

**BUFFALO FISCAL STABILITY AUTHORITY**  
**RESOLUTION NO. 11-34**

**APPROVAL OF BUDGET MODIFICATION AND RELATED CHANGE ORDER FOR PHASE III OF  
THE RECONSTRUCTION OF SCHOOLS BY THE JOINT SCHOOLS CONSTRUCTION BOARD**

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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 educational facilities, referred to as the Joint Schools Construction 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”) previously authorized the financing of Phases I, II, III, IV and V 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 (“BFSA Act”), is subject to review and approval by the Buffalo Fiscal Stability Authority (“Authority”); and

WHEREAS, the scope of projects to be financed by Phase III had previously been expressly authorized by the Buffalo Schools Redevelopment Act and was subject to the approval of the New York State Commissioner of Education; and

WHEREAS, on September 30, 2011, the District submitted a request for a change order to Phase III of the Construction Program which essentially represents a budget modification for Phase III total reconstruction costs; and

WHEREAS, the Joint Schools Construction Board has unspent proceeds in the amount of \$8,667,348.88 related to Phase III of the reconstruction project; and

WHEREAS, the unspent proceeds relates to unanticipated interest earnings resulting from the delay of the start of the Phase III reconstruction work; and

WHEREAS, JSCB’s bond counsel has indicated that such interest earnings may be spent only on Phase III reconstruction projects; and

WHEREAS, JSCB has presented the proposed use of the unspent proceeds to the New York State Education Department (“SED”); and

WHEREAS, SED has agreed to such use of unspent proceeds and has stipulated that plans and specification documents be provided to it for review and approval prior to the start of such reconstruction; and

WHEREAS, such review and approval by SED is considered standard procedures as part of the overall reconstruction project; and

WHEREAS, the use of funds represents a modification to the original budget of the Phase III reconstruction project; and

WHEREAS, the BFSA approved the original budget for project costs of Phase IIIA in the amount of \$197,886,177 on August 8, 2007; and

WHEREAS, the BFSA approved the original budget for project costs of Phase IIIB in the amount of \$184,966,664 on February 8, 2009; and

WHEREAS, the additional funds available to the District through JSCB were generated through interest earnings and have no impact on the general operations of the District; and

WHEREAS, the project funds will continue to accumulate interest earnings during the period of time that such projects are ongoing and funds are unspent; and

WHEREAS, the District desires to utilize all the interest earnings on additional projects for those schools scoped into the Phase III reconstruction project; and

WHEREAS, to facilitate the work a Change Order would be issued to LP Ciminelli Inc. as the Program Provider; and

WHEREAS the Board of Education approved the Change Order to LP Ciminelli Inc. on September 28, 2011; and

WHEREAS, the Joint Schools Construction Board approved the Change Order to LP Ciminelli Inc. on October 3, 2011.

NOW THEREFORE BE IT RESOLVED that the Buffalo Fiscal Stability Authority approves the modification to the JSCB Phase III budget by the amount of interest earnings of \$8,667,348.88 plus interest yet to be earned; and

BE IT FURTHER RESOLVED that the Buffalo Fiscal Stability Authority approves the related Change Order to be issued to LP Ciminelli Inc. as the Program Provider.

This Resolution shall take effect immediately.

Approved October 3, 2011

/s/ George K. Arthur

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George K. Arthur,  
Secretary