale Trade	23.2
Government	92.8
Service Providing	454.2
Other Services	23.2
Transportation, Warehousing Utilities	18.5
Finance & Insurance	26.2
Natural Resources, Mining & Construction	<u>20.4</u>
Total Non-Agricultural	<u>898.40</u>

Source: New York State Department of Labor, Division of Research and Statistics, 2003.

1. Does not include all categories of employment.
2. Due to the North American Free Trade Agreement, categories have been changed.

TOTAL NON-AGRICULTURAL EMPLOYMENT BY CATEGORY  
1980-2001

	<u>1980</u>		<u>1990</u>		<u>1999</u>		<u>2000</u>		<u>2001</u>	
	<u>Buffalo MSA</u>	<u>United States</u>	<u>Buffalo MSA</u>	<u>United States</u>	<u>Buffalo MSA</u>	<u>United States</u>	<u>Buffalo MSA</u>	<u>United States</u>	<u>Buffalo MSA</u>	<u>United States</u>
Manufacturing	26.6%	22.4%	17.8%	17.4%	15.7%	14.0%	15.6%	14.1%	15.0%	13.0%
Trade	22.5%	22.5%	24.9%	23.6%	23.4%	23.9%	23.3%	23.1%	23.1%	23.1%
Government	17.6%	18.0%	16.4%	16.8%	15.9%	15.2%	16.2%	15.7%	16.5%	15.5%
Services	20.1%	20.9%	26.4%	25.5%	31.0%	29.4%	31.0%	30.6%	31.2%	31.1%
Transportation and Public Utilities	5.5%	5.7%	5.0%	5.3%	4.7%	6.6%	4.7%	5.2%	4.9%	5.9%
Finance, Insurance and Real Estate	4.4%	5.7%	5.3%	6.1%	5.5%	5.7%	5.4%	5.8%	5.6%	5.7%
Construction	3.3%	4.8%	4.2%	5.3%	3.8%	5.2%	3.8%	5.5%	3.7%	5.7%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

Source: New York State Department of Labor, Division of Research and Statistics, 2002.



TOTAL NON-AGRICULTURAL EMPLOYMENT BY CATEGORY (1)  
2002

	<u>Buffalo MSA</u>	<u>United States</u>
Manufacturing	8.0%	10.0%
Trade, Transportation, & Utilities	11.0%	17.0%
Retail /Wholesale Trade	9.0%	14.0%
Government	10.0%	14.0%
Service Providing	50.0%	28.0%
Other Services	3.0%	4.0%
Transportation, Warehousing, & Utilities	3.0%	3.0%
Finance & Insurance	3.0%	5.0%
Mining & Construction	<u>3.0%</u>	<u>5.0%</u>
Total	<u>100%</u>	<u>100%</u>

Source: New York State Department of Labor, Division of Research and Statistics, 2003.

1. Due to the North American Free Trade Agreement, categories have been changed.

### Unemployment Rates

The following table indicates that the City's rate of unemployment is higher than the State and national percentages. City data in the table were determined by using the Census share methodology, which is based on the ratio of the City to Erie County with respect to employment figures that were applicable in the 1990 Census. The 1991 through 2001 data for the City of Buffalo are based on the 1990 Census ratios. The 2002 data for the City of Buffalo are based on the City's population data from the 2000 Census.

#### UNEMPLOYMENT RATES (1)

<u>Year</u>	<u>City</u>	<u>Buffalo MSA</u>	<u>State</u>	<u>United States</u>
1991	9.5%	7.1%	7.3%	6.8%
1992	12.0%	7.5%	8.6%	7.5%
1993	10.8%	6.7%	7.8%	6.9%
1994	10.0%	6.1%	6.9%	6.1%
1995	10.0%	5.4%	6.3%	5.6%
1996	8.5%	5.1%	6.2%	5.4%
1997	8.3%	5.3%	6.4%	4.9%
1998	8.6%	5.3%	5.6%	4.5%
1999	8.8%	5.4%	5.2%	4.2%
2000	8.1%	5.0%	4.6%	4.0%
2001	8.6%	5.4%	4.9%	4.8%
2002	9.5%	5.9%	6.0%	5.8%

Source: U.S. Department of Labor, Bureau of Labor Statistics, and the New York Department of Labor, Division of Research and Statistics, 2003.

1. Total employment by place of residence.

### Population

The 2000 Census revealed that the City's population declined from 328,123 in 1990 to 292,648 in 2000.

POPULATION TREND 1970-2000

	<u>1970</u>	<u>1980</u>	<u>1990</u>	<u>2000</u>
Buffalo	462,768	357,870	328,123	292,648
Erie County	1,113,491	1,015,472	968,532	950,265
Buffalo MSA	1,349,211	1,242,573	1,189,288	1,170,111
State	18,236,967	17,355,668	17,990,455	18,976,457
United States	203,211,926	225,234,182	249,632,692	281,421,906

Source: U.S. Department of Commerce, Bureau of the Census.

CITY OF BUFFALO  
HOUSING CHARACTERISTICS  
1960-2000

	<u>1960</u>	<u>1970</u>	<u>1980</u>	<u>1990</u>	<u>2000</u>
Year Round Housing Units	174,153	166,107	156,393	151,971	145,574
Occupied Housing Units	169,086	157,951	140,954	136,436	122,720
Persons Per Household	3.06	2.84	2.41	2.33	2.29

Source: U.S. Department of Commerce, Bureau of the Census.

**Construction Activity**

Residential, Industrial and Commercial Building Permit Activity  
City of Buffalo, 1992-2003

Year	<u>New Construction</u>		<u>Additions, Alterations &amp; Repairs</u>		<u>Demolitions</u>		<u>Total</u>	
	Number of Permits	Permit Value	Number of Permits	Permit Value	Number of Permits	Permit Value	Number of Permits	Permit Value
1992	702	46,943,452	3,933	34,144,792	256	1,511,136	4,891	82,599,380
1993	657	40,817,324	3,696	32,132,998	293	1,617,726	4,646	74,568,048
1994	649	172,971,921 <sup>(1)</sup>	3,253	31,323,565	493	3,613,262	4,395	207,908,748
1995	695	39,193,367	4,390	40,339,844	498	2,713,158	5,276	80,679,688
1996	555	39,072,691	4,075	53,039,592	402	2,480,303	5,032	94,592,917
1997	518	42,023,183	4,198	42,994,377	771	6,304,834	5,487	91,322,394
1998	475	42,495,108	4,246	44,926,658	667	4,680,425	5,388	92,102,191
1999	541	44,970,807	4,079	38,219,310	934	6,581,995	5,554	89,772,112
2000	478	49,592,415	4,307	47,510,440	813	9,690,789	5,598	106,793,644
2001	468	41,329,461	4,350	51,156,832	846	9,548,444	4,935	102,034,737
2002	563	46,904,396	4,425	51,793,481	441	3,742,896	5,429	120,440,773
2003 (2)	96	19,202,326	815	11,237,820	172	943,303	1,083	14,083,449

Source: City of Buffalo, Division of Housing and Inspection.

1. Includes permits for Marine Midland Arena.
2. Data through April 30, 2003.

## Development Activity

On July 1, 2000 the revised City Charter took effect, the culmination of a mandate to increase operational efficiency through departmental consolidations and changes in governances. Formerly the Department of Community Development, the Office of Strategic Planning is responsible for the development of the City's Comprehensive Plan. The plan will serve as a physical land use plan for the City of Buffalo. It will provide a strategic framework to guide public and private investment in the city for the period 2004 to 2025. The goal of the plan is to transform the City of Buffalo as the urban center of the Buffalo-Niagara Region through a process of managed physical change that integrates economic, social and environmental considerations, and restores the economic well being, environmental health and population of the city. To achieve this goal, the Buffalo Comprehensive Plan focuses on the following objectives:

1. Transform the economy.
2. Rebuild the neighborhoods.
3. Deliver quality municipal services.
4. Reconstruct the schools.
5. Restore the Ellicott Radial Plan, the Olmsted Parks and Parkway System, and the waterfront.
6. Maintain existing infrastructure.
7. Implement a community preservation plan.

A draft of the Comprehensive Plan is near completion; the plan is scheduled to take effect in June 2004.

In order to fulfill its economic development mission, the City pursues federal and state assistance aggressively. The Office of Strategic Planning administers the City's Community Development Block Grant (CDBG) program, which funds a variety of economic development, housing, neighborhood, and human service programs. The U.S. Department of Housing and Urban Development (HUD) has awarded the City \$19.923 million in CDBG funding for fiscal year 2003-04.

In 1994, the City won designation from the State of New York as a NYS Economic Development Zone (NYSEDZ). The New York State program offers tax incentives making it attractive for businesses to locate within the two square mile zone. A total of 170 businesses have benefited from Empire Zone incentives, stimulating over \$428.5 million of investment and retaining 10,122 full time jobs and 900 part time jobs. Since 1994 the New York State Empire Zone has been the driving force behind major capital expansion projects at the City's major employers. The following firms have had major projects underway as a result of this tax incentive program: American Axle & Manufacturing, Outokumpu American Brass, Bristol Myers Squibb, Nabisco, General Mills, Oneida Dinnerware/Buffalo China, Rich Products, and Sorrento Lactasils.

Effective in 2001, New York State enhanced the Empire Zone benefits to effectively create a ten year New York State tax free zone (Income, Real Property, and Sales Tax) for business new to New York State and new to an Empire Zone. The City expects that investment numbers as recorded by New York State in the first full year enhanced benefits will dramatically increase as this dramatic tax incentive program becomes known by tax practitioners.

The City of Buffalo received its second Empire Zone in January of 2002 which now allows a total of four square miles to be allocated to large and small businesses through the City of Buffalo.

Additionally Buffalo-Lackawanna was awarded a Federal Renewal Community which provides for Federal Wage and Investment tax credits to specified census tracts. Employers in these census tracts who have 35% of employees that live and work in the renewal community are eligible for a \$1500/year wage tax credit for existing and new employers as well as a \$35,000 investment tax credit on equipment purchases. Additionally, up to a total \$12 million/year may be allocated among commercial revitalization building projects. While the Renewal Community is marketed by the City and its agencies along with the Empire Zone, the Renewal Community benefits will not be measurable until businesses file their 2002 Federal Income Tax returns in April of 2003.

In December of 2001, the Governor announced that New York State and a group of local and national private companies planned to invest \$207 million in a proposed Center of Excellence in Bioinformatics, a high-tech

research center located in the City's High Street medical corridor. Scientists will utilize the University of Buffalo super-computer to study the human genome and develop drugs and medical products. As of 2003, a total of \$290 million has been committed to this project. The commitments consist of venture capital, equipment and software, federal and state funding, and grants. A three-building, 400,000 square foot research complex is under construction. A consortium of firms including Pfizer and Bristol-Myers Squibb, have joined the University at Buffalo as research partners. Though in its initial planning stages, this project has the potential to generate thousands of new jobs through research and commercialization of new pharmaceutical and medical products. Currently the campus occupies 3.2 million square feet of space. An additional 3.0 million square feet of growth is forecasted over the next 20 years.

Preceding the Center of Excellence in Bioinformatics, over \$250 million in private and public investment has recently been concentrated in the Main-High Medical Campus, an area which includes the renowned Roswell Park Cancer Institute and Buffalo General Hospital. A \$241 million renovation of the Roswell Park Cancer Institute was completed in 1998. Roswell's 19 buildings will be reorganized into a campus setting with a new hospital, clinics and research facilities. The Pillars, a \$10.8 million hotel completed in 1998, provides families with a place to stay while patients undergo treatment at neighboring medical facilities.

### **Downtown Development**

Downtown Buffalo is the regional center of the area economy, employing over 46,700 people in the public and private sectors. A concentration of business, governmental, educational, recreational and cultural institutions are located downtown. The Buffalo Central Business District (CBD) contains over 7.0 million square feet of office space with an overall vacancy rate of 14.0%. The downtown vacancy rate has been relatively stable since 1991, when Goldome and Empire of America banks became casualties of the restructuring of the national savings and loan industry. Recent assessment data suggests a stabilization of downtown office building property values. Construction for a \$3 million, 20,000 square foot office building at the corner of Main and Chippewa Street started in Spring 2003. During 2001, an \$8.2 million Class A office building was completed at 665 Main Street in the City's Theatre District.

### **Financial Institutions**

The City is the major financial center for Western New York. The headquarters of HSBC Bank USA, and Manufacturers and Traders Trust Company are located in Buffalo. A total of eight banks and a branch of the Federal Reserve Bank of New York are located within the City. A concentration of financial services, insurance and real estate firms are located in the City. In addition, the City is the headquarters of the Merchants Mutual Insurance Group.

### **Communications**

There are four daily newspapers published in the Buffalo area, including a principal daily paper, the Buffalo News; and more than thirty weekly newspapers, including a business newspaper, Business First. Located in the area are thirteen AM and nine FM radio stations from outlying areas, including Canada. Several cable television companies provide additional channel programming to subscribers.

### **Utilities**

The Buffalo area's electrical requirements are met through the New York State Power Authority, the Niagara Mohawk Power Corporation and the New York State Electric and Gas Corporation. The New York State Power Authority supplies electricity through its 2.2 million kilowatt generators at nearby Lewiston utilizing hydro facilities at Niagara Falls, the largest hydro power plant in the Western Hemisphere. The Niagara Mohawk Power Corporation, the supplier of electricity to the City, operates a coal fired generating station in Tonawanda, New York; oil fired units in Albany and Roseton, New York and a nuclear station near Oswego, New York. In addition to these facilities, the Corporation has firm agreements with the New York State Power Authority. The Corporation's firm total electrical capacity is in excess of 7,000 megawatts. The New York State Electric and Gas Corporation is a major supplier of electricity to Erie and Niagara Counties, and has six major coal fired generating plants in operation

which produce the largest portion of its 2,528 megawatts system capability. The National Fuel Gas Corporation, which serves Buffalo, produces, purchases, transmits, stores and secures natural gas and produces mixed gas.

## **Transportation**

The federal government has designated Route 219 as part of the elite National Highway System, greatly enhancing prospects for the extension and expansion of a critical north/south trade link.

Buffalo is located in the center of a complex transportation network of truck, rail, highway, water and air facilities. The Niagara Frontier Transportation Authority was created by an act of the New York State Legislature in 1967 and is a multi-purpose authority charged with the responsibility of developing and improving air, water and surface transportation in Erie and Niagara Counties. The Authority is responsible for the administration of the Buffalo Niagara International Airport, the Niagara Falls International Airport and is owner of the Metro Bus and Light Rail System. The Buffalo Niagara International Airport (BNIA), a modern, bi-national gateway opened on November 3, 1997. The \$57 million terminal is the key installation of a \$187 million airport improvement program that began in 1991. The BNIA is designed as a “meet and greet” airport which is more efficient than the old East and West terminals that it replaces. The BNIA is a modern 25 gate facility with the capability for expansion for potential new airlines or expanded operations of current airlines. The project was funded by bonds and will be repaid by the Authority from a \$3 surcharge on all tickets purchased in Buffalo and revenue generated by the new facility.

The Peace Bridge Authority has begun a full EIS (Environmental Impact Statement) process to study location, size and design of one or two bridges and an associated plaza. The study is expected to be completed within one year after which funding and design will be pursued. The public comment period ended on December 4, 2001. The list of alternatives is expected to be narrowed to two or three. Any improvement to the Peace Bridge such as a twin span, signature or other design option, has the potential to increase economic development in the region to a significant degree.

The Port of Buffalo is eighth in size of the 54 Great Lakes ports and twenty-ninth in size of the 40 major U.S. ports. The Port’s terminal facilities encompass 185,000 square feet of enclosed storage space for marine cargo and approximately 200 acres of open storage space. On May 28, 1976 a Foreign Trade Zone (the “FTZ”) began operation at the Port of Buffalo. Imported goods may be processed in the FTZ, sorted, stored and repackaged without payment of any duties until the goods are actually sold to importers in the United States or elsewhere. A total of 153 acres at the former Bethlehem Steel Plant has been designated as the FTZ and approximately 31 companies occupy the FTZ at the relocated Port of Buffalo.

Truck service is provided in the Buffalo area by various transcontinental, international and common carriers. Rail service is provided by several freight and passenger lines, including Conrail, Amtrak and Canadian National Railways.

The Metro bus system, which began operation in April 1974, represents the consolidation of seven previously independent bus companies. The Metro bus fleet consists of 324 buses operating over 71 different bus routes in the Erie and Niagara County areas.

The following table sets forth the trend in passenger volume at the Buffalo-Niagara International Airport from 1991 through 2002.

BUFFALO-NIAGARA INTERNATIONAL AIRPORT  
Passenger Volume Trend

<u>Year</u>	<u>Passenger Volume</u>	<u>% Change from Prior Year</u>
1991	3,172,753	-6.9%
1992	3,162,464	-0.3%
1993	3,069,843	-2.9%
1994	3,460,915	12.7%
1995	2,969,816	-14.2%
1996	2,931,657	-1.3%
1997	2,981,979	1.7%
1998	3,239,889	7.9%
1999	3,609,760	11.4%
2000	4,268,538	18.3%
2001	4,389,300	2.8%
2002	4,150,140	-5.4%

---

Source: Niagara Frontier Transportation Authority, April 2002.

**Educational, Cultural, and Medical Institutions**

*Educational*

There are approximately 85,000 students attending colleges and universities in the Buffalo area. Such institutions include, among others, the State University of New York at Buffalo (the largest unit in the State system), the State University College at Buffalo, Niagara University, Canisius College, D'Youville College, Daemen College, Erie County Community College and Niagara County Community College.

*Cultural*

The City of Buffalo is the home of numerous institutions devoted to the arts, including the world famous Albright-Knox Art Gallery and Kleinhans Music Hall, the home of the Buffalo Philharmonic Orchestra.

Buffalo's historic theater district provides the stage for legitimate theater with the largest concentration of theaters in New York State outside of New York City. Downtown Buffalo's theaters, including The Studio Arena Theater, Shea's Buffalo Theater, Alleyway Theatre, and The Irish Classical Theatre, attract more than 400,000 patrons annually.

The City is also the location of the Buffalo Museum of Science, the Buffalo and Erie County Historical Museum, the Buffalo Zoo, and the Botanical Gardens of Buffalo and Erie County.

Library services are provided through the Buffalo and Erie County Public Library Systems. This system, containing over 3.5 million volumes, is one of the largest in the nation.

*Medical*

In the two-county Buffalo metropolitan area, there are nearly 6,000 hospital beds located in twenty-four general or special hospitals, including: Buffalo General, Millard Fillmore, Sisters of Charity, and the Erie County Medical Center.

Of the hospitals serving the area, most are general hospitals offering standard medical care and treatment facilities, but many also provide specialized or unique services. Two Buffalo medical institutions have earned international reputations for their accomplishments: Women's and Children's Hospital, in heart surgery, and Roswell Park Cancer Institute, in the field of cancer research and treatment.

## APPENDIX B—

### SUMMARY OF INDENTURE AND FINANCING AGREEMENT

This summary of the Indenture and the Financing Agreement is qualified in its entirety by reference to such documents, copies of which are available from the Authority.

#### The Indenture

This summary of the Indenture and the Agreement is qualified in its entirety by reference to such documents, copies of which are available from the Authority.

Definitions. The following terms, among others, are defined in the Indenture or Agreement:

"Accrued Debt Service" means, as of the beginning of each calendar month, an amount equal to the sum of the amounts of accrued Debt Service, calculating the accrued Debt Service with respect to each obligation to include: (i) commencing eight months prior to any due date of interest, one-sixth of the amount of interest payable on such due date of interest and (ii) commencing fourteen months prior to any due date of Principal Installments, one-twelfth of the amount of Principal Installments payable on such due date of Principal Installments (if there is no Principal Installment due date for more than fourteen months, then, the deposits required with respect to (ii) shall commence fourteen months prior to the due date of such Principal Installment); provided, however, that as of the beginning of the calendar month two months prior to each due date with respect to Principal Installments and/or interest, Accrued Debt Service shall be recalculated, to the extent necessary, as the amount required to bring the balance in the Bond Account up to the full amount of interest and/or Principal Installments coming due on such due date, plus, if there are no Principal Installments due on such due date, such additional amount required pursuant to (ii) above. In connection with the issuance of any obligations, the Authority may provide a schedule to the Trustee setting forth the Accrued Debt Service due in each month for such obligations and other obligations then Outstanding under the Indenture. Notwithstanding the foregoing, in connection with the issuance of any obligations bearing a variable rate of interest, "Accrued Debt Service" shall be calculated pursuant to the definition of such term included in any Supplemental Indenture authorizing the issuance of such obligations.

The term "ancillary contracts" means contracts entered into pursuant to law by the Authority or for its benefit or the benefit of any of the Beneficiaries to facilitate the issuance, sale, resale, purchase, repurchase or payment of Bonds or Notes, including bond insurance, letters of credit and liquidity facilities.

"Beneficiaries" means Bondholders and, to the extent specified in the Indenture, Noteholders and the parties to ancillary and swap contracts.

"Bondholders," "Noteholders" and similar terms mean the registered owners of the Bonds and Notes from time to time as shown on the registration books of the Authority or its designee as registrar, and to the extent specified by Supplemental Indenture, the owners of bearer Bonds and Notes.

"Bond Proceeds Fund" means the Bond Proceeds Fund established pursuant to the Agreement.

"Bonds" means all obligations issued as Bonds.

"Cash Flow Borrowings" shall have the meaning ascribed to the term "cash flow borrowings" in the Act.

"City Tax Revenues" shall have the meaning ascribed to the term "city tax revenues" in the Act.

"Code" or "Tax Code" means the Internal Revenue Code of 1986, as amended.

"Counsel" means nationally recognized bond counsel or such other counsel as may be selected by the Authority for a specific purpose under the Indenture.

“Debt Service” means interest, redemption premium, purchase price to the extent provided by Officer’s Certificate of the Authority, principal and sinking fund payments due on outstanding Senior Bonds and (to the extent provided by Supplemental Indenture) Notes, and amounts payable from the Bond Account on Senior Agreements.

“Debt Service Reserve Account” shall mean the Account so designated and held by the Trustee pursuant to the Indenture.

“Debt Service Reserve Account Requirement” shall mean, as of any particular date of calculation, the amount equal to the maximum aggregate amount of Principal Installments and interest becoming due in the current or any future Fiscal Year on Outstanding Senior Bonds, including on the Senior Bonds to be issued contemporaneously with such computation, using the Estimated Average Interest Rate for any variable interest rate Senior Bonds (or any reimbursement obligations issued in connection therewith which are deemed to be Bonds pursuant to the related Supplemental Indenture); provided, however, that the Authority may provide for a letter of credit, surety agreement, insurance agreement or other type of agreement or arrangement which provides for the availability of an amount which, together with other deposits, will at least be equal to such Debt Service Reserve Account Requirement.

“Declaration of Need” means a determination and declaration by the City that it requests the Authority to undertake a financing of Financeable Costs pursuant to and in accordance with the Act.

“Defeasance Collateral” means money any (a) non-callable direct obligations of the United States of America, non-callable and non-prepayable direct federal agency obligations the timely payment of principal of and interest on which are fully and unconditionally guaranteed by the United States of America, non-callable direct obligations of the United States of America which have been stripped by the United States Treasury itself or by any Federal Reserve Bank (not including “CATS”, “TIGRS” and “TRS” unless the Authority obtains Rating Confirmation with respect thereto) and the interest components of REFCORP bonds for which the underlying bond is non-callable (or non-callable before the due date of such interest component) for which separation of principal and interest is made by request to the Federal Reserve Bank of New York in book-entry form, and shall exclude investments in mutual funds and unit investment trusts;

(b) obligations timely maturing and bearing interest but only to the extent that the full faith and credit of the United States of America are pledged to the timely payment thereof;

(c) certificates evidencing ownership of the right to the payment of the principal of or interest on obligations described in clause (b) of this definition, provided that such obligations are held in the custody of a bank or trust company satisfactory to the Trustee in a segregated trust account in the trust department separate from the general assets of such custodian; and

(d) bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state (i) which are not callable at the option of the obligor or otherwise prior to maturity or as to which irrevocable notice has been given by the obligor to call such bonds or obligations on the date specified in the notice, and (ii) timely payment of which is fully secured by a fund consisting only of cash or obligations of the character described in clause (a), (b) or (c) of this definition which fund may be applied only to the payment when due of such bonds or other obligations.

“Defeased Bonds” means Bonds or Notes that remain in the hands of their Holders but are no longer deemed Outstanding.

“Eligible Investments” means and includes any of the following obligations to the extent they are at the time legal for investment of such funds pursuant to any applicable provision of law:

(i) Defeasance Collateral;

(ii) certificates of deposit, whether negotiable or non-negotiable, and banker’s acceptances of any of the fifty largest banks in the United States which bank, at the time of investment, has an outstanding



unsecured, uninsured and unguaranteed debt issue ranked by two nationally recognized independent rating agencies at a rating category that is no lower than the then current rating of the authority's bonds, notes or other obligations;

(iii) commercial paper of any bank or corporation created under the laws of either the United States or any state of the United States which commercial paper, at the time of the investment, has received the highest rating of two nationally recognized independent rating agencies;

(iv) bonds, debentures, or other evidences of indebtedness, issued or guaranteed at the time of the investment by the federal national mortgage association, federal home loan mortgage corporation, student loan marketing association, federal farm credit system, or any other United States government sponsored agency, provided that at the time of the investment such agency receives, or its obligations receive, any of the three highest rating categories of two nationally recognized independent rating agencies;

(v) any bonds or other obligations of any state or the United States of America or of any political subdivision thereof or any agency, instrumentality or local governmental unit of any such state or political subdivision which bonds or other obligations, at the time of the investment have received any of the three highest ratings of two nationally recognized independent rating agencies;

(vi) any repurchase agreement with any bank or trust company organized under the laws of the state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in paragraph (i), (ii) or (v) above, which securities shall at all times have a market value of not less than the full amount of the repurchase agreement and be delivered to another bank or trust company organized under the laws of the state or any national banking association domiciled in the state, as custodian;

(vii) reverse repurchase agreements with any bank or trust company organized under the laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in paragraph (i), (ii) or (v) above which securities shall at all times have a market value of not less than the full amount of the repurchase agreement and be delivered to another bank or trust company organized under the laws of the state or any national banking association domiciled in the state, as custodian; or

(viii) such other investments as the Authority may approve in any Supplemental Indenture;

provided that no investment held in the Bond Proceeds Fund may (a) evidence the right to receive only interest with respect to the obligations underlying such instrument or (b) be purchased at a price greater than par if such instrument may be prepaid or called at a price less than its purchase price prior to its stated maturity.

“Estimated Average Interest Rate” means, as to any obligations bearing a variable interest rate (including Bonds and swap contracts) and as of any date of calculation, the interest rate or rates anticipated to be borne by such Bonds and the period or periods for which such rate or rates are anticipated to be in effect, all as determined by the Authority as the greater of the Index plus 2%, or the actual average for the last twenty-four months of variable interest rates on Outstanding variable interest rate Bonds, which rate or rates may, to the extent determined by the Authority, be the rate or rates payable in connection with such obligations and a related swap contract meeting the requirements of the Indenture.

“Fiduciary” means the Trustee, any representative of the Holders of Notes or Subordinate Bonds appointed by Supplemental Indenture, or any Paying Agent, including each fiscal agent.

“Financeable Costs” has the meaning given to the term “financeable costs” in the Act.

“Fitch” means Fitch Inc.; references to Fitch are effective so long as Fitch is a Rating Agency.

“Index” when calculating the Estimated Average Interest Rate under the Indenture, shall mean the average for the last twenty-four calendar months of (a) the BMA Municipal Swap Index™, formerly the PSA Municipal Swap Index™ (as such term is defined in the *1992 ISDA U.S. Municipal Counterparty Definitions*) (the “BMA Municipal Swap Index™”) or (b) if the BMA Municipal Swap Index™ is no longer published, the Kenny Index™ (as such term is defined in the *1992 ISDA U.S. Municipal Counterparty Definitions*) or (c) if neither of the BMA Municipal Swap Index™ nor the Kenny Index™ are published, the index determined to equal the prevailing rate determined by the Authority for tax-exempt state and local government bonds meeting criteria determined in good faith by the Authority to be comparable under the circumstances to the criteria used by the Bond Market Association to determine the BMA Municipal Swap Index™ just prior to when the Bond Market Association stopped publishing the BMA Municipal Swap Index™.

“LFL” means the Local Finance Law of the State, as amended from time to time.

“Majority in Interest” means the Holders of a majority of the Outstanding Bonds or Notes eligible to act on a matter, measured by face value at maturity unless otherwise specified in a Supplemental Indenture.

The term “maximum annual debt service on all Authority bonds, notes and other evidences of indebtedness” means, as determined by the Authority at any given time, the greatest amount of interest, principal and sinking fund payments on all outstanding Authority bonds, notes, and ancillary and swap contracts (including payments on Subordinate Bonds and Senior Bonds and Notes, but excluding payments on Bond Anticipation Notes anticipated by the Authority to be repaid from Authority bonds, whether or not any such payments constitute Debt Service) payable in the current or any future fiscal year.

“Moody’s” means Moody’s Investors Service; references to Moody’s are effective so long as Moody’s is a Rating Agency.

The term “operating expenses” means all expenses incurred by the Authority in the administration of the Authority including but not limited to salaries, administrative expenses, insurance premiums, auditing and legal expenses, fees and expenses incurred for professional consultants and fiduciaries, payments on Notes and swap and ancillary contracts not paid as Financeable Costs or from the Bond Account, transfers to pay or service Subordinate Bonds, and all operating expenses so identified by Supplemental indenture.

“Outstanding”, when used to modify Bonds or Notes, refers to Bonds or Notes issued under the Indenture, excluding: (i) Bonds or Notes which have been exchanged or replaced, or delivered to the Trustee for credit against a principal payment; (ii) Bonds or Notes which have been paid; (iii) Bonds or Notes which have become due and for the payment of which money has been duly provided; (iv) Bonds or Notes, including any portion of any Series thereof, for which there has been irrevocably set aside sufficient Defeasance Collateral timely maturing and bearing interest, to pay or redeem them; and if any such Bonds or Notes are to be redeemed prior to maturity, the Authority shall have taken all action necessary to redeem such Bonds or Notes and notice of such redemption shall have been duly mailed in accordance with the Indenture or irrevocable instructions so to mail shall have been given to the Trustee; (v) Bonds and Notes, including any portion of any Series thereof, the payment of which shall have been provided for; and (vi) for purposes of any consent or other action to be taken by the Holders of a Majority in Interest or specified percentage of Bonds or Notes under the Indenture, Bonds or Notes held by or for the account of the Authority, the City or any person controlling, controlled by or under common control with either of them.

“Principal Installment” means, with respect to any obligations the payment of which constitute Debt Service, principal and sinking fund payments and any other such payment obligations not constituting interest or an interest component of such payment obligation.

“Proceeding” means any suit, action or proceeding at law or in equity for the enforcement of the Undertaking or to remedy any breach thereof, except a remedial action pursuant to Article X.

“Rating Agency” means each nationally recognized statistical rating organization that has, at the request of the Authority, a rating in effect for the unenhanced Senior Bonds.

“Rating Confirmation” means evidence that no Senior Bond rating in effect from a Rating Agency will be withdrawn or reduced solely as a result of an action to be taken under the Indenture.

“Requisition” means a certificate in writing signed by an Authorized Officer of the City in the form required from time to time by the Authority under the Agreement.

“Revenues” means the City Tax Revenues, School District Tax Revenues, State Aid Revenues, investment earnings on money and investments on deposit in the Accounts and all other income and receipts (other than Note or Bond proceeds) paid or payable to the Authority or the Trustee for the account of the Authority to the extent such other income and receipts are to be treated as Revenues under the terms of the Indenture.

“S&P” means Standard & Poor’s Ratings Services; references to S&P are effective so long as S&P is a Rating Agency.

“School District” means the City’s dependent school district.

“School District Tax Revenues” shall have the meaning ascribed to the term “school district tax revenues” in the Act.

“Senior Agreements” means ancillary and swap contracts to the extent that amounts are payable thereon from the Bond Account pursuant to a Supplemental Indenture.

“Senior Bonds” means all Bonds issued as Senior Bonds.

“Senior Notes” means all Notes issued as Senior Notes.

“Series” means all Notes or Bonds so identified in a Supplemental Indenture, regardless of variations in maturity, interest rate or other provisions, and any Notes or Bonds thereafter delivered in exchange or replacement therefor.

“State” means the State of New York.

“State Aid Revenues” shall have the meaning ascribed to the term “state aid” in the Act.

“Subordinate Agreements” means ancillary and swap contracts to the extent that such contracts are not Senior Agreements.

“Subordinate Bonds” means all Bonds other than Senior Bonds.

“Subordinate Notes” means all Notes other than Senior Notes.

The term “swap contract” means an interest rate exchange or similar agreement entered into by the Authority pursuant to the Act, with Rating Confirmation from each Rating Agency.

“Tax-Exempt Bonds” or “Tax-Exempt Notes” means all Bonds or Notes so identified in any Supplemental Indenture.

“Tax Law” means the Tax Law of the State, as amended from time to time.

Directors, State and City Not Liable-on Notes or Bonds. Neither the Directors of the Authority nor any person executing Notes, Bonds or other obligations of the Authority shall be liable personally thereon or be subject to any personal liability or accountability solely by reason of the issuance thereof.

The Notes, Bonds and other obligations of the Authority shall not be a debt of either the State, the County or the City, and neither the State, the County nor the City shall be liable thereon, nor shall they be payable out of any

funds other than those of the Authority; and the Notes and Bonds shall contain on the face thereof a statement to such effect.

Security and Pledge. Pursuant to the Act, the Authority assigns and pledges to the Trustee in trust upon the terms of the Indenture, subject only to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in the Indenture, (a) the Revenues, (b) all rights to receive the Revenues (including the City Tax Revenues, the School District Tax Revenues and State Aid Revenues) and the proceeds of such rights, (c) all Accounts and assets thereof, including money, contract rights, general intangibles or other personal property, held by the Trustee under the Indenture, (d) the State Covenant, the County Covenant and the City Covenant and the other covenants, agreements and acknowledgments of the City made in the Agreement, and (e) any and all other property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, conveyed, pledged, assigned or transferred as and for additional security under the Indenture. Except as specifically provided in the Indenture, this assignment and pledge does not include: (i) the rights of the Authority pursuant to provisions for consent or other action by the Authority, notice to the Authority, indemnity or the filing of documents with the Authority, or otherwise for its benefit and not for that of the Beneficiaries, or (ii) any right, duty or power reserved to the Authority pursuant to the Act or other law. The Authority will implement, protect and defend this assignment and pledge by all appropriate legal action, the cost thereof to be an operating expense. The preceding, and all pledges and security interests made and granted by the Authority pursuant hereto, are immediately valid, binding and perfected to the full extent provided by the Act. The foregoing collateral is pledged and a security interest is therein granted, to secure the payment of Bonds, Notes, and payments in respect of Senior Agreements and Subordinate Agreements; provided, however, that the pledge and security interest in the Indenture granted to secure the Authority's obligation to pay Subordinate Bonds and Subordinate Agreements shall be subject and subordinate to the pledge and security interest in the Indenture granted to secure Debt Service. The lien of such pledge and the obligation to perform such contractual provisions made shall have priority over any or all other obligations and liabilities of the Authority secured by the Revenues. The Authority shall not incur any obligations, except as authorized by the Indenture, secured by a lien on the Revenues or Accounts equal or prior to the lien of the Indenture.

Defeasance. (a) If the Authority shall pay or cause to be paid to the Beneficiaries of all obligations then Outstanding the principal and interest and redemption price, if any, to become due thereon, at the times and in the manner stipulated therein and in the Indenture, then, at the option of the Authority, expressed in an instrument in writing signed by an Authorized Officer and delivered to the Trustee, the respective covenants, of the Authority, the State, the County and the City to the Beneficiaries shall be discharged and satisfied. In such event, the Trustee shall, upon the request of the Authority, execute and deliver to the Authority all such instruments as may be desirable evidence such discharge and satisfaction and the Fiduciaries shall pay over or deliver to the Issuer all money, securities and funds held by them pursuant to the Indenture which are not required for the payment or redemption of obligations not theretofore surrendered for such payment or redemption.

(b) Outstanding Bonds or Notes or any portions thereof for the payment or redemption of which money shall have been set aside and shall be held in trust by the Paying Agents shall, at the respective maturity or redemption dates thereof, be deemed to have been paid within the meaning and with the effect expressed in subparagraph (a) of this paragraph. Outstanding Bonds or Notes or any portions thereof shall, prior to the maturity or redemption date thereof, be deemed to have been paid within the meaning and with the effect expressed in subparagraph (a) of this paragraph either (A) as provided in the Supplemental Indenture authorizing their issuance or (B) if (i) in case any of said Bonds or Notes are to be redeemed on any date prior to their maturity, the Authority shall have given to the Trustee in form satisfactory to it irrevocable instructions to mail as provided in the Indenture notice of redemption on said date of such obligations, (ii) there shall have been irrevocably deposited with the Trustee either money in an amount which shall be sufficient, or Defeasance Collateral the principal of and the interest on which when due will provide money which, together with the money, if any, deposited with the Trustee at the same time, shall be sufficient, without further investment or reinvestment of either the principal amount thereof or the interest earnings thereon, to pay when due, the principal or redemption price, if applicable, and interest due and to become due on such Bonds or Notes or such portions thereof on and prior to the redemption date or maturity date thereof, as the case may be, and (iii) in the event such Bonds or Notes are not by their terms maturing or are not subject to redemption within the next succeeding 60 days, the Authority shall have given the Trustee in form satisfactory to it irrevocable instructions to mail, as soon as practicable, a notice to the Beneficiaries of such Bonds or Notes that the deposit required by (ii) above has been made with the Trustee and that said Bonds or Notes are deemed to have been paid in accordance with the Indenture and stating such maturity or redemption date

upon which money is to be available for the payment of the principal or redemption price, if applicable, on such Bonds or Notes. Neither Defeasance Collateral nor money deposited with the Trustee pursuant to the Indenture nor principal or interest payments on any such Defeasance Collateral shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal or redemption price, if applicable, and interest on said Bonds or Notes provided that any money on deposit with the Trustee, (x) to the extent such money will not be required at any time for such purpose, shall be paid over to the Authority as received by the Trustee, free and clear of any trust, lien or pledge securing said Bonds or Notes or otherwise existing under the Indenture, and (y) to the extent such money will be required for such purpose at a later date, shall, to the extent practicable, be reinvested in Defeasance Collateral maturing at times and in amounts sufficient, together with any money available to the Trustee for such purpose, to pay when due the principal or redemption price, if applicable, and interest to become due on said Bonds or Notes on and prior to such redemption date or maturity date thereof, as the case may be.

(c) Upon such defeasance, the funds and investments required to pay or redeem the Bonds, Notes and other obligations to Beneficiaries shall be irrevocably set aside for that purpose, subject only, however, to provisions of the Indenture relating to unclaimed money, and money held for defeasance shall be invested only as provided above in this section and applied by the Trustee and other Paying Agents, if any, to the retirement of the Bonds and Notes and other obligations. Any funds or property held by the Trustee and not required for payment or redemption of the Bonds, Notes and other obligations to Beneficiaries in full shall, after satisfaction of all the rights of the Authority and the Trustee, be distributed to the Authority upon such indemnification, if any, as the Trustee may reasonably require.

Notes and Bonds of the Authority. (a) By Supplemental Indenture complying procedurally and in substance with the Act and the Indenture, the Authority may authorize, issue, sell and deliver Bonds or Notes, including Notes in anticipation of Bonds, from time to time in such principal amounts as the Authority shall determine to be necessary, to provide sufficient funds to finance Financeable Costs by payment or reimbursement, and funding reserves to secure Notes or Bonds; and may issue Notes or Bonds to renew or refund Notes or Bonds, by exchange, purchase, redemption or payment, and establish such escrows therefor as it may determine; provided, however, that the aggregate principal amount of Senior Bonds or Notes Outstanding at any one time shall not exceed \$300,000,000 and provided further, however, that the aggregate principal amount of Subordinate Bonds or Notes issued as Cash Flow Borrowings Outstanding at any one time shall not exceed \$145,000,000.

(b) Bonds and Notes may be issued only:

(i) as Senior Bonds or Notes, or as Subordinate Bonds or Notes;

(x) to pay or reimburse Financeable Costs, but not to exceed the limitations for specified Financeable Costs set forth in §3862(1) of the Act in issuance amount, measured by proceeds to the Authority, and

(y) to refund or renew such Bonds or Notes; but

(ii) with the exception of the initial Series of Senior Bonds issued under the Indenture, no Senior Bonds or Notes shall be authenticated and delivered except upon receipt by the Trustee of:

(x) an Officer's Certificate of the Authority setting forth, and based upon information provided to the Authorized Officer filing such Officer's Certificate by the State Comptroller or other State official on whom such Authorized Officer may reasonably rely, the most recent receipts by the Trustee (or by the Authority or the City, as applicable, with respect to the period prior to redirection of such amounts to the Trustee) for the 12 consecutive calendar months ended not more than three months prior to the date of such certificate, of the City Tax Revenues and School District Tax Revenues, in effect at the date of issuance of such Series of Bonds or Notes, to be payable to the Authority; and

(y) an Officer's Certificate of the Authority setting forth

- (I) the aggregate amount of Debt Service (excluding any accrued or capitalized interest), including such Series of Bonds or Notes, for each Fiscal Year Bonds or Notes will be Outstanding, and
- (II) that the amount set forth pursuant to clause (x) will be at least three times such aggregate amount set forth in clause (y)(I) for each Fiscal Year set forth pursuant to clause (y)(I).

(iii) no Senior Bonds shall be authenticated and delivered except upon receipt by the Trustee of (y) an Officer's Certificate of the Authority making the computation required in the definition of Debt Service Reserve Account Requirement and determining the amount required to be deposited to the Debt Service Reserve Account to fulfill such Debt Service Reserve Account Requirement, and (z) provision for such deposit.

Each interest rate on Outstanding and proposed variable interest rate Bonds or Notes shall be assumed at the Estimated Average Interest Rate.

(c) The Notes and Bonds shall bear such dates and shall mature at such times as the Authority may provide pursuant to the Act. The Notes and Bonds shall bear interest at such fixed or variable rates, and shall be in such denomination, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place and be subject to such, terms of redemption as the Authority may provide pursuant to the Act. The Notes and Bonds may be sold by the Authority at public or private sale pursuant to the Act.

Documents to be Delivered to Trustee. The Authority may from time to time request the authentication and delivery of a Series of Bonds or Notes by providing to the Trustee (at or prior to such authentication and delivery), among other documents, the following:

(a) an Officer's Certificate of the Authority as to the purposes to be financed, and to the effect that, to the best of such Authorized Officer's knowledge, there is no default under the Indenture that will remain uncured immediately following such delivery, nor an uncured failure of the State, the County or the City to comply with their respective agreements provided for in the Act, as in effect at the date of the Indenture;

(b) an opinion of Counsel as to the due authorization, execution and delivery by the Authority of the Indenture and each relevant Supplemental Indenture; to the effect that the Indenture is in full force and effect and that the Bonds or Notes are valid and binding obligations of the Authority secured by the pledge of the Indenture; and after delivery of the initial Series of Bonds under the Indenture, to the effect that the issuance of the Bonds or Notes will not adversely affect the exclusion from gross income for federal income tax purposes of interest on Tax-Exempt Bonds or Tax-Exempt Notes theretofore issued (as set forth in the opinions delivered with such prior Bonds or Notes);

Ancillary and Swap Contracts. Pursuant to the Act, the Authority may enter into, amend or terminate, as it determines to be necessary or appropriate, any ancillary or swap contracts, including Senior Agreements. The Authority may by Supplemental Indenture provide for the payment through the Bond Account of any amounts due pursuant to ancillary and swap contracts (excluding termination payments), any such ancillary and swap contracts thereby constituting Senior Agreements. Any amounts paid or payable to the Authority pursuant to any ancillary or swap contract shall constitute a Revenue and, except as otherwise provided in a Supplemental Indenture, shall be deposited in the Bond Account.

Bond Anticipation Notes. Whenever the Authority shall authorize the issuance of a Series of Bonds, the Authority may, by Supplemental Indenture, authorize the issuance of Notes and renewals thereof in anticipation of such Series. The interest on such Notes and renewals thereof may be made payable from the proceeds of such Notes, from the Bond Account or from the proceeds of the Series of Bonds in anticipation of which such Notes are issued. The proceeds of such Bonds may be pledged for the payment of the principal of or interest on such Notes, and any such pledge shall have a priority over any other pledge of such proceeds created by the Indenture. Subject to Article V, the Authority may also pledge the Revenues and the Accounts to the payment of the principal of such Notes.

Financeable Costs. Proceeds of the sale of the Bonds and Notes issued for Financeable Costs shall be promptly deposited in the Bond Proceeds Fund to the extent set forth by Supplemental Indenture, and applied to finance, by payment or reimbursement, Financeable Costs. The Authority shall transfer its earnings on the Bond Proceeds Fund to the Collection Account as Revenues, or otherwise apply such earnings in accordance with the Tax Code pursuant to an Officer's Certificate.

Limited Purpose of Indenture. The Indenture provides for the issuance and payment of the Authority's obligations and the financing and refinancing of Financeable Costs. The Indenture is not intended to convey to the Trustee or the Beneficiaries any right to exercise or approve the Authority's financial control and oversight powers and duties, including those set forth in the Act, and the right and obligation to exercise such powers and duties is reserved solely to the Authority, nor is the Indenture intended to convey to the Trustee or the Beneficiaries the benefit of any provisions of the Agreement not expressly pledged pursuant to the Indenture. Except as set forth in the Indenture and the Agreement, the Authority, the City and the Trustee shall have no liability to each other or to the Beneficiaries for the construction, reconstruction, acquisition, installation, physical condition, ownership or operation of any capital project of the City or the School District financed as a Financeable Cost under the Indenture or otherwise for the financing of Financeable Costs.

Application of Revenues. (a) Provision is made in the Act for the payment to the Authority of the City Tax Revenues, School District Tax Revenues and State Aid Revenues, and the Authority has requested the State Comptroller to make such payments to the Collection Account to be held by the Trustee for application under the Indenture. Any Revenues received by the Authority shall be promptly deposited in the Collection Account. All Revenues in the Collection Account shall be applied upon receipt by the Trustee, in the following order of priority in accordance with an Officer's Certificate: first to the Bond Account to pay Debt Service pursuant to paragraph (b) summarized below, and any amount, if any, necessary to replenish the Debt Service Reserve Account to the extent of any withdrawal therefrom; second, to pay debt service on any Subordinate Bonds or Notes, amounts, if any, necessary to replenish any reserve accounts established in connection thereto, and any other amounts pursuant to Supplemental Indentures for the benefit of Subordinate Noteholders, Subordinate Bondholders and parties to Subordinate Agreements; third to the Authority's operating expenses, which may include deposits to the Redemption Account for optional redemption and reserves to be held by the Authority for payment of operating expenses, in such amounts as may be determined by Supplemental Indenture or Officer's Certificate; and fourth, subject to any agreements between the Authority and the City, as soon as practicable, to the order of the City, free and clear of the lien of the Indenture.

(b) At the beginning of each calendar month, the Trustee shall begin to transfer all Revenues from the Collection Account to the Bond Account, and shall continue such transfers until the amount transferred to the Bond Account in such month is equal to Accrued Debt Service. To the extent that Debt Service includes principal, interest or premium on Bonds or Notes to be purchased or redeemed prior to maturity, such Debt Service may be paid through the Redemption Account, and the Authority may by Officer's Certificate direct the Trustee in writing to transfer Revenues thereto, rather than to the Bond Account.

(c) Prior to any payment date for Debt Service, the Authority may by Officer's Certificate estimate interest payable at a variable rate; or treat anticipated receipts on an ancillary or swap contract as offsets thereto as specified in the Indenture.

(d) The transfers and payments to be made under this Article shall be appropriately adjusted by Officer's Certificate of the Authority to reflect the date of issue of Notes or Bonds, any accrued or capitalized interest deposited in the Bond Account or any other amounts irrevocably pledged to the payment of such Debt Service for such period, dates of receipt of Revenues, actual rates of interest, any amount needed or held in the Accounts for Debt Service, and any purchase or redemption of Notes or Bonds, so that there will be available on each payment date the amount necessary to pay Debt Service and so that accrued or capitalized interest will be applied to the installments of interest to which it is applicable.

(e) Revenues shall in all events be transferred from the Collection Account to the Bond Account or the Redemption Account to provide for the timely payment of Debt Service, and all Revenues shall be applied to pay Debt Service and other amounts then overdue pursuant to the Indenture.

(f) Moneys on deposit in the Debt Service Reserve Account shall be held in trust and, except as otherwise provided, shall be applied solely to remedy any shortfall in the Bond Account in amounts due on Debt Service. In the event that, on the business day preceding any date upon which payment of Debt Service is due, the amounts on deposit in the Bond Account is less than the amount required to pay such Debt Service, the Trustee shall withdraw from the Debt Service Reserve Account and deposit to the Bond Account such amount as will increase the amount therein to an amount sufficient to make such payment. If at any time, the amount, if any, on deposit in the Debt Service Reserve Account is in excess of the Debt Service Reserve Account Requirement, the Trustee shall transfer such excess from the Debt Service Reserve Account to the Collection Account.

Bond Account. A Bond Account is established with the Trustee and money shall be deposited therein as provided in the Indenture. Accrued interest received upon the sale of Notes (if so specified by Supplemental Indenture) or Senior Bonds shall be deposited in the Bond Account. The money in the Bond Account shall be held in trust and, except as otherwise provided, shall be applied solely to the payment of Debt Service. If at any time the amount held in the Bond Account exceeds Accrued Debt Service, the Trustee shall transfer such excess to the Collection Account as Revenues. The Trustee shall pay, or transfer money from the Bond Account to a Paying Agent in time for such Paying Agent to pay Debt Service when due in same-day funds.

Redemption Account. A Redemption Account is established with the Trustee and money shall be deposited therein as provided in the Indenture. The money and investments in such Account shall be held in trust and, except as otherwise specified in the Indenture, shall be applied by the Trustee to the redemption of Bonds and Notes. Upon direction by Officer's Certificate of the Authority, the Trustee shall apply money in the Redemption Account to the purchase of Bonds and Notes for cancellation at prices not exceeding (unless so directed by Officer's Certificate of the Authority) the price at which they are then redeemable (or next redeemable if they are not then redeemable), but not with money required to pay Bonds or Notes for which notice of redemption has been given. Accrued interest on the purchase of Bonds and Notes may be paid from the Bond Account (if so payable under the Indenture) or as directed by Officer's Certificate of the Authority.

When money in the Redemption Account is to be applied to the redemption of Notes or Bonds, the Trustee shall pay, or transfer such money to a Paying Agent in time for such Paying Agent to pay, such Notes or Bonds when due in same-day funds.

If on any date the amount in the Bond Account is less than the amount then required to be applied to pay Debt Service then due, the Trustee shall apply the amount in the Redemption Account (other than any sum irrevocably set aside for particular Notes or Bonds no longer Outstanding) to the extent necessary to meet the deficiency.

Redemption of the Bonds and Notes. The Authority may redeem Bonds and Notes at its option in accordance with their terms and shall redeem Bonds and Notes in accordance with their terms pursuant to any mandatory redemption ("sinking fund") requirements established by Supplemental Indenture. When Bonds or Notes are called for redemption, the accrued interest thereon shall become due on the redemption date. To the extent not otherwise provided, the Authority shall deposit with the Trustee on or prior to the redemption date a sufficient sum to pay principal, redemption premium, if any, and accrued interest.

Unless otherwise specified by Supplemental Indenture, there shall, at the option of the Authority, be applied to or credited against any sinking fund requirement the principal amount of any such Bonds that have been defeased, purchased or redeemed and not previously so applied or credited.

When Bonds or Notes are to be redeemed prior to maturity, the Trustee shall give notice in the name of the Authority, which notice shall identify the Bonds or Notes to be redeemed, state the date fixed for redemption and state that such Bonds or Notes will be redeemed at the corporate trust office of the Trustee or a Paying Agent. The notice shall further state that on such date there shall become due and payable upon each Bond or Note to be redeemed the redemption price thereof, together with interest accrued to the redemption date, and that money therefor having been deposited with the Trustee or Paying Agent, from and after such date, interest thereon shall cease to accrue. The Trustee shall give at least 30 days' notice by mail, or otherwise transmit the redemption notice in accordance with the applicable Supplemental Indenture, to the registered owners of any Bonds or Notes which are to be redeemed, at their addresses shown on the registration books of the Authority. Such notice may be waived by



any Holder of Bonds or Notes to be redeemed. Failure by a particular Holder to receive notice, or any defect in the notice to such Holder, shall not affect the redemption of any other Bond or Note.

Investments. Pending its use under the Indenture, money in the Accounts may be invested by the Trustee in Eligible Investments maturing or redeemable at the option of the holder at or before the time when such money is expected to be needed and shall be so invested pursuant to written direction of the Authority if there is not then an Event of Default actually known to an Authorized Officer of the Trustee. Investments shall be held by the Trustee in the respective Accounts and shall be sold or redeemed to the extent necessary to make payments or transfers from each Account.

Except as otherwise specified in the Indenture or by Supplemental Indenture, any interest realized on investments in any Account and any profit realized upon the sale or other disposition thereof shall be credited to the Collection Account.

The Trustee may hold undivided interests in Eligible Investments for more than one Account (for which they are eligible) and may make interfund transfers in kind.

If any money is invested under the Indenture and a loss results therefrom so that there are insufficient funds to pay Debt Service or to redeem Bonds or Notes called for redemption, then the deficiency shall be timely filled from Revenues (as Debt Service if so payable under the Indenture). The Trustee shall not be liable for any losses on investments made at the direction of the Authority.

Unclaimed Money. Except as may otherwise be required by applicable law, in case any money deposited with the Trustee or a Paying Agent for the payment of the principal of, or interest or premium, if any, on any Bond or Note remain unclaimed for two years after such principal, interest or premium has become due and payable, the Fiduciary may and upon receipt of a written request of the Authority will pay over to the Authority the amount so deposited and thereupon the Fiduciary and the Authority shall be released from any further liability under the Indenture with respect to the payment of principal, interest or premium and the owner of such Bond or Note shall be entitled (subject to any applicable statute of limitations) to look only to the Authority as an unsecured creditor for the payment thereof.

Contract, Obligations to Beneficiaries. In consideration of the purchase and acceptance of any or all of the Bonds and Notes and ancillary and swap contracts by those who shall hold the same from time to time, the provisions of the Indenture shall be a part of the contract of the Authority with the Beneficiaries, and shall be deemed to be and shall constitute contracts among the Authority, the Trustee, the City to the extent specified in the Agreement, the Beneficiaries from time to time and, to the extent specified in the Act, the State and the County. The pledge made in the Indenture and the covenants set forth to be performed by the Authority, the City, the State and the County shall be for the equal benefit, protection and security of the Beneficiaries of the same priority. All of the Bonds or Notes or ancillary or swap contracts of the same priority, regardless of the time or times of their issuance or maturity, shall be of equal rank without preference, priority or distinction of any thereof over any other except as expressly provided pursuant hereto and to the Act.

The Authority shall pay when due all sums payable on the Bonds and Notes, from the Revenues and money designated in the Indenture, subject only to (i) the Act and the Indenture, and (ii) to the extent permitted by the Act and the Indenture, (x) agreements with Holders of Bonds and Notes pledging particular collateral for the payment thereof and (y) the rights of Beneficiaries under ancillary and swap contracts. The obligation of the Authority to pay principal, interest and redemption premium, if any, to the Holders of Bonds and Notes shall be absolute and unconditional, shall be binding and enforceable in all circumstances whatsoever, and shall not be subject to setoff, recoupment or counterclaim. The Authority shall also pay its operating expenses.

Enforcement. The Authority shall enforce or cause the Trustee to enforce, by appropriate legal proceedings, each covenant, pledge or agreement made by the City, the State or the County in the Indenture or in or pursuant to the Act for the benefit of any of the Beneficiaries.

Tax Covenant. The Authority shall at all times do and perform all acts and things permitted by law and necessary or desirable to assure that interest paid by the Authority on Tax-Exempt Bonds and Tax-Exempt Notes

shall be excludable from gross income for Federal income tax purposes pursuant to § 103(a) of the Tax Code; and no funds of the Authority shall at any time be used directly or indirectly to acquire securities or obligations the acquisition or holding of which would cause any Tax-Exempt Bond or Tax-Exempt Note to be an arbitrage bond as defined in the Code and any applicable Regulations issued thereunder.

If and to the extent required by the Code, the Authority shall periodically, at such times as may be required to comply with the Code, pay from the Bond Proceeds Fund or as an operating expense the amount, if any, required by the Code to be rebated thereto or paid as a related penalty.

Accounts and Report. The Authority shall (1) cause to be kept books of account in which complete and accurate entries shall be made of its transactions relating to all funds and accounts under the Indenture, which books shall at all reasonable times be subject to the inspection of the City, the Trustee and the Holders of an aggregate of not less than 25% in principal amount of Bonds and Notes then Outstanding or their representatives duly authorized in writing; and

(2) keep in effect at all times by Officer's Certificate an accurate and current schedule of all Debt Service to be payable during the life of then Outstanding Bonds, Notes and Senior Agreements secured by the Bond Account; certifying for the purpose such estimates as may be necessary.

Ratings. Unless otherwise specified by Supplemental Indenture, the Authority shall pay such reasonable fees and provide such available information as may be necessary to obtain and keep in effect ratings on all the Senior Bonds from at least two nationally recognized statistical rating organizations.

No Other Business. The Authority shall not engage in any line of business not contemplated by the Act.

City Covenant. The Authority includes in the Indenture: (a) the City's pledge and agreement with the holders of any bonds, notes or other obligations of the Authority that the City will not take actions which limit, alter or impair the rights and remedies of such holders or the security for such bonds, notes or other obligations until such bonds, notes or other obligations, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged, (b) the further terms of the City Covenant in the Act to the effect that: Nothing contained in this covenant or the Act shall be deemed to restrict the right of the City to amend, modify, repeal or otherwise alter any local law, ordinance or resolution imposing or relating to the City Tax Revenues, the School District Tax Revenues or the State Aid Revenues, including sales and compensating use taxes pursuant to the authority of §1210 of the Tax Law, so long as, after giving effect to such amendment, modification or other alteration, the aggregate amount as then projected by the Authority of (i) sales and compensating use taxes to be imposed pursuant to the authority of §1210 of the tax law and paid to the City and (ii) all net collections for educational purposes to be set aside by the County pursuant to the authority of §1262(a) of the Tax Law and paid to the City's dependent school district during each of the authority's fiscal years thereafter shall be not less than two hundred percent of maximum annual debt service on Authority bonds then outstanding. The city further agrees that (i) it will not take any action, including the imposition of sales and compensating use taxes preempting the County's taxes, to terminate or alter the terms of the agreement among the County, the City and the other cities in the County under §1262(c) of the Tax Law that would reduce or eliminate the amount of net collections that the County distributes or is to distribute to the City prior to June 30, 2037, without the Authority's prior approval, and (ii) if the City imposes sales and compensating use taxes, it shall do so pursuant §1210(a) of the Tax Law at the maximum rate authorized by such section.

State Covenant. The Authority includes in the Indenture: (a) the State's pledge and agreement with the holders of outstanding bonds, notes or other evidences of indebtedness that the State will not limit, alter or impair the rights vested in the Authority by the Act to fulfill the terms of any agreements made with the holders (including the ability to enforce the City's obligations under the Agreement), or in any way impair the rights and remedies of such holders or the security for the bonds, notes or other evidences of indebtedness until such bonds, notes or other evidences of indebtedness, together with the interest thereon, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged, (b) the further terms of the State Covenant in the Act to the effect that: Nothing contained in this covenant or the Act shall be deemed to restrict the right of the State to amend, modify, repeal or otherwise alter statutes imposing or relating to the City Tax Revenues, the School District Tax Revenues or State Aid Revenues. Nothing in this covenant shall be deemed to obligate the

State to make any additional payments or impose any taxes to satisfy the obligations of the Authority; and (c) the tax exemption in the Act

County Covenant. The Authority includes in the Indenture: (a) the County's pledge and agreement with the holders of outstanding bonds, notes or other evidences of indebtedness that the County will not limit or in any way impair the rights and remedies of such holders or the security for the bonds, notes or other evidences of indebtedness until such bonds, notes or other evidences of indebtedness, together with the interest thereon, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged, (b) the further terms of the County Covenant in the Act to the effect that: Nothing contained in this covenant or the Act shall be deemed to restrict the right of the County to amend, modify, repeal or otherwise alter any local law, ordinance or resolution imposing or relating to the City Tax Revenues, the School District Tax Revenues or State Aid Revenues, or setting aside net collections for educational purposes pursuant to the authority of §1262(a) of the Tax Law, so long as, after giving effect to such amendment, modification or other alteration, the aggregate amount as then projected by the Authority of (i) sales and compensating use taxes to be imposed pursuant to the authority of §1210 of the tax law and paid to the City and (ii) all net collections for educational purposes to be set aside by the County pursuant to the authority of §1262(a) of the Tax Law and paid to the City's dependent school district during each of the authority's fiscal years following the effective date of such amendment, modification or other alteration shall be not less than two hundred percent of maximum annual debt service on Authority bonds then outstanding. Notwithstanding anything to the contrary in this section, the County further agrees that it shall impose taxes pursuant to the authority of §1262(a) of the Tax Law at the rate of no less than three percent.

Authority Acknowledgment. (a) The Authority acknowledges that the Covenants of the City, the County and the State constitute important security provisions of the Bonds and Notes, and to the fullest extent permitted by applicable Federal and State law, waives any right to assert any claim to the contrary and agrees that it will neither in any manner directly or in-directly assert, nor in any manner directly or indirectly support the assertion by the City, the State, the County or any other person of, any such claim to the contrary.

(b) By acknowledging that the Covenants of the City, the County and the State constitute important security provisions of the Bonds and Notes, the Authority also acknowledges, to the fullest extent permitted by applicable Federal and State law, that, in the event of any failure or refusal by the City, the State or the County to comply with their respective agreements, the Holders of the Bonds or Notes may have suffered monetary damages, the extent of the remedy for which may be, to the fullest extent permitted by applicable Federal and State law, determined, in addition to any other remedy available at law or in equity, in the course of any action taken pursuant hereto; and to the fullest extent permitted by applicable Federal and State law, the Authority waives any right to assert any claim to the contrary and agrees that it will neither in any manner directly or indirectly assert, nor in any manner directly or indirectly support the assertion by the City, the State, the County or any other person of, any claim to the effect that no such monetary damages have been suffered.

(c) The Authority confirms that the acknowledgments and agreements set forth in paragraphs (a) and (b) above have been included in the Indenture as a result of negotiations with the underwriters of the initial Series of Bonds delivered under the Indenture and may further acknowledge in any Supplemental Indenture if and the extent to which any provision of the Indenture has been amended, or any provision of such Supplemental Indenture has been included therein, as a result of the same or similar negotiations.

Rights and Duties of the Fiduciaries. The Fiduciaries shall not be required to monitor the financial condition of the Authority or the physical condition of any Project and, unless otherwise expressly provided, shall not have any responsibility with respect to reports, notices, certificates or other documents filed with them under the Indenture, except to make them available for inspection by Beneficiaries.

Upon a failure of the Authority to make a payment of Debt Service when due or a failure actually known to an Authorized Officer of the Trustee to make any other payment required within 7 days after the same becomes due and payable, the Trustee shall give written notice thereof to the Authority. The Trustee shall give default notices when instructed to do so by the written direction of another Fiduciary or the owners of at least 25% in principal amount of the Outstanding Senior Bonds; or with respect to the Indenture, if the Event of Default is actually known to an Authorized Officer. The Trustee shall proceed under the Indenture for the benefit of the Holders in accordance with the written directions of a Majority in Interest of the Outstanding Senior Bonds. The Trustee shall not be

required to take any remedial action (other than the giving of notice) unless reasonable indemnity is furnished for any expense or liability to be incurred.

Each Fiduciary shall be entitled to the advice of counsel (who may be counsel for any party) and shall not be liable for any action taken in good faith in reliance on such advice. Each Fiduciary may rely conclusively on any notice, certificate or other document furnished to it under the Indenture and reasonably believed by it to be genuine. A Fiduciary shall not be liable for any action taken or omitted to be taken by it in good faith and reasonably believed by it to be within the discretion or power conferred upon it, or taken by it pursuant to any direction or instruction by which it is governed under the Indenture or omitted to be taken by it by reason of the lack of direction or instruction required for such action, or be responsible for the consequences of any error of judgment reasonably made by it. When any payment or consent or other action by a Fiduciary is called for by the Indenture, the Fiduciary may defer such action pending receipt of such evidence, if any, as it may reasonably require in support thereof. A permissive right or power to act shall not be construed as a requirement to act.

Any fees, expenses, reimbursements or other charges which any Fiduciary may be entitled to receive from the Authority under the Indenture, if not otherwise paid, shall be a first lien upon (but only upon) any funds held under the Indenture by the Trustee for payment of operating expenses.

Paying Agent. The Authority designates the Trustee a Paying Agent. The Authority may appoint additional Paying Agents, generally or for specific purposes, may discharge a Paying Agent from time to time and may appoint a successor. The Authority shall designate a successor if the Trustee ceases to serve as Paying Agent. Each Paying Agent shall be a bank or trust company eligible under the Act, and unless otherwise provided by Supplemental Indenture shall have a capital and surplus of not less than \$50,000,000 and be registered as a transfer agent with the Securities and Exchange Commission. The Authority shall give notice of the appointment of a successor to the Trustee as Paying Agent in writing to each Beneficiary shown on the books of the Trustee. A Paying Agent may but need not be the same person as the Trustee. Unless otherwise provided by the Authority, the Trustee as Paying Agent shall act as Bond and Note registrar and transfer agent, in accordance with the Indenture.

Resignation or Removal of the Trustee. The Trustee may resign on not less than 45 days' written notice to the Authority and the Holders. The Trustee will promptly certify to the Authority that it has given written notice to all Holders and such certificate will be conclusive evidence that such notice was given as required by the Indenture. The Trustee may be removed by written notice from the Authority (if not in default) or a Majority in Interest of the Outstanding Senior Bonds to the Trustee and the Authority. Such resignation or removal shall not take effect until a successor has been appointed.

Successor Fiduciaries. Any corporation or association which succeeds to the municipal corporate trust business of a Fiduciary as a whole or substantially as a whole, whether by sale, merger, consolidation or otherwise, shall thereby become vested with all the property, rights, powers and duties thereof under the Indenture, without any further act or conveyance.

In case a Fiduciary resigns or is removed or becomes incapable of acting, or becomes bankrupt or insolvent, or if a receiver, liquidator or conservator of a Fiduciary or of Its property is appointed, or if a public officer takes charge or control of a Fiduciary, or of its property or affairs, then such Fiduciary shall with due care terminate its activities under the Indenture and a successor may, or in the case of the Trustee shall, be appointed by the Authority. The Authority shall notify the Holders of the appointment of a successor Trustee in writing within 20 days from the appointment. The Authority will promptly certify to the successor Trustee that it has given such notice to all Holders and such certificate will be conclusive evidence that such notice was given as required by the Indenture. If no appointment of a successor Trustee is made within 45 days after the giving of written notice in accordance with the Indenture or after the occurrence of any other event requiring or authorizing, such appointment, the outgoing Trustee or any Holder may apply to any court of competent jurisdiction for the appointment of such a successor, and such court may thereupon, after such notice, if any, as such court may deem proper, appoint such successor. Any successor Trustee appointed under this section shall be a trust company or a bank having the powers of a trust company, located in the State, having a capital and surplus of not less than \$50,000,000.

Fiduciaries for Notes and Subordinate Bonds. The Authority may by Supplemental Indenture provide for the appointment of a Fiduciary (which may be the Trustee) to represent the Holders of Notes or Subordinate Bonds, having powers and duties not inconsistent herewith or with the Act.

Action by Holder. Any request, authorization, direction, notice, consent, waiver or other action provided by the Indenture to be given or taken by Holders of Bonds or Notes may be contained in and evidenced by one or more writings of substantially the same tenor signed by the requisite number of Holders or their attorneys duly appointed in writing or by such electronic or other means as may be recognized pursuant to applicable law. Proof of the execution of any such instrument, or of an instrument appointing any such attorney, shall be sufficient for any purpose of the Indenture (except as otherwise in the Indenture expressly provided) if made in the following manner, but the Authority or the Trustee may nevertheless in its discretion require further or other proof in cases where it deems the same desirable. The fact and date of the execution by any Bondholder or his attorney of such instrument may be proved by the certificate or signature guarantee, which need not be acknowledged or verified, of an officer of a bank, trust company or securities dealer satisfactory to the Authority or to the Trustee; or of any notary public or other officer authorized to take acknowledgements of deeds to be recorded in the state in which he purports to act, that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. The authority of the person or persons executing any such instrument on behalf of a corporate Holder may be established without further proof if such instrument is signed by a person purporting to be the president or a vice president of such corporation with a corporate seal affixed and attested by a person purporting to be its clerk or secretary or an assistant clerk or secretary. Any action of the Owner of any Bond or Note shall be irrevocable and bind all future record and beneficial owners thereof.

Registered Owners. The enumeration of certain provisions applicable to DTC as Holder of immobilized Notes and Bonds shall not be construed in limitation of the rights of the Authority and each Fiduciary to rely upon the registration books in all circumstances and to treat the registered owners of Notes and Bonds as the owners thereof for all purposes not otherwise specifically provided for by law or in the Indenture. Notwithstanding any other provisions of the Indenture, any payment to the registered owner of a Note or Bond shall satisfy the Authority's obligations thereon to the extent of such payment.

Events of Default; Default. "Event of Default" in the Indenture means any one of the events set forth below and "default" means any Event of Default without regard to any lapse of time or notice: (a) The Authority shall fail to pay when due any interest, principal or redemption premium on a Note or Bond; (b) The Authority shall fail to observe or perform any of its other agreements, covenants or obligations under the Indenture and such failure is not remedied within 30 days after written notice thereof is given by the Trustee to the Authority; (c) specified events of insolvency; (d) The State shall (i) amend, alter, repeal or fail to comply with the State Covenant in the Act as in effect on the date of the Indenture or (ii) enact a moratorium or other similar law affecting the Bonds or Notes; (e) The County shall amend, alter, repeal or fail to comply with the County Covenant in the Act as in effect on the date of the Indenture; (f) The City shall (i) fail to observe or perform any of its agreements, covenants or obligations under the Agreement that have been pledged for the benefit of the Holders and such failure is not remedied within 30 days after written notice thereof is given by the Trustee to the City and the Authority or by the Authority to the Trustee and the City; or (ii) amend, alter, repeal or fail to comply with the City Covenant in the Act as in effect on the date of the Indenture.

Remedies of the Trustee. If an Event of Default occurs and is continuing: (1) The Trustee may, and upon written request of the Holders of 25% in principal amount of the Senior Bonds and Notes Outstanding shall, in its own name by action or proceeding in accordance with the Civil Practice Law and Rules of the State:

(a) enforce all rights of the Holders and require the Authority or, to the extent permitted by law, the State, the County or the City to carry out its agreements with the Holders and to perform its duties under the Act;

(b) sue upon such Bonds and Notes;

(c) require the Authority to account as if it were the trustee of an express trust for the Holders of such Bonds and Notes; and

(d) enjoin any acts or things which may be unlawful or in violation of the rights of the Holders of such Bonds and Notes.

(2) The Trustee shall, in addition to the other provisions above, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth in the Act or incident to the general representation of Holders in the enforcement and protection of their rights.

(3) If such Event of Default is described in clause (a) and relates to a Bond or Note the payment of which constitutes Debt Service or is described in clause (c), the Trustee shall (a) give Written Notice thereof to the Authority, the Holders, the Mayor, the Common Council, the City Comptroller, the County Executive, the Governor, the State Comptroller, the chair and ranking minority member of the Senate Finance Committee, and the chair and ranking minority member of the Assembly Ways and Means Committee, and (b) if so directed by a Majority in Interest of the Senior Bonds, and having given 30 days' notice to the Authority, declare the principal amount of all Bonds and Notes to be, and the same shall become, due and payable.

Subordinate Note and Subordinate Bond Remedies. Subject to the prior application of the Accounts to pay Debt Service, to the Indenture and to each applicable Supplemental Indenture, the Holders of Subordinate Notes or Subordinate Bonds, or a Fiduciary appointed for them, may enforce the provisions of the Indenture for their benefit by appropriate legal proceedings.

Individual Remedies. No one or more Holders shall by his or their action affect, disturb or prejudice the pledge created by the Indenture, or enforce any right under the Indenture, except in the manner in the Indenture provided; and all proceedings at law or in equity to enforce any provision of the Indenture shall be instituted, had and maintained in the manner provided in the Indenture and for the equal benefit of all Holders of the same class; but nothing in the Indenture shall affect or impair the right of any Holder of any Bond or Note to enforce payment of the principal of, premium, if any, or interest therein at and after the maturity thereof, or the obligation of the Authority to pay such principal, premium, if any, and interest on each of the Bonds and Notes to the respective Holders thereof at the time, place, from the source and in the manner expressed in the Indenture and in the Bonds and Notes.

Venue. The venue of every action, suit or special proceeding against the Authority shall be laid in the County of Erie, New York.

Waiver. If the Trustee determines that a default has been cured before the entry of any final judgment or decree with respect to it, the Trustee may waive the default and its consequences, by written notice to the Authority, and shall do so upon written instruction of the Holders of at least 25% in principal amount of the Outstanding Senior Bonds and Notes.

Application of Money. If available money in the Accounts is not sufficient on any day to pay all Debt Service, Subordinate Bonds and Subordinate Agreements then due or overdue, such money (subject to provisions theretofore made for the payment of Bonds or Notes no longer outstanding) shall be applied first to the Trustee's fees and other costs of collecting and applying the Revenues and administering the accounts, second to the payment of interest, including interest on overdue principal and interest, in the order in which the same became due (pro rata with respect to interest which became due at the same time), and if the amount available shall not be sufficient to pay in full any installment or installments of interest or obligations with respect to Senior Agreements maturing on the same date, then to the payment thereof ratably, according to the amounts due in respect of each item of Debt Service without priority or preference of any item over any other; third to the payment of principal (including sinking fund installments) and redemption premiums, if any, without regard to the order in which the same became due (in proportion to the amounts due), and if the amount available shall not be sufficient to pay in full all principal, premium or obligations with respect to Senior Agreements maturing on the same date, then to the payment thereof ratably, according to the amounts due in respect of each item of Debt Service without priority or preference of any item over any other; and fourth to the payment to any Notes (to the extent not paid as Debt Service), Subordinate Bonds and Subordinate Agreements then due and, if the amounts available are insufficient to pay in full all such subordinated payment obligations, then to the payment thereof ratably, without preference or priority of any such item over any other. For this purpose Debt Service on Senior Agreements shall be characterized in accordance with their financial terms and interest on overdue principal shall be treated as coming due on the first day of each month. Whenever money is to be applied pursuant to this section, such money shall be applied at such times, and from time to time, as the Trustee in its discretion shall determine, having due regard to the amount of such money available for application and the likelihood of additional money becoming available for such application in the future. Upon the exercise of such discretion the Trustee shall fix the date (which shall be the first of a month unless it deems another

date more suitable) upon which such application is to be made, and upon such date interest on the principal then provided for shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the fixing, of any such date. When interest or a portion of the principal is to be paid on an overdue Bond or Note, the Trustee may require presentation of the Bond or Note for endorsement of the payment.

Supplements and Amendments. (A) The Indenture may be (1) supplemented by delivery to the Trustee of an instrument certified by an Authorized Officer of the Authority to (a) provide for earlier or greater deposits into the Bond Account, (b) subject any property to the lien of the Indenture, (c) add to the covenants and agreements of the Authority or surrender or limit any right or power of the Authority, (d) identify particular Notes or Bonds for purposes not inconsistent herewith, including credit or liquidity support, remarketing, serialization and defeasance, or (e) authorize Bonds or Notes of a Series and in connection therewith determine the matters referred to in the Indenture, and any other things relative to such Bonds or Notes that are not prejudicial to the Holders, or to modify or rescind any such authorization or determination at any time prior to the first authentication and delivery of such Series of Bonds or Notes; or

(2) amended by the Authority and the Trustee (a) to cure any ambiguity or defect, (b) to add provisions that are not prejudicial to the Holders, (c) to change the aggregate principal amount of Bonds or Notes authorized to be Outstanding at any one time, provided that such amendment shall not be inconsistent with the provisions of the Act and will not take effect unless the Authority obtains Rating Confirmation from each Rating Agency; (d) to adopt amendments that do not take effect unless and until (i) no Bonds or Notes Outstanding prior to the adoption of such amendment remain Outstanding or (ii) such amendment is consented to by the Holders of such Bonds or Notes in accordance with the further provisions of the Indenture, or (e) pursuant to the following paragraph (B).

(B) Except as provided in the foregoing paragraph (A), the Indenture may be amended (1) only with the written consent of a Majority in Interest of the Subordinate Bonds, Senior Bonds and Notes (acting as three separate classes) to be Outstanding at the effective date thereof and affected thereby; but (2) only with the unanimous written consent of the affected Holders for any of the following purposes: (a) to extend the maturity of any Bond or Note, (b) to reduce the principal amount or interest rate of any Bond or Note, (c) to make any Bond or Note redeemable other than in accordance with its terms, (d) to create a preference or priority of any Bond or Note over any other Bond or Note of the same class or (e) to reduce the percentage of the Bonds and Notes required to be represented by the Holders giving their consent to any amendment.

(C) Any amendment of the Indenture shall be accompanied by a Counsel's Opinion to effect that the amendment is permitted by law and does not adversely affect the exclusion of interest on the Tax-Exempt Bonds and Tax-Exempt Notes from gross income for Federal income tax purposes.

(D) When the Authority determines that the requisite number of consents have been obtained for an amendment hereto or to the Agreement which requires consents, it shall, file a certificate to that effect in its records and give notice to the Trustee, the Holders and each Rating Agency. The and such Trustee will promptly certify to the Authority that it has given such notice all Holders certificate will be conclusive evidence that such notice was given in the manner required by the Indenture.

Beneficiaries. The Indenture is not intended for the-benefit of and shall not be construed to create rights in parties other than the Authority, the Fiduciaries, the Holders of Notes and Senior Bonds, and the other Beneficiaries to the extent specified in the Indenture.

## **The Financing Agreement**

City's Further Assurances. Pursuant to the Act, the City hereby acknowledges the State's grant to the Authority and the Authority's pledge and assignment to the Trustee of, and disclaims ownership of, all subject to the terms of the Act: the City's right, title and interest in and to the Sales Tax Revenues and State Aid Revenues, and all rights to receive the same and the proceeds thereof. The City will protect and defend the Trustee's title to the assets.

Separate Accounts and Records. The Authority and the City represent and covenant, each for itself, that: (a) Each of them will maintain its books, financial records and accounts (including, without limitation, inter-entity

transaction accounts) in a manner so as to identify separately the assets and liabilities of each such entity; each has observed and will observe all applicable corporate procedures and formalities, including, where applicable, the holding of regular periodic and special meetings of governing bodies, the recording and maintenance of minutes of such meetings, and the recording and maintenance of resolutions, if any, adopted at such meetings; and all transactions and agreements between and among the Authority, the City and the Trustee have reflected and will reflect the separate legal existence of each entity and have been and will be formally documented in writing; (b) Neither the Authority nor the City has commingled or will commingle any of its assets, funds or liabilities with the assets, funds or liabilities of any other person or entity. Each of them has conducted and will conduct all business between itself and third parties in its own name and separate and distinct from the other; and (c) Assets will not be transferred by the City to or from the Authority inconsistently with the Act or with the intent to hinder, delay or defraud creditors.

Bond Proceeds Fund. A Bond Proceeds Fund is established under the Agreement to be held by the Trustee in trust for the benefit of the Authority and the City. The Beneficiaries shall have no interest in the Bond Proceeds Fund or any amounts from time to time on deposit in it. Money shall be deposited therein as provided in the Indenture. The money and investments in the Bond Proceeds Fund shall be applied at the direction of the Authority as described below.

The Trustee shall pay from the Bond Proceeds Fund the Costs of Issuance which are approved by the Authority, and, except as otherwise directed by the Authority in accordance with this Agreement, disburse funds to the City upon receipt of a Requisition to finance, by payment or reimbursement of Financeable Costs to the extent set forth in the related Declaration of Need or as otherwise approved by the Authority. When all Costs of Issuance and other Financeable Costs have been paid or reimbursed, as evidenced by Officer's Certificates of the Authority and the City, any excess in the Bond Proceeds Fund shall promptly be paid to the Trustee for deposit in the Redemption Account.

The Authority shall develop, and may from time to time modify, procedures for the disbursement of money to the City from the Bond Proceeds Fund, upon terms, conditions and documentation providing for compliance with the Act, the provisions of the related Arbitrage and Use of Proceeds Certificate, the Agreement, the Indenture, and the advice of Counsel as to the application of proceeds of Tax-Exempt Notes and Tax-Exempt Bonds. The City shall apply Note and Bond proceeds made available to it only to pay such Financeable Costs as have been included in a Declaration of Need previously approved by the Authority and for which Requisition in proper form has been submitted. The City shall apply such proceeds to pay such Financeable Costs under contracts awarded by the City or to make a contribution of such proceeds as City funds to another entity for the payment or reimbursement of such Financeable Costs.

To the extent provided in any applicable Supplemental Indenture, the Trustee shall, upon the direction of the Authority, pay from the Bond Proceeds Fund amounts necessary to accomplish any restructuring or refunding of the City's or the Authority's debt, as applicable, into a separate account or fund for investment in appropriate defeasance securities as provided in a Supplemental Indenture.

Money in the Bond Proceeds Fund shall be invested and reinvested at the direction of the Authority in accordance with the Act and the Indenture, consistent with the related Arbitrage and Use of Proceeds Certificate. Earnings thereon shall be transferred to the Collection Account as Revenues.

Indemnity. To the extent permitted by law, the City shall indemnify the Authority and hold it harmless against any claim, demand, action, liability, damages, cost, loss or expense (including, legal fees and disbursements) that the Authority incurs arising out of or in relation to any capital project of the City or the financing of any Financeable Cost by the Authority.

Limited Purpose of Agreement. The Agreement provides for the Authority's financing of Financeable Costs. Except as specified in the Agreement, the Authority, the City, and the Trustee shall have no liability to each other or to the Beneficiaries of the Indenture for the construction, reconstruction, acquisition, installation, physical condition, ownership or operation of any capital project of the City or arising out of the status of any such capital project under the State Environmental Quality Review Act or otherwise. Whether to undertake any financing, as well as the specific Financeable Costs to be paid or reimbursed by the Authority, shall be determined by the



Authority, in its sole discretion, upon the request of the City as evidenced by submission to the Authority by the City of a Declaration of Need.

Covenants of the City. The City covenants with the Authority, and consents to the pledge and assignment to the Trustee of any of its covenants, that:

(A) The City will at all times do and perform all acts and things permitted by law and necessary or desirable to assure that interest paid by the Authority on Tax-Exempt Bonds and Tax-Exempt Notes shall be excludable from gross income for Federal income tax purposes pursuant to §103(a) of the Code; and shall execute and deliver to the Authority an Arbitrage and Use of Proceeds Certificate, as requested by the Authority or Counsel to the Authority and shall comply with the terms thereof; and no funds of the City shall at any time be used directly or indirectly to acquire securities or obligations the acquisition or holding of which would cause any Tax-Exempt Bond or Tax-Exempt Note to be an arbitrage bond as defined in the Code and any applicable Regulations issued thereunder.

(B) The City in its papers and in the statements of its officials has referred and will refer to the Authority as a separate and distinct legal entity; and the City will take no action that is inconsistent with this Agreement and that would give any creditor of the City cause to believe either that any such obligations incurred by the City would be not only the obligation of the City, but also of the Authority, or that the City were not or would not continue to remain an entity separate and distinct from the Authority.

(C) The City will not exercise any right it may have to amend, modify or otherwise alter local laws imposing or relating to the Sales Tax Revenues without first requesting in writing the Authority to make the projection of Sales Tax Revenues required the Agreement and confirming with the Authority that such exercise will not violate the City covenant contained therein and in the Act. The foregoing is not intended to limit the right of the City to adopt one or more local laws or ordinances imposing or extending the imposition of sales and use taxes.

(D) The City will at all times do and perform all acts and things permitted by law and necessary or desirable to maintain compliance with its undertakings hereunder and in connection with any financing by the Authority, including, cooperating with the Authority, its employees, consultants and underwriters, and in providing certifications and opinions requested by the Authority, and, further, (i) providing all material disclosure for any Offering Circular of the Authority or in connection with any necessary undertaking under Securities and Exchange Commission (“SEC”) Rule 15c2-12 to allow the underwriters of Authority financings to meet their obligations thereunder and under SEC Rule 10b-5, and (ii) annually updating such material disclosure contained in any Offering Circular as required by any related continuing disclosure agreement.

(E) The City will comply, and will take all reasonable efforts in its power to cause any “non-exempted covered organization”, as such term is defined in the Act, to comply with the provisions of §3860(1) of the Act.

(F) Except to the extent expressly identified in any such Declaration of Need, the City will not make any Declaration of Need or submit any Requisition except with respect to Financeable Costs that could be financed by the City by the issuance of its bonds or notes as of the date of such Declaration of Need or Requisition, there being in effect with respect to each capital project constituting such a Financeable Cost (i) findings or other proceedings meeting the requirements of the State Environmental Quality Review Act and (ii) all proceedings necessary under the City Charter and all other applicable State law necessary to authorize the appropriation and expenditure of City funds for such purposes, and each Declaration of Need and Requisition shall be deemed to be a representation by the City to such effect with respect to the Financeable Costs that are the subject thereof. The City shall provide to the Authority such documentation and information as requested, and in the form requested, by the Authority from time to time in connection with Financeable Costs proposed for financing.

Statutory Pledge and Agreement. The City pledges and agrees with the Holders of the Outstanding Bonds and Notes that the City will not take actions which limit, alter or impair the rights and remedies of such Holders or the security for such Bonds and Notes until such Bonds and Notes, and all costs and expenses in connection with any action or proceeding by or on behalf of such Holders, are fully paid and discharged. The pledge and agreement contained in this section shall not be deemed to restrict any right the City may have to amend, modify, repeal or

otherwise alter any local law, ordinance or resolution imposing or relating to City Tax Revenues, School District Tax Revenues or State Aid Revenues, including sales and compensating use taxes pursuant to the authority of §1210 of the Tax Law, so long as, after giving effect to such amendment, modification or other alteration, the aggregate amount projected by the Authority of (i) sales and compensating use taxes to be imposed pursuant to §1210 of the Tax Law and paid to the City and (ii) all net collections for educational purposes to be set aside by the County pursuant to the authority of §1262(a) of the Tax Law and paid to the City's dependent school district during each of the Authority's fiscal years following the effective date of such amendment, modification or other alteration shall be not less than 200% of maximum annual debt service on the Bonds. The City further agrees that (i) it will not take any action, including the imposition of sales and compensating use taxes preempting the County's taxes, to terminate or alter the terms of the agreement among the County, the City and the other cities in the County under §1262(c) of the Tax Law that would reduce or eliminate the amount of net collections that the County distributes or is to distribute to the City prior to June 30, 2037, without the Authority's prior approval, and (ii) if the City imposes sales and compensating use taxes, it hereby agrees do so pursuant §1210(a) of the Tax Law at the maximum rate authorized by such section.

Statutory Requirement. To the extent required by the Act, the City agrees that it shall require every contract entered into by the City or entered into by any other entity receiving funds from the City for projects or costs to be financed in whole or in part by the Authority to be subject to the provisions of the City Charter, the Act and other applicable laws governing contracts of the City or such entity, as the case may be.

Transfers to City; Issuance of Bonds or Notes. Subject to the provisions of the Act and the Agreement, all money received by the Authority which, together with other money available for the purposes of the Indenture, exceeds the amount determined by the Authority to be necessary for such purposes shall be transferred to the City as frequently as practicable. The City acknowledges that any decision by the Authority to issue or incur its Bonds, Notes or other evidences of indebtedness from time to time is in the sole discretion of the Authority consistent with the Act and the Indenture.

City Acknowledgments. (a) The City acknowledges that the paragraphs entitled "Covenants of the City" and "Statutory Pledge and Agreement" above constitute important security provisions of the Bonds and Notes, and to the fullest extent permitted by applicable Federal and State law, waives any right to assert any claim to the contrary and agrees that it will neither in any manner directly or indirectly assert, nor in any manner directly or indirectly support any assertion of any claim to the contrary.

(b) By acknowledging that its covenants constitute important security provisions of the Bonds and Notes, the City also acknowledges, to the fullest extent permitted by applicable Federal and State law, that, in the event of any failure or refusal by the City to comply therewith, the Holders of the Bonds or Notes may have suffered monetary damages, the extent of the remedy for which may be, to the fullest extent permitted by applicable Federal and State law, determined, in addition to any other remedy available at law or in equity, in the course of any action taken pursuant hereto; and to the fullest extent permitted by applicable Federal and State law, the City hereby waives any right to assert any claim to the contrary and agrees that it will neither in any manner directly or indirectly assert, nor in any manner directly or indirectly support any assertion of any claim to the effect that no such monetary damages have been suffered.

(c) The City further acknowledges that the acknowledgments and agreements set forth in paragraphs (a) and (b) above have been included as a result of negotiations with the underwriter of the Series 2004A Bonds and may further acknowledge if and the extent to which any provision of this Agreement has been amended, or any provision of a Supplemental Indenture has been included therein, as a result of the same or similar negotiations.

Remedies. If the City shall fail to observe or perform any covenant, or condition or agreement on its part to be observed or performed, the Authority shall, if such default has not been cured, have the right (i) to institute any action at law or in equity deemed by the Authority to be necessary or desirable to collect any amounts then due or thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the City hereunder and (ii) to withhold disbursement of any amounts from the Bond Proceeds Fund other than amounts set aside for the payment of City bonds or notes. At its election, the Authority may withhold any amounts adjudged or decreed payable to it from the Revenues as an Operating Expense.

Amendment. (A) The Agreement may be (1) supplemented by delivery to the Trustee of an instrument certified by an Authorized Officer of the Authority and executed or approved by the City to the extent required hereby and by the Act, to add to the covenants and agreements of the City or the Authority for the benefit of the Holders or surrender or limit for the benefit of the Holders any right or power of the City or the Authority; or

(2) amended by the parties with notice to the Trustee but without Bondholder or Noteholder consent to (a) cure any ambiguity or defect, (b) change any provision of the Agreement that is not pledged to the Trustee pursuant to the Indenture, or (c) add provisions that are not materially prejudicial to the Holders of the Bonds and Notes, including provisions that do not take effect unless and until (i) no Bonds or Notes Outstanding prior to the adoption of such amendment remain Outstanding or (ii) such amendment is consented to by Holders in accordance with the further provisions hereof.

(B) Except as provided in the foregoing paragraph (A), the Agreement may be amended only by the City and the Authority with the written consent of a Majority in Interest of each of the Subordinate Bonds, Senior Bonds and Notes (acting as three separate classes) to be Outstanding at the effective date thereof and affected thereby; but only with the unanimous written consent of the affected Holders to reduce the percentage of the Bonds and Notes required to be represented by the Holders giving their consent to any amendment.

(C) Any amendment of the Agreement shall be accompanied by a Counsel's Opinion to the effect that the amendment is permitted by law and does not adversely affect the exclusion of interest on the Tax-Exempt Bonds and Tax-Exempt Notes from gross income for Federal income tax purposes.

Beneficiaries. The Agreement is not intended for the benefit of and shall not be construed to create rights in parties other than the City, the Authority and, to the extent specified in the Agreement and in the Indenture, the Holders of Notes and Senior Bonds and the other Beneficiaries.

(This page was left blank intentionally.)

## APPENDIX C—

### PROPOSED FORM OF BOND COUNSEL OPINION

Upon delivery of the Series 2004A Bonds in definitive form, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., New York, New York, Bond Counsel to the Authority, proposes to render its final approving opinion in substantially the following form:

#### BUFFALO FISCAL STABILITY AUTHORITY

Ladies and Gentlemen:

We have acted as bond counsel to the Buffalo Fiscal Stability Authority (the “Authority”) relating to the issuance of \$25,745,000 Buffalo Fiscal Stability Authority Sales Tax and State Aid Secured Bonds, Series 2004A (the “Series 2004A Bonds”), as more particularly described below. The Series 2004A Bonds are dated, bear interest, mature, are subject to redemption and are secured as set forth in the Indenture between the Authority and The Bank of New York, as Trustee, as supplemented, including the First Supplemental Indenture (the “Indenture”). Terms defined in the Indenture and used herein shall have the meanings assigned in the Indenture, unless the context otherwise requires.

The Series 2004A Bonds are issued as Senior Bonds under the Indenture. The Authority is authorized to issue additional Senior Bonds (the Series 2004A Bonds, together with all Senior Bonds heretofore and hereafter issued the “Bonds”) only on the terms and conditions set forth in the Indenture and all such Bonds shall with the Series 2004A Bonds be entitled to the equal benefit, protection and security of the provisions, covenants and agreements in the Indenture.

The City of Buffalo, New York (the “City”), has requested the Authority to undertake the financing of Financeable Costs (as defined in the Act), and the Authority and the City have entered into a Financing Agreement dated as of June 1, 2004 (the “Agreement”), provisions of which have been pledged by the Authority to secure the Bonds. We assume the parties will perform their respective covenants in the Indenture and the Agreement in all material respects.

Based on the foregoing and our examination of existing law, such legal proceedings and such other documents as we deem necessary to render this opinion, we are of the opinion that:

1. The Authority is a duly organized and validly existing public benefit corporation under the Constitution and laws of the State of New York, and such proceedings show lawful authority for the issuance and sale of the Series 2004A Bonds pursuant to the Buffalo Fiscal Stability Authority Act, Title 2 of Article 10-D of the Public Authorities Law, constituting Chapter 43-A of the Consolidated Laws of the State of New York, as supplemented by Chapter 86 of the Laws of 2004 (the “Act”), and the Indenture.

2. The Series 2004A Bonds have been duly authorized, executed and delivered by the Authority and are valid and binding obligations of the Authority payable from the Revenues pledged and the other collateral provided therefor in the Indenture. The Bonds do not constitute a debt of the State or the City, and neither the State nor the City shall be liable thereon, nor shall the Bonds be payable out of any funds other than those of the Authority.

3. The Act validly provides for (a) the payment to the Authority of (i) sales and compensating use tax net collections paid or payable to the Authority pursuant to §1261 of the Tax Law or a successor statute (the “Sales

Tax Revenues”) and (ii) all general purpose local government aid and all other aid appropriated by the state as local government assistance for the benefit of the City payable to the Authority pursuant to §3864 of the Act (the “State Aid Revenues”), (b) the Authority’s pledge to the Trustee of the Sales Tax Revenues, the State Aid Revenues, the Accounts and the money and investments on deposit therein (collectively, the “Revenues”), and (c) the application of proceeds of the Bonds to finance Financeable Costs. The Act also provides that the City shall have no right, title or interest in the Sales Tax Revenues and the State Aid Revenues paid to the Authority pursuant to the Act. Under the laws of the State, including the Constitution of the State, and under the Constitution of the United States, the Act is valid with respect to all provisions thereof material to the subject matter of this opinion letter.

4. The Sales Tax Revenues are subject neither to appropriation by the City or the State, nor to prior claims in favor of other obligations or purposes of the City or the State except as specified in §1261 of the Tax Law with respect to overpayments and the State’s reasonable costs in administering, collecting and distributing such taxes. Upon any failure of the State Legislature to make required appropriations for State debt obligations, the Sales Tax Revenues would not constitute revenues applicable to the General Fund of the State; hence Article 7, Section 16 of the State Constitution does not mandate such money to be set apart by the State Comptroller for the payment of State obligations.

5. The Indenture (a) has been duly and lawfully authorized, executed and delivered by the Authority, (b) creates the valid pledge of Revenues and other collateral that it purports to create and (c) is a valid and binding obligation, enforceable in accordance with its terms, of the Authority and, to the extent specified in the Act, the State. The lien of the Indenture on the Revenues for the security of the Bonds is prior to all other liens thereon. The Act does not restrict the right of the State to amend, modify, repeal or otherwise alter (a) §54 of the State Finance Law or any other provision relating to state aid, or (b) statutes imposing or relating to the taxes payable to the Authority pursuant to § 1261 of the Tax Law or fees, or appropriations relating thereto, nor does it obligate the State to make any payments not specified in the Act or impose any taxes to satisfy the obligations of the Authority.

6. The pledge of Revenues and other collateral made by the Authority in the Indenture is valid, binding and perfected without any physical delivery of the collateral or further act, and the lien thereof is valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the Authority irrespective of such parties’ notice thereof.

7. The Agreement has been duly authorized, executed and delivered by the Authority and, assuming due and proper authorization, execution and delivery by the City, constitutes a legal, valid and binding obligation of the Authority and the City (including with respect to the City, its pledge and agreement not to limit or alter the rights vested in the Authority by the Act to fulfill the terms of any agreements made with Holders of Outstanding Bonds pursuant to the Act, or in any way impair the rights and remedies of such Holders or the security for such Bonds), enforceable in accordance with its terms.

8. Pursuant to the Act, the State Comptroller shall pay the Sales Tax Revenues and the State Aid Revenues to the Trustee, to be applied first pursuant to the Authority’s contracts with the holders of the Bonds, then to pay the Authority’s operating expenses, and then pursuant to the Authority’s agreements with the City, which shall require the Authority to transfer the balance of such taxes to the City as frequently as practicable; all of which is provided for in the Indenture and the Agreement.

9. The Authority is not eligible for protection from its creditors pursuant to Title 11 (the “Bankruptcy Code”) of the United States Code. Pursuant to the Act, so long as any Bonds are Outstanding, neither the City nor any “covered organization” (as defined in the Act) is eligible to file a petition for protection from its creditors under either the Bankruptcy Code or the laws of the State.

10. No registration with, consent of, or approval by any governmental agency or commission that has not been obtained is necessary for the execution and delivery of the Series 2004A Bonds.

11. Except as provided in the following sentence, interest on the Series 2004A Bonds is not includable in the gross income of the owners of the Series 2004A Bonds for purposes of Federal income taxation under existing law. Interest on the Series 2004A Bonds will be includable in the gross income of the owners thereof retroactive to the date of issue of the Series 2004A Bonds in the event of a failure by the Authority or the City to comply with the

applicable requirements of the Internal Revenue Code of 1986, as amended (the “Tax Code”), and their respective covenants regarding use, expenditure and investment of bond proceeds and the timely payment of certain investment earnings to the United States Treasury; and we render no opinion as to the exclusion from gross income of interest on the Series 2004A Bonds for Federal income tax purposes on or after the date on which any action is taken under the Indenture or related proceedings upon the approval of counsel other than ourselves. In rendering the foregoing opinions, we have relied upon the representations and covenants made by the Authority and the City and assumed continuing compliance by the Authority and the City with their respective covenants to comply with the provisions of the Tax Code so that interest on the Series 2004A Bonds will remain excludable from gross income for Federal income tax purposes.

12. Interest on the Series 2004A Bonds is not a specific preference item for purposes of the Federal individual or corporate alternative minimum tax. The Tax Code contains other provisions that could result in tax consequences, upon which we render no opinion, as a result of ownership of such Bonds or the inclusion in certain computations (including without limitation, those related to the corporate alternative minimum tax) of interest that is excluded from gross income.

13. Under the Act, interest on the Bonds is exempt from personal income taxes imposed by the State and its political subdivisions.

The rights of the Holders of the Bonds and the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors’ rights heretofore or hereafter enacted, to the extent constitutionally applicable and except as specifically stated above, and may also be subject to the exercise of the State’s police powers and of judicial discretion in appropriate cases.

The opinions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions. Such opinions may be adversely affected by actions taken or events occurring, including a change in law, regulation or ruling (or in the application or official interpretation of any law, regulation or ruling) after the date hereof. We have not undertaken to determine, or to inform any person, whether such actions are taken or such events occur and we have no obligation to update this opinion in light of such actions or events.

Very truly yours,

(This page was left blank intentionally.)



**APPENDIX D—**

**SPECIMEN FINANCIAL GUARANTY INSURANCE POLICY**

(This page was left blank intentionally.)

**FINANCIAL GUARANTY INSURANCE POLICY**  
**MBIA Insurance Corporation**  
**Armonk, New York 10504**

Policy No. [NUMBER]

MBIA Insurance Corporation (the "Insurer"), in consideration of the payment of the premium and subject to the terms of this policy, hereby unconditionally and irrevocably guarantees to any owner, as hereinafter defined, of the following described obligations, the full and complete payment required to be made by or on behalf of the Issuer to

or its successor (the "Paying Agent ") of an amount equal to (i) the principal of (either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment) and interest on, the Obligations (as that term is defined below) as such payments shall become due but shall not be so paid (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed hereby shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration); and (ii) the reimbursement of any such payment which is subsequently recovered from any owner pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such owner within the meaning of any applicable bankruptcy law. The amounts referred to in clauses (i) and (ii) of the preceding sentence shall be referred to herein collectively as the "Insured Amounts." "Obligations" shall mean:

**[PAR]**  
**[LEGAL NAME OF ISSUE]**

Upon receipt of telephonic or telegraphic notice, such notice subsequently confirmed in writing by registered or certified mail, or upon receipt of written notice by registered or certified mail, by the Insurer from the Paying Agent or any owner of an Obligation the payment of an Insured Amount for which is then due, that such required payment has not been made, the Insurer on the due date of such payment or within one business day after receipt of notice of such nonpayment, whichever is later, will make a deposit of funds, in an account with U.S. Bank Trust National Association, in New York, New York, or its successor, sufficient for the payment of any such Insured Amounts which are then due. Upon presentment and surrender of such Obligations or presentment of such other proof of ownership of the Obligations, together with any appropriate instruments of assignment to evidence the assignment of the Insured Amounts due on the Obligations as are paid by the Insurer, and appropriate instruments to effect the appointment of the Insurer as agent for such owners of the Obligations in any legal proceeding related to payment of Insured Amounts on the Obligations, such instruments being in a form satisfactory to U.S. Bank Trust National Association, U.S. Bank Trust National Association shall disburse to such owners, or the Paying Agent payment of the Insured Amounts due on such Obligations, less any amount held by the Paying Agent for the payment of such Insured Amounts and legally available therefor. This policy does not insure against loss of any prepayment premium which may at any time be payable with respect to any Obligation.

As used herein, the term "owner" shall mean the registered owner of any Obligation as indicated in the books maintained by the Paying Agent, the Issuer, or any designee of the Issuer for such purpose. The term owner shall not include the Issuer or any party whose agreement with the Issuer constitutes the underlying security for the Obligations.

Any service of process on the Insurer may be made to the Insurer at its offices located at 113 King Street, Armonk, New York 10504 and such service of process shall be valid and binding.

This policy is non-cancellable for any reason. The premium on this policy is not refundable for any reason including the payment prior to maturity of the Obligations.

This policy is not covered by the Property/Casualty Insurance Security Fund specified in Article 76 of the New York Insurance Law.

IN WITNESS WHEREOF, the Insurer has caused this policy to be executed in facsimile on its behalf by its duly authorized officers, this [DAY] day of [MONTH, YEAR].

**MBIA Insurance Corporation**

\_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Assistant Secretary

STD-R-NY-6  
4/95

(This page was left blank intentionally.)

(This page was left blank intentionally.)

(This page was left blank intentionally.)



---

---

**TABLE OF CONTENTS**

Summary of Terms.....i  
SECTION I: Introduction.....1  
SECTION II: Sources of Payment and Security for the Bonds.....2  
    General.....2  
    Revenues.....3  
    City Tax Revenues.....3  
    School District Tax Revenues.....5  
    Sales Tax Collection and Distribution.....5  
    State Aid Revenues.....7  
    Authority Bonds.....8  
    Debt Service Coverage on Senior Bonds.....8  
    Additional Bonds.....8  
    Application of Revenues.....9  
    Retention Procedures.....11  
    Agreements of the State, the County and the City.....11  
SECTION III: The Series 2004A Bonds.....12  
    General.....12  
    Notice of Redemption.....12  
    Bond Insurance Policy.....12  
    Debt Service Requirements.....16  
    Plan of Finance and Use of Proceeds.....16  
    Sources and Uses of Funds.....16  
    Book-Entry Only System.....16  
    Other Information.....18  
SECTION IV: The Authority.....18  
    Purpose and Operations.....18  
    Directors and Management.....18  
    Financing Agreement.....19  
    Authority Financial Control and Oversight Functions.....20  
    Authority Oversight Actions During the City's 2003-04 Fiscal  
    Year.....20  
SECTION V: No Litigation.....21  
SECTION VI: Tax Matters.....21  
    Opinion of Bond Counsel.....21  
    Certain Ongoing Federal Tax Requirements and Covenants...21  
    Certain Collateral Federal Tax Consequences.....22  
    Bond Premium.....22  
    Possible Government Action.....22  
SECTION VII: Ratings.....23  
SECTION VIII: Underwriting.....23  
SECTION IX: Approval of Legality.....23  
SECTION X: Financial Statements.....23  
SECTION XI: Continuing Disclosure Under Rule 15c2-12.....23  
SECTION XII: Legal Investment.....24  
SECTION XIII: Trustee.....24  
SECTION XIV: Financial Advisor.....25  
SECTION XV: Miscellaneous.....25  
APPENDIX A—INFORMATION REGARDING THE CITY OF  
    BUFFALO.....A-1  
APPENDIX B—SUMMARY OF INDENTURE AND  
    FINANCING AGREEMENT.....B-1  
APPENDIX C—FORM OF BOND COUNSEL OPINION.....C-1  
APPENDIX D—SPECIMEN FINANCIAL GUARANTY  
    INSURANCE POLICY.....D-1

---

---

**BUFFALO FISCAL STABILITY**

**AUTHORITY**

**\$25,745,000**

**Sales Tax and State Aid Secured Bonds,  
Series 2004A**

---

**OFFERING CIRCULAR**

---

**June 18, 2004**

---

---