

BUFFALO FISCAL STABILITY AUTHORITY

RESOLUTION NO. 09-40

APPROVING FINANCING OF PHASE IV OF BUFFALO SCHOOLS RECONSTRUCTION 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”), has completed Phase I, is nearing completion of Phase II and Phase III of the Program; and

WHEREAS, the State Legislature, by Chapter 605 of the Laws of 2000, as amended by Chapter 59 of the laws of 2003, Chapter 421 of the Laws of 2004, Chapter 283 of the Laws of 2006, Chapter 403, 492 and 497 of the Laws of 2008, and Chapter 209 of the Laws 2009 (collectively, “the Buffalo Schools Redevelopment Act”) has authorized the financing of Phases I, II, III and IV of the Program through the issuance of bonds and notes by the Erie County Industrial Development Agency (“ECIDA”) that, during the existence of a Control Period (as defined in the Buffalo Fiscal Stability Authority Act (the “BFSA Act”), is subject to review and approval by the Buffalo Fiscal Stability Authority (the “Authority”); and

WHEREAS, the scope of projects to be financed in Phase IV has been expressly authorized by the Buffalo Schools Redevelopment Act and is subject to the approval of the New York State Commissioner of Education; and

WHEREAS, Section 16 (b) of the Buffalo Schools Redevelopment Act provides a safeguard against unnecessary costs in the financing of Phases I, II, III and IV by the ECIDA by requiring (a) the JSCB, the City and the District to compare the costs of ECIDA financing with the cost of financing by the Municipal Bond Bank Agency (“MBBA”), (b) 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 (c) 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(2)(i) of the Public Authorities Law provides that the Authority “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(2)(h) of the Public Authorities Law provides that the Authority “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 the Authority that it proposes to finance Phase IV by agreement with ECIDA for issuance by ECIDA of its School Facilities Revenue Bonds, (City School District of the City of Buffalo Project), Series 2009A (the “Series 2009A Bonds”); and

WHEREAS, the 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;

NOW, THEREFORE, it is:

RESOLVED, that prior to the final pricing of the Series 2009A Bonds the District shall have (i) provided the Authority with a comparison of the costs and rates of ECIDA financing with the cost and rates that would have been incurred if the financing were undertaken by MBBA, and, (ii) demonstrated that the financing of Phase IV through ECIDA will result in the lowest cost to the taxpayers of the City and the State as required by Section 16 (b) of the Buffalo Schools Redevelopment Act; and further

RESOLVED, that the Authority approves the proposed borrowing by the District through the ECIDA to finance Phase IV of the Program, provided that (i) the aggregate principal par amount of Series 2009A Bonds to be issued shall not exceed \$300 million and (ii) the Chair, the Vice Chair, the Executive Director, or the Comptroller of the Authority shall approve the final terms and pricing of the Series 2009A Bonds in writing. Such approval is further conditioned upon the State Education Department’s approval of the plans and specifications for the Program; and further

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

RESOLVED, that the Chair, the Vice Chair, Executive Director, Comptroller 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 October 23, 2009

/S/ George K. Arthur

George K. Arthur,
Secretary