

BUFFALO FISCAL STABILITY AUTHORITY

RESOLUTION NO. 04 – 114

APPROVING FINANCING OF PHASE II OF BUFFALO SCHOOLS DEVELOPMENT PROGRAM

WHEREAS, the Buffalo City School District ("the District"), in cooperation with the City of Buffalo ("the City") and the Joint Schools Construction Board ("the JSCB"), has undertaken a comprehensive program to redevelop the educational facilities ("the Program"), is nearing completion of Phase I of the Program and plans to commence Phase II of the Program in early 2005; and

WHEREAS, the State Legislature, by Chapter 605 of the Laws of 2000, as amended by Chapter 59 of the laws of 2003 and Chapter 421 of the Laws of 2004, ("the Buffalo Schools Redevelopment Act") has authorized the financing of Phases I and II of the Program; and

WHEREAS, Section 3, subd. 3 of Chapter 421 of the Laws of 2004 provides:

The financing of the phase II projects through the Erie county industrial development agency borrowing as authorized by this legislation will be subject to review and approval by the Buffalo Fiscal Stability Authority in accordance with its enabling statute. The scope of projects to be financed in Phase II has been expressly authorized in this legislation and is subject to the approval of the commissioner of education. In addition, such financing may result in certain additional project funding financing costs which are not incurred in typical school district general obligation bond issues.

; and

WHEREAS, Section 16 (b) of the Buffalo Schools Redevelopment Act provides a safeguard against unnecessary costs in the financing of Phases I and II by the issuance of bonds by the Erie County Industrial Development Agency ("ECIDA") by requiring the JSCB, the City and the District to compare the costs of such financing with the cost of financing by the Municipal Bond Bank Agency ("MBBA"), requiring a determination by MBBA of the cost and interest rate that would be incurred if the financing were by the issuance of bonds by MBBA, and requiring the JSCB, the City, the District and ECIDA to employ the financing mechanism that will result in the lowest cost to the taxpayers of the City and the State; and

WHEREAS, Section 3858, subd. 2 (i) of the Public Authorities Law provides that this Authority:

(i) shall, with respect to any proposed borrowing by or on behalf of the city or any covered organization on or after July first, two thousand three, review the terms of and comment, within thirty days after notification by the city or covered organization of a proposed borrowing, on the prudence of each proposed issuance of bonds or notes to be issued by the city or covered organization and no such borrowing shall be made unless first reviewed, commented upon and approved by the authority. The authority shall comment within thirty days after notification by the city or covered organization of a proposed borrowing to the mayor, the comptroller, the council, the director of the budget and the state comptroller and indicate approval or disapproval of the proposed borrowing.

; and

WHEREAS, Section 3858, subd. 2 (h) of the Public Authorities Law provides that this Authority:

(h) may review and approve or disapprove contracts or other obligations binding or purporting to bind the city or any covered organization;

; and

WHEREAS, the District has notified this Authority that it proposes to finance Phase II by agreement with ECIDA for issuance of ECIDA bonds;

WHEREAS, this Authority has reviewed the proposed borrowing by ECIDA on behalf of the District and has found it to be financially sound, prudent and in the public interest and especially the interest of the school children of the City; and

WHEREAS, this Authority has reviewed certain proposed contracts to be entered into by the City, the District and the JSCB in relation to the borrowing;

NOW, THEREFORE, it is:

RESOLVED, that this Authority approves the proposed borrowing by ECIDA on behalf of the District to finance Phase II of the Program, in an amount not to exceed \$345 million subject to approval by the Executive Director of the final price terms of the bond sale and confirmation by the Executive Director that the geographic distribution of the Program is reasonable in light of declining enrollment projections; such approval is conditioned upon the State Education Department's approval of the plans and specifications for the Program; and further

RESOLVED, that this Authority authorizes the City, the District and the JSCB to enter into necessary and appropriate contracts in relation to the borrowing; and further

RESOLVED, that the Chairman, Vice Chair, Executive Director, Chief Financial Officer or Chief Counsel of the Buffalo Fiscal Stability Authority are hereby authorized and directed to execute and deliver any agreements, certificates, documents, papers or other written instrument, to make any changes, modifications or amendments as he or she deems necessary, to do all other things and to take all other actions necessary and appropriate in their judgment, to consummate the transactions contemplated by this Resolution.

This Resolution shall take effect immediately.

Approved November 17, 2004

/S/ Richard Tobe
Secretary