

New Issue-Book-Entry

**\$62,540,000**  
**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**  
**School Facility Refunding Revenue Bonds**  
**(City School District of the City of Buffalo Project)**  
**Series 2013A**

**Dated: Delivery Date**

**Due: as shown on inside cover**

The Series 2013A Bonds are being issued by the Erie County Industrial Development Agency (the "Issuer") to refinance a portion of the costs of the renovation and/or equipping of certain public school facilities for use by the City School District of the City of Buffalo (the "Buffalo CSD") in accordance with Chapter 605 of the Laws of 2000 of the State of New York, as amended (the "Buffalo Schools Act").

The Series 2013A Bonds will be issued pursuant to an Indenture of Trust (Series 2009 Project) dated as of November 1, 2009 (the "Original Indenture"), as supplemented and amended by a First Supplemental Indenture of Trust (Series 2009 Project) dated as of April 1, 2013 (the "First Supplemental Indenture", together with the Original Indenture, the "Indenture"), each between the Issuer and Manufacturers and Traders Trust Company, as trustee (the "Trustee"), and will be special limited obligations of the Issuer payable from amounts due from the Buffalo CSD under an Installment Sale Agreement (Series 2009 Project) dated as of November 1, 2009 (the "Original Installment Sale Agreement"), as amended and supplemented by a First Amendment to Installment Sale Agreement (Series 2009 Project) (the "First Amendment to Installment Sale Agreement", and, together with the Original Installment Sale Agreement, the "Installment Sale Agreement"), each between the Issuer and the Buffalo CSD. The Buffalo CSD's obligations to pay installment purchase payments under the Installment Sale Agreement are executory only to the extent of New York State building and operating aid ("State Aid") appropriated and available to the Buffalo CSD.

Payment of State Aid to the Buffalo CSD is subject to annual appropriation of the State of New York (the "State"). Pursuant to a Second Amended and Restated State Aid Trust Agreement, dated as of October 1, 2012 (the "State Aid Trust Agreement"), among the Buffalo CSD, each Series Trustee (hereinafter defined), the City of Buffalo (the "City") and Manufacturers and Traders Trust Company, as depository bank (the "Depository"), all State Aid made payable to the Buffalo CSD will be deposited into a State Aid Depository Fund with the Depository and, upon appropriation by the Buffalo CSD, such State Aid will be disbursed for the payment of principal and interest on the Series 2013A Bonds, other bonds issued in accordance with the Buffalo Schools Act and other purposes of the Buffalo CSD.

**The Series 2013A Bonds are payable solely from (i) the payment of installment purchase payments by the Buffalo CSD under the Installment Sale Agreement and (ii) the pledge of certain funds, including a bond fund, under the Indenture. In the event the Buffalo CSD fails to make an installment purchase payment under the Installment Sale Agreement, it is provided in the Buffalo Schools Act and the Indenture that, upon receipt by the New York State Comptroller (the "State Comptroller") of a certificate from the Trustee on behalf of the Issuer as to the amount of such failed payment, the State Comptroller shall withhold any State Aid from the Buffalo CSD payable thereto to the extent of the amount so stated in such certificate as not having been made, and shall immediately pay over to the Trustee on behalf of the Issuer the amount so withheld. The obligations of the Buffalo CSD under the Installment Sale Agreement to pay installment purchase payments are not general obligations of the Buffalo CSD or the City and neither the full faith and credit nor the taxing powers of the Buffalo CSD or the City are pledged to the payment of installment purchase payments under such agreement. The obligation of the Buffalo CSD under the Installment Sale Agreement to pay installment purchase payments in any fiscal year of the Buffalo CSD constitutes a current expense of the Buffalo CSD for such fiscal year and shall not constitute an indebtedness or moral obligation of the Buffalo CSD, the City or the State within the meaning of any constitutional or statutory provision or other laws of the State. The only source of moneys available for the payment of the principal of and interest on the Series 2013A Bonds is installment purchase payments made by the Buffalo CSD under the Installment Sale Agreement to the extent of State Aid appropriated by the State and available to the Buffalo CSD and appropriated by the Buffalo CSD to make such payments, and the intercept by the State Comptroller of State Aid lawfully appropriated by the State and available therefor from time to time for the benefit of the Buffalo CSD. The Series 2013A Bonds are neither a general obligation of the Issuer nor a debt or indebtedness of Erie County or the State, and neither Erie County nor the State shall be liable thereon. See "Security AND SOURCES OF PAYMENT for the Series 2013A Bonds."**

The Series 2013A Bonds will be issued in fully registered form registered in the name of Cede & Co., as nominee for The Depository Trust Company ("DTC"). See "THE SERIES 2013A BONDS—Registration and Payment —Book-Entry System."

The Series 2013A Bonds will bear interest payable semiannually on the first day of May and the first day of November of each year commencing November 1, 2013 and are subject to redemption prior to maturity as described herein. See "THE SERIES 2013A BONDS—Redemption of the Series 2013A Bonds."

*In the opinion of Hawkins Delafield & Wood LLP, New York, New York, Bond Counsel to the Issuer, under existing statutes and court decisions and assuming continuing compliance with the tax covenants referred to herein, (i) interest on the Series 2013A 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 2013A 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 addition, in the opinion of Bond Counsel to the Issuer, under existing statutes, interest on the Series 2013A Bonds is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York). See "TAX MATTERS."*

*The Series 2013A Bonds are offered when, as, and if issued and received by the Underwriters, subject to the approval of legality by Bond Counsel to the Issuer. Certain legal matters will be passed upon for the Issuer by its counsel, Harris Beach PLLC, Buffalo, New York; for the Underwriters by their counsel, Hiscock & Barclay, LLP, Albany, New York; for the Joint Schools Construction Board by its counsel, Harter Secrest & Emery LLP, Buffalo, New York; and for the Buffalo CSD and the City by the Corporation Counsel of the City of Buffalo. Capital Markets Advisors, LLC serves as independent financial advisor to the Buffalo CSD and the City. It is expected that the Series 2013A Bonds will be available for delivery through the facilities of DTC in New York, New York on or about April 25, 2013.*

**Citigroup**

**Ramirez & Co. Inc.**

Dated: April 17, 2013

\$62,540,000  
 ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
 SCHOOL FACILITY REFUNDING REVENUE BONDS  
 (CITY SCHOOL DISTRICT OF THE CITY OF BUFFALO PROJECT)  
 SERIES 2013A

<u>May 1</u>	<u>Principal</u>	<u>Coupon</u>	<u>Yield</u>	<u>CUSIP Numbers<sup>1</sup></u>	<u>May 1</u>	<u>Principal</u>	<u>Coupon</u>	<u>Yield</u>	<u>CUSIP Numbers<sup>1</sup></u>
2014	\$735,000	2%	0.25%	29509PJG5	2023	\$ 300,000	4%	2.20%	29509PJP5
2017	240,000	3	0.86	29509PJH3	2024 <sup>2</sup>	310,000	5	2.41	29509PQ3
2018	250,000	3	1.08	29509PJJ9	2025 <sup>2</sup>	330,000	5	2.57	29509PJR1
2019	255,000	3	1.28	29509PJK6	2026 <sup>2</sup>	18,785,000	5	2.74	29509PJS9
2020	265,000	4	1.52	29509PJL4	2027 <sup>2</sup>	19,750,000	5	2.86	29509PJT7
2021	275,000	4	1.75	29509PJM2	2028 <sup>2</sup>	20,760,000	5	2.95	29509PJU4
2022	285,000	4	1.97	29509PJN0					

<sup>1</sup> Copyright, American Bankers Association. CUSIP data herein are provided by Standard & Poor's, CUSIP Service Bureau, a division of The McGraw-Hill Companies, Inc. The CUSIP numbers listed above are being provided solely for the convenience of bondholders only at the time of issuance of the Series 2013A Bonds and the Issuer and the Underwriters do not make any representation with respect to such numbers or undertake any responsibility for their accuracy now or at any time in the future. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Series 2013A Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part of such maturity or as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of certain maturities of the Series 2013A Bonds.

<sup>2</sup> Priced at the stated yield to the May 1, 2023 optional redemption date at a redemption price of 100%.

*No dealer, broker, salesperson or other person has been authorized by the Issuer or the Underwriters to give any information or to make any representations with respect to the Series 2013A Bonds, other than the information and representations contained in this Official Statement. If given or made, such information or representations must not be relied upon as having been authorized by any of the foregoing.*

*This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor shall there be a sale of the Series 2013A Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale.*

*The Series 2013A Bonds have not been registered under the Securities Act of 1933, as amended, and the Indenture has not been qualified under the Trust Indenture Act of 1939, as amended, in reliance upon exemptions contained in such acts. The registration or qualification of the Series 2013A Bonds in accordance with applicable provisions of securities laws of the states in which the Series 2013A Bonds have been registered or qualified and the exemption from registration or qualification in other states cannot be regarded as a recommendation thereof. Neither these states nor any of their agencies have passed upon the merits of the Series 2013A Bonds or the accuracy or completeness of this Official Statement. Any representation to the contrary may be a criminal offense.*

*Certain information in this Official Statement has been supplied by the Issuer, the Joint Schools Construction Board ("JSCB"), LPCiminelli, Inc., the Buffalo CSD, the City and other sources that the Issuer and the Underwriters believe are reliable. Neither the Issuer nor the Underwriters guarantee the accuracy or completeness of such information, and such information is not to be construed as a representation of the Issuer or the Underwriters. The information and expressions of opinions contained herein are subject to change without notice and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the Issuer, the JSCB, LPCiminelli, Inc., the Buffalo CSD or the City since the date hereof.*

*The Issuer assumes no responsibility as to the accuracy or completeness of the information contained in this Official Statement, other than that appearing under the captions "THE ISSUER" and "NO LITIGATION" (but only with respect to the Issuer), all of which other information has been furnished by others.*

*The Buffalo Fiscal Stability Authority ("BFSA") has provided the information contained under the caption "PROGRAM PARTICIPANTS – The Buffalo Fiscal Stability Authority." The BFSA makes no representation as to the accuracy, completeness or fairness of any other information included in this Official Statement.*

*The Underwriters have reviewed the information in this Official Statement in accordance with their responsibilities to investors under the securities laws as applied to the facts and circumstances of this transaction, but the Underwriters do not guaranty the accuracy or completeness of such information.*

*References in this Official Statement to the Act, the Buffalo Schools Act, the Indenture, the State Aid Trust Agreement, the Installment Sale Agreement, the Ground Lease and the Ground Sublease (each as herein defined) do not purport to be complete. Reference is made to the Act, the Buffalo Schools Act, the Indenture, the State Aid Trust Agreement, the Installment Sale Agreement, the Ground Lease and the Ground Sublease for full and complete details of their respective provisions. Copies of the Indenture, the State Aid Trust Agreement, the Installment Sale Agreement, the Ground Lease and the Ground Sublease are on file with the Trustee.*

*The order and placement of material in this Official Statement, including its appendices, are not to be deemed a determination of relevance, materiality or importance, and all material in this Official Statement, including the appendices, must be considered in its entirety.*

*The contents of this Official Statement are not to be construed as legal, business or tax advice. Prospective investors should consult their own attorneys and business and tax advisors as to legal, business and tax advice. In making an investment decision, prospective investors must rely on their own examination of the terms of the offering of the Series 2013A Bonds, including the merits and risks involved. This Official Statement is not to be construed as a contract or agreement between the Issuer and the purchasers or holders of any Series 2013A Bonds.*

*This Official Statement contains forecasts, projections and estimates that are based on expectations and assumptions which existed at the time such forecasts, projections and estimates were prepared. In light of the important factors that may materially affect economic conditions in the State and the Buffalo CSD and the amount of State Aid paid to the Buffalo CSD, the inclusion in this Official Statement of such forecasts, projections and estimates should not be regarded as a representation by the Issuer, the Underwriters or the Buffalo CSD 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 Official Statement, 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 Buffalo CSD. These forward-looking statements speak only as of the date of this Official Statement. The Issuer, the Underwriters and the Buffalo CSD disclaim any obligation or undertaking to release publicly any updates or revisions to any forward-looking statement contained herein to reflect any change in the Buffalo CSD’s expectations with regard thereto or any change in events, conditions or circumstances on which any such statement is based.*

*IN CONNECTION WITH THE OFFERING OF THE SERIES 2013A BONDS, THE UNDERWRITERS MAY OVERALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICES OF THE SERIES 2013A BONDS AT LEVELS ABOVE THOSE WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.*

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**\$62,540,000**  
**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**  
**School Facility Refunding Revenue Bonds**  
**(City School District of the City of Buffalo Project)**  
**Series 2013A**

**INTRODUCTION**

**General**

This Official Statement sets forth certain information concerning the issuance and sale by the Erie County Industrial Development Agency (the “Issuer”) of \$62,540,000 aggregate principal amount of its School Facility Refunding Revenue Bonds (City School District of the City of Buffalo Project), Series 2013A (the “Series 2013A Bonds”). The Series 2013A Bonds will be secured by and issued pursuant to an Indenture of Trust dated as of November 1, 2009 (the “Original Indenture”), as supplemented and amended by a First Supplemental Indenture of Trust (Series 2009 Project) dated as of April 1, 2013 (the “First Supplemental Indenture”, and, together with the Original Indenture, the “Indenture”), each between the Issuer and Manufacturers and Traders Trust Company, as trustee (the “Trustee”).

**Authorization**

The Series 2013A Bonds will be issued pursuant to the Issuer’s enabling legislation, constituting Title I of Article 18-A of the General Municipal Law of the State of New York (the “State”), as amended (enacted into law as Chapter 1030 of the Laws of 1969 of the State), and Chapter 293 of the Laws of 1970 of the State, as amended (collectively, the “Act”); and Chapter 605 of the Laws of 2000 of the State, as amended by Chapter 59 of the Laws of 2003 of the State, as amended by Chapter 421 of the Laws of 2004 of the State, as amended by Chapter 283 of the Laws of 2006 of the State, as amended by Chapter 403 of the Laws of 2008 of the State, as amended by Chapter 492 of the Laws of 2008 of the State, as amended by Chapter 497 of the Laws of 2008 of the State and as amended by Chapter 209 of the Laws of 2009 of the State (collectively, as the same may further be amended, the “Buffalo Schools Act”); and resolutions of the Issuer adopted September 11, 2002, as amended on October 16, 2002 and on June 11, 2003, and as amended and restated on November 10, 2004, and as further amended on April 11, 2005, on June 11, 2007, on July 9, 2007, on January 17, 2008, on October 19, 2009 and on May 16, 2011, and adopted on March 25, 2013.

**Purpose of the Series 2013A Bonds**

The Series 2013A Bonds are being issued under the Indenture for the purpose of (i) refunding a portion of the outstanding Erie County Industrial Development Agency School Facility Revenue Bonds (City School District of the City of Buffalo Project), Series 2009A, originally issued in the aggregate principal amount of \$294,905,000 (the “Series 2009A Bonds”), of which \$68,840,000 principal amount is being refunded; and (ii) financing certain costs of issuance of the Series 2013A Bonds. The Series 2009A Bonds were originally issued pursuant to the Original Indenture. The Series 2013A Bonds are payable from amounts due from the Buffalo CSD pursuant to an Installment Sale Agreement (Series 2009 Project) dated as of November 1, 2009 (the “Original Installment Sale Agreement”), as amended and supplemented by a First Amendment to Installment Sale Agreement (Series 2009 Project) (the “First Amendment to Installment Sale Agreement” and, together with the Original Installment Sale Agreement, the “Installment Sale Agreement”), each between the Issuer and the Buffalo CSD. See “PLAN OF FINANCING.”

## **The Program**

The Series 2013A Bonds are being issued to refinance a portion of the costs of a comprehensive redevelopment program of the Buffalo CSD's public schools (the "Program"). Prior to the commencement of the Program, the facilities of the Buffalo CSD had not been updated or improved in a number of years. The Buffalo Schools Act was enacted to encourage the City of Buffalo (the "City") and the Buffalo CSD to cooperatively undertake new and innovative ways of renovating, building and financing public schools within the City. The Joint Schools Construction Board (the "JSCB") was created by resolutions of the Board of Education of the Buffalo CSD (the "Board of Education"), the Common Council of the City (the "Common Council") and an amendment to the City Charter. Pursuant to the provisions of the Buffalo Schools Act and the Comprehensive Program Packaging and Development Services Provider Agreement between the JSCB and LPCiminelli, Inc. (formerly known as Louis P. Ciminelli Management Co. Inc.) (the "Program Provider") dated June 5, 2002 (the "PPDS Agreement"), the Program Provider was selected as the JSCB's Program Packaging and Development Services Provider (the "PPDS Provider") to implement the Program. Pursuant to the Buffalo Schools Act, the JSCB was given additional powers with respect to construction of new school buildings, and was authorized to manage the acquisition, design, construction and financing of new public educational facilities and certain limited functions with respect to the reconstruction, renovation and financing of existing public educational facilities in the City, and to create, coordinate efforts to enable compliance with, and monitor and report on, a program-wide diversity plan for the Program.

On September 16, 2003, the Issuer issued the School Facility Revenue Bonds (City School District of the City of Buffalo Project), Series 2003 (the "Series 2003 Bonds") to fund the first phase ("Phase I") of the Program. The Series 2003 Bonds were refunded in whole from the proceeds of the issuance and sale of the Series 2011B Bonds (herein defined). On December 22, 2004, the Issuer issued the School Facility Revenue Bonds (City School District of the City of Buffalo Project), Series 2004 (the "Series 2004 Bonds") in the aggregate principal amount of \$310,125,000 to fund a portion of the costs of the second phase ("Phase II") of the Program. The Series 2004 Bonds were refunded in whole from the proceeds of the issuance and sale of the Series 2012A Bonds (herein defined). On August 23, 2007, the Issuer issued the School Facility Revenue Bonds (City School District of the City of Buffalo Project), Series 2007A (the "Series 2007A Bonds") in the aggregate principal amount of \$180,000,000 to fund the balance of the costs of Phase II and a portion of the costs of the third phase ("Phase III") of the Program. On February 28, 2008, the Issuer issued the School Facility Revenue Bonds (City School District of the City of Buffalo Project), Series 2008A (the "Series 2008A Bonds") in the aggregate principal amount of \$173,225,000 to fund the balance of the costs of Phase III of the Program. On November 19, 2009, the Issuer issued the School Facility Revenue Bonds (City School District of the City of Buffalo Project), Series 2009A (the "Series 2009A Bonds") in the aggregate principal amount of \$294,905,000 to fund the costs of the fourth phase ("Phase IV") of the Program. The Series 2009A Bonds are being refunded, in part, from the proceeds of the issuance and sale of the Series 2013A Bonds. See "PLAN OF FINANCING." On June 15, 2011, the Issuer issued the School Facility Revenue Bonds (City School District of the City of Buffalo Project), Series 2011A (the "Series 2011A Bonds") in the aggregate principal amount of \$165,315,000 to fund the costs of the fifth phase ("Phase V") of the Program. On July 1, 2011, the Issuer issued the School Facility Refunding Revenue Bonds (City School District of the City of Buffalo Project), Series 2011B (the "Series 2011B Bonds") in the aggregate principal amount of \$112,560,000 to refund all of the outstanding Series 2003 Bonds. On April 19, 2012, the Issuer issued the School Facility Refunding Revenue Bonds (City School District of the City of Buffalo Project), Series 2012A (the "Series 2012A Bonds") in the aggregate principal amount of \$209,540,000 to refund all of the outstanding Series 2004 Bonds. The Series 2009A Bonds, which are anticipated to be refunded in part with the proceeds of the Series 2013A Bonds, the Series 2007A Bonds, the Series 2008A Bonds, the Series 2011A Bonds, the Series 2011B Bonds, the Series 2012A and the Series 2013A Bonds are referred to collectively herein as the "Project Bonds."

Excluding the effect of the refunding of a portion of the Series 2009A Bonds and the issuance of the Series 2013A Bonds, \$1,075,465,000 aggregate principal amount of Project Bonds is currently outstanding. Upon the refunding of a portion of the Series 2009A Bonds and the issuance of the Series 2013A Bonds there are anticipated to be \$1,069,165,000 of Project Bonds outstanding. The Project Bonds have been issued, or, in the case of the Series 2013A Bonds will be issued, by the Issuer pursuant to various indentures of trust (each, including the Indenture, being a "Series Indenture," and the trustee under each Series Indenture, including the Trustee, being a "Series Trustee"). All facilities financed by the Project Bonds have been made subject to ground leases or ground subleases and lease agreements or installment sale agreements or similar instrument (each such lease agreement or installment sale agreement being a "Series Facilities Agreement").

## **Structure**

Pursuant to a Ground Lease (Series 2009 Project) dated as of November 1, 2009 (the "Ground Lease") the City and the Buffalo CSD have leased to the Issuer all but one of the public school buildings, improvements, real property, equipment, fixtures and machinery related thereto which constituted Phase IV of the Program and which were undertaken as the Series 2009 Project. The Ground Lease provides for a term terminating not earlier than the date that the Series 2009A Bonds and the Series 2013A Bonds (or any later series of Additional Bonds issued under the Indenture) shall remain outstanding.

The remaining school building relating to Phase IV of the Program, being the Erie County Health Care Center for Children #84 ("School #84" which, together with those public school buildings, improvements, real property, equipment, fixtures and machinery related thereto which are the subject of the Ground Lease, are collectively referred to as the "Series 2009 Facilities"), is the subject of a certain Lease Agreement, dated as of June 1, 2007, between Erie County, as landlord and the Buffalo CSD, as tenant, as extended by that certain First Lease Extension Agreement, dated as of November 1, 2009 (as the same has been and may be amended or extended, the "School #84 Prime Lease"). The Buffalo CSD has subleased School #84 to the Issuer pursuant to a Ground Sublease (Series 2009 Project), dated as of November 1, 2009, between the Buffalo CSD, as sublessor, and the Issuer, as sublessee (the "Ground Sublease"). The Ground Sublease provides for a term terminating not earlier than the date that the Series 2009A Bonds and the Series 2013A Bonds (or any later series of additional bonds issued under the Series 2009 Indenture) shall remain outstanding.

The Issuer has sold its leasehold interest in the Series 2009 Facilities (other than School #84) under the Ground Lease and its subleasehold interest in School #84 under the Ground Sublease to the Buffalo CSD pursuant to the Installment Sale Agreement. Base Installment Purchase Payments due from the Buffalo CSD under the Installment Sale Agreement equal principal and interest due on the Series 2009A Bonds that are not being refunded and on the Series 2013A Bonds. Under the Installment Sale Agreement, the Buffalo CSD is responsible for the maintenance and operation of the Series 2009 Facilities.

Pursuant to the Indenture, the Issuer will issue the Series 2013A Bonds for the benefit of the Buffalo CSD to refund a portion of the Series 2009A Bonds, and reserves the right, upon request of the Buffalo CSD, to issue a series of Additional Bonds under the Indenture. To accomplish the refunding, a portion of the proceeds from the sale of the Series 2013A Bonds will be deposited into a special trust fund created under a refunding escrow trust agreement (the "Refunding Escrow Trust Agreement") to be entered into among the Issuer, the Buffalo CSD and the Trustee, as Escrow Agent. See "PLAN OF FINANCING."

## Security for the Series 2013A Bonds

Principal of and interest on the Series 2013A Bonds will be secured by (i) installment purchase payments made by the Buffalo CSD under the Installment Sale Agreement and (ii) the pledge of certain funds, including the Bond Fund, under the Indenture. In the event the Buffalo CSD fails to make an installment purchase payment under the Installment Sale Agreement, the Buffalo Schools Act and the Indenture provide that, upon receipt by the New York State Comptroller (the “State Comptroller”) of a certificate from the Trustee, on behalf of the Issuer, as to the amount of such failed payment, the State Comptroller shall withhold from the Buffalo CSD, New York State building and operating aid (“State Aid”) payable to the Buffalo CSD to the extent of the amount so stated in such certificate as not having been made, and shall immediately pay over to the Trustee on behalf of the Issuer the amount so withheld. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2013A BONDS —State Aid” and “—State Aid Intercept.” The Buffalo Schools Act further provides that (x) any amount of State Aid so paid by the State Comptroller shall not obligate the State to make, nor entitle the Buffalo CSD to receive, any additional amounts of State Aid, (y) nothing contained in the Buffalo Schools Act shall be deemed to prevent the State from modifying, reducing or eliminating any program or programs of State Aid, and (z) the State shall not be obligated by the terms of the Buffalo Schools Act to maintain State Aid at any particular level or amount.

The Buffalo CSD’s obligation to pay installment purchase payments under the Installment Sale Agreement is executory only to the extent of State Aid appropriated and available to the Buffalo CSD, and appropriated by the Buffalo CSD to the payment of installment purchase payments under the Installment Sale Agreement, and no liability on account thereof shall be incurred by the Buffalo CSD beyond the amount of such State Aid so available and appropriated; *provided, however*, that failure of the Buffalo CSD, for any reason (including a failure by the State or the Buffalo CSD to appropriate State Aid), to make an installment purchase payment under the Installment Sale Agreement is nevertheless deemed a failure to make a payment thereunder for purposes of the Installment Sale Agreement, as well as the Buffalo Schools Act and the State Aid intercept implementing provisions of the Indenture. Payment of State Aid to the Buffalo CSD is subject to annual appropriation of the State. Except to the extent limited as provided above, the obligation of the Buffalo CSD to pay installment purchase payments under the Installment Sale Agreement and to perform its obligations thereunder shall be absolute and unconditional; and such installment purchase payments and other amounts shall be payable without any rights of set-off, or recoupment or counterclaim or deduction and without any right of suspension, deferment, diminution or reduction it might otherwise have against the Issuer or the Trustee (as applicable), any purchaser of any Series 2013A Bond or any other person and whether or not any or all of the facilities financed or refinanced with the proceeds of the Series 2013A Bonds are used or occupied by the Buffalo CSD or available for use or occupancy by the Buffalo CSD. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2013A BONDS,” “BONDHOLDERS’ RISKS – Additional Series of Project Bonds” and APPENDIX D — “Summary of Certain Provisions of the Installment Sale Agreement.”

The Buffalo CSD, the City, each Series Trustee, and Manufacturers and Traders Trust Company, as depository bank (the “Depository”), have entered into a Second Amended and Restated State Aid Trust Agreement dated as of October 1, 2012 (the “State Aid Trust Agreement”). In accordance with the State Aid Trust Agreement, the Comptroller of the City (the “City Comptroller”) and the Buffalo CSD have instructed the State Comptroller to pay all State Aid directly to a designated fund (the “State Aid Depository Fund”) held with the Depository. Provided the Buffalo CSD has made an appropriation for the payment of installment purchase payments under the Installment Sale Agreement and Annual Payment Obligations on 2012 MBBA Refunding Bonds, amounts in the State Aid Depository Fund will be transferred periodically to the Bond Fund established under the Indenture (and to each equivalent fund under each other Series Indenture), on a Ratable Basis, toward the payment of the Series 2013A Bonds

and other series of Project Bonds outstanding under each other Series Indenture, to the extent of any deficiencies therein, into the Debt Service Reserve Fund established under certain Series Indentures (no such Debt Service Reserve Fund has been or is being established under the Indenture), on a Ratable Basis, to the funding of the Annual Payment Obligations on 2012 MBBA Refunding Bonds and any balance remaining will be transferred to the Buffalo CSD. Amounts in the State Aid Depository Fund will be transferred by the Depository to each Bond Fund periodically on a Ratable Basis from each December 1 until each March 31 of each Fiscal Year (the "Collection Period") and will be credited against the Buffalo CSD's obligation to pay its annual installment purchase payments under the Installment Sale Agreement due on April 1 of each year and its Annual Payment Obligations on 2012 MBBA Refunding Bonds. No amounts shall be paid to the MBBA Series 2012 Trustee until all amounts payable to each Series Trustee have been paid in full. Although the State Aid Trust Agreement requires an immediate transfer of State Aid Revenues from the State Aid Depository Fund to each Bond Fund during the Collection Period, amounts held in the State Aid Depository Fund are not subject to the lien of the Indenture, and are not pledged as security for the payment of the Series 2013A Bonds until such amounts have been transferred by the Depository to the Trustee and deposited in the Bond Fund under the Indenture.

Notwithstanding the April 1 installment purchase payment date under the Installment Sale Agreement, the Installment Sale Agreement provides that, if the Buffalo CSD fails to appropriate by November 1, 2010 (or by any subsequent November 1 that the Series 2009A Bonds and the Series 2013A Bonds remain Outstanding), State Aid Revenues in an amount sufficient to pay the installment purchase payment due on the immediately succeeding April 1 (less any amounts on deposit in the Bond Fund and available on such November 1), then: (y) the Buffalo CSD shall promptly deliver written notice of such failure to appropriate to the Issuer and the Trustee, and (z) the next succeeding April 1 payment date for the annual installment purchase payment shall instead be the November 15 immediately preceding such April 1 payment date as if that November 15 were the originally scheduled annual installment purchase payment date; and if for any reason the annual installment purchase payment due on such November 15 is not made by such date, any such failed payment shall constitute a failure to make a payment under the Installment Sale Agreement for purposes thereof, and under the Buffalo Schools Act and the State Aid intercept implementing provisions of the Indenture.

The aggregate of maximum annual installment purchase payments for all Project Bonds outstanding (including the Series 2013A Bonds and excluding the Series 2009A Bonds being refunded) is \$103,004,838. The amount of State Aid for all funds received by the Buffalo CSD in fiscal year 2011-12 was \$624.4 million, and over the past five fiscal years from fiscal year 2007-08 through and including fiscal year 2011-12, the amount of State Aid received for all funds by the Buffalo CSD has averaged approximately \$616.1 million per year.

For the current fiscal year ending June 30, 2013, the Buffalo CSD has budgeted \$671.9 million in State Aid receipts for all funds, and as of January 7, 2013 expects to receive approximately \$663.9 million by the close of the 2012-13 fiscal year.

During the Collection Period from December 1 until March 31 of each year, the Buffalo CSD received State Aid receipts for all funds of \$386.0 million in fiscal year 2009-10, \$430.6 million in fiscal year 2010-11, \$413.6 million in fiscal year 2011-12 (all on an unaudited cash flow basis), and as of March 1, 2013, the Buffalo CSD expects to receive \$426.5 million during the Collection Period in fiscal year 2012-13.

No assurance can be given that such amounts of State Aid or the timing of State Aid will continue, or be appropriated by the State in such amounts in future fiscal years. See "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2013A BONDS –State Aid –*Enacted State Budget*" and

*“PROGRAM PARTICIPANTS –The Buffalo CSD and Board of Education –Review of the 2013-14 Budget of the Buffalo CSD.”*

The amount of State Aid paid to the Buffalo CSD is also dependent, in part, upon the financial condition of the State. The economic downturn and global financial crisis have had, and may continue to have, an adverse impact on the State’s financial condition and may adversely affect the amount and timing of payments of State Aid to school districts in the State, including the Buffalo CSD. See “BONDHOLDERS’ RISKS —The State’s Financial Condition, Reduced State Aid, Delayed Payment” and “–Competing Claims to State Aid.” See also APPENDIX A — “Audited Financial Statements of the Board of Education of the City School District of the City of Buffalo for Fiscal Year Ended June 30, 2012.”

Pursuant to the Indenture, the Issuer has assigned to the Trustee substantially all of its rights under the Installment Sale Agreement, including the right to receive and collect the installment purchase payments payable by the Buffalo CSD thereunder. Pursuant to the Indenture, the Issuer has also pledged and assigned to the Trustee, for the benefit of the holders of the Series 2009A Bonds not being refunded and the Series 2013A Bonds, substantially all of its right, title and interest in and to State Aid Revenues and the funds, monies or securities held under the Indenture, including amounts held in the Bond Fund established therefor.

The Series 2013A Bonds are subject to optional redemption in accordance with the provisions of the Indenture. See “THE SERIES 2013A BONDS –Redemption of the Series 2013A Bonds.”

THE SERIES 2013A BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM STATE AID REVENUES PAYABLE BY THE BUFFALO CSD UNDER THE INSTALLMENT SALE AGREEMENT, AND THE PLEDGE OF CERTAIN FUNDS INCLUDING THE BOND FUND UNDER THE INDENTURE. IN THE EVENT THE BUFFALO CSD FAILS TO MAKE AN INSTALLMENT PURCHASE PAYMENT UNDER THE INSTALLMENT SALE AGREEMENT, IT IS PROVIDED IN THE BUFFALO SCHOOLS ACT AND THE INDENTURE THAT, UPON RECEIPT BY THE STATE COMPTROLLER OF A CERTIFICATE FROM THE TRUSTEE, ON BEHALF OF THE ISSUER, AS TO THE AMOUNT OF SUCH FAILED PAYMENT, THE STATE COMPTROLLER SHALL WITHHOLD ANY STATE AID FROM THE BUFFALO CSD PAYABLE THERETO TO THE EXTENT OF THE AMOUNT SO STATED IN SUCH CERTIFICATE AS NOT HAVING BEEN MADE, AND SHALL IMMEDIATELY PAY OVER TO THE TRUSTEE ON BEHALF OF THE ISSUER THE AMOUNT SO WITHHELD. THE OBLIGATION OF THE BUFFALO CSD UNDER THE INSTALLMENT SALE AGREEMENT TO PAY INSTALLMENT PURCHASE PAYMENTS IS NOT A GENERAL OBLIGATION OF THE BUFFALO CSD OR THE CITY, AND NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWERS OF THE BUFFALO CSD OR THE CITY ARE PLEDGED TO THE PAYMENT OF INSTALLMENT PURCHASE PAYMENTS UNDER THE INSTALLMENT SALE AGREEMENT. THE OBLIGATIONS OF THE BUFFALO CSD UNDER THE INSTALLMENT SALE AGREEMENT TO PAY INSTALLMENT PURCHASE PAYMENTS IN ANY FISCAL YEAR OF THE BUFFALO CSD CONSTITUTE A CURRENT EXPENSE OF THE BUFFALO CSD FOR SUCH FISCAL YEAR AND SHALL NOT CONSTITUTE INDEBTEDNESS OR A MORAL OBLIGATION OF THE BUFFALO CSD, THE CITY OR THE STATE WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR OTHER LAWS OF THE STATE OF NEW YORK. THE ONLY SOURCE OF MONEYS AVAILABLE FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE SERIES 2013A BONDS IS INSTALLMENT PURCHASE PAYMENTS MADE BY THE BUFFALO CSD UNDER THE INSTALLMENT SALE AGREEMENT, TO THE EXTENT OF STATE AID APPROPRIATED BY THE STATE AND AVAILABLE TO THE BUFFALO CSD AND APPROPRIATED BY THE BUFFALO CSD TO MAKE SUCH PAYMENTS,

AND THE INTERCEPT BY THE STATE COMPTROLLER OF STATE AID LAWFULLY APPROPRIATED BY THE STATE AND AVAILABLE THEREFOR FROM TIME TO TIME FOR THE BENEFIT OF THE BUFFALO CSD.

Certain capitalized terms used in this Official Statement which are not defined herein shall have the meanings assigned to them in APPENDIX B — “Certain Definitions” or in APPENDIX G — “Summary of Certain Provisions of the State Aid Trust Agreement.”

Brief descriptions of the Issuer, the Series 2013A Bonds, the security for the Series 2013A Bonds, the Program, the refunding of a portion of the Series 2009A Bonds, the Buffalo CSD, the City, the JSCB, the BFSFA and the Program Provider are set forth below or in the Appendices hereto. Summaries of certain financing documents are set forth below or in the Appendices hereto. The summaries do not purport to be complete or definitive, each such summary is qualified in its entirety by reference to each such document for a complete description of all of the terms and provisions thereof, copies of which are on file with, and are available at the offices of the Trustee, and no part of such summaries are to be construed as a representation or a guarantee of the accuracy or completeness by the Issuer, other than the information under the captions, “THE ISSUER” and “NO LITIGATION” (but only with respect to the Issuer).

The Form of the Continuing Disclosure Agreement for the Series 2013A Bonds is set forth in APPENDIX F. The Form of Opinion of Bond Counsel is set forth in APPENDIX E.

## **THE PROGRAM**

### **Authorization**

The Program has been developed by the JSCB in conjunction with the Program Provider pursuant to the Buffalo Schools Act, the resolutions of the Board of Education and the Common Council, and the Charter of the City, and encompasses a comprehensive redevelopment program for the reconstruction of existing public schools and the construction of new public schools for the Buffalo CSD. Prior to the Program, few new public schools had been built in the City during the past 35 years and many elementary and secondary schools in the City were in need of substantial improvement, renovation and reconstruction. The Buffalo Schools Act was enacted to encourage the City and the Buffalo CSD to cooperatively undertake new and innovative ways of renovating, building and financing public schools within the City.

### **Program Overview**

The Program Provider has implemented a comprehensive redevelopment of the physical plant for the Buffalo CSD’s public schools (the “Program”). While in generally sound structural condition, many of the school buildings were inadequate to meet current instructional requirements of delivering a 21st century education. To date, \$1,303,905,000 aggregate principal amount of Project Bonds (excluding Project Bonds issued for refunding purposes) have been issued and are dedicated to the Program. Phase I and Phase II of the Program have been completed, Phase III and Phase IV have been substantially completed, and Phase V is expected to be completed by June 30, 2014.

In September 2003, the Issuer issued its Series 2003 Bonds to provide funds for Phase I of the Program (the “Series 2003 Project”). The Series 2003 Project provided for the general reconstruction of nine school facilities and included site work, exterior and interior building improvements, mechanical and electrical upgrades, and the renovation and improvement of Buffalo CSD’s telecommunications system

and an energy program on a district-wide basis. Phase I was completed in April 2005. The Series 2003 Bonds were refunded in whole from proceeds of the sale of the Series 2011B Bonds.

In December 2004, the Issuer issued its Series 2004 Bonds to provide funds for a portion of the cost of Phase II of the Program (the “Series 2004 Project”). The Series 2004 Project provided for the reconstruction of 13 existing schools, continued the construction of the district-wide technology and energy upgrades to create a state of the art educational environment, and renovation of an outdoor sports facility for use district-wide. A portion of the proceeds of the Series 2007A Bonds was applied to finance additional costs relating to Phase II of the Program. Phase II of the Program was completed in July 2008. The Series 2004 Bonds were refunded in whole from proceeds of the sale of the Series 2012A Bonds.

In August 2007, the Issuer issued its Series 2007A Bonds to provide funds for a portion of the cost of Phase II of the Program and a portion of the cost of Phase III of the Program (the “Series 2007 Project”). The Series 2007 Project provided for the general reconstruction of four school facilities, including site work, exterior and interior building improvements, and continuation of the construction of the technology and energy upgrades begun with the Series 2003 Project. The technology portion of the Series 2004 Project and of the Series 2007 Project included an ongoing program known as E-RATE to renovate and improve the Buffalo CSD’s telecommunications system on a district-wide basis.

In February 2008, the Issuer issued its Series 2008A Bonds to provide funds for the balance of the cost of Phase III of the Program (the “Series 2008 Project”). The Series 2008 Project provided for the general reconstruction of five school facilities including site work, exterior and interior building improvements and continuation of the construction of the technology and energy upgrades. The technology portion of the Series 2008 Project included E-RATE to renovate and improve the Buffalo CSD’s telecommunications system on a district-wide basis. These improvements are designed to deliver the flexible educational spaces, instructional technology and social support necessary to enhance student achievement. Phase III of the Program is substantially completed.

In November 2009, the Issuer issued its Series 2009A Bonds to provide funds for Phase IV of the Program (the “Series 2009 Project”). The Series 2009 Project provided for the general reconstruction of 10 school facilities, including site work, exterior and interior building improvements and continuation of the construction of the technology and energy upgrades. The technology portion of the Series 2009 Project includes expanded security cameras and an access control system on a district-wide basis. These improvements were designed to deliver the flexible educational spaces, instructional technology and social support necessary to enhance student achievement. Phase IV of the Program is substantially completed. The Series 2009A Bonds will be refunded in part from proceeds of the sale of the Series 2013A Bonds. See “PLAN OF FINANCING.”

In May 2011, the Issuer issued its Series 2011A Bonds to provide funds for Phase V of the Program (the “Series 2011 Project”). The Series 2011 Project provided for the general reconstruction of seven school facilities, including site work, exterior and interior building improvements and continuation of the construction of the technology and energy upgrades. The technology portion of the Series 2011 Project includes the creation of data server hubs for the Buffalo CSD at two school locations and improved network technology and access on a district-wide basis. Phase V of the Program is expected to be completed by June 2014.

### **State Comptroller Report**

In a May 2004 report of the State Comptroller (the “2004 Comptroller’s Report”), the State Comptroller reviewed the JSCB’s progress in implementing its financing and construction plans under the Program, as well as meeting its diversity goals, and determined that, despite its being in its earliest stages,

the Program appeared to be operating effectively and could become a financing and construction model successfully used in other large cities. Based on the Series 2003 Project, the 2004 Comptroller's Report provided recommendations regarding various aspects of the Program going forward, including the Office of the State Comptroller conducting an audit of the performance of the JSCB for the Series 2003 Project. In its June 2006 audit report (the "2006 Comptroller's Report"), the State Comptroller found that the renovation work performed under Phase I of the Program was acceptable and in compliance with both industry standards and SED (herein defined) approved plans. However, the 2006 State Comptroller's Report called upon the JSCB, the Buffalo CSD and the Program Provider to strengthen oversight after state auditors found lax management and noted that more needed to be done to meet long-term diversity goals. In response to the 2006 Comptroller's Report, the management of the Program was reorganized by the Buffalo CSD and overall responsibility for the Program was assigned to the Chief Financial Officer of the Buffalo CSD. Furthermore, the Buffalo CSD has instituted more aggressive management and monitoring of the Program through, among other things, requiring withholding and retainage of payments to the Program Provider for project components; requiring the delivery of additional Program progress reports from the Program Provider; and creating and circulating to the JSCB and the Buffalo CSD reports relating to the Program.

## **PROGRAM PARTICIPANTS**

### **The City**

The City was incorporated in 1832 and operates under a Charter adopted in 2001 that was based on a substantial revision of a Charter adopted in 1927 pursuant to the home rule laws of the State. In its Charter, the City adopted the strong Mayor-Council form of government. The Mayor, as chief executive officer, is the head of the Executive Department and oversees all administrative functions. The Common Council performs all legislative duties.

The City is responsible for and maintains police, fire, sanitation and water services, streets and several parks and playgrounds. Although the City is also responsible, in large measure, for the financing of local primary and secondary educational expenditures, the Board of Education of the Buffalo CSD, comprised of independently elected members, administers the City's school system.

The Mayor, elected by general election for a four-year term and eligible to succeed himself, has the power to appoint and remove the non-elected heads of City departments, boards, commissions and agencies.

The fiscal affairs of the City are the responsibility of the City Comptroller, who is elected by the general electorate to a four-year term and is eligible to succeed himself. The City Comptroller supervises the debt management function and the temporary investment of monies for both the City and the Buffalo CSD. The City Comptroller has the power to veto any additions to the adopted operating or capital budget of the City by refusing to sign the required certification of necessity.

The legislative body of the City is the Common Council. In addition to the legislative power to adopt local laws, ordinances and resolutions, the Common Council has the specific power to override the Mayor's veto of any ordinance or local law approved by the Common Council, and to review and approve the operating and capital budgets and most mayoral appointments.

The City Charter requires that the Mayor, on or before May 1 of each year, submit a proposed budget to the Common Council which must be in balance and prepared in accordance with generally accepted accounting principles ("GAAP"). In addition, on or before May 1, under the BFSA Act, the City and the Buffalo CSD, as a Covered Organization (as such terms are defined below) are each required

to submit a balanced budget and four-year financial plan to the BFSa for its review. See “–The Buffalo Fiscal Stability Authority –*BFSa Approval of Financial Plans and Budgets*” below.

### **The Buffalo Fiscal Stability Authority**

In May 2003, the State declared a state of fiscal crisis with respect to the City and on July 3, 2003, the Governor signed into law Chapter 122 of the Laws of 2003 of the State, as amended from time to time (the “BFSa Act”), creating the BFSa. The BFSa is a corporate governmental agency and instrumentality of the State constituting a public benefit corporation with a broad range of financial control and oversight powers over the City. Such oversight includes reviewing and commenting on the terms of any proposed borrowing by the City and certain non-exempted “Covered Organizations” (as defined in the BFSa Act including, among others, the Buffalo CSD and the JSCB).

The BFSa has the power during a “control period” to issue its bonds and notes for various City purposes, including the restructuring of a portion of the City’s outstanding debt. Pursuant to the BFSa Act, such bonds or notes are payable from City tax revenues, Buffalo CSD tax revenues and state aid revenues. City tax revenues consist of the portion of the net collections from sales and compensating use taxes, penalties and interest authorized by the State and imposed by the County that are payable to the City under the local sales tax agreement among the City, the County and the cities of Lackawanna and Tonawanda authorized by Section 1262(c) of the State Tax Law (a rate of no less than 3% for the period ending June 30, 2037 plus certain additional amounts as provided by law) on the sale and use of tangible personal property and services in the County (the “Local Sales Tax”). Buffalo CSD tax revenues consist of the portion of the County’s net collections from the Local Sales Tax that is payable to the Buffalo CSD by the County pursuant to Section 1262(a) of the State Tax Law. The Buffalo CSD 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. State aid revenues consist of 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 BFSa pursuant to the BFSa Act, except as otherwise prescribed by the State Legislature. BFSa bonds and notes are not secured by or payable from State Aid and the BFSa has no lien on or right to receive State Aid. The BFSa last issued bonds on behalf of the City and the Buffalo CSD on May 3, 2007. The BFSa has issued five series of bonds on behalf of the City and Buffalo CSD in a total aggregate principal amount of \$156.6 million, of which \$76.7 million is outstanding as of March 1, 2013.

The BFSa is governed by a board of nine directors, seven of which are 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.

The BFSa Act provides that the BFSa shall have different financial control and oversight powers depending upon whether the City’s financial condition causes it to be in a “control period” or an “advisory period.” Pursuant to the BFSa Act, an advisory period may not begin until the BFSa has determined that: “(a) for each of the three immediately preceding City fiscal years, the City has adopted and adhered to budgets covering all expenditures, other than capital items, the results of which did not show a deficit, without the use of any BFSa assistance as provided for within the BFSa Act, when reported in accordance with generally accepted accounting principles, and (b) the City Comptroller and the State Comptroller jointly certify that securities were sold by the City during the immediately

preceding City fiscal year in the general public market and that there is a substantial likelihood that such securities can be sold by the City in the general public market from such date through the end of the next succeeding City fiscal year in amounts that will satisfy substantially all of the capital and cash flow requirements of the City during that period in accordance with the four-year financial plan then in existence.” On May 29, 2012, the BFSFA made a determination that all provisions of the BFSFA Act with respect to transitioning into an advisory period had been met and resolved to enter into an advisory period effective July 1, 2012. An advisory period shall continue through June 30, 2037, unless a control period is reimposed.

Under the BFSFA Act, the BFSFA began its existence during a City control period, which means that the BFSFA commenced operation with its maximum authorized complement of financial control and oversight powers. Under an advisory period the BFSFA operates with a reduced set of financial oversight powers and responsibilities. After an advisory period has been established, a control period may be reimposed on the City upon a determination 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 BFSFA 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 BFSFA Act; (d) the chief fiscal officer’s certification at any time, at the request of the BFSFA 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 BFSFA, 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 BFSFA Act; or (e) the City shall have violated any provision of the BFSFA Act.

During an advisory period, the BFSFA is empowered, among other things, (i) 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; (ii) to review and comment on the budget, financial plan and financial plan modifications of the City and any of the Covered Organizations; (iii) to audit compliance with the City’s and any of the Covered Organization’s financial plans; (iv) 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; (v) to assess and comment on the impact of any collective bargaining agreement to be entered by the City; and (vi) to impose a control period upon making one of the statutory findings.

While currently under an advisory period, a control period could be reimposed in the event of the occurrence of certain events as described above. During a control period, the BFSFA would be 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) upon a determination that no condition exists which would permit imposition of a control period to terminate the control period.

*BFSA Oversight Actions relating to the City's 2012-13 Fiscal Year*

On May 1, 2012, the City and the non-exempted Covered Organizations submitted to the BFSA their respective 2012-13 budgets and 2013-16 four-year financial plans for review and approval. On May 8, 2012 and also on May 23, 2012, the City submitted a revised budget for 2012-13 and the related revised four-year financial plan for 2013-16 to the BFSA for approval. The Buffalo CSD submitted a revised 2012-13 budget and 2013-16 four-year financial plan to BFSA on May 16, 2012. The Buffalo Municipal Housing Authority ("BMHA") also submitted a revised 2012-13 budget and 2013-16 four-year financial plan to the BFSA on May 31, 2012. The Buffalo Urban Renewal Agency ("BURA") did not submit a revised budget. The BFSA approved such budgets and financial plans for the City and the Covered Organizations on June 4, 2012.

The BFSA entered into an advisory period on July 1, 2012. Under an advisory period, the BFSA may comment on budget and financial plan modifications as the BFSA deems necessary or appropriate. In accordance with the BFSA Act, for so long as an advisory period shall remain in effect, the City and the nonexempted Covered Organizations are required to submit budget modifications to the BFSA to address changing expenditures and revenue projections. In July 2012, the Buffalo CSD submitted a budget modification appropriating an additional \$2.6 million from fund balance to be used for the settlement of a labor contract. As of March 1, 2013, no other budget modifications had been submitted.

*BFSA Oversight Actions relating to the City's 2011-12 Fiscal Year*

On May 2, 2011, the City and the non-exempted Covered Organizations submitted to the BFSA their respective 2011-12 budgets and 2012-15 four-year financial plans for review and approval. On June 10, 2011, the City submitted a revised budget for 2011-12 and the related four-year financial plan for 2012-15 to the BFSA for approval. The Buffalo CSD submitted a revised 2011-12 budget and 2012-15 four-year financial plans to BFSA on May 31, 2011 based upon the 2011-12 budget adopted by the Board of Education. The Buffalo Urban Renewal Agency (BURA) also submitted a revised 2011-12 budget and 2012-15 four-year financial plan to the BFSA on June 9, 2011. The Buffalo Municipal Housing Authority (BMHA) did not submit a revised budget. The BFSA approved such budgets and financial plans for the City and the three Covered Organizations on June 15, 2011. On October 3, 2011, the BFSA approved a budget modification for the City in the amount of \$1.8 million for the construction of a Court detention facility, to be funded from reserved fund balance for capital outlays, and a budget modification for the Joint Schools Construction Board in the amount of \$8.7 million related to the Phase III reconstruction work. On such date the BFSA also approved a collective bargaining agreement between the City and Local 17 Operating Engineers, representing approximately 23 individuals City-wide. Also on October 3, 2011, the BFSA approved a collective bargaining agreement between the Buffalo CSD and the AFSCME Local 264, representing approximately 320 Food Service Workers and Summer Food Service Workers. On December 7, 2011, the BFSA approved a request by the City to redesignate efficiency incentive grant funding to new projects, which redesignation resulted in a modification to the financial plan with respect to the three out-years and affected the City's anticipated programs to eliminate the budget gap by \$2.0 million. Also on December 7, 2011, the BFSA approved (i) the issuance and sale by the BMHA of senior housing revenue bonds for various purposes related to a low-income senior housing facility located in the City of Buffalo, and (ii) a collective bargaining agreement between the Buffalo CSD and the Professional, Clerical, and Technical Employees' Association, representing approximately 450 filled positions. This collective bargaining agreement required both a budget modification and financial plan modification as costs for the collective bargaining agreement were not reflected in the original budget or related four-year financial plan. The BFSA approved the budget modification in the amount of \$5.7 million for 2011-12 to be funded from Assigned Fund Balance, and for an additional \$12.5 million in the remaining three out-years of the Financial Plan. On March 14, 2012, the BFSA approved (i) the City's 2012-2016 capital improvement program budget, and (ii) the

2012 capital borrowing proposed by the City of Buffalo in an amount not to exceed \$27.0 million. On May 14, 2012, the BFSa approved a retirement incentive which had been negotiated between the Buffalo CSD and the Buffalo Teachers Federation. On May 29, 2012, the BFSa determined that the provisions of the BFSa Act with respect to transitioning from a control period to an advisory period had been met and resolved to enter into an advisory period effective July 1, 2012. On June 4, 2012, the BFSa approved the 2011 and 2012 capital fund program budgets of the BMHA.

*BFSa Oversight Actions relating to the City's 2010-11 Fiscal Year*

On May 3, 2010, the City and the non-exempted Covered Organizations submitted to the BFSa their respective 2010-11 budgets and 2011-14 four-year financial plans for review and approval. On May 31, 2010, the City submitted a revised budget for 2010-11 and the four-year financial plan for 2011-14 to the BFSa for approval. The Buffalo CSD submitted a revised 2010-11 budget and 2011-14 four-year financial plan to BFSa on June 18, 2010 based upon the 2010-11 budget adopted by the Board of Education. The Buffalo Municipal Housing Authority (BMHA) and the Buffalo Urban Renewal Agency (BURA) did not submit revised budgets. The BFSa approved such budgets and financial plans for the City and the three Covered Organizations on June 22, 2010. On February 17, 2011, the BFSa approved a collective bargaining agreement between BURA and the Civil Service Employees Association, Inc., Local 815, representing approximately 51 individuals. BFSa also approved BURA's proposal to extend the same terms to approximately 27 unrepresented exempt employees. No budget or financial plan modifications were required as the incremental costs associated with this collective bargaining agreement had been previously reflected within the BFSa-approved 2010-11 budget and 2011-14 four-year financial plan. On March 9, 2011, the BFSa disapproved a memorandum of agreement amending the previous collective bargaining agreement between the BMHA and the International Union of Engineers, Local 17, thus causing the agreement to be renegotiated. In the event the BFSa continues to exercise control period powers at the time that the parties reach a revised agreement, the BFSa will be required to approve the revised agreement. On May 11, 2011, the BFSa passed a resolution which ordered that any increase in wages or other benefits provided in the arbitration panel opinion and awarded to the Buffalo Professional Firefighters Association Inc., Local 282 for the period beginning July 1, 2002 through June 30, 2004, not be paid for any period prior to July 1, 2007. On May 11, 2011, the BFSa also approved (i) a retirement incentive which had been negotiated between the Buffalo CSD and the Buffalo Teachers Federation, and (ii) a collective bargaining agreement between the Buffalo CSD and the Transportation Aides, representing 594 school bus aides. On June 15, 2011, the BFSa approved a budget modification in the amount of \$2,582,000 for various judgments and claims to be paid by the City.

*BFSa Oversight Actions relating to the City's 2009-10 Fiscal Year*

On May 1, 2009, the City and the non-exempted Covered Organizations submitted to BFSa their respective 2009-10 budgets and 2010-13 four-year financial plans for review and approval. On May 13, 2009, the BFSa disapproved a collective bargaining agreement between the BMHA and AFSCME Local 264 on the basis that (i) salary increases were excessive relative to the market, and (ii) the risk associated with labor concessions contained in the BMHA and AFSCME Local 264 collective bargaining agreements was high and thus inconsistent with the financial plan. On May 27, 2009, the City and the Buffalo CSD submitted revised budgets for 2009-10 and four-year financial plans for 2010-13 to the BFSa for approval and on June 5, 2009, the BMHA and BURA submitted revised budgets for 2009-10 and four-year financial plans for 2010-13 for approval. The BFSa approved such budgets and financial plans for all four governmental units on June 10, 2009. On July 29, 2009, the BFSa approved a collective bargaining agreement between the Buffalo CSD and the Substitutes United of Buffalo NEA/NY, representing approximately 770 substitute teachers. A financial plan modification was not required as the overall financial impact of this agreement was beneficial to the Buffalo CSD over the term of the collective bargaining agreement. On October 23, 2009, the BFSa approved the issuance by the

Issuer of the Series 2009A Bonds covering Phase IV of the Program, subject to certain pricing benchmarks. On December 9, 2009, the BFSA approved a revised collective bargaining agreement between the BMHA and AFSCME Local 264, which had been renegotiated after the initial collective bargaining agreement was disapproved by the BFSA on June 5, 2009, and involved approximately 219 represented employees. Also on December 9, 2009, the BFSA approved the re-instatement of parks and recreation positions transferred from the County due to the termination of the 2004 City-County Inter-Municipal Parks Agreement, and the creation of the position of Deputy Commissioner of Parks and Recreation, noting a budget transfer of \$904,077 was necessary to cover such additional expenses for the parks system through the remainder of the fiscal year. On March 22, 2010, the BFSA approved a budget modification for capital outlay for the Department of Parks and Recreation. On May 12, 2010, the BFSA approved a series of budget modifications for various purposes including: funding of certain police department positions; acquisition of an emergency vehicle; proceeds to be made available to various organizations in the City; increases for various operational expenditures includes injured-on-duty payments, VOIP telephones, and demolitions; and reimbursement to police benevolent association members for certain healthcare contributions. Also on May 12, 2010, the BFSA approved a renegotiated wage and benefit package for non-represented employees of the BMHA, effecting approximately 24 employees; such agreement was originally disapproved by the BFSA on June 5, 2009.

#### *BFSA Review of Financial Plans and Budgets*

The BFSA Act requires that, for so long as an advisory period shall exist, the City and the non-exempted Covered Organizations shall submit on or before May 1 of each year to the BFSA for its review and comment proposed budgets and four-year financial plans. It is currently anticipated that the City and the Buffalo CSD will submit their respective fiscal year 2013-14 proposed budgets and related four-year financial plans to the BFSA on or before May 1, 2013. Such financial plans must provide that the major operating funds of the City and the Buffalo CSD will be balanced in accordance with generally accepted accounting principles.

#### *Litigation Regarding Wage Freeze Imposed by BFSA*

As a result of the fiscal-related actions taken by the BFSA, a number of affected collective bargaining units representing employees of the City and certain non-exempted Covered Organizations initiated legal proceedings in federal and state courts challenging certain of the BFSA actions, including the BFSA's imposition of the wage freeze on April 21, 2004. These bargaining units sought reversal of those actions, in particular the imposition of the wage freeze. These challenges were litigated by the bargaining units and were ultimately unsuccessful. On June 5, 2007, the BFSA adopted a resolution lifting the wage freeze effective July 1, 2007. By the same resolution, the BFSA approved the City's and Buffalo CSD's financial plan providing a one-step increase on employees' salary schedules effective July 1, 2007. Certain bargaining units challenged this action, claiming entitlement to three additional steps as of July 1, 2007, *i.e.*, the three additional salary steps employees would have received but for the wage freeze. On March 29, 2011, the New York State Court of Appeals, the State's highest court, ruled in favor of the BFSA, the City, and the Buffalo CSD. In June 2011, the Buffalo Teachers Federation moved in Federal District Court to reopen the case in which the wage freeze had been found to be constitutional. The motion was a result of the decision by the Court of Appeals of New York, finding that the steps and increments did not accrue during the wage freeze. The BFSA opposed the motion, which was denied on February 10, 2012. The Buffalo Teachers Federation appealed, and on March 18, 2013 the Second Circuit affirmed the decision of the District Court denying the motion to reopen the decision finding the wage freeze constitutional. The Union representing the Police commenced an action in Federal District Court on July 21, 2011 seeking a declaration that the statute creating the BFSA is unconstitutional based upon the imposition of the freeze and the lifting of the freeze. Both BFSA and the City moved to dismiss the complaint and the motion was granted on May 22, 2012. The Police Union did not file a notice of

appeal and the action is concluded. On July 15, 2011, the Buffalo Professional Firefighters Association, Inc. brought a proceeding to declare a resolution enacted by the BFSA on May 11, 2011 to be invalid. The resolution ordered the City to not pay any increases in wages or benefits provided under a recent arbitration award for the period beginning July 1, 2002 through June 30, 2004. BFSA and the City moved to dismiss the proceeding, the motion was granted on January 12, 2012, and a notice of appeal was filed by the Buffalo Professional Firefighters Association, Inc. The appeal was heard on April 1, 2013.

The BFSA has provided the information contained in this section of the Official Statement entitled “THE BUFFALO FISCAL STABILITY AUTHORITY.” The BFSA has not reviewed nor makes any representation as to the accuracy, completeness or fairness of any other information included in this Official Statement.

### **The Buffalo CSD and Board of Education**

The Buffalo CSD is dependent on funding from the City, the County, the State and the Federal government. It is governed by an independently elected nine-member Board of Education and operates pursuant to the New York State Education Law (the “Education Law”). The administration of the schools is the responsibility of the Superintendent of Schools, who is appointed by the Board of Education. The Buffalo CSD currently operates 17 secondary schools, 38 elementary and intermediate schools, and two special schools. There are 17 charter schools that operate independently from the Buffalo CSD. All charter schools receive the State-set per pupil tuition rate for Buffalo resident pupils, regardless of their location.

The following table sets forth information relating to the size of the school system.

#### **SIZE OF BUFFALO SCHOOL SYSTEM Fiscal Year Ended June 30**

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u> <sup>(4)</sup>
Enrollment	35,677	34,478	34,528	33,543	32,816	32,523
School Buildings <sup>(1)</sup>	73	73	71	70	69	68
Instructional Staff <sup>(2)</sup>	3,515	3,537	3,565	3,439	3,389	3,403
Administrative Personnel <sup>(2)</sup>	196	203	207	201	198	208
Non-Certified Personnel <sup>(2)(3)</sup>	1,748	1,740	1,721	1,539	1,462	1,454

Source: Buffalo CSD Finance Office.

<sup>(1)</sup> Includes active schools (with student enrollment), swing schools (with temporary enrollment) and schools under reconstruction.

<sup>(2)</sup> Paid from Buffalo CSD General, Grants and Food Service Funds as of January 7, 2013.

<sup>(3)</sup> Includes clerical, custodial, transportation, maintenance, instructional aides, exempt personnel and other full-time non-certified personnel.

<sup>(4)</sup> Data as of January 7, 2013.

#### *Charter Schools*

Pursuant to the Charter Schools Act, the Buffalo CSD is required to pay a State-set tuition rate to charter schools that enroll students residing in the City. Charter school enrollment of City resident pupils increased from 3,100 students in the 2003-04 school year, to 7,352 students in the 2011-12 school year and was budgeted at 7,267 students in the 2012-13 school year. This increase since the 2003-04 school year is attributable to new seats made available through a combination of new school openings and continued growth of enrollment in existing charter schools. In 2003-04, the amount of charter school funding was \$8,434 per student for a total of approximately \$26.4 million. In fiscal year 2010-11, charter school funding was approximately \$12,505 per student including special education funding for a total of approximately \$85.1 million. In fiscal year 2011-12, charter school funding was approximately \$12,505

per student for a total of approximately \$90.3 million. In fiscal year 2012-13, the Buffalo CSD budgeted a total of approximately \$91.0 million for tuition payments. As of January 7, 2013, the Buffalo CSD expects that for fiscal year 2012-13 charter school enrollment will be 7,613 and charter school payments will be approximately \$12,505 per student for a total of approximately \$97.0 million.

In 2007, the State raised the statewide cap on the number of charter schools which may be established in the State. Accordingly charter school enrollment is expected to continue to increase through a combination of newly-approved schools opening and grade evolution within existing schools, but it is difficult to project the magnitude of such increase beyond fiscal year 2012-13. New charter schools are not subject to Buffalo CSD approval, and while the cap on the number of charter schools has been raised statewide, additional requirements were added to the charter school approval process. It is unclear how these requirements will be interpreted by the Board of Regents (the body vested with responsibility for determining and formulating State educational policy) and what effect such requirements will have on the establishment of additional charter schools. See “—New York State Education Department” below and “BONDHOLDERS’ RISKS —Competing Claims to State Aid —*Contingent Claims —Charter School Delinquencies.*”

### *Revenues*

The Buffalo CSD completed its fiscal year ended June 30, 2012 with expenditures and other financing uses exceeding revenues and other financing sources by \$14.5 million determined in accordance with GAAP. This compares with revenues and other financing sources exceeding expenditures and other financing uses by \$23.6 million in 2011 and \$42.3 million in 2010. The Buffalo CSD implemented GASB Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definition*, for the fiscal year ended June 30, 2011. GASB Statement No. 54 requires the Buffalo CSD to change its fund balance classifications and accordingly the following fund balance classifications for the fiscal year ended June 30, 2011 and June 30, 2012 are different from fund balance classifications for the fiscal years ended June 30, 2010 and 2009 described below. At June 30, 2012, the non-spendable fund balance for inventory was \$1 million; the restricted fund balance for judgments and claims, unemployment insurance and stabilization was \$34.3 million; the assigned fund balance of \$142.3 million consists of amounts appropriated for next year’s budget, capital needs, prior year claims, other post employment benefits and encumbrances. There is no committed fund balance. For the fiscal year ended June 30, 2012, unassigned fund balance is \$43.6 million. At June 30, 2011, the non-spendable fund balance for inventory was \$0.8 million; the restricted fund balance for judgments and claims, unemployment insurance and stabilization was \$30.1 million; the assigned fund balance of \$159.1 million consists of amounts appropriated for the next year’s budget, capital needs, prior year claims, other post employment benefits and encumbrances. There is no committed fund balance. For the fiscal year ended June 30, 2011, unassigned fund balance was \$45.7 million.

For the years ending June 30, 2010 and 2009, the Reserved Fund Balance for inventory, judgments and claims, unemployment insurance, stabilization and encumbrances was \$43.3 and \$31.6 million, respectively. The Unreserved Fund Balance was \$168.9 million for the year ended June 30, 2010, of which \$36.3 million was undesignated. The Unreserved Fund Balance of the Buffalo CSD was \$138.2 million for the year ended June 30, 2009, of which \$42.6 million is unreserved undesignated fund balance.

Buffalo CSD State Aid receipts for all funds was \$624.4 million for fiscal year 2011-12 and \$625.9 million for fiscal year 2010-11. The Buffalo CSD’s General Fund operations for fiscal year 2011-12 were funded 82.3% from State Aid, 9.7% from the City, 5.0% from an allotment of County sales tax revenues and 3.0% from other sources of revenue.

For fiscal year 2012-13, the Buffalo CSD budgeted \$671.9 million in State Aid for all funds, and as of January 7, 2013, expected receipt of approximately \$663.9 million in fiscal year 2012-13. For fiscal year 2012-13, the Buffalo CSD budgeted General Fund operations at 81.3% from State Aid, 9.0% from the City, 4.6% from an allotment of County sales tax, and 5.1% from other sources of revenue.

See generally, “PROGRAM PARTICIPANTS –The Buffalo Fiscal Stability Authority,” “–The Buffalo CSD and Board of Education –*Review of the 2013-14 Budget of the Buffalo CSD*,” “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2013A BONDS –State Aid” and “BONDHOLDERS’ RISKS –BFSA Approval of Financial Plans and Budgets.”

#### *Pensions and Post-Retirement Obligations*

The Buffalo CSD provides post-retirement healthcare benefits to former employees. These benefits are funded on a pay as you go basis. Under the requirements of the Governmental Accounting Standards Board (GASB) Statement No. 45, “Accounting and Financial Reporting by Employers for Post-Employment Benefits Other Than Pensions” (GASB 45), all governmental entities are required to report the estimated cost of the accrued liability for such post-retirement benefits.

Under GASB 45, based on actuarial valuation, an annual required contribution (ARC) will be determined for each municipality. The ARC is the sum of (a) the normal cost for the year (the present value of future benefits being earned by current employees) plus (b) amortization of the unfunded accrued liability (benefits already earned by current and former employees but not yet provided for), using an amortization period of not more than 30 years. If a municipality contributes an amount less than the ARC, a net other post employment benefits (OPEB) obligation will result, which is required to be recorded as a liability on its financial statements. GASB 45 does not require that the unfunded liability actually be amortized nor that it be advance funded, only that the municipality account for its unfunded accrued liability and compliance in meeting ARC. The Buffalo CSD had an actuarial evaluation performed in accordance with GASB 45 that disclosed an accrued OPEB liability of \$1.8 billion as of June 30, 2012. The ARC for the Buffalo CSD is \$168.7 million. There is no current requirement to fund the future OPEB obligation; however, the Buffalo CSD has designated \$32.5 million of fund balance in fiscal year 2011-12 for such obligation.

Actuarial valuations will be required every two years since the Buffalo CSD has OPEB plans with more than 200 members.

#### *Review of the 2013-14 Budget of the Buffalo CSD*

Under State law, the Buffalo CSD is required to adopt a balanced budget for each fiscal year ending June 30. The BFSA entered into an advisory period on July 1, 2012. Under the BFSA Act, on or before May 1 of each fiscal year and subsequent to the preparation and delivery of its budget to the City’s Budget Division, the Buffalo CSD, as a Covered Organization under the BFSA Act, and the City, are each required to submit their proposed budgets and four-year financial plans to the BFSA for review and comment to the extent that the BFSA deems necessary or appropriate. Each financial plan must provide that major operating funds are balanced in accordance with GAAP. It is currently anticipated that the City and the Buffalo CSD will submit their respective fiscal year 2013-14 proposed budgets and four-year financial plans to the BFSA on or before May 1, 2013. In accordance with the BFSA Act, for so long as an advisory period shall remain in effect, the City and the non-exempted Covered Organizations also are required to submit their budget modifications to the BFSA to address changing expenditures and revenue projections.

## **The JSCB**

The Joint Schools Construction Board, or the JSCB, was created by resolutions of the Board of Education and the Common Council and by amendment of the City Charter, and was granted additional powers with respect to construction of new school buildings by the Buffalo Schools Act, as well as certain limited functions with respect to the reconstruction of existing school buildings. The JSCB has been authorized under the Buffalo Schools Act to manage the acquisition, design, construction, reconstruction, renovation and financing of new public educational facilities in the City, and to create and coordinate efforts to enable compliance with, monitor and report on, a program-wide diversity plan for the Program. The JSCB has been authorized by resolution of the Board of Education to assist in the acquisition, renovation, reconstruction, improvement, equipping and furnishing of public educational facilities in the City.

The JSCB is comprised of the Mayor, the City Comptroller, the Buffalo CSD Superintendent of Schools, a designee of the Common Council of the City, the New York State Regent for the Eighth District of the City and two designees of the Board of Education. The Regent voluntarily resigned to prevent the appearance of a conflict of interest and the JSCB has appointed him as an ex-officio, non-voting member.

## **The Program Provider**

The Program Provider and its affiliated companies, (collectively, the “Ciminelli Construction Companies”) are the largest construction group in Western New York and consist of a team of specialists versed in all aspects of the construction industry. They provide program management, construction management, general contracting, design/build, consulting and related services.

The Ciminelli Construction Companies are headquartered in 2421 Main Street in Buffalo, New York. They have approximately 199 full-time employees and in 2012 completed construction projects worth \$380 million.

The Program Provider is obligated to prepare and submit all necessary or appropriate reports to SED, as herein defined, including all filings to maximize State Building Aid reimbursement to the Buffalo CSD with regard to the school facilities constructed or reconstructed under the Program. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2013A BONDS —State Aid —*State Building Aid.*”

## **New York State Education Department**

The management, regulation and funding of the Buffalo CSD is subject to the review of the New York State Education Department (the “SED”). The SED has also determined State Building Aid reimbursement for improvements to school facilities undertaken in accordance with the Program. The SED is the administrative agency of the Board of Regents (the “Board of Regents”) of the University of the State of New York (the “University”). The Board of Regents was established by an act of the State Legislature in 1784 and is vested with constitutional responsibility for determining and formulating State educational policy. The University, over which the Board of Regents presides, is a corporation authorized to charter, review and regulate educational institutions and activities within the State.

The University encompasses all State educational programs, from kindergarten through graduate and professional schools and includes libraries, museums and other related cultural and educational institutions as may be admitted to the University or incorporated by the Regents. It consists of almost

6,000 elementary and secondary public and private schools and 250 independent and public colleges and universities.

### **THE ISSUER**

Erie County Industrial Development Agency is a corporate governmental agency constituting a body corporate and politic and a public benefit corporation organized and existing under the laws of the State. The Series 2013A Bonds are authorized and issued by the Issuer under the provisions of the Constitution and Laws of the State, particularly the Act and the Buffalo Schools Act.

The Issuer is comprised of 19 members. The following are the members of the Board of Directors of the Issuer as of March 25, 2013:

John J. LaFalce – Chair	Chris Johnston
Bryon W. Brown	Richard Lipsitz
Raymond Carr	Thomas A. Loughran
Anthony F. Caruana	Brenda W. McDuffie
James F. Doherty	Frank B. Mesiah
Dennis W. Elsenbeck	Andrew J. Rudnick
Richard A. Fontana	Mark C. Poloncarz
Betty Jean Grant	Barry Weinstein
Michael Hoffert	Howard Zemsky
Mary F. Holtz	

THE SERIES 2013A BONDS ARE NEITHER A GENERAL OBLIGATION OF THE ISSUER NOR A DEBT OR INDEBTEDNESS OF ERIE COUNTY OR THE STATE OF NEW YORK, AND NEITHER ERIE COUNTY NOR THE STATE OF NEW YORK SHALL BE LIABLE THEREON. THE SERIES 2013A BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM STATE AID PAYABLE BY THE BUFFALO CSD UNDER THE INSTALLMENT SALE AGREEMENT, AND THE PLEDGE OF CERTAIN FUNDS INCLUDING THE BOND FUND UNDER THE INDENTURE. IN THE EVENT THE BUFFALO CSD FAILS TO MAKE AN INSTALLMENT PURCHASE PAYMENT UNDER THE INSTALLMENT SALE AGREEMENT, IT IS PROVIDED IN THE BUFFALO SCHOOLS ACT AND IN THE INDENTURE THAT, UPON RECEIPT BY THE STATE COMPTROLLER OF A CERTIFICATE FROM THE TRUSTEE, ON BEHALF OF THE ISSUER AS TO THE AMOUNT OF SUCH FAILED PAYMENT, THE STATE COMPTROLLER SHALL WITHHOLD ANY STATE AID FROM THE BUFFALO CSD PAYABLE THERETO TO THE EXTENT OF THE AMOUNT SO STATED IN SUCH CERTIFICATE AS NOT HAVING BEEN MADE, AND SHALL IMMEDIATELY PAY OVER TO THE TRUSTEE, ON BEHALF OF THE ISSUER THE AMOUNT SO WITHHELD. THE ISSUER HAS NOT VERIFIED, REVIEWED OR APPROVED, AND DOES NOT REPRESENT IN ANY WAY, THE ACCURACY OR COMPLETENESS OF ANY OF THE INFORMATION SET FORTH IN THIS OFFICIAL STATEMENT OTHER THAN INFORMATION SET FORTH UNDER “THE ISSUER” AND “NO LITIGATION” (BUT ONLY WITH RESPECT TO THE ISSUER) HEREIN.

## PLAN OF FINANCING

The Series 2013A Bonds are being issued, and the proceeds used, for the purpose of (i) refunding a portion of the outstanding Erie County Industrial Development Agency School Facility Revenue Bonds (City School District of the City of Buffalo Project), Series 2009A, originally issued in the aggregate principal amount of \$294,905,000, of which \$68,840,000 principal amount is being refunded; and (ii) financing certain costs of issuance of the Series 2013A Bonds.

The Series 2009A Bonds being refunded from the proceeds of the Series 2013A Bonds will mature, or be redeemed prior to maturity, in the principal amount on the redemption date and at the redemption price as set forth below:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Redemption Date</u>	<u>Redemption Price</u>
May 1, 2015 <sup>1</sup>	\$ 4,910,000	N/A	N/A
May 1, 2016 <sup>1</sup>	5,160,000	N/A	N/A
May 1, 2028	58,770,000	May 1, 2014	100%

The refunding of a portion of the Series 2009A Bonds will achieve debt service savings for the Buffalo CSD. In order to accomplish the refunding of a portion of the Series 2009A Bonds, a portion of the proceeds from the sale of the Series 2013A Bonds will be deposited into a special trust fund (the “Escrow Fund”) created by a refunding escrow trust agreement (the “Refunding Escrow Trust Agreement”) to be entered into on the date of issuance of the Series 2013A Bonds among the Issuer, the Buffalo CSD and the Trustee, as Escrow Agent. Pursuant to the Refunding Escrow Trust Agreement and the Indenture, a portion of the amount held in the Bond Fund under the Indenture will be deposited into the Escrow Fund. The moneys so deposited in the Escrow Fund will be held in cash and a portion will be used to acquire Defeasance Obligations, the principal of and interest on which when due, together with the amount held in cash and uninvested, will provide moneys sufficient for the payment of the principal or Redemption Price of, as the case may be, and the interest accrued and to accrue when due on the Series 2009A Bonds to be refunded.

The accuracy of the arithmetical computations of the adequacy of the amounts of maturing principal of and interest on the Defeasance Obligations, together with the amount held in cash and uninvested, to pay when due the principal and Redemption Price of, as the case may be, and interest on the Series 2009A Bonds to be refunded will be verified by Causey Demgen & Moore P.C., certified public accountants and consultants. In the opinion of Bond Counsel to the Issuer, and in reliance upon such verification of mathematical computations, upon making such deposit with the Escrow Agent pursuant to the Indenture and upon the issuance of certain irrevocable instructions to the Trustee, the Series 2009A Bonds to be refunded will, under the terms of the Indenture, be deemed to have been paid, and the covenants, agreements, and other obligations of the Issuer to the holders of the Series 2009A Bonds to be refunded will be discharged and satisfied.

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<sup>1</sup> Bonds paid at maturity.

## SOURCES AND USES OF FUNDS

### Sources of Funds

Series 2013A Bonds	
Principal Amount of Series 2013A Bonds	\$62,540,000.00
Original Issue Premium	11,431,474.05
Other Monies <sup>(1)</sup>	<u>3,809,312.50</u>
Total Sources of Funds	<u>\$77,780,786.55</u>

### Uses of Funds

Escrow Fund Deposit	\$75,164,478.03
Monies Retained in Interest Account	1,590,713.33
Costs of Issuance <sup>(2)</sup>	<u>1,025,595.19</u>
Total Uses of Funds	<u>\$77,780,786.55</u>

<sup>(1)</sup> Monies available in the Bond Fund under the Original Indenture.

<sup>(2)</sup> Includes fees and expenses of New York State bond issuance charge, underwriters' discount and certain other costs.

## THE SERIES 2013A BONDS

### General

The Series 2013A Bonds will be issued in fully-registered form without coupons. The Series 2013A Bonds will be dated, mature on the respective dates and in the respective principal amounts, and bear interest payable on the dates and at the respective annual rates, as set forth on the inside cover page.

Interest on the Series 2013A Bonds will be payable on each Interest Payment Date and will be computed on the basis of a 360-day year of twelve 30-day months. Notwithstanding anything herein to the contrary, the interest rate borne by the Series 2013A Bonds will not exceed the maximum permitted by, or enforceable under, applicable law.

The principal or Redemption Price of the Series 2013A Bonds will be payable at the principal corporate trust office of the Trustee, in Buffalo, New York. Interest on the Series 2013A Bonds will be payable to the person whose name appears on the registration books of the Trustee as the registered owner thereof on the Record Date next preceding the Interest Payment Date (i) by check or draft mailed on the Interest Payment Date to the registered owner or (ii) by wire transfer on the Interest Payment Date to any owner of at least \$1,000,000 in aggregate principal amount of the Series 2013A Bonds, upon written notice provided by the owner to the Trustee not later than five (5) days prior to the Record Date for such interest payment (which request will remain in effect until revoked); except that, if and to the extent there exists a default in the payment of the interest due on any Interest Payment Date with respect to the Series 2013A Bonds, the defaulted interest will be paid to the owners in whose names the Series 2013A Bonds are registered at the close of business on a special record date to be fixed by the Trustee, which date will not be more than fifteen (15) nor less than ten (10) days next preceding the date of payment of the defaulted interest. Interest payments made by check or draft will be mailed to each owner at his or her address as it appears on the registration books of the Trustee on the Record Date or at such other address as he or she may have filed with the Trustee for that purpose and appearing on the registration books of

the Trustee on the applicable Record Date. Wire transfer payments of interest will be made at such wire transfer address as the owner will specify in his or her notice requesting payment by wire transfer.

### **Exchange of Series 2013A Bonds**

The holders of any Series 2013A Bonds may surrender the same at the principal corporate trust office of the Trustee in exchange for an equal aggregate principal amount of Series 2013A Bonds of any of the authorized denominations of the same maturity and maturities as the Series 2013A Bond or Series 2013A Bonds so surrendered, subject to the conditions and upon payment of the charges provided in the Indenture. However, the Trustee will not be required to (i) transfer or exchange any Series 2013A Bonds during the period between a Record Date and the following Interest Payment Date or during the period of fifteen (15) days next preceding any day for the selection of Series 2013A Bonds to be redeemed, or (ii) transfer or exchange any Series 2013A Bonds selected, called or being called for redemption in whole or in part.

### **Transfer of Series 2013A Bonds**

Each of the Series 2013A Bonds is transferable, as provided in the Indenture, only upon the books of the Issuer kept for that purpose at the principal corporate trust office of the Trustee by the registered owner thereof in person, or by his duly authorized attorney-in-fact, upon surrender of such Series 2013A Bond (together with a written instrument of transfer in the form appearing on such Series 2013A Bond duly executed by the registered owner or his duly authorized attorney-in-fact with a guaranty of the signature thereon by a member of the Stock Exchanges Medallion Program or the New York Stock Exchange, Inc. Medallion Signature Program in accordance with Securities and Exchange Commission Rule 17Ad-15), and thereupon a new fully registered Series 2013A Bond in the same aggregate principal amount and maturity and same Series will be issued to the transferee in exchange therefor as provided in the Indenture and upon payment of the charges therein prescribed. The Issuer, the Buffalo CSD, the Bond Registrar, and the Trustee may deem and treat the person in whose name a Series 2013A Bond is registered as the absolute owner thereof for the purpose of receiving payment of, or on account of, the principal or Redemption Price thereof and interest due thereon and for all other purposes whatsoever.

### **Redemption of the Series 2013A Bonds**

The Series 2013A Bonds maturing on or prior to May 1, 2023 are not subject to optional redemption prior to the maturity thereof.

#### *Optional Redemption*

The Series 2013A Bonds maturing on or after May 1, 2024 are subject to redemption, in whole or in part, at any time on or after May 1, 2023 (but if in part in integral multiples of \$5,000), at the option of the Issuer (which option will be exercised upon the giving of notice by the Buffalo CSD of its intention to prepay installment purchase payments due under the Installment Sale Agreement), at the Redemption Price equal to 100% of the principal amount to be redeemed, plus accrued interest to the date of redemption.

### **Redemption Procedures**

If any of the Series 2013A Bonds are to be called for redemption, the Indenture requires a copy of the redemption notice to be mailed at least thirty (30) days prior to such redemption date to the registered owner of each Series 2013A Bond to be redeemed at the address for such owner shown on the registration books. All Series 2013A Bonds so called for redemption will cease to bear interest after the date fixed for

redemption if funds for their redemption are on deposit at the place of payment at that time. If notice of redemption will have been given as aforesaid, the Series 2013A Bonds called for redemption will become due and payable on the redemption date, *provided, however*, that with respect to any optional redemption as described above, such notice will state that such redemption will be conditional upon the receipt by the Series 2013A Trustee on or prior to the date fixed for such redemption of moneys sufficient to pay the principal of and interest on the Series 2013A Bonds to be redeemed, and that if such moneys will not have been so received said notice will be of no force and effect and the Issuer will not be required to redeem the Series 2013A Bonds. In the event that such notice of redemption contains such a condition and such moneys are not so received, the redemption will not be made and the Trustee will within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received. If a notice of redemption will be unconditional or, if the conditions of a conditional notice of redemption will have been satisfied, then upon presentation and surrender of Series 2013A Bonds so called for redemption at the place or places of payment, such Series 2013A Bonds will be redeemed.

So long as the Securities Depository is effecting book-entry transfers of the Series 2013A Bonds, the Trustee will provide the notices specified in the paragraph above only to the Securities Depository. It is expected that the Securities Depository will, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the Beneficial Owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a Beneficial Owner of a Series 2013A Bond (having been mailed notice from the Trustee, the Securities Depository, a Participant or otherwise), to notify the Beneficial Owner of the Series 2013A Bond so affected will not affect the validity of the redemption of such Series 2013A Bond.

#### **Registration and Payment – Book-Entry System**

Beneficial ownership interests in the Series 2013A 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 2013A Bonds will not receive certificates representing their interests in the Series 2013A Bonds purchased.

The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the Series 2013A Bonds. The Series 2013A 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 or more fully-registered Bond certificates will be issued for each principal amount of Series 2013A Bonds maturing on a specified date and bearing interest at a specified interest rate, each in the aggregate principal amount of such quantity of Series 2013A Bonds, and will be deposited with DTC.

DTC, the world’s largest securities 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 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 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 is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. 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 rating of AA+. 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 2013A Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2013A Bonds on DTC’s records. The ownership interest of each actual purchaser of each Series 2013A 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 purchases. Beneficial Owners are, however, expected to receive written confirmations providing details of the transactions, 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 2013A Bonds are to be accomplished by entries made on the books of Direct or Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive bond certificates representing their ownership interests in the Series 2013A Bonds, except in the event that use of the book-entry system for the Series 2013A Bonds is discontinued.

To facilitate subsequent transfers, all Series 2013A 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 2013A Bonds with DTC and their registration in the name of Cede & Co. or such other nominee effect no change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2013A Bonds; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Series 2013A Bonds are credited, which may or may not be the Beneficial Owners. The Direct or 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. Beneficial Owners of the Series 2013A Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Series 2013A Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Series 2013A Bond documents. For example, Beneficial Owners of the Series 2013A Bonds may wish to ascertain that the nominee holding the Series 2013A Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices will be sent to DTC. If less than all of the Series 2013A Bonds are being redeemed, DTC’s practice is to determine by lot the amount of the interest of each Direct Participant in such series to be redeemed. Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to the Series 2013A Bonds. Under its usual procedures, DTC mails an Omnibus Proxy to the Trustee 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 2013A Bonds, are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, redemption, distributions, and interest payments on the Series 2013A 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 detail information from Issuer or the Trustee, on 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 Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest and redemption proceeds to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of 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.

When reference is made to any action which is required or permitted to be taken by the Beneficial Owners, such reference will only relate to those permitted to act (by statute, regulation or otherwise) on behalf of such Beneficial Owners for such purposes. When notices are given, they will be sent by the Trustee to DTC only.

The Issuer and the Trustee may treat DTC (or its nominee) as the sole and exclusive registered owner of the Series 2013A Bonds registered in its name for the purpose of payment of the principal of, or interest on such Series 2013A Bonds, giving any notice permitted or required to be given to registered owners under the Indenture, registering the transfer of the Series 2013A Bonds, or other action to be taken by registered owners and for all other purposes whatsoever. The Issuer and the Trustee will not have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the Series 2013A Bonds under or through DTC or any Participant, or any other person which is not shown on the registration books of the Issuer (kept by the Trustee) as being a registered owner, with respect to: the accuracy of any records maintained by DTC or any Participant; the payment by DTC or any Participant of any amount in respect of the principal or interest on the Series 2013A Bonds; any notice which is permitted or required to be given to registered owners thereunder or under the conditions to transfers or exchanges provided in the Indenture; or other action taken by DTC as a registered owner. The Trustee will forward interest and principal payments to DTC, or its nominee. Disbursement of such payments to the Participants is the responsibility of DTC and disbursement of such payments to the Beneficial Owners is the responsibility of the Participants or the Indirect Participants.

SO LONG AS CEDE & CO., AS NOMINEE OF DTC, IS THE REGISTERED OWNER OF ALL OF THE SERIES 2013A BONDS, REFERENCES HEREIN TO THE OWNERS, HOLDERS OR BONDHOLDERS OF THE SERIES 2013A BONDS WILL MEAN CEDE & CO. AND WILL NOT MEAN THE BENEFICIAL OWNERS.

For every transfer and exchange of beneficial ownership of the Series 2013A Bonds, a Beneficial Owner may be charged a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto.

DTC may discontinue providing its services as securities depository with respect to the Series 2013A Bonds at any time by giving reasonable notice to the Issuer or the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, Series 2013A Bond certificates are required to be printed and delivered.

The Issuer may decide to discontinue use of the system of book-entry/only transfers through DTC (or a successor securities depository). In that event, Series 2013A Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Issuer believes to be reliable, but the Issuer takes no responsibility for the accuracy thereof.

Each person for whom a Participant acquires an interest in the Series 2013A Bonds, as nominee, may desire to make arrangements with such Participant to receive a credit balance in the records of such Participant, and may desire to make arrangements with such Participant to have all notices of redemption or other communications of DTC, which may affect such persons, to be forwarded in writing by such Participant and to have notification made of all interest payments. NONE OF THE ISSUER, THE UNDERWRITERS, OR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO SUCH PARTICIPANTS OR THE PERSONS FOR WHOM THEY ACT AS NOMINEES WITH RESPECT TO THE SERIES 2013A BONDS.

NEITHER THE ISSUER, THE BUFFALO CSD NOR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO THE PARTICIPANTS OR THE BENEFICIAL OWNERS WITH RESPECT TO (1) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY PARTICIPANT; (2) THE PAYMENT BY DTC OR ANY PARTICIPANT OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL AMOUNT, REDEMPTION PRICE OF OR INTEREST ON THE SERIES 2013A BONDS; (3) THE DELIVERY BY DTC OR ANY PARTICIPANT OF ANY NOTICE TO ANY BENEFICIAL OWNER WHICH IS REQUIRED OR PERMITTED UNDER THE TERMS OF THE INDENTURE TO BE GIVEN TO HOLDERS OF THE SERIES 2013A BONDS; OR (4) THE SELECTION OF THE BENEFICIAL OWNERS TO RECEIVE PAYMENT IN THE EVENT OF ANY PARTIAL REDEMPTION OF THE SERIES 2013A BONDS.

## **SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2013A BONDS**

### **General**

The City and the Buffalo CSD has leased the Series 2009 Facilities (other than School #84) to the Issuer pursuant to the Ground Lease, and the Buffalo CSD has subleased School #84 to the Issuer pursuant to the Ground Sublease. The Issuer has sold its leasehold interest in the Series 2009 Facilities under the Ground Lease, and its subleasehold interest under the Ground Sublease, to the Buffalo CSD pursuant to the Installment Sale Agreement. Pursuant to the Indenture, the Issuer has assigned to the Trustee substantially all of its right, title and interest in and to State Aid Revenues and in and to the Installment Sale Agreement, including all rights to receive installment purchase payments thereunder.

Under the State Aid Trust Agreement, the City, the Buffalo CSD, the Depository and the Series Trustees have agreed to direct the State Comptroller to pay all State Aid Revenues directly to the State Aid Depository Fund established and held under the State Aid Trust Agreement, all for the benefit on a Ratable Basis of the Series 2013A Bonds and each other series of Project Bonds outstanding, including the Series 2007A Bonds, the Series 2008A Bonds, the Series 2009A Bonds, the Series 2011A Bonds, the Series 2011B Bonds and the Series 2012A Bonds, and, on a subordinate basis, the \$13,860,000 State of New York Municipal Bond Bank Agency Special Program (City of Buffalo) Refunding Revenue Bonds, 2012 Series A (the "2012 MBBA Refunding Bonds"). In the event the Buffalo CSD fails to make an installment purchase payment under the Installment Sale Agreement, the Buffalo Schools Act and the Indenture provide that, upon receipt by the State Comptroller of a certificate from the Trustee on behalf of the Issuer as to the amount of such failed payment, the State Comptroller will withhold any State Aid Revenues from the Buffalo CSD payable thereto to the extent of the amount so stated in such certificate as not having been made, and will immediately pay over to the Trustee on behalf of the Issuer the amount so withheld. See "--State Aid Intercept" below.

## **The Ground Lease**

Pursuant to the Ground Lease, the City and the Buffalo CSD have leased to the Issuer the Series 2009 Facilities (other than School #84) constituting Phase IV of the Program, which were undertaken as part of the Series 2009 Project. The Ground Lease is for a term terminating not earlier than the date that the Series 2009A Bonds, the Series 2013A Bonds and any series of Additional Bonds issued under the Indenture will cease to be Outstanding. Ground rent under the Ground Lease is nominally equal to one dollar (\$1.00) payable upon execution, and all obligations of the Issuer under the Ground Lease are assumed by the Buffalo CSD under the Installment Sale Agreement.

## **The Ground Sublease**

Pursuant to the Ground Sublease, the Buffalo CSD has subleased School #84 to the Issuer. The Ground Sublease was entered into concurrently with the issuance of the Series 2009A Bonds. The Ground Sublease is for a term terminating not earlier than the date that the Series 2009A Bonds, the Series 2013A Bonds and any series of Additional Bonds issued under the Indenture shall cease to be Outstanding. Ground rent under the Ground Sublease is nominally equal to one dollar (\$1.00) payable upon execution, and all obligations of the Issuer under the Ground Sublease are assumed by the Buffalo CSD under the Installment Sale Agreement.

## **The Installment Sale Agreement**

The Issuer has sold its leasehold and subleasehold interest under the Ground Lease and the Ground Sublease in the Series 2009 Facilities to the Buffalo CSD pursuant to the Installment Sale Agreement. The Installment Sale Agreement provides the Buffalo CSD with the right to use, occupy and operate the Series 2009 Facilities and obligates the Buffalo CSD to maintain and manage the Series 2009 Facilities and pay all costs related to the Series 2009 Facilities.

## **Installment Sale Agreement Payments**

Installment Purchase Payments due under the Installment Sale Agreement will equal principal and interest due on the Series 2009A Bonds not refunded and the Series 2013A Bonds, and are payable on each April 1. Notwithstanding the April 1 installment purchase payment date under the Installment Sale Agreement, the Installment Sale Agreement provides that if the Buffalo CSD fails to appropriate by November 1, 2010 (or by any subsequent November 1 that the Series 2009A Bonds and the Series 2013A Bonds remain Outstanding), State Aid Revenues in an amount sufficient to pay the installment purchase payment due on the immediately succeeding April 1 (less any amounts on deposit in the Bond Fund or the Indenture, and available on such November 1), then: (y) the Buffalo CSD will promptly deliver written notice of such failure to appropriate to the Issuer and the Trustee and (z) the next succeeding April 1 payment date for the annual installment purchase payment will instead be the November 15 immediately preceding such April 1 payment date as if that November 15 were the originally scheduled annual installment purchase payment date; and if for any reason the installment purchase payment due on such November 15 is not made by such date, any such failed payment will constitute a failure to make a payment under the Installment Sale Agreement for purposes of the Installment Sale Agreement, the Buffalo Schools Act and the State Aid intercept implementing provisions of the Indenture.

Except for funds, investments and other amounts held under the Indenture, the Issuer has pledged no other assets to the payment of the Series 2013A Bonds, and except for the intercept of State Aid by the State Comptroller as herein described, it is anticipated that the Issuer's sole source of payment for the Series 2013A Bonds will be derived from installment purchase payments made by the Buffalo CSD under the Installment Sale Agreement. The Buffalo CSD's obligation to pay installment purchase payments

under the Installment Sale Agreement is executory only to the extent of State Aid appropriated by the State and available to the Buffalo CSD, and appropriated by the Buffalo CSD to the payment of installment purchase payments under the Installment Sale Agreement. In the event State Aid is not appropriated by the State to the Buffalo CSD, the Buffalo CSD will not be obligated to pay any amounts due under the Installment Sale Agreement; *provided, however*, the failure of the Buffalo CSD for any reason (including a failure by the State or the Buffalo CSD to appropriate State Aid) to make an installment purchase payment under the Installment Sale Agreement is nevertheless deemed a failure to make a payment thereunder for purposes of the Installment Sale Agreement, the Buffalo Schools Act, and the State Aid intercept implementing provisions of the Indenture. In the event State Aid is appropriated by the State to the Buffalo CSD and the Buffalo CSD does not appropriate such State Aid to make such installment purchase, the Trustee on behalf of the Issuer will direct the State Comptroller to intercept State Aid for the payment of such installment purchase payments. Subject to the foregoing limitation, the obligation of the Buffalo CSD to pay installment purchase payments under the Series Installment Sale Agreement, and to perform its obligations thereunder, will be absolute and unconditional, and such installment purchase payments and other amounts will be payable without any rights of set-off, recoupment or counterclaim or deduction and without any right of suspension, deferment, diminution or reduction it might otherwise have against the Issuer, the Trustee, any purchaser of the Series 2013A Bonds, or any other person, and whether or not any or all of the Series 2009 Facilities are used or occupied by the Buffalo CSD or are available for use or occupancy by the Buffalo CSD. See “BONDHOLDERS’ RISKS –The State’s Financial Condition, Reduced State Aid, Delayed Payment” and “–Appropriation of Installment Purchase Payments by the Buffalo CSD.”

In order to protect the priority of the rights of the Trustee to State Aid Revenues under the Buffalo Schools Act, the Buffalo CSD has covenanted and agreed in the Installment Sale Agreement that it will not in the future enter into any agreement, indenture or other instrument, including any Series Facilities Agreement in connection with a Series of Project Bonds under a Series Indenture, which will have the effect, directly or indirectly, of providing a greater priority or preference to the intercept of State Aid Revenues under the Buffalo Schools Act than the pledge effected pursuant to the Indenture. The foregoing covenant will not be deemed (y) to limit or deny the ability of the issuer of a Series of Project Bonds to pledge State Aid Revenues on a parity with the pledge effected by the Issuer under the Indenture, or (z) to require that any Series of Project Bonds issued under a Series Indenture have the same payment dates or amortize principal on a schedule comparable to that of the Bonds Outstanding under the Indenture, or that any payment dates under a Series Facilities Agreement be the same as provided for in the Installment Sale Agreement.

In order to provide for its obligation to make payments under the Installment Sale Agreement, the Buffalo CSD has agreed that its proposed expense budget for each ensuing Fiscal Year will include, either as a separate unit of appropriation or as an expenditure within a unit of appropriation, the amount of installment purchase payments due under the Installment Sale Agreement to come due in such next Fiscal Year, *provided, however*, that any such appropriation will only be payable by the Buffalo CSD to the extent State Aid is available therefor and is appropriated by the Buffalo CSD for such purpose, *provided, however*, the failure of the Buffalo CSD for any reason to make an installment purchase payment under the Installment Sale Agreement is nevertheless deemed a failure to make a payment thereunder for purposes of the Installment Sale Agreement, the Buffalo Schools Act and the State Aid intercept implementing provisions of the Indenture. In addition, in furtherance of the foregoing, the Buffalo CSD has agreed, pursuant to the Installment Sale Agreement, to comply with all requirements necessary to ensure receipt of State Aid Revenues over the term of the Installment Sale Agreement. See “BONDHOLDERS’ RISKS —Appropriation of Installment Purchase Payments by the Buffalo CSD,” “—Competing Claims to State Aid” and “—The State’s Financial Condition, Reduced State Aid, Delayed Payment.”

Upon the occurrence of an Event of Nonappropriation (*i.e.*, failure of the Buffalo CSD to appropriate moneys sufficient to pay the installment purchase payments coming due under the Installment Sale Agreement in the next Fiscal Year), or an “event of default” under the Installment Sale Agreement, there is no acceleration of the obligation of the Buffalo CSD to pay all future installment purchase payments under the Installment Sale Agreement. However, as described above, the Installment Sale Agreement provides that if the Buffalo CSD fails to appropriate by November 1, 2013 (or by any subsequent November 1 that the Series 2013A Bonds remain Outstanding) State Aid Revenues in an amount sufficient to pay the installment purchase payment due on the immediately succeeding April 1, then, in that event, the installment purchase payment date for the next succeeding April 1 annual installment purchase payment will instead be the November 15 immediately preceding such April 1 payment date as if that November 15 were the originally scheduled annual installment purchase payment date.

### **State Aid Intercept**

In the event the Buffalo CSD fails to make an installment purchase payment under the Installment Sale Agreement as a result of an Event of Nonappropriation or otherwise (whether such payment is due on April 1 of each year, or if applicable, November 15 of each year), pursuant to the Indenture, the Issuer has appointed the Trustee, as its agent, and the Issuer (acting through such Trustee) will, in accordance with the Buffalo Schools Act, and the Indenture, certify such nonpayment to the State Comptroller. Such certification will specify the amount by which such installment purchase payment will have been deficient. The Buffalo Schools Act and the Indenture each provides that the State Comptroller will, upon receipt of such certification, withhold from the Buffalo CSD any State Aid otherwise payable to the Buffalo CSD to the extent of the amount so stated in such certification as not being made, and will immediately pay over to the Trustee, on behalf of the Issuer, the amount so withheld. Such amounts will be applied by the Trustee to the payment of installment purchase payments under the Installment Sale Agreement in the priority set forth below under “The Indenture.” It is further provided in the Buffalo Schools Act that (x) any amount of State Aid so paid by the State Comptroller will not obligate the State to make, nor entitle the Buffalo CSD to receive, any additional amounts of State Aid, (y) nothing contained in the Buffalo Schools Act will be deemed to prevent the State from modifying, reducing or eliminating any program or programs of State Aid and (z) the State will not be obligated by the terms of the Buffalo Schools Act to maintain State Aid at any particular level or amount. See “BONDHOLDERS’ RISKS –The State’s Financial Condition, Reduced State Aid, Delayed Payment.”

Statutory provisions currently exist or may hereafter be enacted which permit State Aid otherwise payable to the Buffalo CSD to be diverted or intercepted and applied in satisfaction of indebtedness or obligations issued or incurred for school purposes or otherwise. In addition, at the present time, other than as provided in the State Aid Trust Agreement with respect to Project Bonds, there is no stated priority for the various multiple State Aid diversion and intercept claims. See “BONDHOLDERS’ RISKS —Competing Claims to State Aid.”

### **The Indenture**

Pursuant to the Indenture, the Issuer has assigned to the Trustee substantially all of its right, title and interest in and to State Aid Revenues and the Installment Sale Agreement, including all rights to receive installment purchase payments to pay the principal of and interest on the Series 2009A Bonds not refunded and the Series 2013A Bonds, as the same become due, all to be made by the Buffalo CSD pursuant to the Installment Sale Agreement and the State Aid Trust Agreement, and all executory only to the extent of State Aid Revenues, as provided above under the subheading, “The Installment Sale Agreement.”

The Series 2013A Bond proceeds will be deposited in the Series 2013A Additional Bonds Account of the Project Fund held under the Indenture, substantially all of which will be immediately transferred by the Trustee to the Escrow Fund established under the Refunding Escrow Trust Agreement for the purpose of defeasing a portion of the Series 2009A Bonds. The Trustee is authorized to disburse the remaining amounts from the Series 2013A Additional Bonds Account of the Project Fund for the payment of Costs of Issuance and any other Project Costs relating to the Series 2013A Bonds.

Notwithstanding the occurrence of an Event of Default under the Indenture, in no event will the Series 2013A Bonds be accelerated or declared due and payable in advance of their final stated maturity.

In the event the amount of State Aid Revenues received by the Trustee pursuant to the State Aid intercept will be insufficient to pay the full amount not paid by the Buffalo CSD under the Installment Sale Agreement, such amount will be ratably applied in accordance with the Indenture in the following order of priority:

*first*, to deposit in the Interest Account of the Bond Fund established under the Indenture to the extent of any deficiency therein,

*second*, to deposit in the Principal Account of the Bond Fund established under the Indenture to the extent of any deficiency therein,

*third*, to deposit in the Redemption Account of the Bond Fund established under the Indenture to the extent of any deficiency therein,

*fourth*, to satisfy any indemnification obligations of the Buffalo CSD under the Installment Sale Agreement,

*fifth*, to satisfy any liability insurance obligations of the Buffalo CSD under the Installment Sale Agreement, and

*sixth*, to satisfy any other obligations of the Buffalo CSD under the Installment Sale Agreement.

#### *The Pledge to the Trustee*

In order to protect the pledge of State Aid Revenues by the Issuer to the Trustee pursuant to the Indenture, except with respect to the issuance of Project Bonds under a Series Indenture, the Issuer has covenanted in the Indenture not to create or suffer to be created, or incur or issue any evidences of indebtedness secured by, any lien or charge upon or pledge of the Trust Estate, except the lien, charge and pledge created in the case of the Trust Estate with respect to the Series 2009A Bonds and the Series 2013A Bonds, by the Indenture, the Ground Lease, the Ground Sublease and the Installment Sale Agreement. The Issuer further covenants and agrees pursuant to the Indenture, that it will enter into no agreement, indenture or other instrument, including any Series Indenture or Series Facilities Agreement in connection with the issuance of a Series of Project Bonds under a Series Indenture which will have the effect, directly or indirectly, of providing a greater priority or preference to the intercept of State Aid under the Buffalo Schools Act than the pledge effected pursuant to the Indenture; *provided, however*, that nothing contained in the Indenture will be deemed (y) to limit or deny the ability of the Issuer or any other public entity, in connection with the issuance of another Series of Project Bonds, to pledge State Aid under the Buffalo Schools Act on a parity with the pledge effected under the Indenture, or (z) to require that any Series of Project Bonds issued under any other Series Indenture have the same payment dates or amortize principal on a schedule comparable to that of the Bonds Outstanding under the Indenture, or that

any payment dates under a Series Facilities Agreement be the same as those under the Installment Sale Agreement.

### **Additional Bonds**

In addition to the issuance of the Series 2013A Bonds, so long as the Installment Sale Agreement is in effect and no Event of Default exists thereunder, one or more series of Additional Bonds may be issued, authenticated and delivered upon original issuance under the Indenture for the purpose of (i) financing School Facilities in connection with the Program, (ii) providing funds to repair, relocate, replace, rebuild or restore an affected Facility in the event of damage, destruction or taking by eminent domain, (iii) providing extensions, additions, improvements or facilities to one or more Facilities, the purpose of which will be to constitute a “project” and an “educational facility” within the meaning of the Act and the Buffalo Schools Act, or (iv) refunding Outstanding Bonds. Such series of Additional Bonds under the Indenture will be payable from the Base Installment Purchase Payments under the Installment Sale Agreement. Prior to the issuance of a series of Additional Bonds under the Indenture, and the execution of a Supplemental Indenture in connection therewith, the City, the Buffalo CSD and the Issuer will enter into an amendment to the Ground Lease or the Ground Sublease to subject the additional facilities, as applicable, to the leasehold or subleasehold estate thereof, and the Issuer and the Buffalo CSD will enter into an amendment to the Installment Sale Agreement to subject such additional facilities thereto, and to provide, among other things, that the Base Installment Purchase Payments payable under the Installment Sale Agreement will be increased and computed so as to amortize in full the principal of and interest on the bonds outstanding under the Indenture, including such series of Additional Bonds. In addition, the Buffalo CSD and the Issuer will enter into an amendment to the Tax Compliance Certificate.

### **State Aid Trust Agreement**

To facilitate the collection of State Aid Revenues and payment of installment purchase payments under the Installment Sale Agreement, the Depository, the City, the Trustee, as a Series Trustee, and the Buffalo CSD have entered into the State Aid Trust Agreement. In accordance with the State Aid Trust Agreement, the City and the Buffalo CSD have instructed the State Comptroller to pay all State Aid Revenues directly to the State Aid Depository Fund held by the Depository under the State Aid Trust Agreement. The State Aid Trust Agreement provides for (i) the payment of State Aid Revenues to the Trustee and each other Series Trustee on a Ratable Basis pursuant to which Project Bonds are outstanding under a Series Indenture and (ii) funding of the Annual Payment Obligations on 2012 MBBA Refunding Bonds from the State Aid Revenues annually collected in March of each Collection Period.

On or before July 15 of each Fiscal Year, the City and the Buffalo CSD will prepare and deliver to the Depository, each Series Trustee and, for so long as any 2012 MBBA Refunding Bonds shall remain outstanding, The Bank of New York Mellon, as trustee under the MBBA 2012 Bond Resolution (the “MBBA Series 2012 Trustee”) a certificate (the “State Aid Payment Certificate”) setting forth (i) a statement that the Buffalo CSD has appropriated an amount of State Aid Revenues necessary to fund the Aggregate Facilities Payment Obligations of the Buffalo CSD and Annual Payment Obligations on 2012 MBBA Refunding Bonds for such Fiscal Year, (ii) the total amount of State Aid Revenues expected to be received during the next Collection Period and the Collection Percentage applicable to each month of such Collection Period and (iii) a statement, developed with the assistance of the Financial Advisor to the Buffalo CSD or a nationally recognized municipal securities underwriting firm, setting forth the long-term debt rating of each provider of a Qualified Debt Service Reserve Fund Investment Agreement by each of Fitch Ratings, Moody’s and S&P. However, in the event that the Buffalo CSD will not have appropriated such amount of State Aid Revenues in its adopted budget for such Fiscal Year, the State Aid Payment Certificate for such Fiscal Year will set forth a statement to such effect and will not include any information regarding the collection of State Aid during the Collection Period. Thereafter and not later

than the end of the third business day immediately preceding March 31 of such Fiscal Year, if circumstances warrant, the City and the Buffalo CSD will from time to time prepare and deliver to the Depository a revised State Aid Payment Certificate setting forth, as appropriate, (i) a statement that the Buffalo CSD has, subsequent to adoption of its budget for such Fiscal Year, appropriated an amount of State Aid Revenues necessary to fund the Aggregate Facilities Payment Obligations of the Buffalo CSD and Annual Payment Obligations on 2012 MBBA Refunding Bonds for such Fiscal Year, or (ii) a revised total amount of State Aid Revenues expected to be received during the next Collection Period for such Fiscal Year and, in either case, if applicable, Collection Percentages or revised Collection Percentages applicable to the remainder of such Collection Period.

On or before November 10 of each Fiscal Year, each Series Trustee will prepare and deliver to the City, the Buffalo CSD and the Depository a certificate (the "Base Facilities Agreement Payment Certificate") setting forth the Net Base Facilities Agreement Payment (computed as of the immediately preceding last business day of October of such Fiscal Year) portion of the Facilities Payment Obligations due on the following April 1.

On or before November 10 of each Fiscal Year, each Series Trustee will, in accordance with the provisions of the related Series Indenture, prepare and deliver to the City, the Buffalo CSD and the Depository a certificate (the "Reserve Payment Certificate") setting forth the Reserve Payment (computed as of the immediately preceding last business day of October of such Fiscal Year) portion of the Facilities Payment Obligations due and the amount of the Debt Service Reserve Deficiency relating to any Project Bonds as of the date of such certificate.

On or before November 10 of each Fiscal Year, the City and the Buffalo CSD shall, in accordance with the provisions of the MBBA Special Program Agreement, prepare and deliver to the Depository a certificate setting forth the Annual Payment Obligations on 2012 MBBA Refunding Bonds (computed as of the immediately preceding last business day of October of such Fiscal Year) due for such Fiscal Year as of the date of such certificate (the "Annual Payment Obligations on 2012 MBBA Refunding Bonds Certificate").

During each Collection Period, if the Depository has received a State Aid Payment Certificate with respect to such Collection Period that sets forth the statements required by clauses (i) and (ii) of the first sentence of the second paragraph under this sub-heading, the Depository will, immediately upon receipt of any payment of State Aid Revenues, withdraw such State Aid Revenues from the State Aid Depository Fund and cause the amounts so withdrawn to be immediately paid in the following order of priority:

(i) *first*, to each Series Trustee for deposit in the Bond Fund established pursuant to the related Series Indenture until the total amount of such withdrawals during each month of such Collection Period will equal the sum of (A) the product of the Collection Percentage for such month multiplied by the Net Base Facilities Payment due the immediately following April 1 as set forth in the Base Facilities Payment Certificate most recently received by the Depository, plus (B) during the months of January, February and March, the excess of the amount that should have been deposited in the Bond Fund in the immediately preceding month of the Collection Period pursuant to the provisions of this paragraph, over the amount in fact so deposited;

(ii) *second*, thereafter during each month of such Collection Period, to each Series Trustee for deposit in any Debt Service Reserve Fund established with respect to Project Bonds pursuant to the related Series Indenture until the total amount of such withdrawals is equal to the Reserve Payment due, if any, as set forth in the Reserve Payment Certificate most recently received by the Depository;

(iii) *third*, thereafter during the month of March of such Collection Period (and only once the total amount of each such Base Facilities Agreement Payment and any such Reserve Payment has been paid in full to each Series Trustee), to the MBBA 2012 Series Trustee for deposit in the Revenue Fund established pursuant to the MBBA 2012 Bond Resolution until the total amount of such withdrawals during such month shall equal the aggregate Annual Payment Obligations on 2012 MBBA Refunding Bonds due on the immediately following April 1 as set forth in the Annual Payments on 2012 MBBA Refunding Bonds Certificate most recently received by the Depository; and

(iii) *fourth*, thereafter during each month of such Collection Period, to the General Fund.

In the event that any amount on deposit in the State Aid Depository Fund in any month of the Collection Period, at any time, will be less than the amount required to be paid to a Series Trustee under clauses (i) or (ii) above, the Depository will make payment to each Series Trustee on a Ratable Basis, in the priority indicated above. For purposes of the preceding sentence, "Ratable Basis" will be first computed based on amounts payable to each Series Trustee under clause (i) above if there is not enough in the State Aid Depository Fund to pay to each Series Trustee what is payable under clause (i) above, and, if the amounts payable under clause (i) have been paid in full, then computed based on the amount payable to each Series Trustee under clause (ii). No amounts shall be paid to the MBBA Series 2012 Trustee until all amounts payable to each Series Trustee under clause (i) and (ii) above have been paid in full.

Thereafter, from April 1 until the commencement of the next Collection Period, immediately upon receipt of any payment of State Aid Revenues, the Depository will withdraw such State Aid Revenues from the State Aid Depository Fund and cause the amounts so withdrawn to be immediately paid to the General Fund.

If the Depository has not received with respect to a Collection Period for any reason a State Aid Payment Certificate that includes the statements required by clauses (i) and (ii) of the first sentence of the second paragraph under this sub-heading, the Depository, both during and after such Collection Period until the next Collection Period, will withdraw any State Aid Revenues from the State Aid Depository Fund and cause the amounts so withdrawn to be immediately paid to the General Fund.

Notwithstanding the provisions of the State Aid Trust Agreement providing for the flow of State Aid Revenues to the Series Trustees or the MBBA Series 2012 Trustee, if the Depository receives written instructions from the Chief Fiscal Officer of the City, together with an accompanying monthly payment schedule from the Chief Fiscal Officer of the City indicating that, pursuant to applicable State law and, if applicable, any credit enhancement agreement to which the City is a party, State Aid Revenues must be set aside in a special bank account designated in such instructions to be used only for the payment in accordance with such payment schedule of the outstanding revenue anticipation notes issued by the City (the "RAN Repayment Requirement"), then each month the Depository will immediately withdraw from the State Aid Depository Fund all State Aid that is received and cause the amounts so withdrawn to be immediately paid, before any further withdrawal or payment under the State Aid Trust Agreement, to the special bank account until the total amount of such withdrawals is equal to the portion of such RAN Repayment Requirement required, in accordance with such payment schedule, to be withdrawn and paid to such special bank account for such month or any prior month to the extent not paid.

Although the State Aid Trust Agreement requires an immediate transfer of State Aid Revenues from the State Aid Depository Fund to the Bond Fund established under the Indenture, during the Collection Period, amounts held in the State Aid Depository Fund are not subject to the lien of the Indenture, and are not pledged as security for the payment of the Series 2013A Bonds, until such amounts

have been transferred by the Depository to the Trustee and deposited in the Bond Fund established under the Indenture. See “BONDHOLDERS’ RISKS –State Aid Trust Agreement.”

Nothing will prevent the Buffalo CSD, the City, the Depository or the Series Trustees from adopting amendments modifying the procedures for the collection, deposit and disbursement of State Aid Revenues as set forth in the State Aid Trust Agreement; *provided, however*, that (i) prior to making any such change, the Buffalo CSD will notify any rating agency then rating the Series 2013A Bonds or any other Series of Project Bonds of such change and that, prior to any such change becoming effective, there will be delivered to the Depository a rating confirmation of such rating agency that the then current unenhanced rating of the Series 2013A Bonds or any other Series of Project Bonds or 2012 MBBA Refunding Bonds Outstanding will not be withdrawn or reduced as a result of such change and (ii) any change or alteration of the procedure for collection and deposit of State Aid Revenues would not result in insufficient State Aid Revenues being available to timely pay Facilities Payment Obligations under the Installment Sale Agreement under any other Series Facilities Agreement or the 2012 MBBA Refunding Bonds in accordance with the terms of the State Aid Trust Agreement. The parties to the State Aid Trust Agreement reserve the power to modify, alter or amend the State Aid Trust Agreement without the consent of MBBA and the MBBA 2012 Series Trustee provided that any such modification, alteration or amendment does not adversely affect the rights of MBBA and the MBBA 2012 Series Trustee under any of the MBBA Provisions.

#### **Timing of Payments under State Aid Trust Agreement**

In order to assure the timely payment of debt service on the Series 2009A Bonds not refunded and the Series 2013A Bonds, the City and the Buffalo CSD have agreed during each year to certify certain information to the Depository, and the Buffalo CSD has directed the Depository to pay certain amounts to the Trustee in advance of the payment of debt service on the Series 2009A Bonds not refunded and the Series 2013A Bonds. On or before July 15 of each Fiscal Year, the City and the Buffalo CSD are required to certify to the Depository under the State Aid Trust Agreement (i) that the Buffalo CSD has appropriated funds necessary to pay the annual installment purchase payments under the Installment Sale Agreement due on the next succeeding April 1 (which covers the debt service on the Series 2009A Bonds not refunded and the Series 2013A Bonds, on the following May 1 and November 1) and (ii) the State Aid expected to be received by the Buffalo CSD during the next succeeding December 1 to March 31. In the event the Buffalo CSD will not have appropriated such amount, the foregoing certificate will state that the appropriation has not been made. On or before November 10 of each year, each Series Trustee will prepare and deliver to the City, the Buffalo CSD and the Depository a certificate setting forth the Net Base Facilities Agreement Payment and/or Reserve Payment (if any) due on the following April 1. On a monthly basis beginning on December 1 through the next succeeding March 31 the Depository will, in accordance with the State Aid Trust Agreement, transfer a portion of State Aid Revenues to the Trustee sufficient to pay the annual installment purchase payments under the Installment Sale Agreement due on the next succeeding April 1. In the event payments made by the Depository to the Trustee during the preceding December 1 to March 31 are not sufficient to pay the annual installment purchase payments under the Installment Sale Agreement due on April 1, the Trustee will immediately certify such deficiency to the State Comptroller. The State Comptroller is then required to pay such amounts to the Trustee in accordance with the State Aid intercept provisions of the Indenture and the Buffalo Schools Act in order to provide payment of debt service on the Series 2009A Bonds not refunded and the Series 2013A Bonds on the next succeeding May 1 and November 1.

## **State Aid**

### *Enacted State Budget*

On March 29, 2013, New York State Governor Andrew M. Cuomo, Senate Majority Coalition Co-Leaders Dean Skelos and Jeff Klein and Assembly Speaker Sheldon Silver announced the passage of the 2013-14 New York State Budget (the “Enacted State Budget”). The Enacted State Budget provides for school aid of approximately \$21.1 billion, which represents an increase of approximately \$936.6 million, or 4.4% in total education spending from the prior fiscal year. The Enacted State Budget continues a two-year appropriation methodology established in the 2012-13 State fiscal year and limits future school aid increases to growth as measured by the total personal income of residents of the State. The Enacted State Budget also includes \$75.0 million for several new competitive grant programs including Pre-Kindergarten, Extended Learning, Community Schools, Master Teacher and Early College High School programs.

The Buffalo CSD depends on substantial financial assistance from the State. In fiscal year 2011-12, the Buffalo CSD received \$624.4 million of State Aid for all funds. For the current fiscal year ending June 30, 2013, the Buffalo CSD budgeted \$671.9 million of State Aid receipts for all funds, and as of January 7, 2013, expects to receive approximately \$663.9 million by the close of such fiscal year. The Buffalo CSD currently estimates that it will receive in the aggregate \$670.1 million of State Aid for all funds in its 2013-14 fiscal year. This estimate is based upon the sum of, (i) a \$632.1 million apportionment to the Buffalo CSD for operations and maintenance expenses contained in the Enacted State Budget, (ii) \$37.4 million in projected receipts of State grant funding which is based upon grant funding contained in the Enacted Budget and grant funding received by the Buffalo CSD in the 2012-13 fiscal year and; (iii) \$.6 million in projected receipt of food service funding based upon food service funding received by the Buffalo CSD in the 2012-13 fiscal year. No assurance can be given that State Aid for all funds actually received by the Buffalo CSD in its 2013-14 fiscal year will equal the amounts estimated above; however, the Buffalo CSD believes that the above estimate of State Aid for all funds is reasonable, based prior year State Aid receipts.

Financial difficulties of the State could result in reduced payments of State Aid to municipalities and school districts in the State, including the Buffalo CSD. In the past, the State’s financial and cash flow difficulties often resulted in similar cash flow difficulties and delays in payment of State Aid to school districts, including the Buffalo CSD. See “BONDHOLDERS’ RISKS –The State’s Financial Condition, Reduced State Aid, Delayed Payment” and “–Possible Future Budget Deficits.”

### *State Aid Intercept*

As stated above under “State Aid Intercept,” in the event the Buffalo CSD fails to make an installment purchase payment under the Installment Sale Agreement, the Buffalo Schools Act and the Indenture each provides that upon receipt by the State Comptroller of a certificate from the Trustee on behalf of the Issuer as to the amount of such failed payment, the State Comptroller will withhold any State Aid from the Buffalo CSD payable thereto to the extent of the amount so stated in such certificate as not having been made, and will immediately pay over to the Trustee on behalf of the Issuer the amount so withheld. The Buffalo Schools Act provides that (x) any amount of State Aid paid by the State Comptroller will not obligate the State to make, nor entitle the Buffalo CSD to receive, any additional amounts of State Aid, (y) nothing contained in the Buffalo Schools Act will be deemed to prevent the State from modifying, reducing or eliminating any program or programs of State Aid and (z) the State will not be obligated by the terms of the Buffalo Schools Act to maintain State Aid at any particular level or amount. No assurance can be given that present State Aid levels will be maintained in the future. State budgetary restrictions which eliminate or substantially reduce State Aid (the only source of funds to make

the installment purchase payments payable by the Buffalo CSD pursuant to the Installment Sale Agreement) could have a material adverse effect upon the Buffalo CSD, requiring the Buffalo CSD to either increase revenues from sources other than State Aid or curtail expenditures.

*State Aid Categories Generally*

State Aid for public schools comes primarily from the State’s general fund wherein the major revenue source is State income and sales taxes. The balance of State Aid for public schools comes from a special revenue fund account supported by lottery receipts.

The following table sets forth the total amount of State Aid received by the Buffalo CSD for all funds for fiscal years 2007-08 through 2011-12, as well as State Aid funds expected to be received in fiscal years 2012-13.

State Aid (all funds) Buffalo CSD Fiscal Years 2008 through 2013	
Fiscal Year Ending June 30	State Aid Received (\$ in Millions)
2008	578.7
2009	632.4
2010	619.0
2011	625.9
2012	624.4
2013 <sup>(1)</sup>	663.9 <sup>(1)</sup>

Source: City of Buffalo Board of Education

<sup>(1)</sup> Projected as of January 7, 2013

The aggregate maximum annual installment purchase payments with respect to all Project Bonds outstanding and the Series 2013A Bonds (after giving effect to the refunding of a portion of the Series 2009A Bonds) is \$103,004,838.

Over the past five fiscal years commencing with fiscal year 2007-08 through and including fiscal year 2011-12, State Aid received by the Buffalo CSD for all funds has averaged approximately \$616.1 million per year.

During the Collection Period from December 1 until March 31 of each year, the Buffalo CSD received State Aid receipts for all funds of \$386.0 million in fiscal year 2009-10, \$430.6 million in fiscal year 2010-11, \$413.6 million in fiscal year 2011-12 (all on an unaudited cash flow basis), and as of March 1, 2013, the Buffalo CSD expects to receive \$426.5 million during the Collection Period in fiscal year 2012-13.

No assurance can be given that the amounts of State Aid received in past years will continue or be available in such amounts or at such times in future fiscal years. See “BONDHOLDERS’ RISKS –The State’s Financial Condition, Reduced State Aid, Delayed Payment,” and APPENDIX A — “Audited Financial Statements of the Board of Education of the City School District of the City of Buffalo for the Fiscal Year Ended June 30, 2012.”

Beginning with the 2007-08 fiscal year, the majority of State Aid received by the Buffalo CSD has been “Foundation Aid.” Foundation Aid was established by the 2007-08 State budget and combined four categorical aid grants with certain other formula aids. Formula aids consist of State Aid determined in accordance with an application submitted to SED, which incorporates required data concerning district enrollment, attendance and approved expenditures. At its inception, Foundation Aid established minimum annual increases in State aid of 3.0% per year through 2010-11, with high poverty districts such as the Buffalo CSD receiving more assistance. However, based on the State’s economy, the State aid guarantees were abandoned after the first year. No increases in Foundation Aid were received in fiscal years 2009-10, 2010-11, or 2011-12 in which Foundation Aid received by the Buffalo CSD was \$432.8 million. The Buffalo CSD received its first increase in Foundation Aid since 2008-09 with the adoption of the 2012-13 New York State Budget and in its fiscal year 2012-13, the Buffalo CSD expects to receive Foundation Aid in the amount of \$435.4 million. No assurance can be given that Foundation Aid will continue at its current level and could well decline in the future. In addition, no assurance can be given that other categories of State Aid will continue at current levels or will increase in the future. See “BONDHOLDERS’ RISKS –The State’s Financial Condition, Reduced State Aid, Delayed Payment.”

The receipt of Foundation Aid is dependent upon, among other factors, satisfaction of certain monitoring and expenditure requirements. In addition, within Foundation Aid there are stipulations that the Buffalo CSD must use a formula-based amount on new programs, or expansion of existing programs, to improve student achievement as outlined in the Contract for Excellence (“CFE”). For fiscal year 2012-13, the total CFE set-aside is \$13.6 million.

Another State Aid category, Charter School Transitional Aid, was established in the 2007-08 State Budget to help provide relief from the financial drain caused by the significant number of charter school students in certain school districts, including the Buffalo CSD. The Buffalo CSD received Charter School Transitional Aid in the amount of \$5.8 million in fiscal year 2010-11 and \$6.3 million in fiscal year 2011-12. In its fiscal year 2012-13 budget, the Buffalo CSD projected Charter School Transitional Aid in the amount of \$8.0 million. This aid continues on a rolling basis so long as charter school enrollment continues to increase.

The Buffalo CSD receives State Aid for education in several installments paid to the City throughout its fiscal year based on a formula established by SED. These installments of State Aid are paid net of the Buffalo CSD’s contribution to the New York State Teachers’ Retirement System.

In fiscal year 1999-00, the Buffalo CSD received additional lottery aid in the amount of \$30.0 million, which was provided to the Buffalo CSD to assist in funding the Buffalo Teachers Federation (“BTF”) settlement payment. The \$30.0 million comprises two components: the first \$20.0 million was used for the teacher settlement amount paid in July 2001, and the second component of \$10.0 million was to be used as a stabilization reserve for the annual debt service owed to the New York State Municipal Bond Bank Agency for the \$25.0 million advanced to the Buffalo CSD for the BTF settlement. The \$30.0 million in lottery aid took the form of a “lottery advance” from the State. In effect, the \$20 million was a loan from the State which is to be paid back over 30 years. The repayment of this “loan” is captured in annual installments through a reduction in the amount of lottery aid paid to the Buffalo CSD, beginning in fiscal year 2000-01. The Buffalo CSD took an additional advance of \$1.4 million in the 2005-06 fiscal year in accordance with Chapter 465 of the Laws of 2005. This advance is also treated as a “loan” to be repaid over 30 years and the repayment is captured from annual aid installments. The Buffalo CSD records the gross amount of aid with its regular basic State Aid amount and books debt service payments for the amount of the installments withheld by the State. See “BONDHOLDERS’ RISKS –Competing Claims to State Aid” and “–Default by the Buffalo CSD”; and “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2013A BONDS –State Aid Intercept.”

Chapter 57 of the Laws of 2005 provided for an apportionment to school districts for public pension accruals required to be accounted for beginning in the 2004-05 school year. Upon application, the apportionment is available to the Buffalo CSD as revenue, and may be used to offset any General Fund deficit resulting from the impact of implementing GASB Technical Bulletin 2004-2. The apportionment is an advance of the subsequent year's general aid payable, and will reduce general aid in such subsequent years. The Buffalo CSD applied for and received an advance of \$11.5 million in each of the fiscal years 2004-05 through 2011-12. The Buffalo CSD intends to apply for an advance in fiscal year 2012-13 and to continue this practice so long as the legislation is renewed.

The 2012-13 Enacted State Budget included a provision linking the payment of additional State Aid to compliance with a new teacher evaluation process which provides that school districts will not be eligible for aid unless they have fully implemented the new teacher evaluation process by January 17, 2013. The District received approval for their evaluation plan from the Commissioner of Education for the 2013-14 fiscal year.

Payment of State Aid for education may be withheld due to the failure of the City or the Buffalo CSD to comply with various requirements of State law or the regulations of the Commissioner of Education relating to instructional programs, programs for the handicapped or other matters or the failure of the City to pay debt service on obligations issued for school purposes. The City and the Buffalo CSD believe that they are in material compliance with all other requirements and have made the necessary debt service appropriations.

In addition to State Aid for education, the Buffalo CSD receives federal Medicaid reimbursement for certain health services provided to students. The Buffalo CSD received a total of \$1.3 million for Medicaid reimbursement in fiscal year 2010-11, \$2.2 million in fiscal year 2011-12, and as of January 7, 2013, the Buffalo CSD expects to receive \$2.8 million in fiscal year 2012-13.

#### *State Building Aid*

A portion of State Aid received each year by the Buffalo CSD constitutes State Building Aid. State Building Aid is available for certain approved capital outlays and debt service for school buildings housing elementary and/or secondary students, and for school bus garages. A project is not eligible for State Building Aid unless the construction costs of the project are equal to or exceed \$10,000, excluding incidental costs. Consistent with Section 3602, subdivision 6 of the Education Law, construction may include new buildings, additions, alterations and reconstruction of existing facilities.

The purpose of State Building Aid is to assure that each school district provides for suitable and adequate facilities to accommodate the students and programs of the district. To this end, new facilities, new buildings, additions and major alterations must meet specific standards pertaining to the type, size and number of teaching stations, as well as building code requirements. Existing facilities must meet health and safety regulations and reconstruction of existing facilities must meet building code requirements.

The Commissioner of Education must approve plans and specifications for the capital construction projects undertaken by the Buffalo CSD. This charge is administered by the Office of Facilities Planning pursuant to Section 408 of the Education Law and Part 155.2 of the Regulations of the Commissioner of Education. State Building Aid is eligible for payment commencing 18 months after the SED approves the final plans and specifications of a project with a final cost report on file unless a waiver is granted by the Commissioner of Education.

Eligibility for new construction is determined through an assessment of information contained in the Buffalo CSD's long-range plan, and includes educational need, a comparison of pupil enrollment

projections, and the rated pupil capacity of existing buildings. In the case of school buildings, State Building Aid is a function of the pupil capacity assigned to the capital construction project.

Currently, State Building Aid reimburses approximately 95% of Phase I, Phase II, Phase III, Phase IV and Phase V projects completed or now under construction. State Building Aid fluctuates from year to year based on a number of factors, including the ratio of the City's wealth to the State's average wealth. In the future, State Building Aid could be more or less than 95% for existing projects.

**The State is not obligated to continue to make State Building Aid payments. No assurance can be given that State Building Aid will continue to be received by the Buffalo CSD or, if received, will be in amounts comparable to the amounts of State Building Aid received by the Buffalo CSD in the past. State budgetary restrictions could eliminate or substantially reduce State Building Aid in the future. See "BONDHOLDERS' RISKS –The State's Financial Condition, Reduced State Aid, and Delayed Payment."**

Pursuant to Chapter 383 of the Laws of 2001 ("Chapter 383"), certain provisions of the Education Law were amended to impose an "assumed amortization schedule" with respect to certain debt incurred by the City related to school construction purposes ("School Debt") and to thereby revise the manner in which State Building Aid is to be paid to the Buffalo CSD with respect to such school debt commencing July 1, 2002. This legislation caused the City to refund and restructure a portion of its outstanding School Debt. Chapter 383 requires that the State Education Department reset the interest rate used to calculate the "assumed amortization schedule" at least once every 10 years. The State's 2013-14 Enacted Budget postpones the reset until the Buffalo CSD's 2014-15 fiscal year. The Buffalo CSD may apply to SED for a waiver from the interest rate reset.

### **New York State Budget Process**

The following discussion is being included because all payments under the Installment Sale Agreement will be derived from State Aid, which State Aid is subject to annual appropriation by the State.

The State's budget process is based on an executive budget system under which the Governor is required by the State Constitution to seek and coordinate requests from agencies of State government, develop a "complete" plan of proposed expenditures and the revenues available to support them (a "balanced budget"), and submit a budget to the Legislature along with the appropriation bills and other legislation required to carry out budgetary recommendations. The Governor is also required by the State Finance Law to manage the budget through administrative actions during the fiscal year.

The State's fiscal year begins April 1 and ends on March 31. However, the actual "budget cycle," representing the time between early budget preparation and last-minute disbursements, begins some nine months earlier and lasts approximately 27 months - until the expiration of the State Comptroller's authority to honor vouchers against the previous fiscal year's appropriations:

#### *Agency Budget Preparation (June-September/October)*

The formal budget cycle begins when the Budget Director issues a policy memorandum - the "call letter"- to agency heads. The call letter outlines, in general terms, the Governor's priorities for the coming year, alerts the agency heads to expected fiscal constraints and informs agencies of the schedule for submitting requests to the Division of the Budget.

### *Division of the Budget Review (September/October-December)*

Agencies typically submit their budget requests to the Division of the Budget in September or October, with copies provided to the legislative fiscal committees. Examination units within the Division then analyze the requests of agencies for which they have responsibility. In November, the Budget Director conducts a series of constitutionally authorized “formal” budget hearings, giving agency heads an opportunity to present and discuss their budget requests and giving the staff of the Division of the Budget and the Governor’s office an “on-the-record” opportunity to raise critical questions on programs, policies and priorities.

Through late November, the Division’s examiners transform agency requests into preliminary budget and personnel recommendations which are reviewed in detail with the Director. The staff also prepares the appropriation bills and any other legislation required to carry out these recommendations. By early December, the Division of the Budget will normally have completed its recommendations on both revenues and expenditures, and presented them to the Governor and the Governor’s staff. Budget staff then prepares the tables and the narrative that accompany each agency budget, and the descriptions and forecasts of individual revenue sources.

### *The Governor’s Decisions (November-January)*

The Governor and staff who are also preparing the annual Message to the Legislature (the “State-of-the-State” message which the Governor presents to the Legislature when it convenes in January) are conversant with the budget throughout its development.

### *Legislative Action (January-March)*

The Governor typically submits the Executive Budget to the Legislature in mid-January or following a gubernatorial election year, by February 1, along with the related appropriation, revenue and other budget bills concerning State operations, aid to localities, capital projects and debt service. The State’s Five-Year Capital and Financing Plan (the “Financing Plan”) is also submitted with the Executive Budget. Within 10 days, the Division of the Budget provides the Legislature with additional financial information supporting the Executive Budget. A three-year financial projection is submitted within 30 days following submission of the Executive Budget, although it can be submitted earlier.

The Legislature, primarily through its fiscal committees - Senate Finance and Assembly Ways and Means - then analyzes the Executive spending proposals and revenue estimates, holding public hearings on major programs and seeking further information from the staffs of the Division of the Budget and other State agencies. Following that review, the Legislature acts on the appropriation bill submitted with the Executive Budget to reflect its decisions.

The appropriation bills, except for those items which were added by the Legislature and the appropriation for the Legislature and Judiciary, become law without further action by the Governor. The Governor must approve or disapprove all or parts of the appropriation bills covering the Legislature and Judiciary and may use the line item veto to disapprove items added by the Legislature. As provided in the Constitution, the Legislature may override the Governor’s veto by the vote of two-thirds of the members of each house. The passage of the appropriation bills provides a legal foundation for the disbursement of funds during the new fiscal year.

### *Budget Execution (March)*

At this point the budget process enters a new phase — budget execution. As a first step, the Division of the Budget approves “certificates of allocation” informing the State Comptroller that accounts

may be established as specified in the certificates and that vouchers drawn against the accounts may be honored.

In addition, the Division of the Budget keeps a close watch throughout the year on the flow of revenue and the pattern of expenditures against its projections. This information is reflected in quarterly updates of the Financial Plan which are provided to the Legislature, as required by law, in April (or as soon as practicable after budget enactment), July, October and with the Executive Budget for the ensuing year.

#### *Possible Delays in Budget Enactment*

While the 2013-14 Enacted State Budget was timely adopted, in the past, adoption of State budgets has been significantly delayed beyond the time frames outlined above. Any delay in adoption of the State budget could delay the payment of State Aid to municipalities and school districts in the State, including the Buffalo CSD, which could, in turn, adversely affect the ability of the Buffalo CSD to make installment purchase payments under the Installment Sale Agreement. See “BONDHOLDERS’ RISKS —The State’s Financial Condition, Reduced State Aid, Delayed Payment.”

#### **Limited Obligations of the Issuer**

THE SERIES 2013A BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM STATE AID REVENUES PAYABLE BY THE BUFFALO CSD UNDER THE INSTALLMENT SALE AGREEMENT AND THE PLEDGE OF CERTAIN FUNDS, INCLUDING THE BOND FUND UNDER THE INDENTURE. IN THE EVENT THE BUFFALO CSD FAILS TO MAKE AN INSTALLMENT PURCHASE PAYMENT UNDER THE INSTALLMENT SALE AGREEMENT, IT IS PROVIDED IN THE BUFFALO SCHOOLS ACT AND THE INDENTURE THAT, UPON RECEIPT BY THE STATE COMPTROLLER OF A CERTIFICATE FROM THE TRUSTEE ON BEHALF OF THE ISSUER AS TO THE AMOUNT OF SUCH FAILED PAYMENT, THE STATE COMPTROLLER SHALL WITHHOLD ANY STATE AID FROM THE BUFFALO CSD PAYABLE THERETO TO THE EXTENT OF THE AMOUNT SO STATED IN SUCH CERTIFICATE AS NOT HAVING BEEN MADE, AND SHALL IMMEDIATELY PAY OVER TO THE TRUSTEE ON BEHALF OF THE ISSUER THE AMOUNT SO WITHHELD. THE OBLIGATION OF THE BUFFALO CSD UNDER THE INSTALLMENT SALE AGREEMENT TO PAY INSTALLMENT PURCHASE PAYMENTS IS NOT A GENERAL OBLIGATION OF THE BUFFALO CSD OR THE CITY AND NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWERS OF THE BUFFALO CSD OR THE CITY ARE PLEDGED TO THE PAYMENT OF INSTALLMENT PURCHASE PAYMENTS UNDER THE INSTALLMENT SALE AGREEMENT. THE OBLIGATIONS OF THE BUFFALO CSD UNDER THE INSTALLMENT SALE AGREEMENT TO PAY INSTALLMENT PURCHASE PAYMENTS IN ANY FISCAL YEAR OF THE BUFFALO CSD CONSTITUTE A CURRENT EXPENSE OF THE BUFFALO CSD FOR SUCH FISCAL YEAR AND SHALL NOT CONSTITUTE AN INDEBTEDNESS OR MORAL OBLIGATION OF THE BUFFALO CSD, THE CITY OR THE STATE WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR OTHER LAWS OF THE STATE OF NEW YORK. THE ONLY SOURCE OF MONEYS AVAILABLE FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE SERIES 2013A BONDS IS INSTALLMENT PURCHASE PAYMENTS MADE BY THE BUFFALO CSD UNDER THE INSTALLMENT SALE AGREEMENT, TO THE EXTENT OF STATE AID APPROPRIATED BY THE STATE AND AVAILABLE TO THE BUFFALO CSD AND APPROPRIATED BY THE BUFFALO CSD TO MAKE SUCH PAYMENTS, AND THE INTERCEPT BY THE STATE COMPTROLLER OF STATE AID LAWFULLY APPROPRIATED BY THE STATE AND AVAILABLE THEREFOR FROM TIME TO TIME FOR THE BENEFIT OF THE BUFFALO CSD.

## ANNUAL INSTALLMENT PURCHASE PAYMENTS

The following table sets forth the annual installment purchase payments due on April 1 of each year pursuant to the respective Series Facilities Agreement with respect to each series of Project Bonds after giving effect to the refunding, in part, of the Series 2009A Bonds.

Installment Sale Payment Date due <u>April 1</u>	2007A Installment Purchase Payments <sup>(1)</sup>	2008A Installment Purchase Payments <sup>(1)</sup>	2009A Installment Purchase Payments <sup>(1)(2)</sup>	2011A Installment Purchase Payments <sup>(1)</sup>	2011B Installment Purchase Payments <sup>(1)</sup>	2012A Installment Purchase Payments <sup>(1)</sup>	2013A Installment Purchase Payments <sup>(1)(3)</sup>	Total Installment Purchase Payments
2014	\$14,639,475.00	\$14,013,500.00	\$19,980,787.50	\$12,940,600.00	\$5,324,200.00	\$14,595,625.00	\$3,806,450.00	\$85,300,637.50
2015	14,639,600.00	14,012,500.00	15,198,537.50	12,940,725.00	13,718,625.00	14,597,000.00	3,064,100.00	88,171,087.50
2016	14,638,600.00	14,011,625.00	15,193,912.50	12,942,225.00	13,715,250.00	14,595,375.00	3,064,100.00	88,161,087.50
2017	14,640,600.00	14,015,000.00	20,483,912.50	12,944,350.00	13,714,000.00	23,896,625.00	3,300,500.00	102,994,987.50
2018	14,640,737.50	14,011,875.00	20,485,662.50	12,941,475.00	13,713,625.00	23,902,625.00	3,303,150.00	102,999,150.00
2019	14,639,968.75	14,013,318.75	20,486,662.50	12,942,850.00	13,717,750.00	23,898,375.00	3,300,575.00	102,999,500.00
2020	14,637,893.75	14,015,200.00	20,485,412.50	12,942,600.00	13,720,000.00	23,897,000.00	3,301,450.00	102,999,556.25
2021	14,637,931.25	14,011,493.75	20,485,287.50	12,939,975.00	13,714,250.00	23,901,125.00	3,300,650.00	102,990,712.50
2022	14,638,356.25	14,015,618.75	20,489,412.50	12,943,975.00	13,719,000.00	23,898,500.00	3,299,450.00	103,004,312.50
2023	14,637,443.75	14,015,850.00	20,490,693.75	12,943,600.00	13,717,625.00	23,896,875.00	3,302,750.00	103,004,837.50
2024	14,638,325.00	14,015,606.25	20,485,325.00	12,942,975.00	7,103,250.00	23,898,625.00	3,299,000.00	96,383,106.25
2025	14,638,987.50	14,013,162.50	20,489,150.00	12,939,643.75		23,901,000.00	3,303,000.00	89,284,943.75
2026	13,860,418.75	14,011,650.00	2,509,250.00	12,941,250.00		10,675,375.00	21,280,125.00	75,278,068.75
2027	13,079,900.00	14,013,912.50	2,509,250.00	12,941,737.50			21,281,750.00	63,826,550.00
2028	31,922,112.50	14,012,793.75	2,509,250.00	12,939,793.75			21,279,000.00	82,662,950.00
2029		24,777,443.75	22,228,625.00	12,943,843.75				59,949,912.50
2030			23,791,375.00	12,942,312.50				36,733,687.50
2031			7,272,375.00	12,943,625.00				20,216,000.00
2032				6,470,506.25				6,470,506.25
<b>TOTAL</b>	<b>\$234,530,350.00</b>	<b>\$234,980,550.00</b>	<b>\$295,574,881.25</b>	<b>\$239,428,062.50</b>	<b>\$135,877,575.00</b>	<b>\$269,554,125.00</b>	<b>\$103,486,050.00</b>	<b>\$1,513,431,593.75</b>

- (1) An amount equal to the total principal and interest due on Project Bonds each May 1 and November 1 is due in full on each preceding April 1 pursuant to the respective Series Facilities Agreement.
- (2) Debt service on the portion of the Series 2009A Bonds that are not being refunded. Under the Installment Sale Agreement, one payment will be made by the Buffalo CSD to the Trustee for the nonrefunded portion of the Series 2009A Bonds and the Series 2013A Bonds.
- (3) Interest due on November 1, 2013 with respect to the Series 2013A Bonds installment purchase payments totaling \$1,590,713.33 is not shown because it will be funded from funds on deposit in the Bond Fund under the Indenture. Under the Installment Sale Agreement, one payment will be made by the Buffalo CSD to the Trustee for the nonrefunded portion of the Series 2009A Bonds and the Series 2013A Bonds.

## **BONDHOLDERS' RISKS**

The discussion in this section regarding risks to holders of the Series 2013A Bonds is not intended to be dispositive, comprehensive or definitive, nor does the order in which the risks are discussed necessarily reflect their relative importance. The discussion is intended only to summarize certain matters that could affect payment on the Series 2013A Bonds. Holders of the Series 2013A Bonds should be aware that these matters and other potential risks and factors could materially adversely affect receipt by the holders of payments on the Series 2013A Bonds. There can be no assurance that other risks or factors will not become material in the future. Other sections of this Official Statement should be referred to for a more detailed description of the risks described in this section, which descriptions are qualified by reference to any documents discussed therein. Copies of all such documents are available for inspection at the principal corporate trust office of the Trustee.

### **The State's Financial Condition, Reduced State Aid, Delayed Payment**

The amount of State Aid paid to the Buffalo CSD is dependent in large measure upon the financial condition of the State. The economic downturn and global financial crisis have had, and may continue to have, an adverse impact on the State's financial condition resulting in significant current and future State budget deficits. Such financial difficulties may adversely affect the amount and timing of payment of State Aid to school districts in the State, including the Buffalo CSD. The State regularly publishes its Annual Information Statement relating to its financial condition, as well as quarterly updates and supplements thereto.

On March 29, 2013, New York State Governor Andrew M. Cuomo, Senate Majority Coalition Co-Leaders Dean Skelos and Jeff Klein and Assembly Speaker Sheldon Silver announced the passage of the 2013-14 New York State Budget. The Enacted State Budget provides for school aid of approximately \$21.1 billion, which represents an increase of approximately \$936.6 million or 4.4% in total education spending from the prior fiscal year. In addition, the Enacted State Budget continues a two-year appropriation methodology established in the 2012-13 State fiscal year that limits future education aid increases to growth as measured by the total personal income of residents of the State. The Enacted State Budget also includes \$75.0 million for several new competitive grant programs including Pre-Kindergarten, Extended Learning, Community Schools, Master Teacher and Early College High School programs. The Enacted State Budget includes language requiring that a district's existing teacher and principal evaluation plan remain in place in the absence of a new agreement. Districts are required to demonstrate that they have fully implemented an evaluation process by September 1, 2013 to be eligible for any aid increase. The Buffalo CSD received approval for its evaluation plan from the Commissioner of Education in January 2013.

There can be no assurance that implementation of the Enacted State Budget will not be modified, or that other actions affecting State Aid could be proposed or implemented that would limit or reduce State Aid. The Buffalo CSD depends on substantial financial assistance from the State. Buffalo CSD's General Fund operations for fiscal year 2011-12 were funded 82.3% from State Aid and such General Fund operations for fiscal year 2012-13 are budgeted to be funded 81.3% from State Aid.

The total amount of State Aid for all funds is comprised of Foundation Aid and a number of other State Aid categories. Foundation Aid is the largest component of State Aid for the Buffalo CSD. No increases in Foundation Aid were received in fiscal years 2009-10, 2010-11, or 2011-12. The Buffalo CSD received its first increase in Foundation Aid since 2008-09 with the adoption of the 2012-13 New York State Budget. Future reductions in Foundation Aid or other aid categories of State Aid to the Buffalo CSD could adversely affect the financial condition of the Buffalo CSD. See "THE SERIES 2013A BONDS –State Aid –*State Aid Categories Generally.*"

Principal of and interest on the Project Bonds, including the Series 2013A Bonds, will be paid from State Aid payable through (i) installment purchase payments made by the Buffalo CSD under the Series Facilities Agreements, including the Installment Sale Agreement or (ii) from the intercept of State Aid by the State Comptroller. Both methods of payment are dependent upon lawful appropriations of State Aid being made each year by the State to the Buffalo CSD. No assurance can be given that present State Aid levels will be maintained in the future. The Buffalo Schools Act provides that (x) any amount of State Aid paid by the State Comptroller pursuant to the State Aid intercept provisions of the Buffalo Schools Act shall not obligate the State to make, nor entitle the Buffalo CSD to receive, any additional amounts of State Aid, (y) nothing contained in the Buffalo Schools Act shall be deemed to prevent the State from modifying, reducing or eliminating any program or programs of State Aid and (z) the State shall not be obligated by the terms of the Buffalo Schools Act to maintain State Aid at any particular level or amount. Financial difficulties of the State could result in reduced payments of State Aid to municipalities and school districts in the State (including the Buffalo CSD) in future fiscal years. Given the Buffalo CSD's dependence on State Aid (the only source of funds to make the installment purchase payments payable by the Buffalo CSD pursuant to the Series Facilities Agreements, including the Installment Sale Agreement), substantial reductions in the payment of State Aid, as well as reductions in the rate of growth of State Aid, could materially adversely impact the Buffalo CSD's ability to pay, or timely pay, installment purchase payments under the Series Facilities Agreements, including the Installment Sale Agreement, and accordingly, the payment of debt service on the Project Bonds, including the Series 2013A Bonds.

State financial difficulties may also result in protracted and delayed State budget negotiations which could result in delays in the adoption of the State budget. Delays in adoption of the State budget in future years could result in delayed payment of State Aid to school districts in the State, including the Buffalo CSD. During the State's 2009-10 fiscal year, State budgeting restrictions resulted in delayed payments of State Aid to school districts in the State. In the past, adoption of a State budget has been delayed as long as four and a half months. There can be no assurance that (y) the State Legislature will continue to adopt State budgets in a timely fashion, or that (z) in the absence of such budget adoption, that the State Legislature will provide on a continuing resolution or other basis State Aid to the Buffalo CSD on an interim basis.

Furthermore, State financial difficulties could result in delayed payment of State Aid in the current and future fiscal years, and could affect payment of State Aid to the Buffalo CSD. Delay in the receipt of State Aid by the Buffalo CSD could have a material adverse financial impact on the Buffalo CSD and result in a delay in the application of such State Aid to the payment of installment purchase payments under the Series Facilities Agreements, including the Installment Sale Agreement.

### **Default by the Buffalo CSD**

No representations or assurances can be given that the Buffalo CSD will perform its obligations under the Installment Sale Agreement. The obligation of the Buffalo CSD to make installment purchase payments under the Installment Sale Agreement is executory and dependent upon the receipt of State Aid and the appropriation of such State Aid by the Buffalo CSD to the payment of installment purchase payments under the Installment Sale Agreement. In the event State Aid has been appropriated by the State to the Buffalo CSD and the Buffalo CSD has failed to appropriate such State Aid to the payment of the Installment Sale Agreement, there is no right to accelerate all future payments due under the Series 2013A Bonds, as appropriate, and the sole source of payment for the Series 2013A Bonds will be the intercept of State Aid by the State Comptroller. The failure of the Buffalo CSD to appropriate amounts necessary to make installment purchase payments due under the Installment Sale Agreement may result in the failure of the Issuer to make required debt service payments under the Series 2013A Bonds. In such event, the sole remedy available to the Bondholders will be the intercept of State Aid by the State

Comptroller. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2013A BONDS — State Aid Intercept.”

### **Appropriation of Installment Purchase Payments by the Buffalo CSD**

The availability of installment purchase payments under the Installment Sale Agreement is subject to and dependent upon lawful appropriations of State Aid being made each year to and by the Buffalo CSD for such purposes. The Installment Sale Agreement is not a general obligation of the Buffalo CSD or the City. The obligations of the Buffalo CSD under the Installment Sale Agreement to pay installment purchase payments in any fiscal year of the Buffalo CSD constitutes a current expense of the Buffalo CSD for such fiscal year and shall not constitute an indebtedness of the Buffalo CSD or the City within the meaning of any constitutional or statutory provision or other laws of the State. Neither the Installment Sale Agreement, nor any representation by any public employee or officer creates any legal or moral obligation of the Buffalo CSD to appropriate or make moneys available for the purposes of the Installment Sale Agreement. The failure of the Buffalo CSD to pay installment purchase payments due under the Installment Sale Agreement may result in the failure of the Issuer to make required debt service payments under the Series 2013A Bonds. In such event, there is no right to accelerate payments due under the Series 2013A Bonds and the sole remedy available to the Bondholders will be the intercept of State Aid by the State Comptroller.

### **Competing Claims to State Aid**

#### *General*

Statutory provisions currently exist or may hereafter be enacted which permit State Aid otherwise payable to the Buffalo CSD to be diverted or intercepted and applied in satisfaction of indebtedness or obligations issued or incurred for school purposes or otherwise. In addition, at the present time, other than as provided in the State Aid Trust Agreement with respect to Project Bonds, there is no stated priority for the various multiple State Aid diversion and intercept claims. Furthermore, the impact of the diversion or intercept of State Aid to pay obligations other than Project Bonds will be increased in the event State Aid payments to the Buffalo CSD are reduced as described above.

#### *Direct Claims*

Revenue Anticipation Notes. Revenue anticipation notes issued by the City in anticipation of the receipt of State Aid are payable in the first instance from the amount of State Aid in anticipation of which such revenue anticipation notes were issued. State law requires that such State Aid received by the City be applied to retire such revenue anticipation notes prior to the application of such State Aid to any other purpose. Currently, there are no City revenue anticipation notes outstanding. The City last issued revenue anticipation notes in 2003 in the amount of \$120 million which notes matured and were paid in 2004. Operating cash flow financing for the City was provided by the BFSAs for fiscal years 2005, 2006, and 2007 and therefore no revenue anticipation notes were issued by the City during those fiscal years. The City currently does not anticipate any cash flow financing in the remainder of fiscal year 2012-13 or in 2013-14. The State Aid Trust Agreement provides that, notwithstanding the provisions of the State Aid Trust Agreement providing for the flow of State Aid to the Series Trustees, upon receipt of written instructions to the Depository from the City, together with an accompanying monthly payment schedule indicating that, pursuant to applicable State law and, if applicable, any credit enhancement agreement to which the City is a party, State Aid Revenues paid to the Buffalo CSD must be set aside in a special bank account designated in such instructions to be used only for the payment of the RAN Repayment Requirement, then each month the Depository shall immediately withdraw from the State Aid Depository Fund all State Aid that is received and cause the amounts so withdrawn to be immediately paid, before any further withdrawal or payment under the State Aid Trust Agreement, to the special bank account until

the total amount of such withdrawals is equal to the portion of such RAN Repayment Requirement required, in accordance with such payment schedule, to be withdrawn and paid to such special bank account for such month or any prior month to the extent not paid. Notwithstanding the foregoing, in the event the Buffalo CSD shall fail to pay an installment purchase payment under the Installment Sale Agreement, the intercept provisions of the Buffalo Schools Act and the Indenture will operate to intercept State Aid prior to the payment of such State Aid to the Buffalo CSD in accordance with the State Aid Trust Agreement. Accordingly, such State Aid will be intercepted to pay installment purchase payments under the Installment Sale Agreement, prior to its application by the City to the payment of outstanding revenue anticipation notes of the City.

Municipal Bond Bank Agency Special Program Bonds. Pursuant to the Bond Bank Act, the Bond Bank is authorized to issue bonds (“Special Program Bonds”) for certain Special Program Municipalities, as defined in the Bond Bank Act, to fund the cost of making payment to such Special Program Municipalities to be applied to the cost of settling litigation involving the city school districts of Special Program Municipalities and the teachers’ unions in such Special Program Municipalities. Principal and interest on the Special Program Bonds are payable from annual payments appropriated and made by the Special Program Municipalities to the Bond Bank. In the event that a Special Program Municipality fails to make an annual payment when due and the Bond Bank certifies such failure to the State Comptroller, the State Comptroller is authorized to withhold State Aid and assistance to the Buffalo CSD in such amount so certified by the Bond Bank as necessary to fulfill the Special Program Municipality’s annual payment obligation and to immediately pay over to the Bond Bank the amount so withheld. The City is qualified under the Bond Bank Act as a Special Purpose Municipality and Special Program Bonds (the “2001 Special Purpose Bonds”) were issued in May 2001 to finance a \$25 million portion of a litigation settlement involving the Buffalo CSD and certain teachers’ unions. In 2012 the 2012 MBBA Refunding Bonds were issued to refund the 2001 Special Purpose Bonds. As of March 15, 2013, there were \$13,860,000 of such bonds outstanding and maximum annual debt service with respect to such bonds was \$1,108,000. In connection with the issuance of the 2012 MBBA Refunding Bonds, the Buffalo CSD, the City, each Series Trustee and the Depository entered into the State Aid Trust Agreement. Pursuant to the State Aid Trust Agreement, no amounts shall be paid to the MBBA 2012 Series Trustee until all amounts payable to each Series Trustee have been paid in full. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2013A BONDS – State Aid Trust Agreement”.

Expenses for Handicapped Children. The State Comptroller deducts from State Aid to the City amounts required by statute to reimburse the State for certain expenditures made by the State for the education of certain blind, deaf and handicapped children in the City. Such expenditures withheld from Buffalo CSD State Aid for the 2011-12 fiscal year and the 2012-13 fiscal year do not in each year exceed \$500,000 respectively.

#### *Contingent Claims*

Section 99-b. In the event of a default in the payment of the principal of and/or interest on outstanding general obligation indebtedness of the City for Buffalo CSD purposes, the State Comptroller is required to withhold, under certain conditions prescribed by Section 99-b of the State Finance Law, State Aid and assistance to the Buffalo CSD and to apply the amount thereof so withheld to the payment of such defaulted principal and/or interest, which requirement constitutes a covenant by the State with the holders from time to time of such general obligation indebtedness for Buffalo CSD purposes. As measured by the State Constitution and the Local Finance Law, as of March 15, 2013, the City had a total of \$102,705,815 of outstanding net indebtedness applicable to the Buffalo CSD, all of which is benefited from the Section 99-b intercept which constitutes approximately 34.93% of its debt limit. Maximum annual debt service with respect to such outstanding net indebtedness is \$15,662,437. The City anticipates that it will issue new money general obligation bonds in April 2013 in the approximate amount of \$18.3 million, none of which will be available for purposes of the Buffalo CSD or benefit from

the Section 99-b intercept. The City may also issue refunding general obligation bonds at the same time, the amount of which will be dependent upon market conditions.

The Series 2013A Bonds are not general obligation indebtedness of the City and accordingly do not benefit from the Section 99-b intercept.

Charter School Delinquencies. Pursuant to the Charter Schools Act, the Buffalo CSD is required to pay a State-set tuition rate to charter schools that enroll students residing in the City. In fiscal year 2011-12, the Buffalo CSD paid \$90.3 million in tuition payments to charter schools that enroll City resident students. In fiscal year 2012-13, \$91.0 million was budgeted for such tuition payments. It is anticipated that spending for charter schools will increase, due to an increase in expected charter school enrollment. The tuition per pupil was frozen at 2011-12 levels by the State for fiscal year 2012-13. In the event the Buffalo CSD fails to make any required payment to charter schools that enroll City resident students, the State Comptroller may deduct delinquent amounts from State Aid otherwise payable to the Buffalo CSD and pay such amounts to the charter schools.

Failure to Comply with Regulations. Payment of State Aid to education may be withheld due to the failure of the City or the Buffalo CSD to comply with various requirements of State law or the regulations of the Commissioner of Education relating to instructional programs, programs for the handicapped or other matters or the failure of the City to pay debt service on obligations issued for school purposes.

#### *Effect on State Aid*

Statutory application and intercept of State Aid for any of the above purposes or any other purpose would have the result of diminishing the flow of State Aid to the Buffalo CSD to make installment purchase payments under the Installment Sale Agreement, as well as possibly diminishing State Aid subject to an intercept by the State Comptroller under the Buffalo Schools Act. Furthermore, other State financing programs incorporate similar procedures for the application or withholding of State Aid as security for the repayment of obligations, or the repayment of financial assistance provided to school districts in the State. Moreover, the State has the power to (i) create additional State Aid intercept provisions, (ii) reduce or eliminate State Aid paid to school districts in the State and (iii) create State Aid intercept provisions having a prior right to intercept State Aid senior to the intercept of State Aid provided by the Buffalo Schools Act. If the Buffalo CSD is or becomes a participant in any such State financing program or otherwise pledges its State Aid, the extent to which State Aid would be available (x) to pay installment purchase payments under the Installment Sale Agreement, or (y) to be intercepted by the State Comptroller and paid to the Trustee, could be adversely affected. No assurance is given that the Buffalo CSD will not participate in any such State financing programs in the future.

In addition to the foregoing, it is important to note that State Aid may, after the payment of Base Installment Purchase Payments, be applied to the payment of Additional Payments under the Installment Sale Agreement for, among other things, casualty and indemnity obligations of the Buffalo CSD to the Issuer. Accordingly, a significant casualty or indemnity event could substantially reduce State Aid coverage levels in relation to Base Installment Payment obligations of the Buffalo CSD.

## **Additional Series of Project Bonds**

The Buffalo CSD will finance the refunding, in part, of the Series 2009A Bonds from the proceeds of the Series 2013A Bonds. The Series 2013A Bonds will each rank on a ratable basis with the claims of any remaining principal amount of the Project Bonds outstanding under the State Aid Trust Agreement, or from the State Comptroller as an intercept of State Aid under the Buffalo Schools Act. See APPENDIX D — “Summary of Certain Provisions of the Installment Sale Agreement” and APPENDIX C — “Summary of Certain Provisions of the Indenture of Trust.”

Although no amendments have been introduced for additional Program improvements beyond Phase V, the Buffalo Schools Act could be amended in the future to permit the Buffalo CSD to finance additional costs associated with the acquisition, renovation, reconstruction, improvement, equipping and furnishing of certain public school buildings and the acquisition of certain equipment and fixtures for use by the Buffalo CSD with the issuance of an additional Series of Project Bonds. The authorization and issuance of such additional Series of Project Bonds would further dilute the amount of State Aid Revenues available to make installment purchase payments with respect to the Series 2013A Bonds and reduce the amount of State Aid subject to intercept by the State Comptroller and payable to the Trustee. See “SECURITY FOR THE SERIES 2013A BONDS.” No limitation exists upon the principal amount of Project Bonds, as may be issued, nor upon their payment dates or rate of amortization. This could result in a reduction in the funds available to make payments of principal of and interest on the Series 2013A Bonds.

## **BFSA Review of Financial Plans and Budgets**

Commencing with the City’s 2004-05 fiscal year, the BFSA Act requires that the Mayor submit to the BFSA a four-year financial plan and the Mayor’s proposed City budget on or before May 1 of each year. Such financial plans must provide that the major operating funds of the City will be balanced in accordance with generally accepted accounting principles. Not more than 20 days after submission by the City of a financial plan or more than 15 days after the submission of a financial plan modification, the BFSA is to determine whether such plan or modification is complete and complies with the BFSA Act, and shall submit its recommendations with respect to the financial plan. Upon approval by the City of a budget in accordance with the City Charter, the Mayor must submit such approved budget and financial plan to the BFSA accompanied by expenditure, revenue, and cash flow projections on a quarterly basis and the Mayor must certify that such budget is consistent with the financial plan. The City and the non-exempted Covered Organizations also are required to submit to the BFSA their budget modifications to address changing expenditures and revenue projections. The BFSA is now operating with advisory period powers. Under an advisory period, the BFSA may comment on budget, budget modifications and financial plans as the BFSA deems necessary or appropriate but is not required to approve such budgets, budget modifications or financial plans. It is currently anticipated that the City and the Buffalo CSD will submit their respective fiscal year 2013-14 proposed budgets and new four-year financial plans to the BFSA on or before May 1, 2013. After an advisory period has been established, a control period can be reimposed on the City upon a determination by the BFSA that a fiscal crisis is imminent or that any of certain listed events has occurred or that there is a substantial likelihood and imminence of an occurrence of one or more of the listed events. If a control period were reimposed on the City, the City and Buffalo CSD would have to obtain approval of their budgets and four year plans from the BFSA. Although past City budgets and past four year plans have been approved by the BFSA, no assurance can be given that should a control period be reimposed that the BFSA will approve future budgets and four year plans. During a control period, failure of the BFSA to approve future four year plans and budgets could result in (i) withholding of BFSA funding to the City and (ii) the BFSA imposing maximum spending limits and formulating and imposing financial plans on the City, all of which could adversely affect the financial condition of the City and the Buffalo CSD. See “PROGRAM PARTICIPANTS –The Buffalo Fiscal Stability Authority,” “–The Buffalo CSD and Board of Education –*Review of the 2013-14 Budget of the*

*Buffalo CSD*” and “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2013A BONDS – State Aid.”

### **Possible Future Budget Deficits**

Although it is expected that the Buffalo CSD’s fiscal year 2012-13 budget will meet its projections by 2012-13 fiscal year end and will be in balance, the Buffalo CSD may experience budget deficits in the future. The Buffalo CSD’s existing four-year financial plan, adopted in 2012 in connection with the Buffalo CSD’s 2012-13 budget, projects a balanced budget in fiscal year 2012-13, and budget deficits of \$25.7 million in fiscal year 2013-14, \$30.7 million in fiscal year 2014-15 and \$56.2 million in fiscal year 2015-16. It is currently anticipated that the Buffalo CSD will submit a new four-year financial plan and fiscal year 2013-14 budget on or before May 1, 2013. By law, the Buffalo CSD must submit a balanced budget and it is expected that the Buffalo CSD’s fiscal year 2013-14 will be in balance. Although the Buffalo CSD expects to eliminate the future budget deficits described in its existing four-year plan by utilizing reserves and undertaking certain gap elimination programs, no assurance can be given that future budgetary results will be in balance. There is also no certainty that State Aid levels will not be reduced in future years, which could increase the likelihood of budget deficits in the future. Several labor contracts which expired in 2004 remain unsettled. Future budget deficits could have a material adverse effect upon the financial operations of the Buffalo CSD, requiring the Buffalo CSD to either increase revenues from sources other than State Aid or curtail expenditures. See “PROGRAM PARTICIPANTS –The Buffalo Fiscal Stability Authority”, and “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2013A BONDS –State Aid.”

### **Litigation over BFSA Wage Freeze**

Litigation by collective bargaining units could impact the Buffalo CSD and the City, deriving from a dispute over a wage freeze instituted by the BFSA in 2004. As a result of the fiscal-related actions taken by the BFSA, a number of affected collective bargaining units representing employees of the City and certain non-exempted Covered Organizations initiated legal proceedings in federal and state courts challenging certain of the BFSA actions, including the BFSA’s imposition of the wage freeze on April 21, 2004. These bargaining units sought reversal of those actions, in particular the imposition of the wage freeze. These challenges were litigated by the bargaining units and were ultimately unsuccessful. On June 5, 2007, the BFSA adopted a resolution lifting the wage freeze effective July 1, 2007. By the same resolution, the BFSA approved the City’s and Buffalo CSD’s financial plan providing a one-step increase on employees’ salary schedules effective July 1, 2007. Certain bargaining units challenged this action, claiming entitlement to three additional steps as of July 1, 2007, *i.e.*, the three additional salary steps employees would have received but for the wage freeze. On March 29, 2011, the New York State Court of Appeals, the State’s highest court, ruled in favor of the BFSA, the City, and the Buffalo CSD. In June 2011, the Buffalo Teachers Federation moved in Federal District Court to reopen the case in which the wage freeze had been found to be constitutional. The motion was a result of the decision by the Court of Appeals of New York, finding that the steps and increments did not accrue during the wage freeze. BFSA opposed the motion, which was denied on February 10, 2012. The Buffalo Teachers Federation appealed, and on March 18, 2013 the Second Circuit affirmed the decision of the District Court denying the motion to reopen the decision finding the wage freeze constitutional. The Buffalo Teachers Federation has exhausted all of its appeals other than filing a motion for certiorari to the United States Supreme Court.

### **Absence of Title Insurance**

No title insurance policy had been obtained for insuring the 2009 Facilities nor will it be obtained for the 2009 Facilities under the Ground Lease or the Ground Sublease. In the event the Issuer lacks a valid leasehold or subleasehold interest in the Series 2009 Facilities under the Ground Lease or the Ground Sublease, any such defect could put into question the authority of the Issuer: (i) to lease the Series

2009 Facilities (other than School #84) from the City and the Buffalo CSD under the Ground Lease, (ii) to sublease School #84 from the Buffalo CSD under the Ground Sublease, or (iii) to sell, pursuant to the Installment Sale Agreement, such leasehold or subleasehold interest in the Series 2009 Facilities to the Buffalo CSD and thereby jeopardize the basis upon which the Buffalo CSD is obligated to make installment purchase payments under the Installment Sale Agreement and upon which the Issuer (through the Trustee) may make certification to the State Comptroller for intercepting State Aid.

### **Enforceability of Remedies**

The remedies available to the holders of the Series 2013A Bonds upon an event of default under the Indenture or other documents described herein are in many respects dependent upon judicial actions which are often subject to discretion and delay. Existing constitutional and statutory law and judicial decisions, including Title 11 of the United States Code, affect the payment rights of Bondholders, and the remedies specified by the federal bankruptcy laws, the Indenture, and the various documents referred to herein may not be readily available or may be limited. The legal opinions to be delivered concurrently with the delivery of the Series 2013A Bonds will be qualified as to enforceability of the legal instruments by limitations imposed by bankruptcy, reorganization, insolvency, or other similar laws affecting the rights of creditors generally. In addition, such opinions will state that the availability of remedies may be limited by judicial application of principles of equity which may delay or preclude the exercise of remedies, including mortgage foreclosure.

### **State Aid Trust Agreement**

Amounts held in the State Aid Depository Fund under the State Aid Trust Agreement are not pledged to the repayment of the Series 2013A Bonds. The State Aid Depository Fund is not a trust fund held under the Indenture, and the Trustee does not and will not have a security interest in amounts held therein. In addition, the obligations of the City, the Buffalo CSD, the Depository and the Series Trustees relating to the collection, deposit and disbursement of State Aid Revenues contained in the State Aid Trust Agreement are not statutory obligations but contractual obligations of the Depository, the City, the Buffalo CSD and the Series Trustees and failure of such parties to comply with the provisions of the State Aid Trust Agreement would be actionable solely as a breach of contract matter. See also “–Additional Series of Project Bonds” above.

### **Statutory Interpretation**

There is currently no statutory authorization under the Buffalo Schools Act to finance school facilities beyond Phase V. The Buffalo CSD is subject to the limitations imposed by State law including, but not limited to, the Education Law, the General Municipal Law and the Local Finance Law. Generally, such laws limit the power of the Buffalo CSD to incur indebtedness, lease or purchase facilities, and enter into installment purchase agreements similar to the Installment Sale Agreement. Notwithstanding such limitations, the Corporation Counsel of the City will provide an opinion to be delivered at the closing of the Series 2013A Bonds to the effect that the Installment Sale Agreement is valid, binding and enforceable against the Buffalo CSD in accordance with its terms subject to certain limitations (bankruptcy, discretion as to remedies, etc.). Such opinions will be based on a number of factors including the Corporation Counsel’s interpretation of State Law and the Buffalo Schools Act and the Corporation Counsel’s interpretation of legislative history relating to the Buffalo Schools Act. The Buffalo Schools Act has not been subjected to judicial review and the legal authority provided to the Buffalo CSD by the Buffalo Schools Act could be subject to differing interpretation. Reference is hereby made to the form of opinion of Corporation Counsel of the City to be delivered upon issuance of the Series 2013A Bonds, a copy of which will be on file with the Trustee.

### **Limited Obligations of the Issuer**

THE SERIES 2013A BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM STATE AID REVENUES PAYABLE BY THE BUFFALO CSD UNDER THE INSTALLMENT SALE AGREEMENT, AND THE PLEDGE OF CERTAIN FUNDS INCLUDING THE BOND FUND UNDER THE INDENTURE. IN THE EVENT THE BUFFALO CSD FAILS TO MAKE AN INSTALLMENT PURCHASE PAYMENT UNDER THE INSTALLMENT SALE AGREEMENT, IT IS PROVIDED IN THE BUFFALO SCHOOLS ACT AND THE INDENTURE THAT, UPON RECEIPT BY THE STATE COMPTROLLER OF A CERTIFICATE FROM THE TRUSTEE ON BEHALF OF THE ISSUER AS TO THE AMOUNT OF SUCH FAILED PAYMENT, THE STATE COMPTROLLER SHALL WITHHOLD ANY STATE AID FROM THE BUFFALO CSD PAYABLE THERETO TO THE EXTENT OF THE AMOUNT SO STATED IN SUCH CERTIFICATE AS NOT HAVING BEEN MADE, AND SHALL IMMEDIATELY PAY OVER TO THE TRUSTEE ON BEHALF OF THE ISSUER THE AMOUNT SO WITHHELD. THE OBLIGATION OF THE BUFFALO CSD UNDER THE INSTALLMENT SALE AGREEMENT TO PAY INSTALLMENT PURCHASE PAYMENTS IS NOT A GENERAL OBLIGATION OF THE BUFFALO CSD OR THE CITY AND NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWERS OF THE BUFFALO CSD OR THE CITY ARE PLEDGED TO THE PAYMENT OF INSTALLMENT PURCHASE PAYMENTS UNDER THE INSTALLMENT SALE AGREEMENT. THE OBLIGATIONS OF THE BUFFALO CSD UNDER THE INSTALLMENT SALE AGREEMENT TO PAY INSTALLMENT PURCHASE PAYMENTS IN ANY FISCAL YEAR OF THE BUFFALO CSD CONSTITUTE A CURRENT EXPENSE OF THE BUFFALO CSD FOR SUCH FISCAL YEAR AND SHALL NOT CONSTITUTE AN INDEBTEDNESS OR MORAL OBLIGATION OF THE BUFFALO CSD, THE CITY OR THE STATE WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR OTHER LAWS OF THE STATE OF NEW YORK. THE ONLY SOURCE OF MONEYS AVAILABLE FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE SERIES 2013A BONDS IS INSTALLMENT PURCHASE PAYMENTS MADE BY THE BUFFALO CSD UNDER THE INSTALLMENT SALE AGREEMENT, TO THE EXTENT OF STATE AID APPROPRIATED BY THE STATE AND AVAILABLE TO THE BUFFALO CSD AND APPROPRIATED BY THE BUFFALO CSD TO MAKE SUCH PAYMENTS, AND THE INTERCEPT BY THE STATE COMPTROLLER OF STATE AID LAWFULLY APPROPRIATED BY THE STATE AND AVAILABLE THEREFOR FROM TIME TO TIME FOR THE BENEFIT OF THE BUFFALO CSD.

### **Absence of Public Market for the Series 2013A Bonds**

The Buffalo CSD has been advised by the Underwriters that the Underwriters presently intend to make a market in the Series 2013A Bonds. The Underwriters, however, are not obligated to do so, and any market-making activities with respect to the Series 2013A Bonds may be discontinued at any time without notice. No assurance is given that an active public or other market will develop for the Series 2013A Bonds or as to liquidity of or the trading market for the Series 2013A Bonds. If a trading market does not develop or is not maintained, holders of the Series 2013A Bonds may experience difficulty in reselling the Series 2013A Bonds or may be unable to sell them at all. If a market for the Series 2013A Bonds develops, any such market may be discontinued at any time. If a public trading market develops for the Series 2013A Bonds, future trading prices of the Series 2013A Bonds will depend on many factors, including, among other things, prevailing interest rates, State Aid paid to the Buffalo CSD and the market for similar securities. Depending on prevailing interest rates, the market for similar securities and other factors, including the financial condition of the Buffalo CSD, the Series 2013A Bonds may trade at a discount from their principal amount.

## **TAX MATTERS**

### **Opinion of Bond Counsel**

In the opinion of Hawkins Delafield & Wood LLP, Bond Counsel to the Issuer, under existing statutes and court decisions and assuming continuing compliance with certain tax covenants described herein, (i) interest on the Series 2013A 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 2013A 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 to the Issuer has relied on certain representations, certifications of fact, and statements of reasonable expectations made by the Issuer and the Buffalo CSD in connection with the Series 2013A Bonds, and Bond Counsel to the Issuer has assumed compliance by the Issuer and the Buffalo CSD with certain ongoing covenants to comply with applicable requirements of the Code to assure the exclusion of interest on the Series 2013A Bonds from gross income under Section 103 of the Code.

In addition, in the opinion of Bond Counsel to the Issuer, under existing statutes, interest on the Series 2013A Bonds is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York).

Bond Counsel to the Issuer expresses no opinion regarding any other Federal, state or local tax consequences with respect to the Series 2013A Bonds. Bond Counsel to the Issuer renders its opinion under existing statutes and court decisions as of the issue date, and assumes no obligation to update, revise or supplement its opinion to reflect any action hereafter taken or not taken, or any facts or circumstances that may hereafter come to its attention, or changes in law or in interpretations thereof that may hereafter occur, or for any other reason. Bond Counsel to the Issuer 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 2013A 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 2013A Bonds in order that interest on the Series 2013A 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 2013A 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 2013A 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 Issuer and the Buffalo CSD have each covenanted to comply with certain applicable requirements of the Code to assure the exclusion of interest on the Series 2013A 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 2013A Bonds. It does not purport to address all aspects of Federal taxation that may be relevant to a particular owner of a Series 2013A 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 2013A Bonds.

Prospective owners of the Series 2013A 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 excluded from gross income for Federal income tax purposes. Interest on the Series 2013A 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 2013A 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 2013A 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 2013A 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 (in certain cases involving a Premium Bond callable prior to its stated maturity date, the amortization period and yield may be required to be determined on the basis of an earlier call date that results in the lowest yield on such bond). 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.

### **Information Reporting and Backup Withholding**

Information reporting requirements apply to interest paid on tax-exempt obligations, including the Series 2013A Bonds. In general, such requirements are satisfied if the interest recipient completes, and provides the payor with, a Form W-9, “Request for Taxpayer Identification Number and Certification,” or if the recipient is one of a limited class of exempt recipients. A recipient not otherwise exempt from information reporting who fails to satisfy the information reporting requirements will be subject to “backup withholding,” which means that the payor is required to deduct and withhold a tax from the interest payment, calculated in the manner set forth in the Code. For the foregoing purpose, a “payor” generally refers to the person or entity from whom a recipient receives its payments of interest or who collects such payments on behalf of the recipient.

If an owner purchasing a Series 2013A Bond through a brokerage account has executed a Form W-9 in connection with the establishment of such account, as generally can be expected, no backup withholding should occur. In any event, backup withholding does not affect the excludability of the interest on the Series 2013A Bonds from gross income for Federal income tax purposes. Any amounts withheld pursuant to backup withholding would be allowed as a refund or a credit against the owner's Federal income tax once the required information is furnished to the Internal Revenue Service.

#### *Miscellaneous*

Tax legislation, administrative actions taken by tax authorities, or court decisions, whether at the Federal or state level, may adversely affect the tax-exempt status of interest on the Series 2013A Bonds under Federal or state law or otherwise prevent beneficial owners of the Series 2013A Bonds from realizing the full current benefit of the tax status of such interest. In addition, such legislation or actions (whether currently proposed, proposed in the future or enacted) and such decisions could affect the market price or marketability of the Series 2013A Bonds. For example, the Fiscal Year 2014 Budget proposed on April 10, 2013, by the Obama Administration recommends a 28% limitation on itemized deductions and "tax preferences," including "tax-exempt interest." The net effect of such proposal, if enacted into law, would be that an owner of a Series 2013A Bond with a marginal tax rate in excess of 28% would pay some amount of federal income tax with respect to the interest on such Series 2013A Bond.

Prospective purchasers of the Series 2013A Bonds should consult their own tax advisors regarding the foregoing matters.

### **APPROVAL OF LEGAL MATTERS**

All legal matters incident to the authorization, issuance and delivery of the Series 2013A Bonds by the Issuer are subject to the approving opinion of Hawkins Delafield & Wood LLP, New York, New York, Bond Counsel to the Issuer. A copy of the opinion of Bond Counsel will be available at the time of delivery of the Series 2013A Bonds, the form of which is set forth in APPENDIX E. Certain legal matters will be passed upon for the Issuer by its counsel, Harris Beach PLLC, Buffalo, New York. Legal matters pertaining to the JSCB will be passed upon by its counsel, Harter Secrest & Emery LLP, Buffalo, New York, and for the Buffalo CSD and the City by the Corporation Counsel of the City. For purposes of this transaction, Hodgson Russ LLP is serving as counsel to the Depository and to the Trustee. Certain legal matters will be passed upon for the Underwriters by their counsel, Hiscock & Barclay, LLP, Albany, New York.

### **FINANCIAL ADVISOR**

Capital Markets Advisors, LLC (the "Financial Advisor") serves as independent financial advisor to the City and the Buffalo CSD on matters relating to debt management. The Financial Advisor is a financial advisory and consulting organization and is not engaged in the business of underwriting, marketing or trading municipal securities or any other negotiated instruments. The Financial Advisor has provided advice as to the plan of financing and the structuring of the Series 2013A Bonds and has reviewed and commented on certain legal documentation, including this Official Statement. The advice on the plan of financing and the structuring of the Series 2013A Bonds was based on materials provided by the City and the Buffalo CSD and other sources of information believed to be reliable. The Financial Advisor has not audited, authenticated or otherwise verified the information provided by the City or the Buffalo CSD or the information set forth in this Official Statement or any other information available to the City or the Buffalo CSD with respect to the appropriateness, accuracy or completeness of disclosure of such information or other information and no guarantee, warranty or other representation is made by

the Financial Advisor respecting the accuracy and completeness of or any other matter related to such information and this Official Statement.

### **NO LITIGATION**

It is a condition of their acceptance of the Series 2013A Bonds at closing that the Underwriters receive certificates from the Issuer and the Buffalo CSD to the effect that there is no pending or, to the knowledge of the Issuer or the Buffalo CSD, threatened litigation against the Issuer or the Buffalo CSD that in any way questions or affects the validity of the Series 2013A Bonds, the Indenture, the Installment Sale Agreement, the Ground Lease, the Ground Sublease, the State Aid Trust Agreement, or any proceedings or transactions relating to the issuance, sale or delivery of the Series 2013A Bonds or the execution and delivery of any of such documents or that would materially and adversely affect the refunding of the Series 2009A Bonds.

As of the date of this Official Statement, except as described herein, the Buffalo CSD has certified that it does not know of any fact or set of facts from which liability might arise which individually or collectively would materially and adversely affect the business or operations of the Buffalo CSD or the refunding of a portion of the Series 2009A Bonds.

### **VERIFICATION**

The accuracy of the mathematical computations of the adequacy of the maturing principal amounts of and interest on the defeasance securities to pay when due all principal or Redemption Price of, as the case may be, and interest on the portion of the Series 2009A Bonds to be refunded will be verified by Causey Demgen & Moore P.C., certified public accountants and consultants.

### **RATINGS**

Moody's Investors Service, Inc. has rated the Series 2013A Bonds "Aa3" and Standard & Poor's has rated the Series 2013A Bonds "AA-."

Generally, a rating agency bases its rating on information and materials furnished to it and on investigations, studies and assumptions by such rating agency. There is no assurance that such rating will continue for any given period of time or will not be revised downward, suspended or withdrawn entirely by the rating agency, if, in its judgment, circumstances so warrant. Any such lowering, suspension or withdrawal of the rating might have an adverse effect upon the market price or marketability of the Series 2013A Bonds. The Underwriters, the Issuer and the Buffalo CSD undertake no responsibility after the issuance of the Series 2013A Bonds to assure the maintenance of the rating or to oppose any revision, suspension or withdrawal thereof.

A securities rating is not a recommendation to buy, sell or hold securities and may be subject to revision or withdrawal at any time.

### **UNDERWRITING**

Citigroup Global Markets Inc., as representative (the "Representative") of the underwriters (the "Underwriters") under the Purchase Contract for the Series 2013A Bonds (the "Series 2013A Purchase Contract"), among the Issuer, the Buffalo CSD and the Underwriters, has agreed, subject to certain conditions, to purchase the Series 2013A Bonds from the Issuer at a purchase price of \$73,761,000.51 (representing the principal amount of the Series 2013A Bonds of \$62,540,000 plus an original issue premium of \$11,431,474.05 less an underwriters' discount of \$210,473.54) and to make a public offering

of the Series 2013A Bonds. The Underwriters will be obligated to purchase all of the Series 2013A Bonds if any are purchased.

In connection with the public offering of the Series 2013A Bonds, the Underwriters will be receiving compensation in the amount of the underwriters' discount. The Underwriters' obligation under the Series 2013A Purchase Contract to accept delivery of the Series 2013A Bonds is subject to certain terms and conditions, including the approval of certain legal matters by counsel. The public offering prices set forth on the inside cover page hereof may be changed from time to time at the discretion of the Underwriters.

Pursuant to the Series 2013A Purchase Contract, the Buffalo CSD has agreed to indemnify the Underwriters and the Issuer against certain liabilities to the extent permitted by law.

Citigroup Inc., parent company of Citigroup Global Markets Inc., an underwriter of the Series 2013A Bonds, has entered into a retail brokerage joint venture with Morgan Stanley. As part of the joint venture, Citigroup Global Markets Inc. will distribute municipal securities to retail investors through the financial advisor network of Morgan Stanley Smith Barney LLC. As part of this arrangement, Citigroup Global Markets Inc. may compensate Morgan Stanley Smith Barney LLC for its selling efforts with respect to the Series 2013A Bonds.

The Underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, principal investment, hedging, financing and brokerage activities. Certain of the Underwriters and their respective affiliates have, from time to time, performed, and may in the future perform, various investment banking services for the Issuer for which they received or will receive customary fees and expenses.

In the ordinary course of their various business activities, the Underwriters and their respective affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (which may include bank loans and/or credit default swaps) for their own account and for the accounts of their customers and may at any time hold long and short positions in such securities and instruments. Such investment and securities activities may involve securities and instruments of the Issuer.

## **SECONDARY MARKET DISCLOSURE**

In order to assist the Underwriters in complying with the provisions of paragraph (b)(5) of Rule 15c2-12 promulgated by the Securities and Exchange Commission (the "Rule"), the Buffalo CSD will undertake, pursuant to an agreement, for the benefit of the holders and beneficial owners of the Series 2013A Bonds, (the "Continuing Disclosure Agreement") to provide to the Municipal Securities Rulemaking Board ("MSRB"), as the sole nationally recognized securities repository through the MSRB's Electronic Municipal Market Access ("EMMA"), on an annual basis no later than 360 days after the end of each respective Fiscal Year of the Buffalo CSD commencing with the Fiscal Year ending June 30, 2013, certain financial and operating data concerning the Buffalo CSD of the type included in this Official Statement and as specified in the Continuing Disclosure Agreement. In addition, the Buffalo CSD will undertake, for the benefit of the holders and beneficial owners of the Series 2013A Bonds, to provide notice to the MSRB through EMMA, in a timely manner, but in not more than 10 business days after the occurrence of any event enumerated in the Rule. Any filing to be made under the Continuing Disclosure Agreement may be made solely by transmitting such filing to the MSRB through EMMA as provided at <http://emma.msrb.org>. See APPENDIX F.

Continuing disclosure agreements which were executed by the Buffalo CSD with respect to the each series of Project Bonds outstanding, as well as to be executed in connection with issuance of the Series 2013A Bonds, require the Buffalo CSD to file with each Nationally Recognized Municipal Securities Information Depository (“NRMSIR”) audited financial statements and certain financial and operating data of the type contained in the respective official statements relating to each of the respective Project Bonds outstanding and the Series 2013A Bonds no later than 360 days after the end of each respective fiscal year of the Buffalo CSD. Although the Buffalo CSD filed its audited financial statements with the NRMSIRs in a timely manner in compliance with the existing continuing disclosure agreements, the Buffalo CSD failed to file financial and operating data with respect to its 2005 fiscal year until August 8, 2007. The Buffalo CSD has established procedures to insure that future filings of continuing disclosure information will be complete and will be undertaken in a timely manner in compliance with existing continuing disclosure obligations, including transmitting such filings to the MSRB through EMMA. Aside from the foregoing, the Buffalo CSD is in compliance with all existing continuing disclosure agreements.

### **MISCELLANEOUS**

The summaries of and references herein to the Act, the Buffalo Schools Act, the Series 2013A Bonds, the Indenture, the Installment Sale Agreement, the State Aid Trust Agreement, the Ground Lease, the Ground Sublease and other documents and materials are only brief outlines of certain provisions thereof and do not purport to summarize or describe all the provisions thereof. Reference is hereby made to such documents for the complete provisions thereof, copies of which may be obtained from the Trustee.

The financial statements of the Board of Education (a component unit of the City of Buffalo, New York) for the year ended June 30, 2012 included in this Official Statement have been audited by Freed Maxick & Battaglia, P.C., independent auditors, as stated in their report appearing in APPENDIX A.

Any statements in this Official Statement involving matters of opinion or forecast, whether or not expressly so stated, are intended as such and not as representations of fact. No representation is made that any of the opinions, estimates or forecasts will be realized. This Official Statement is not to be construed as a contract or an agreement between the Issuer, the Buffalo CSD or the Underwriters and any purchaser of the Series 2013A Bonds.

The appendices hereto are an integral part of this Official Statement and must be read together with all of the foregoing statements.

The Buffalo CSD has reviewed the information contained herein that relates to it, its properties and operations, and has approved all such information for use within this Official Statement.

The distribution of this Official Statement to prospective purchasers of the Series 2013A Bonds by the Underwriters has been duly authorized by the Issuer and the Buffalo CSD. This Official Statement is made available only in connection with the sale of the Series 2013A Bonds and may not be used in whole or in part for any other purpose.

**ERIE COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY**

By: /s/ Karen M. Fiala  
Authorized Officer

**CITY SCHOOL DISTRICT OF  
THE CITY OF BUFFALO**

By: /s/ Mary Ruth Kapsiak  
President, Board of Education

**APPENDIX A**

**AUDITED FINANCIAL STATEMENTS OF THE BOARD OF EDUCATION OF THE CITY  
SCHOOL DISTRICT OF THE CITY OF BUFFALO FOR FISCAL YEAR ENDED JUNE 30, 2012**

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**AUDITED  
BASIC FINANCIAL STATEMENTS**

**BOARD OF EDUCATION,  
CITY OF BUFFALO, NEW YORK**

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**JUNE 30, 2012**

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**

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**SECTION A**  
**FINANCIAL SECTION**



## Independent Auditor's Report

To the Board of Education of the  
City of Buffalo, New York

We have audited the accompanying financial statements of the governmental activities, each major fund, and the aggregate remaining fund information of the Board of Education, City of Buffalo, New York (the Board) a component unit of the City of Buffalo, New York, as of and for the year ended June 30, 2012, which collectively comprise the Board's basic financial statements as listed in the table of contents. These financial statements are the responsibility of the Board's management. Our responsibility is to express opinions on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinions.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, each major fund, and the aggregate remaining fund information of the Board as of June 30, 2012 and the respective changes in financial position thereof for the year then ended, in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated October 15, 2012 on our consideration of the Board's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

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Accounting principles generally accepted in the United States of America require that the management's discussion and analysis, schedule of funding progress for retiree health plan and budgetary comparison schedule on pages 1 through 14, A33 and A34 through A35 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the District's financial statements. The supplemental schedules, as listed in the table of contents, and the schedule of expenditures of federal awards, as required by the U.S. Office of Management and Budget Circular A-133, *Audit of States, Local Governments, and Non-Profit Organization (Circular A-133)*, are presented for purposes of additional analysis and are not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplemental schedules, as listed in the table of contents, and the schedule of expenditure of federal awards are fairly stated in all material respects in relation to the financial statements as a whole.

*Freed Maxick CPAs, P.C.*

Buffalo, New York  
October 15, 2012

**Management's Discussion and Analysis**  
**Board of Education, City of Buffalo, New York**  
**Fiscal Year ended June 30, 2012**

As management of the Board of Education, City of Buffalo, New York (the "Board") we offer readers of the Board's financial statements this narrative discussion and analysis of the Board's financial performance during the fiscal year ended June 30, 2012.

**Financial Highlights**

The 2011-12 fiscal year ended with an operating deficit in the general fund for the first time since 2002. Revenues were flat while expenses such as mandated salary step increases, employee benefits and charter school tuition payments continued to increase. There were some positive events, such as the settlement of one union contract during 2011-12 and another contract shortly thereafter. Additionally, favorable interest rates have allowed the Board to refinance long-term debt which will result in future savings.

- Total fund balance decreased \$194.8 million to \$433.6 million as capital outlay in the Joint Schools Construction Board ("JSCB") fund and repayment of debt used existing reserves. Unassigned Fund Balance in the general fund declined \$2.1 million to \$43.6 million at June 30, 2012.
- The General Fund had an operating deficit of \$14.5 million in 2011-12 as expenditures and transfers out for debt service increased, while revenues declined.
- For the second straight year, there was a forced reduction of State operating aid. The reduction, known as the Gap Elimination Adjustment totaled \$33.0 million.
- Tuition payments to charter schools continued to grow in 2011-12, increasing \$5.2 million to \$90.3 million.
- Benefit expenditures grew by \$20.3 million to \$192.4 million in 2011-12 as health insurance and pension costs increased. Included in this increase was a one time payment of \$12.3 million for the State retirement incentive offered in 2010-11.
- Federal stimulus aid in the General Fund under the American Recovery and Reinvestment Act ("ARRA") declined from \$9.4 million to zero in 2011-12.
- Capital Assets, net of depreciation, increased \$71.5 million as the Board neared completion on the JSCB Phase IV schools and continued work on the JSCB Phase V schools.
- Outstanding debt related to JSCB Phase I and Phase II was refinanced during 2011-12 resulting in a defeasance of debt in the amounts of \$139.4 million and \$262.1 million, respectively. The new debt issued to replace the Phase I and Phase II debt was \$112.6 million and \$209.5 million, respectively.
- District-wide net assets decreased \$141.0 million to negative (\$266.0) million, representing all changes in the assets and liabilities of the Board, including long-term assets and liabilities such as other post employment benefits (OPEB).
- The Board settled the labor contract with the Professional, Clerical, and Technical Employees' Association ("PCTEA") during 2011-12 that had expired in 2004, resulting in healthcare contributions from all PCTEA members, along with reductions in paid time off in exchange for retroactive salary increases back to 2009-10.

### Overview of the Financial Statements

This annual report consists of three parts: management's discussion and analysis (this section), the basic financial statements, and required supplementary information. The basic financial statements include two kinds of statements that present different views of the Board:

- The first two statements are government-wide financial statements that provide both short-term and long-term information about the Board's overall financial status.
- The remaining statements are fund financial statements that focus on individual parts of the Board, reporting the Board's operations in more detail than the government-wide statements.
- The governmental funds statements tell how basic services such as regular and special education were financed in the short term as well as what remains for future spending.
- Fiduciary funds statements provide information about the financial relationships in which the Board acts solely as a trustee or agent for the benefit of others.

The financial statements also include notes that explain some of the information in the statements and provide more detailed data. The statements are followed by a section of required supplementary information that further explains and supports the financial statements with a comparison of the Board's budget for the year. Figure A-1 shows how the various parts of this annual report are arranged and related to one another.

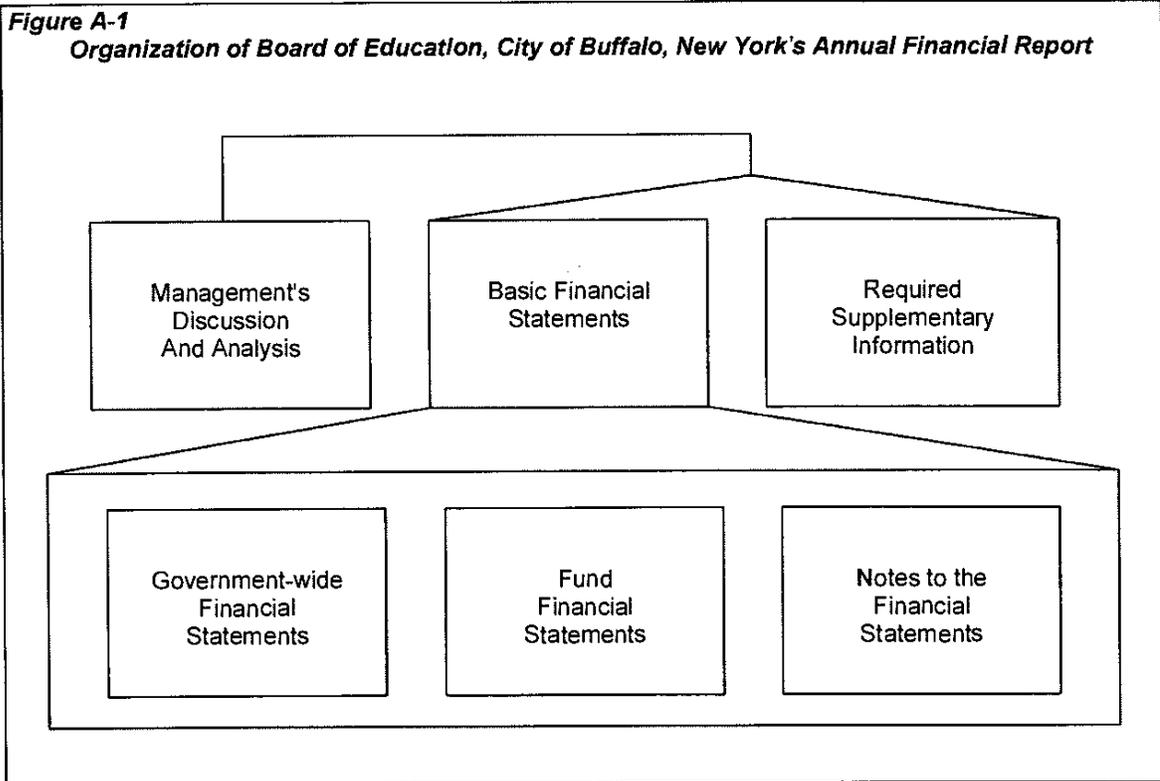


Figure A-2 summarizes the major features of the Board's financial statements, including the portion of the Board's activities they cover and the types of information they contain. The remainder of this overview section of management's discussion and analysis highlights the structure and contents of each of the statements.

**Government-wide Statements**

<b>Figure A-2 Major Features of the Government-wide and Fund Financial Statements</b>			
		<b>Fund Financial Statements</b>	
	<b>Government-wide Statements</b>	<b>Governmental Funds</b>	<b>Fiduciary Funds</b>
<b>Scope</b>	Entire Board (except Fiduciary funds)	The activities of the Board that are not proprietary or fiduciary, such as special education and building maintenance	Instances in which the Board administers resources on behalf of someone else, such as scholarship programs and student activities monies
<b>Required financial statements</b>	<ul style="list-style-type: none"> <li>• Statement of Net Assets</li> <li>• Statement of Activities</li> </ul>	<ul style="list-style-type: none"> <li>• Balance Sheet</li> <li>• Statement of Revenues, Expenditures, and Changes in Fund Balances</li> </ul>	<ul style="list-style-type: none"> <li>• Statement of Fiduciary Net Assets</li> <li>• Statement of Changes in Fiduciary Net Assets</li> </ul>
<b>Accounting basis and measurement focus</b>	Accrual accounting and economic resources focus	Modified accrual accounting and current financial focus	Accrual accounting and economic resources focus
<b>Type of asset/liability information</b>	All assets and liabilities, both financial and capital, short-term and long-term	Generally assets expected to be used up and liabilities that come due during the year or soon thereafter; generally no capital assets or long-term liabilities included	All assets and liabilities, both short-term and long-term; funds do not currently contain capital assets, although they can
<b>Type of inflow/out-flow information</b>	All revenues and expenditures during year, regardless of when cash is received or paid	Revenues for which cash is received during or soon after the end of the year; expenditures when goods or services have been received and the related liability is due and payable	All additions and deductions during the year, regardless of when cash is received or paid

The government-wide statements report information about the Board as a whole using accounting methods similar to those used by private-sector companies. The statement of net assets includes all of the Board's assets and liabilities. All of the current year's revenues and expenditures are accounted for in the statement of activities regardless of when cash is received or paid.

The two government-wide statements report the Board's net assets and how they have changed. Net assets - the difference between the Board's assets and liabilities - is one way to measure the Board's financial health or position.

- Over time, increases or decreases in the Board's net assets are an indicator of whether its financial position is improving or deteriorating, respectively.
- To assess the Board's overall health, you need to consider additional non-financial factors such as the financial condition of the State, changes in the City's property tax base, and the condition of school buildings and other facilities.

In the government-wide financial statements, the Board's activities are shown as governmental activities. Most of the Board's basic services are included here, such as regular and special education, transportation and administration. Property taxes and state aid finance most of these activities.

### **Fund Financial Statements**

The fund financial statements provide more detailed information about the Board's funds, focusing on its most significant or "major" funds - not the Board as a whole. Funds are accounting devices the Board uses to keep track of specific sources of funding and spending on particular programs:

- Some funds are required by state law.
- The Board establishes other funds to control and manage money for particular purposes (such as repaying its long-term debts) or to show that it is properly using certain revenues (such as Federal grants).

The Board has two types of funds:

- **Governmental Funds:** All of the Board's basic services are included in governmental funds, which generally focus on (1) how cash and other financial assets can readily be converted to cash flow in and out and (2) the balances left at year-end that are available for spending. Consequently, the governmental funds statements provide a detailed short-term view that helps you determine whether there are more or fewer financial resources that can be spent in the near future to finance the Board's programs. Because this information does not encompass the additional long-term focus of the government-wide statements, additional information reported on the Reconciliation of the Balance Sheet of Governmental Funds to the Statement of Net Assets explains the relationship (or differences) between them.
- **Fiduciary Funds:** The Board is the trustee, or fiduciary, for assets that belong to others, such as scholarship funds and the student activities funds. The Board is responsible for ensuring that the assets reported in these funds are used only for their intended purposes and by those to whom the assets belong. The Board excludes these activities from the government-wide financial statements because it cannot use these assets to finance its operations.

### Financial Analysis of the Board as a Whole

As previously noted, over time, net assets may serve as a useful indicator of a government's financial position. The Board's liabilities exceeded assets by \$266.0 million at the close of the most recent fiscal year, compared to \$125.0 million in the prior year, for a decline of \$141.0 million in the current year.

The largest portion of the Board's net assets, an amount totaling \$151.6 million reflects its investment in capital assets (e.g. land, buildings, building improvements) less any outstanding debt used to acquire those assets. The Board uses these capital assets to provide services to citizens; consequently, these assets are not available for future spending. Although the Board's investment in its capital assets is reported net of related debt, it should be noted that the resources needed to repay this debt must be provided from other sources, since the capital assets themselves cannot be used to liquidate these liabilities. The second largest portion of the Board's net assets, totaling \$106.3 million is restricted for JSCB projects and represents unspent funds at the end of the fiscal year, mainly related to the unspent funds related to the Phase V debt issuance in 2010-11. \$76.3 million of the Board's net assets are restricted for debt service, while an additional \$35.8 are subject to external restrictions or State law. The remaining negative balance for unrestricted net assets of \$(635.9) million shows that excess funds are not currently available to meet the Board's ongoing and long term obligations such as OPEB liability.

**Figure A-3**

**Condensed Statement of Net Assets**  
*(in thousands of dollars)*

	Governmental Activities and Total District		Total Percentage Change
	2012	2011	2011-2012
Current and other assets	\$ 579,162	\$ 760,953	-23.9%
Capital assets not being depreciated	123,783	166,127	-25.5%
Capital assets, net of accumulated depreciation	1,035,936	922,116	12.3%
<b>Total assets</b>	<b>\$ 1,738,881</b>	<b>\$ 1,849,196</b>	<b>-6.0%</b>
Long-term liabilities	\$ 1,766,186	\$ 1,756,959	0.5%
Other liabilities	238,662	217,210	9.9%
<b>Total liabilities</b>	<b>2,004,848</b>	<b>1,974,169</b>	<b>1.6%</b>
Invested in capital assets, net of related debt	151,650	152,527	-0.6%
Restricted for:			
Capital development fund	950	1,656	-42.6%
Debt service	76,324	143,596	-46.8%
Endowments	542	534	1.5%
Joint Schools Construction Board projects	106,257	224,350	-52.6%
Judgments and claims	23,000	18,000	27.8%
Stabilization	8,103	8,969	-9.7%
Unemployment Insurance	3,156	3,156	0.0%
Unrestricted (deficit)	(635,949)	(677,761)	6.2%
<b>Total net assets</b>	<b>(265,967)</b>	<b>(124,973)</b>	<b>-112.8%</b>
<b>Total liabilities and net assets</b>	<b>\$ 1,738,881</b>	<b>\$ 1,849,196</b>	<b>-6.0%</b>

Current and other assets decreased \$181.8 million. The largest portion of this decline is the \$117.9 million decline in restricted cash for JSCB projects as the funds are drawn down to reconstruct schools under JSCB Phase IV and Phase V. Additionally, cash restricted for debt service declined \$67.3 million as those funds were used in the defeasance of the JSCB Phase I and Phase II debt.

Capital assets being depreciated increased \$113.8 million due to the completion of several projects in JSCB Phase IV. Capital assets not being depreciated decreased \$42.3 million as several projects in Phase IV that were part of Construction in Process at June 30, 2011 were completed by June 30, 2012. The majority of remaining Construction in Process at June 30, 2012 relates to schools being reconstructed in JSCB Phase V.

Long term liabilities increased \$9.2 million, which consisted of several increases and decreases. OPEB liabilities increased \$101.6 million due to the continued amortization of the unfunded actuarial accrued liability along with the increasing healthcare cost trend. Serial bonds and other long term obligations decreased by \$92.4 million. Contributing to this decrease was the following: JSCB Phase I debt of \$139.4 million was defeased through the issuance of \$112.6 million new bonds and use of reserve funds; JSCB Phase II debt of \$262.1 million was defeased through the issuance of \$209.5 million new bonds and use of reserve funds; \$21.1 million in debt issued by the City of Buffalo for the Board was defeased through the issuance of \$22.1 million in new debt;

\$9.9 million in new debt was issued by the City of Buffalo for the Board; and \$42.5 million in regular payments were made on serial bonds and other debt.

Other liabilities increased \$21.5 million as the result of an increase in the amount due to the City of Buffalo of \$11.6 million for cash advances, a \$6.4 million increase in retirement system contributions due to higher rates in effect, \$5.2 million increase in deferred State revenue and \$3.9 million increase in deferred bond premiums as a result of the refunded JSCB Phase I and Phase II debt. Offsetting these increases was a \$5.5 million decrease in accounts payable, interest payable and accrued liabilities mainly due to timing of payments and a reduction in interest resulting from the debt refunding activity in 2011-12.

**Figure A-4**

**Changes in Net Assets  
(in thousands of dollars)**

	Governmental Activities and Total Board		Total Percentage Change
	2012	2011	2011-2012
<b>Revenues:</b>			
Contributions from City of Buffalo	\$ 54,926	\$ 54,833	0.2%
School tax relief reimbursement	15,397	15,489	-0.6%
Non-property taxes	35,770	34,297	4.3%
Charges for services	3,208	3,410	-5.9%
Operating grants and contributions	144,313	148,882	-3.1%
Use of money and property	4,883	7,197	-32.2%
Miscellaneous	16,249	13,482	20.5%
State and federal aid, unallocated	593,333	594,029	-0.1%
Total revenue	<u>868,079</u>	<u>871,619</u>	<u>-0.4%</u>
<b>Expenses:</b>			
General support	87,553	81,390	7.6%
Instruction - regular	709,320	660,682	7.4%
Instruction - charter school payments	90,252	85,086	6.1%
Pupil transportation	53,740	49,809	7.9%
Community service	130	124	4.8%
Debt service	67,974	62,540	8.7%
Capital outlay	104	2,923	-96.4%
Total expenses	<u>1,009,073</u>	<u>942,554</u>	<u>7.1%</u>
Changes in net assets	(140,994)	(70,935)	98.8%
Net assets-beginning of year	<u>(124,973)</u>	<u>(54,038)</u>	<u>131.3%</u>
Net assets - end of year	<u>\$ (265,967)</u>	<u>\$ (124,973)</u>	<u>112.8%</u>

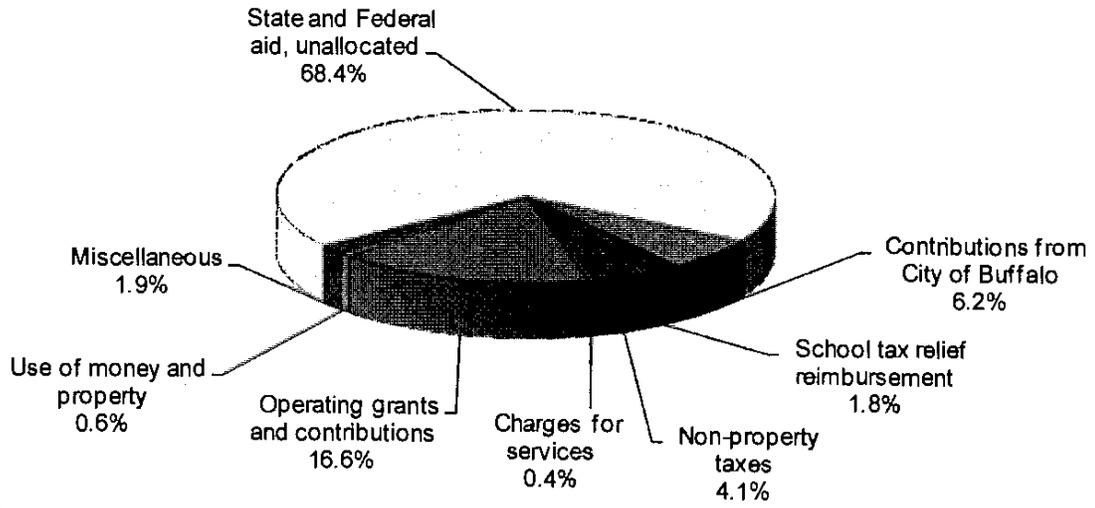
In considering the viability of the Board, it is important to consider that 85% of all revenues come from formula based state aid and operating and capital grants and contributions. Therefore, continued support from these sources is critical to the financial and educational success of the Board. 79% of all expenses are directed to instruction.

Total revenues of \$868.1 million in 2011-12 decreased \$3.5 million from \$871.6 million in 2010-11. Total program revenues, which consist of operating grants and revenues along with charges for services decreased \$4.8 million to \$147.5 million in 2011-12. This decrease was mainly the result of a \$9.4 million decrease in ARRA revenue in the general fund partially offset by an increase in federal aid in special project grants. Unallocated state and federal aid of \$593.3 million was relatively flat when compared to the prior year, as formula based State aid declined \$3.8 million, while lottery aid increased \$4.5 million. Use of money and property decreased \$2.3 million to \$4.9 million due to decreased earnings on lower average JSCB project cash balances and lower debt service reserve balances in 2011-12. Miscellaneous revenues of \$16.2 million increased \$2.7 million in 2011-12.

Total expenses of \$1,009.1 million in 2011-12 increased \$66.5 million from \$942.6 million in 2010-12. Charter school tuition payments of \$90.3 million increased \$5.2 million in 2011-12 due to increased charter school enrollment. Debt service expenditures increased \$5.4 million. Significant increases included a net payment to the escrow agent for refunded debt of \$40.2 million and initial interest payments for JSCB Phase V in the amount of \$7.4 million. Offsetting these increases was a net premium amortization of \$27.9 million and an \$11.7 million decline in interest payments, both related to the refunded JSCB debt. Regular instruction increased \$48.6 million, mainly due to allocated benefits and expenses which included \$10.4 million paid for the state early retirement incentive. General support also increased \$6.2 million due to allocated benefits and expenses.

**Figure A-5**

**Revenues for Fiscal Year 2012**



**Figure A-5**

**Revenues for Fiscal Year 2011**

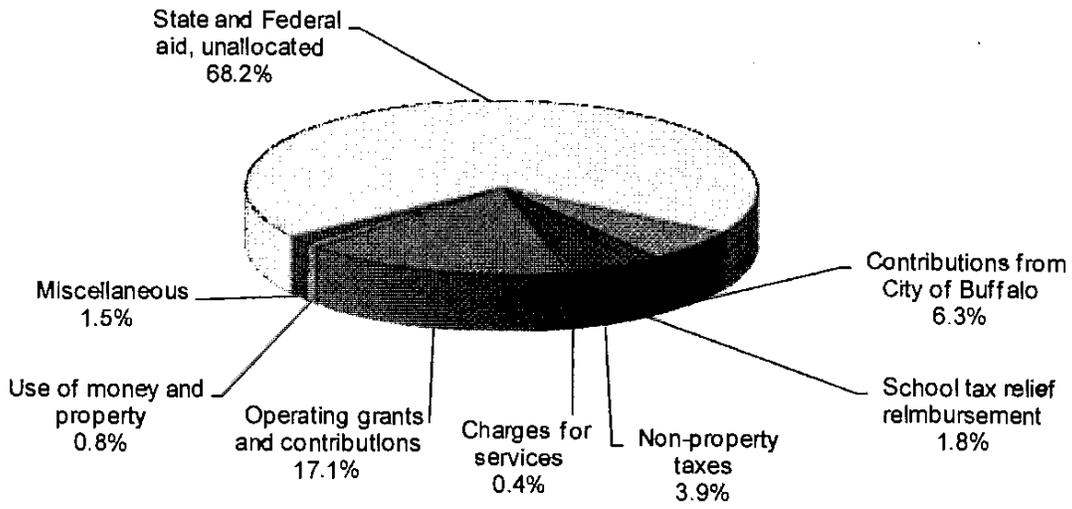


Figure A-6

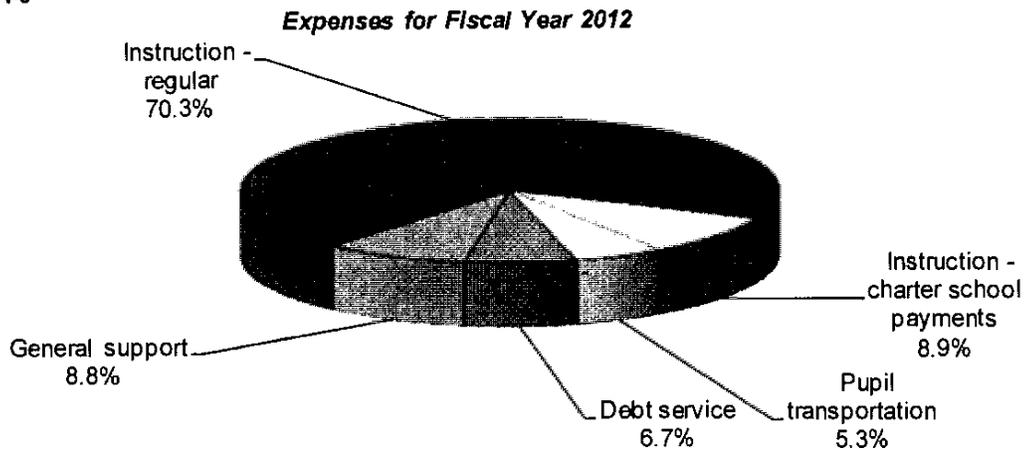
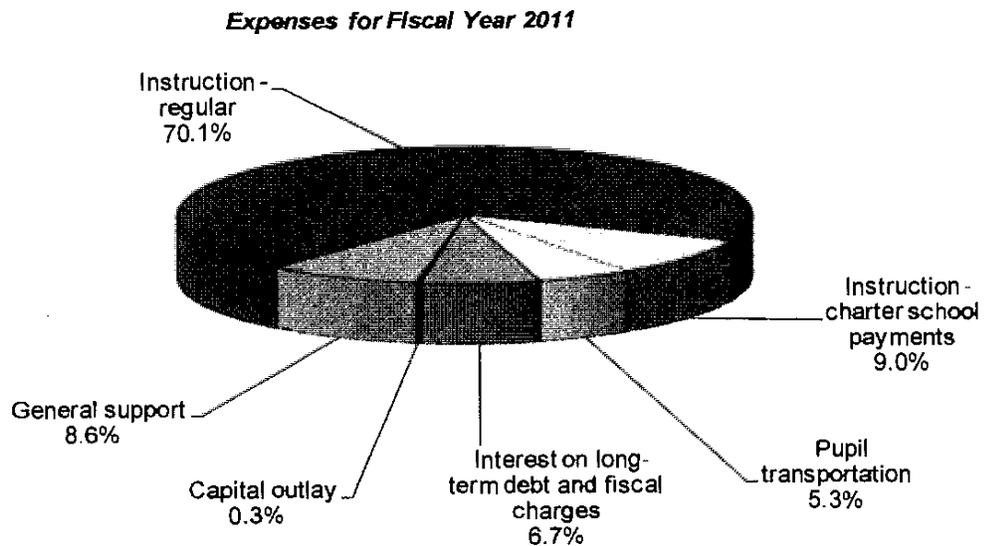


Figure A-6



**Financial Analysis of The Board's Funds**

The General Fund is the chief operating fund of the Board. At the end of 2011-12, the Board had an unassigned fund balance of \$43.6 million and a total fund balance of \$221.2 million. The total decrease was \$14.5 million, which was equal to the general fund operating deficit for 2011-12. As a measure of liquidity, it may be useful to compare the fund balances to the total General Fund expenditures. The unassigned portion of fund balance represents 5.9% of the current year expenditures (a decrease of 0.6% from the previous year), while the total fund balance is 30.1% of the current year expenditures (a decrease of 3.4% from previous year). The Board has designated \$69.8 million for prior year claims for continued litigation by the teachers' union of the wage freeze ruling won by the Board in 2010-11 or settlements with unions whose contracts have expired. This amount is \$10.2 million less than the prior year as \$5.7 million was used to settle the PCTEA contract and another \$4.5 million was reallocated to avoid layoffs and balance the 2012-13 budget. An additional \$6.5 million is designated for prior year claims related to pending state aid audits.

The fund balance in the Joint Schools Construction Board Fund decreased \$118.0 million to \$106.2 million due to the continued spend down of bond proceeds on Phase IV and Phase V projects during the fiscal year. The fund balance in the Debt Service Fund decreased \$67.3 million due to the use of reserve funds in the defeasance of the original JSCB Phase I and Phase II debt. The fund balance in the Capital Funds increased \$3.0 million due to the issuance of \$9.9 million in debt during 2011-12, offset by a \$7.4 million capital outlay. The School Lunch fund balance increased \$1.9 million from previous year, while the Special Aid fund balance was unchanged. These fund balances must be used for the specific purpose of the respective fund and cannot be transferred to the General Fund for general use.

**Figure A-7**

**Revenues, Expenditures and Changes in Fund  
Balances - Governmental Funds  
(In thousands of dollars)**

	<b>2012</b>		
	<u>Revenues</u>	<u>Expenditures</u>	<u>Fund Balances</u>
General Fund	\$ 721,169	\$ 735,690	\$ 221,223
Special Aid Fund	123,187	123,187	-
Joint Schools			
Construction Board Fund	1,503	119,480	106,243
Debt Service Fund	489,906	557,178	76,324
Capital Projects Fund	11,454	8,432	12,434
School Food Service Fund	24,079	22,168	16,791
Special Activities Fund	83	70	201
Permanent Fund	2	6	341
	<b>2011</b>		
	<u>Revenues</u>	<u>Expenditures</u>	<u>Fund Balances</u>
General Fund	\$ 728,200	\$ 704,628	\$ 235,744
Special Aid Fund	118,865	118,865	-
Joint Schools			
Construction Board Fund	169,236	154,112	224,220
Debt Service Fund	133,113	124,660	143,596
Capital Projects Fund	6,049	8,751	9,412
School Food Service Fund	22,695	20,217	14,880
Special Activities Fund	78	66	189
Permanent Fund	2	11	345

## **General Fund Budgetary Highlights**

The general fund ended 2011-12 with a \$14.5 million operating deficit, which was the first general fund deficit since 2002. An operating deficit of \$30.2 million had been budgeted originally, so the fiscal year ended better than expected.

Within the General Fund, there was an overall unfavorable revenue budgetary variance of \$46.2 million. The largest variance, appropriated fund balance, appears as a \$40.8 million unfavorable budget variance, when including the \$5.7 million appropriated for the PCTEA contract settlement and \$4.9 million appropriated for carry over encumbrances. Of the remaining \$30.2 million appropriated fund balance, \$16.0 million was appropriated for 2011-12 operations and \$12.8 million was appropriated for the payment to the New York State Retirement System for the 2010-11 early retirement incentive. These are not true revenues, but are budgeted with the anticipation of an operating loss, which ultimately would decrease fund balance on the balance sheet. State aid, including formula based aid and lottery aid was \$9.1 million under budget due to \$4.0 million less in transportation aid and \$5.1 million in special services aids than were originally budgeted. Less aid was received after the formulas were updated by the State with actual data as opposed to estimates. Sales tax revenue had a favorable variance of \$1.8 million.

The Board had favorable budgetary variances within the General Fund expenditures of \$28.1 million. Employee benefits had a favorable variance \$8.8 million, which included \$3.3 million in favorable variances of Social Security and employee retirement system payments due to vacant positions throughout the year; unemployment insurance and workers' compensation were under budget by \$2.0 million and \$1.7 million, respectively, as anticipated expenditure increases did not materialize; and medical insurance for active employees and retirees was \$1.1 million under budget due to vacant positions during the year.

Regular instruction had a favorable variance of \$4.9 million due to the combination of vacant positions during the year and lower actual average salaries than those budgeted. Charter school tuition payments came in \$2.3 million under budget as charter school student enrollment was less than anticipated.

Transportation had a favorable variance of \$2.8 million as contract transportation expenses came in under budget due to savings in fuel costs and more efficient route scheduling. Additionally, costs of public transportation and salaries and overtime had favorable variances.

Central services had a favorable variance of \$6.3 million, of which, \$5.5 million was related the Plant division, with smaller favorable variances in data processing, service center operations and mailing. Favorable budget variances in the plant division included the following: natural gas of \$1.8 million and electricity of \$1.6 million; custodial services for salaries, benefits and contractual expenditures of \$0.9 million; plant services including salaries, equipment and facility rental of \$0.5 million. Additional savings in central services related salaries, overtime, materials, supplies and contractual expenditures were the result of cost controls instituted during the year.

Instruction, Administration and Improvements had a favorable variance of \$1.4 million due to more vacancies than budgeted.

Pupil Services had a favorable variance of \$0.6 million, much of which was related to vacancies and deferred spending on athletics and equipment.

**Capital Asset and Debt Administration**

**Capital Assets**

The Board's investment in capital assets (net of accumulated depreciation) for its governmental funds totaled \$1,159.7 million as of June 30, 2012. This investment in capital assets includes land, buildings and building improvements, land improvements and equipment. The net increase from the previous fiscal year was \$71.5 million, mainly due to the increase of building improvements and related construction in process of \$125.5 million offset by a \$58.2 million increase in accumulated depreciation. Spending on building improvements was related mainly to schools being reconstructed under JSCB Phase IV and Phase V.

**Figure A-8**

**Capital Assets Net of Depreciation  
(in thousands of dollars)**

	Governmental Activities and Total District		Percentage Change
	2012	2011	2011-2012
Land	\$ 3,622	\$ 3,622	0.0%
Construction work in process	120,161	162,506	-26.1%
Land improvements	1,533	366	318.9%
Buildings	1,026,576	915,422	12.1%
Equipment	7,827	6,327	23.7%
<b>Total</b>	<b>\$ 1,159,719</b>	<b>\$ 1,088,243</b>	<b>6.6%</b>

**Long-Term Debt**

Total long-term debt outstanding at June 30, 2012 totaled \$1,766.2 million, of which \$1,212.9 million pertained to bonded debt. During the year, normal principal payments on bonded debt totaled \$41.0 million. Debt related to JSCB Phase I and Phase II was refinanced during 2011-12 resulting in a defeasance of the original debt in the amounts of \$139.4 million and \$262.1 million, respectively. The new debt issued to replace the JSCB Phase I and Phase II debt was \$112.6 million and 209.5 million, respectively. These school facility revenue bonds for JSCB projects were issued by the Erie County Industrial Development Agency. Additionally, the City of Buffalo, on behalf of the Board, issued \$22.1 million in refunding bonds which redeemed \$21.1 million in higher rate debt. Other post employment benefits, primarily health insurance, increased \$101.6 million, while other long term obligations, primarily related to workers comp, increased by \$18.6 million.

**Figure A-9**

**Outstanding Long-Term Debt  
(In thousands of dollars)**

	Governmental Activities and Total District		Percentage Change
	2012	2011	2011-2012
Due to City of Buffalo Debt Service Fund	\$ 115,417	\$ 116,616	-1.0%
Revenue bonds payable	21,970	22,585	-2.7%
JSCB bonds payable	1,075,465	1,183,170	-9.1%
Post employment benefits	478,422	376,827	27.0%
Other long-term obligations	74,912	57,761	29.7%
Total	<u>\$ 1,766,186</u>	<u>\$ 1,756,959</u>	<u>0.5%</u>

Additional information on the Board's long-term debt can be found in Note 4 to the financial statements on pages A24-A27 of this report.

**Factors Bearing on the Board's Future**

The 2012-13 Adopted General Fund Budget totaled \$780.0 million, an increase of \$23.2 million from the prior year. The budget includes an increase of 173 full time equivalent positions, the majority of which are teaching position that were funded by the Federal Jobs Program that expired in 2011-12. The budget also includes an increase of \$16.0 million in debt service payments for JSCB Phase V and \$20.4 million of fund balance is used to balance the budget.

The enacted State budget linked the provision of additional state aid to compliance with a new teacher evaluation process. The Board will lose all of its budgeted aid increase of \$33.4 million if an evaluation process is not approved by the State by January 17, 2013. Additionally, savings of \$4.2 million related to the closure of one Charter School are being litigated and are outside the Board's control.

The Board faces a structural deficit in the coming years as Charter school enrollment, health care costs and pension costs are all expected to continue to rise, while the Board has little control over revenues, 81% of which comes from the State. Several labor contracts that are expired remain unsettled, however in addition to the PCTEA contract settled in 2011-12, the contract for the Board's Blue Collar union was settled in 2012-13.

**Contacting the Board's Financial Management**

This financial report is designed to provide the Board's citizens, taxpayers, customers, and investors and creditors with a general overview of the Board's finances and to demonstrate the Board's accountability for the money it receives. If you have questions about this report or need additional financial information, contact the Office of the Chief Financial Officer, Buffalo City School Board, 708 City Hall, Buffalo, New York 14202.

BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK  
STATEMENT OF NET ASSETS  
JUNE 30, 2012

ASSETS

Cash and cash equivalents	\$	287,279
Cash held by the City of Buffalo		280,463,331
Cash with fiscal agent		67,626,694
Cash and cash equivalents - restricted		118,031,026
Accounts receivable		4,174,000
State and federal aid receivable		80,547,414
Due from other governments		5,093,379
Inventory		1,965,182
Bond issuance costs, net		20,974,390
Capital assets not being depreciated		123,782,771
Capital assets, net of accumulated depreciation		1,035,935,831
Total assets	\$	1,738,881,297

LIABILITIES AND NET ASSETS

LIABILITIES:

Accounts payable	\$	30,162,775
Interest payable		10,747,301
Accrued liabilities		12,436,005
Due to fiduciary funds		538,838
Due to other governments		766,168
Due to City of Buffalo		44,765,982
Due to retirement systems		30,780,150
Deferred bond premium, net		103,284,253
Unearned revenue		5,180,875
Long-term liabilities:		
Due and payable within one year		68,389,797
Due and payable after one year		1,697,795,991
Total liabilities		2,004,848,135

NET ASSETS:

Invested in capital assets, net of related debt	\$	151,649,856
Restricted for:		
Capital development fund		950,080
Debt service		76,324,077
Endowments		542,309
Joint Schools Construction Board projects		106,256,723
Judgment and claims		23,000,000
Stabilization		8,103,160
Unemployment insurance		3,156,044
Unrestricted (deficit)		(635,949,087)
Total net assets	\$	(265,966,838)

See notes to basic financial statements.

BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK  
STATEMENT OF ACTIVITIES  
FOR THE YEAR ENDED JUNE 30, 2012

		Program Revenues			
	Expenses	Charges for Services	Operating Grants and Contributions	-	Net (Expense) Revenue and Changes in Net Assets
Governmental activities:					
General support	\$ 87,553,295	\$ -	\$ -	\$ -	(87,553,295)
Instruction - regular	709,319,849	3,208,242	143,210,124		(562,901,483)
Instruction - charter school payments	90,251,983	-	-		(90,251,983)
Pupil transportation	53,740,895	-	-		(53,740,895)
Debt Service	67,973,039	-	1,103,000		(66,870,039)
Home and community services	129,685	-	-		(129,685)
Capital outlay	103,855	-	-		(103,855)
	<u>\$ 1,009,072,601</u>	<u>\$ 3,208,242</u>	<u>\$ 144,313,124</u>		<u>(861,551,235)</u>

General revenues:

Contribution from City of Buffalo	54,926,228
School tax relief reimbursement	15,396,530
Non-property taxes	35,770,200
Use of money and property	4,883,133
State aid - basic formula	517,326,299
State aid - lottery	76,006,894
Other miscellaneous revenues	16,249,024
Total general revenues	<u>720,558,308</u>

Change in net assets (140,992,927)

Net assets - beginning of year (124,973,911)

Net assets - end of year \$ (265,966,838)

See notes to basic financial statements.

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**BALANCE SHEET - GOVERNMENTAL FUNDS**  
**JUNE 30, 2012**

	General	Special Aid	Joint Schools Construction Board	Debt Service	Non-Major Governmental Funds	Total Governmental Funds
<b>ASSETS:</b>						
Cash and cash equivalents	\$ 85,500	\$ -	\$ -	\$ -	\$ 201,779	\$ 287,279
Cash held by City of Buffalo	252,549,053	-	-	-	27,914,278	280,463,331
Cash with fiscal agent	2,338,106	-	-	65,288,588	-	67,626,694
Cash and cash equivalents - restricted	411,748	-	106,242,959	11,035,489	340,830	118,031,026
Accounts receivable	4,050,139	27,579	-	-	96,282	4,174,000
Due from other funds	10,344	-	-	-	-	10,344
State and federal aid receivable	26,110,750	52,782,245	-	-	1,654,419	80,547,414
Due from other governments	5,093,379	-	-	-	-	5,093,379
Inventory	1,003,622	-	-	-	961,560	1,965,182
<b>Total assets</b>	<b>\$ 291,652,641</b>	<b>\$ 52,809,824</b>	<b>\$ 106,242,959</b>	<b>\$ 76,324,077</b>	<b>\$ 31,169,148</b>	<b>\$ 558,198,649</b>
<b>LIABILITIES AND FUND BALANCES:</b>						
Accounts payable	\$ 24,589,798	\$ 4,333,215	\$ -	\$ -	\$ 1,239,762	\$ 30,162,775
Accrued liabilities	8,579,753	3,710,627	-	-	145,625	12,436,005
Due to other funds	549,182	-	-	-	-	549,182
Due to other governments	749,678	-	-	-	16,490	766,168
Due to City of Buffalo	-	44,765,982	-	-	-	44,765,982
Due to retirement systems	30,780,150	-	-	-	-	30,780,150
Unearned Revenue	5,180,875	-	-	-	-	5,180,875
<b>Total liabilities</b>	<b>70,429,436</b>	<b>52,809,824</b>	<b>-</b>	<b>-</b>	<b>1,401,877</b>	<b>124,641,137</b>
<b>FUND BALANCES:</b>						
Non-spendable	1,003,622	-	-	-	1,285,561	2,289,183
Restricted	34,259,204	-	106,242,959	76,324,077	1,182,153	218,008,393
Assigned	142,343,034	990,395	-	-	27,299,557	170,632,986
Unassigned (deficit)	43,617,345	(990,395)	-	-	-	42,626,950
<b>Total fund balances</b>	<b>221,223,205</b>	<b>-</b>	<b>106,242,959</b>	<b>76,324,077</b>	<b>29,767,271</b>	<b>433,557,512</b>
<b>Total liabilities and fund balances</b>	<b>\$ 291,652,641</b>	<b>\$ 52,809,824</b>	<b>\$ 106,242,959</b>	<b>\$ 76,324,077</b>	<b>\$ 31,169,148</b>	<b>\$ 558,198,649</b>

See notes to basic financial statements.

BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK  
RECONCILIATION OF THE BALANCE SHEET OF GOVERNMENTAL FUNDS  
TO THE STATEMENT OF NET ASSETS  
JUNE 30, 2012

Amounts reported for governmental activities in the statement of net assets are different because:

Total fund balances - governmental funds	\$ 433,557,512
Capital assets used in governmental activities are not financial resources and, therefore, are not reported in the funds. The cost of the assets are \$1,621,455,579 and the accumulated depreciation is \$461,736,977.	1,159,718,602
Post employment benefit liability not due and payable in the current period and therefore not reported in the funds.	(478,422,000)
Long-term liabilities, including bonds payable, compensated absences, judgment & claims, and amounts due to the City of Buffalo for debt not due and payable in the current period and therefore are not reported in the funds.	(1,287,763,788)
To recognize interest accrual on long-term debt.	(10,747,301)
Bond issue costs are reported as expenditures in the governmental funds. The cost is \$40,661,091 and the accumulated amortization is \$19,686,701.	20,974,390
Bond premiums are recorded as revenues in the governmental funds. The premium is \$175,771,964 and the accumulated amortization is \$72,487,711.	<u>(103,284,253)</u>
Total net assets - governmental activities	\$ <u><u>(265,966,838)</u></u>

See notes to basic financial statements.

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES -**  
**GOVERNMENTAL FUNDS**  
**FOR YEAR ENDED JUNE 30, 2012**

	General	Special Aid	Joint Schools Construction Board	Debt Service	Non-Major Governmental Funds	Total Governmental Funds
<b>REVENUES:</b>						
Contribution from City of Buffalo	\$ 54,926,228	\$ -	\$ -	\$ -	\$ -	\$ 54,926,228
School tax relief reimbursement	15,396,530	-	-	-	-	15,396,530
Non-property taxes	35,770,200	-	-	-	-	35,770,200
Charges for services	1,677,228	-	-	-	1,531,014	3,208,242
Use of money and property	78,502	-	629,740	4,167,406	7,485	4,883,133
Sale of property and compensation for loss	28,014	-	-	-	-	28,014
Miscellaneous local sources	16,005,835	3,586,893	-	-	215,175	19,807,903
State sources	593,453,912	30,040,580	-	-	927,843	624,422,335
Federal sources	2,238,275	86,216,036	-	-	21,182,778	109,637,089
<b>Total revenues</b>	<b>719,574,724</b>	<b>119,843,509</b>	<b>629,740</b>	<b>4,167,406</b>	<b>23,864,295</b>	<b>868,079,674</b>
<b>EXPENDITURES:</b>						
General support	64,118,435	2,692,295	-	-	1,092,328	67,903,058
Instruction - regular schools	254,949,519	93,083,288	-	-	19,024,750	367,057,557
Instruction - charter school	90,251,983	-	-	-	-	90,251,983
Pupil transportation	45,177,589	2,492,287	-	-	-	47,669,876
Home and community services	25,949	-	-	-	76,768	102,717
Employee benefits	165,723,601	24,918,828	-	-	1,769,957	192,412,386
Debt service:						
Principal and interest	-	-	-	163,876,619	-	163,876,619
Bond issuance costs	-	-	-	5,501,986	309,517	5,811,503
Capital outlay	-	-	119,479,969	-	7,411,555	126,891,524
<b>Total expenditures</b>	<b>620,247,076</b>	<b>123,186,698</b>	<b>119,479,969</b>	<b>169,378,605</b>	<b>29,684,875</b>	<b>1,061,977,223</b>

See notes to basic financial statements.

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES -**  
**GOVERNMENTAL FUNDS**  
**FOR YEAR ENDED JUNE 30, 2012**  
(Continued)

	General	Special Aid	Joint Schools Construction Board	Debt Service	Non-Major Governmental Funds	Total Governmental Funds
Excess (deficit) of revenues over expenditures	99,327,648	(3,343,189)	(118,850,229)	(165,211,199)	(5,820,580)	(193,897,549)
<b>OTHER FINANCING SOURCES (USES):</b>						
Proceeds from bond issues	-	-	-	344,175,000	9,900,000	354,075,000
Premium on issuance of debt	-	-	-	-	259,344	259,344
Premium on refunding bonds	-	-	-	46,940,358	-	46,940,358
Payment to refunded bond escrow agent	-	-	-	(385,613,124)	-	(385,613,124)
Transfer to City of Buffalo debt service fund	(16,592,210)	-	-	-	-	(16,592,210)
Use of reserves	-	-	-	-	(711,310)	(711,310)
Interfund transfers in	1,594,098	3,343,189	873,186	94,623,557	1,595,041	102,029,071
Interfund transfers out	(98,850,477)	-	-	(2,186,059)	(281,225)	(101,317,761)
<b>Total other financing sources (uses)</b>	<b>(113,848,589)</b>	<b>3,343,189</b>	<b>873,186</b>	<b>97,939,732</b>	<b>10,761,850</b>	<b>(930,632)</b>
Net change in fund balances	(14,520,941)	-	(117,977,043)	(67,271,467)	4,941,270	(194,828,181)
Fund balances - beginning of year	235,744,146	-	224,220,002	143,595,544	24,826,001	628,385,693
Fund balances - end of year	<u>\$ 221,223,205</u>	<u>\$ -</u>	<u>\$ 106,242,959</u>	<u>\$ 76,324,077</u>	<u>\$ 29,767,271</u>	<u>\$ 433,557,512</u>

See notes basic financial statements.

BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK  
RECONCILIATION OF GOVERNMENTAL FUNDS, STATEMENT OF  
REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES  
TO THE STATEMENT OF ACTIVITIES  
FOR THE YEAR ENDED JUNE 30, 2012

Amounts reported for governmental activities in the statement of net assets are difference because:

Net change in fund balances - total governmental funds \$ (194,828,181)

Governmental funds report capital outlays as expenditures. However, in the statement of activities, assets with an initial, individual cost of more than \$5,000 are capitalized and the cost is allocated over their estimated useful lives and reported as depreciation expense. This is the amount by which capital outlays exceeded depreciation in the current period, net of related losses on disposal of capital assets.

Capital outlays	\$ 129,716,559	
Depreciation expense	<u>(58,241,263)</u>	71,475,296

The governmental funds report bond proceeds and other long-term debt as an other financing source, while repayment of bond principal is reported as an expenditure. Also, governmental funds report the effect of issuance costs and premiums when debt is first issued, whereas these amounts are deferred and amortized in the statement of activities. Interest is recognized as an expenditure in the governmental funds when it is due. In the statement of activities, interest expense is recognized as it accrues, regardless of when it is due. The net effect of these differences in the treatment of general obligation bonds and related items is as follows:

General obligation bond proceeds	\$ (9,900,000)	
Refunding bond proceeds	(344,175,000)	
Bond premium	(47,199,702)	
Bond issuance costs	5,811,504	
Repayment of bond principal (due to City of Buffalo)	33,173,739	
Repayment of due to other governments	713,332	
Repayment of revenue bonds payable	615,000	
Repayment of Joint School Construction Board debt	429,805,000	
Repayment of other long-term debt - EPC	827,252	
Interest expense - general obligation bonds	1,094,273	
Amortization of bond issuance costs	(11,449,128)	
Amortization of bond premium	<u>43,329,445</u>	102,645,715

In the statement of activities, certain operating expenses - compensated absences (vacation & sick leave), amounts due to retirement systems, judgment and claims and workers' compensation - are measured by the amounts earned during the year. In the governmental funds, however, expenditures for these items are measured by the amount of financial resources used (essentially, the amounts actually paid). The net effect of these differences is as follows:

Compensated absences	\$ (140,194)	
Repayment of judgments and claims	310,829	
Worker's Compensation	(18,861,392)	
Net other post employment benefits expense	<u>(101,595,000)</u>	<u>(120,285,757)</u>

Change in net assets of governmental activities \$ (140,992,927)

BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK  
STATEMENT OF NET ASSETS -  
FIDUCIARY FUNDS  
JUNE 30, 2012

	Private Purpose Trust	Agency
<b>ASSETS</b>		
Cash and cash equivalents	\$ -	\$ 11,575
Cash and cash equivalents - restricted	5,965	753,580
Due from other funds	-	549,182
<b>Total assets</b>	<b>\$ 5,965</b>	<b>\$ 1,314,337</b>
<b>LIABILITIES AND NET ASSETS</b>		
<b>LIABILITIES:</b>		
Employee benefits	\$ -	\$ 549,183
Extraclassroom activity balances	-	753,580
Due to other funds	-	10,344
<b>Total liabilities</b>	-	1,313,107
<b>NET ASSETS:</b>		
Reserved for agency	-	1,230
Reserved for scholarships	5,965	-
<b>Total net assets</b>	<b>5,965</b>	<b>1,230</b>
<b>Total liabilities and net assets</b>	<b>\$ 5,965</b>	<b>\$ 1,314,337</b>

See notes to basic financial statements.

BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK  
STATEMENT OF CHANGES IN NET ASSETS -  
FIDUCIARY FUND  
FOR THE YEAR ENDED JUNE 30, 2012

	<u>Private Purpose Trust</u>
ADDITIONS:	
Interest	\$ 9
Other revenues	-
	9
DEDUCTIONS:	
Scholarships	-
	-
Change in net assets	9
Net assets - beginning of year	5,956
Net assets - end of year	\$ 5,965

See notes to basic financial statements.

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**NOTES TO BASIC FINANCIAL STATEMENTS**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

The basic financial statements of the Board of Education, City of Buffalo, New York (the Board), a component unit of the City of Buffalo, New York (the City) have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP) as applied to governmental units. The Governmental Accounting Standards Board (GASB) is the accepted standard setting body for establishing governmental accounting and financial reporting principles. The more significant of the Board's accounting policies are described below.

**A. FINANCIAL REPORTING ENTITY**

The Board is a unit of local government created under the Constitution of the State. The Board is financially dependent upon the City and other governments and has no independent authority to contract bonded indebtedness or levy taxes, with the exception of the Special Program Revenue Bonds issued by the State of New York Municipal Bond Bank Agency (see Note 3., B., 3).

The Board is governed by the Education Law and other laws of the State of New York. The Board of Education is an independent entity consisting of nine members.

The scope of activities included within the accompanying financial statements are those transactions which comprise Board operations and are governed by, or significantly influenced by, the Board of Education. Essentially, the primary function of the Board is to provide education for pupils. Services such as transportation of pupils, administration, finance, and plant maintenance support the primary function. The financial reporting entity includes all funds, account groups, functions and organizations over which Board officials exercise oversight responsibility.

The reporting entity of the Board is based upon criteria set forth by the Governmental Accounting Standards Board. The financial reporting entity consists of the primary government, organizations for which the primary government is financially accountable and other organizations for which the nature and significance of their relationship with the primary government are such that exclusion would cause the reporting entity's financial statements to be misleading or incomplete.

The accompanying financial statements present the activities of the Board. The Board is a component unit of the City of Buffalo.

The decision to include a potential component unit in the Board's reporting entity is based on several criteria including legal standing, fiscal dependency, and financial accountability. Based on the application of these criteria, the following is a brief description of certain entities included in the Board's reporting entity.

**1. Included in the Reporting Entity**

The Extraclassroom Activity Funds of the Board represent funds of the students of the various schools. The Board of Education exercises general oversight of these funds. The Extraclassroom Activity Funds are independent of the Board with respect to financial transactions and designation of student management. The Board accounts for assets held as an agent for various student organizations in the Agency Fund of the Board.

BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK  
NOTES TO BASIC FINANCIAL STATEMENTS

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

B. BASIS OF PRESENTATION

1. District-wide statements:

The Statement of Net Assets and the Statement of Activities present financial information about the Board's governmental activities. These statements include the financial activities of the overall government in its entirety, except those that are fiduciary. Eliminations have been made to minimize the double counting of internal transactions. Governmental activities generally are financed through a City contribution, State aid, intergovernmental revenues, and other exchange and nonexchange transactions. Operating grants include specific operating and discretionary (either operating or capital) grants.

The Statement of Activities presents a comparison between direct expenses and program revenues for each function of the Board's governmental activities. Direct expenses are those that are specifically associated with and are clearly identifiable to a particular function. Indirect expenses, principally employee benefits, are allocated to functional areas in proportion to the payroll expended for those areas. Program revenues include charges paid by the recipients of goods or services offered by the programs, and grants and contributions that are restricted to meeting the operational or capital requirements of a particular program. Revenues that are not classified as program revenues, including the City contribution and all taxes, are presented as general revenues.

2. Fund financial statements:

The fund financial statements provide information about the Board's funds, including fiduciary funds each of which is accounted for by providing a separate set of self-balancing accounts that constitute its assets, liabilities, fund equity, revenue and expenditures. Funds are organized into two categories (governmental and fiduciary) as presented. An emphasis is placed on major governmental funds, within the governmental fund category. All remaining governmental funds are aggregated and reported as non-major governmental funds. A fund is considered major if it is the primary operating fund of the Board or meets the following criteria:

- a. Total assets, liabilities, revenues, or expenditures/expenses of that individual governmental fund are at least 10 percent of the corresponding total for all funds of that category or type; and
- b. Total assets, liabilities, revenues, or expenditures/expenses of the individual governmental fund are at least 5 percent of the corresponding total for all governmental funds combined.

The Board reports the following major governmental funds:

General Fund - This is the Board's primary operating fund. It accounts for all financial transactions that are not required to be accounted for in another fund.

Special Aid Fund: This fund accounts for the proceeds of specific revenue sources, such as Federal and State grants that are legally restricted to expenditures for a specified purpose. These legal restrictions may be imposed either by governments that provide the funds or by outside parties.

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**NOTES TO BASIC FINANCIAL STATEMENTS**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

Joint Schools Construction Board (JSCB) Fund - The JSCB fund is used to account for transactions associated with the design, construction, reconstruction, and financing of public educational facilities in the City. The JSCB is authorized to act as an agent to enter into contracts on behalf of the Board and the Common Council of the City of Buffalo, New York (the Council) for the construction of new educational facilities in accordance with applicable state and local laws.

Debt Service Fund - The debt service fund is used to account for payments made on the Board's long-term debt, except for amounts held by the City. Those payments are recorded in the general and capital funds as transfers to the City of Buffalo.

The Board reports the following governmental funds as non-major governmental funds:

Capital Projects Fund - This fund is used to account for the financial resources used for acquisition, construction, or major repair of capital facilities.

School Food Service Fund - This fund is used to record the Board's breakfast, lunch, summer food, and Root Culinary programs.

Special Activities Fund - This fund is used to account for transactions that support the Board's regular programs. The proceeds are legally restricted to expenditures for specified purposes.

Permanent Fund - This fund is used to report resources, that are legally restricted to the extent that only earnings, and not principal, may be used for purposes that support the Board's programs.

The Board reports the following fiduciary funds:

Fiduciary Funds - These funds are used to account for fiduciary activities. Fiduciary activities are those in which the Board acts as trustee or agent for resources that are the property of others. These activities are not included in the government-wide financial statements, because their resources are not the property of the Board, and are not available to be used. There are two classes of fiduciary funds:

Private Purpose Trust Funds: Those funds are used to account for trust arrangements in which principal and income benefits annual third party awards and scholarships for students. Established criteria govern the use of the funds and members of the Board or representatives of the donors may serve on committees to determine who benefits.

Agency Funds: These funds are strictly custodial in nature and do not involve the measurement of results of operations. Assets are held by the Board as agent for various student groups or extraclassroom activity funds and for payroll or employee withholdings.

**C. MEASUREMENT FOCUS AND BASIS OF ACCOUNTING**

The government-wide and fiduciary fund financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded at the time liabilities are incurred, regardless of when the related cash transaction takes place. Nonexchange transactions, in which the Board gives or receives value without directly receiving or giving equal value in exchange, include the City contribution, taxes, grants and donations. Revenue from grants and donations are recognized in the fiscal year in which all eligibility requirements have been satisfied.

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**NOTES TO BASIC FINANCIAL STATEMENTS**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

The governmental fund statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Under this method, revenues are recognized when measurable and available. The Board considers all revenues reported in the governmental funds to be available if the revenues are collected within one year after the end of the fiscal year.

Expenditures are recorded when the related fund liability is incurred, except for principal and interest on general long-term debt, claims and judgments, post employment benefits other than pensions and compensated absences, which are recognized as expenditures to the extent they have matured. General capital asset acquisitions are reported as expenditures in governmental funds. Proceeds of general long-term debt and acquisitions under capital leases are reported as other financing sources.

**D. BUDGETARY DATA**

**1. BUDGET POLICIES**

Prior to May 1, the Board submits to the Mayor of the City its budget request and financial plan for the fiscal year beginning July 1. On or before May 1, the Mayor submits to the Council a complete operating plan which includes the Board's estimated revenues and proposed expenditures. The Council then acts upon the Mayor's recommended Board budget and may make additions or deletions within its authority as provided by the City Charter. The Board's budget, as approved by the Council, is limited to total estimated revenues and proposed expenditures.

A formal annual budget for the General Fund is adopted on a basis consistent with accounting principles generally accepted in the United States of America except that the encumbrances are treated as budgeted expenditures in the year of incurrence of the commitment to purchase. Encumbrances outstanding at year-end are accounted for by an assignment of fund balance under GAAP. All unencumbered appropriations lapse at the end of the fiscal year. Budgetary comparisons presented in this report are on the budgetary basis and represent the budget as modified. A reconciliation to convert GAAP basis fund balances to the budgetary basis is provided in Note 2.

Program budgets are adopted for Special Aid Fund related grants and the School Food Service Fund at the program's inception and lapse upon completion of the program. These grant programs do not necessarily coincide with the Board's fiscal year.

Capital projects are subject to project budgets determined primarily by the City's bonding authorization used to fund a particular project rather than annual budgetary appropriations. These budgets do not lapse at year-end; rather, they lapse upon completion of the project.

**2. BUDGET BASIS OF ACCOUNTING**

Budgets are adopted annually on a basis consistent with accounting principles generally accepted in the United States of America. Appropriations authorized for the current year are increased by the amount of encumbrances carried forward from the prior year.

The General Fund is the only fund with a legally approved budget for the fiscal year ended June 30, 2012, and therefore, is the only fund that is required to be presented on the Budgetary Comparison Schedule.

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**NOTES TO BASIC FINANCIAL STATEMENTS**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

**E. CASH AND CASH EQUIVALENTS**

The Board's cash and cash equivalents consists of cash on hand, demand deposits, and cash held by the City of Buffalo. Cash equivalents include amounts invested in short-term interest bearing accounts with an original maturity of three months or less.

**F. RESTRICTED ASSETS**

Certain assets are classified on the balance sheet as restricted because their use is limited. Donations to be used towards scholarships in the Private Purpose Trust Fund and funds supporting extraclassroom activities in the Agency Fund, are restricted specifically for those purposes. Certain proceeds from serial bonds and bond anticipation notes, as well as resources set aside for their repayment, are classified as restricted assets in the governmental and government-wide financial statements and their use is limited by applicable bond covenants.

**G. ACCOUNTS RECEIVABLE**

Accounts receivables are shown at gross with uncollectible amounts recognized under the direct write-off method. No allowance for uncollectible accounts has been provided since management has determined that all accounts receivable will be collectible.

**H. INVENTORY**

Inventories of food and/or supplies in the General and School Food Service Funds are recorded at cost on a first-in, first-out basis or, in the case of surplus food, at stated value which approximates market. Purchases of inventorable items in other funds are recorded as expenditures at the time of purchase and are considered an immaterial amount.

These assets are classified as non-spendable to signify that portion of fund balance that is not available for other purposes.

**I. INTERFUND TRANSACTIONS**

The operations of the Board include transactions between funds. These transactions may be temporary in nature, such as with interfund borrowings. The Board typically loans resources between funds for the purpose of providing cash flow. These interfund receivables and payables are expected to be repaid within one fiscal year. Permanent transfers of funds include the transfer of expenditures and revenues to provide financing or other services. In the government-wide statements eliminations have been made for all interfund receivables and payables between governmental funds.

The governmental funds report all interfund transactions as originally recorded. Interfund receivables and payables may be netted on the accompanying governmental funds balance sheet when it is the Board's practice to settle these amounts at a net balance based upon the right of legal offset.

Refer to Note 3., A., 3 for a detailed disclosure by individual fund for interfund receivables, payables, expenditures and revenues activity.

**J. CAPITAL ASSETS**

Capital assets are reported at actual cost for acquisitions subsequent to June 30, 2002. For assets acquired prior to June 30, 2002 estimated historical costs were used. Donated assets are reported at estimated fair market value at the time received.

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**NOTES TO BASIC FINANCIAL STATEMENTS**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

Capitalization thresholds (the dollar value above which asset acquisitions are added to the capital asset accounts), depreciation methods, and estimated useful lives of capital assets reported in the government-wide statements are as follows:

	<u>Capitalization Threshold</u>	<u>Depreciation Method</u>	<u>Estimated Useful Life</u>
Buildings	\$ 5,000	straight-line	50 years
Building improvements	5,000	straight-line	20 years
Land improvements	5,000	straight-line	20 years
General Equipment	5,000	straight-line	10 years
Computer, business machine, and audio visual equipment	5,000	straight-line	5 years
Automotive	5,000	straight-line	7 years

**K. INSURANCE**

The Board carries insurance coverage for buildings, equipment and inventory, but self-insures against liability for most other risks including, but not limited to general liabilities, workers' compensation, and personal injury liability. Judgments and claims are recorded when it is probable that an asset has been impaired or a liability has been incurred and the amount of loss can be reasonably estimated.

**L. VESTED EMPLOYEE BENEFITS**

Sick leave eligibility and accumulation is specified in negotiated labor contracts, and in individual employment contracts. Sick leave use is based on a last-in first-out (LIFO) basis. Upon retirement, resignation or death, employees may receive a payment based on unused accumulated sick leave, based on contractual provisions.

Board employees are granted vacation in varying amounts, based primarily on length of service and service position. Some earned benefits may be forfeited if not taken within varying time periods.

Consistent with GASB Statement No. 16, *Accounting for Compensated Absences*, an accrual for accumulated sick leave is included in the compensated absences liability at year-end. The compensated absences liability is calculated based on contractual provisions. The Board has accrued a liability for compensated absences which has been calculated at rates in effect as of the balance sheet date.

In the fund statements only, the amount of matured liabilities is accrued within the General Fund based on expendable and available resources. These amounts are expensed on a pay-as-you-go basis.

**M. OTHER BENEFITS**

Board employees participate in New York State Teachers' Retirement System and the New York State Employees' Retirement System.

In addition to providing retirement benefits, the Board provides post-employment health insurance coverage and survivor benefits to its retired employees and their survivors in accordance with the provisions of various employment contracts in effect at the time of retirement. Substantially all employees may become eligible for these benefits if they reach normal retirement age while working for the Board. Healthcare benefits are provided through plans whose premiums are based on benefits paid during the year. The cost of providing post-retirement benefits is shared between the Board and the retired employee. The Board recognizes the cost of providing health insurance by recording its share of the insurance premium as an expenditure.

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**NOTES TO BASIC FINANCIAL STATEMENTS**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

**N. ACCRUED LIABILITIES AND LONG-TERM OBLIGATIONS**

Payables, accrued liabilities and long-term obligations are reported in the government-wide financial statements. In the governmental funds, payables and accrued liabilities are paid in full from current financial resources. Claims and judgments, and compensated absences that will be paid from governmental funds, are reported as a liability in the fund financial statements only to the extent that they are due for payment in the current year. Bonds and other long-term obligations that will be paid from governmental funds are recognized as a liability in the fund financial statements when due.

In the fund financial statements, governmental fund types recognize bond premiums and discounts, as well as bond issuance costs, during the current period. The face amount of the debt issued is reported as Other Financing Sources – proceeds from bond issues, while premiums on the debt are reported as Other Financing Sources and discounts on debt issuances are reported as Other Financing Uses. Issuance costs, whether or not withheld from the actual debt proceeds received, are reported as debt service expenditures.

Bond premiums and discounts, as well as issuance costs, are deferred and amortized over the life of the bonds. Bonds payable are reported net of the applicable bond premium or discount. Bond issuance costs are reported as deferred charges and amortized over the term of the related debt.

Long-term obligations represent the Board's future obligations or future economic outflows. The liabilities are reported as due in one year or due within more than one year in the Statements of Net Assets.

**O. POST EMPLOYMENT BENEFITS**

The Board provides post employment benefits in the form of health insurance. The obligation of the Board and its retirees to contribute to the cost of providing these benefits has been established pursuant to Board resolution and various collective bargaining agreements. Payments are budgeted annually without accrual and are based on the pay-as-you go method (see Note 3., B., 2.).

**P. FUND EQUITY**

District-wide statements:

In the government-wide statements there are three classes of net assets:

Invested in capital assets, net of related debt - consists of net capital assets (cost less accumulated depreciation) reduced by outstanding balances of related debt obligations from the acquisition, construction or improvement of those assets.

Restricted net assets - reports net assets when constraints placed on the assets are either externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments, or imposed by law through constitutional provisions or enabling legislation.

Unrestricted net assets - reports all other net assets that do not meet the definition of the above two classifications and are deemed to be available for general use by the Board.

Fund statements:

In the fund statements there are potentially five classes of net assets to be reported including nonspendable, restricted, committed, assigned and unassigned. These classes are explained further in Note 3.,C.

BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK  
NOTES TO BASIC FINANCIAL STATEMENTS

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Q. USE OF ESTIMATES IN PREPARATION OF FINANCIAL STATEMENTS

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

R. NEW ACCOUNTING PRONOUNCEMENTS

During the fiscal year ended June 30, 2012, the District did not adopt any new accounting pronouncements.

The GASB has issued the following new statements:

- Statement No. 61, *The Financial Reporting Entity: Omnibus—an amendment of GASB Statements No. 14 and No. 34*, which will be effective for the year ending June 30, 2013;
- Statement No. 62, *Codification of Accounting and Financial Reporting Guidance Contained in Pre-November 30, 1989 FASB and AICPA Pronouncements*, which will be effective for the year ending June 30, 2013;
- Statement No. 63, *Financial Reporting of Deferred Outflows of Resources, Deferred Inflows of Resources, and Net Position* which will be effective for the year ending June 30, 2013;
- Statement No. 65, *Items Previously Reported as Assets and Liabilities*, which will be effective for the year ending June 30, 2014; and
- Statement No. 66, *Technical Corrections—2012—an amendment of GASB Statements No. 10 and 62*, which will be effective for the year ending June 30, 2014.

The Board is currently studying these statements and plans on adoption, as required.

NOTE 2 - REPORTING ON BUDGETARY BASIS

The Board reports its budgetary status with the actual data including outstanding encumbrances as charges against budget appropriations. This results in the following reconciliation of the General Fund's fund balance computed on a GAAP basis and budgetary basis for the general fund only.

GAAP BASIS:

Fund balance - June 30, 2012	\$ 221,223,205
Deduct outstanding encumbrances	<u>3,643,034</u>
BUDGETARY BASIS - Fund balance - June 30, 2012	\$ <u>217,580,171</u>

NOTE 3 - DETAIL NOTES ON ALL FUNDS AND ACCOUNT GROUPS

A. ASSETS

1. DEPOSITS AND INVESTMENTS

The Board's investment policies are governed by State statutes. In addition, the Board has its own written investment policy. The Board's funds must be deposited in FDIC insured commercial banks or trust companies located within the State. Permissible investments include demand accounts and certificates of deposit, obligations of the U.S. Treasury and U.S. Agencies, repurchase agreements, and obligations of New York State or its localities.

BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK  
NOTES TO BASIC FINANCIAL STATEMENTS

NOTE 3 - DETAIL NOTES ON ALL FUNDS AND ACCOUNT GROUPS (Continued)

Collateral is required for demand deposits, time deposits and certificates of deposit not covered by Federal Deposit Insurance. Obligations that may be pledged as collateral are obligations of the United States and its agencies and obligations of the State and its municipalities and school districts.

The Board's aggregate bank balances were fully collateralized at June 30, 2012.

Restricted cash represents cash and cash equivalents where use is limited by legal requirements. These assets represent amounts required by statute to be reserved for various purposes.

Cash with Fiscal Agent - General Fund

Pursuant to the issuance of State of New York Municipal Bond Bank Agency Revenue Bonds, the Board is to maintain a Debt Service Reserve held with a fiscal agent of \$1,800,000. Additionally, \$538,106 represents a joint account held in trust with the Buffalo Teachers' Federation in relation to a Teachers' Settlement.

Cash with Fiscal Agent - Debt Service Fund

In accordance with the Indenture Trust Agreement, an amount of the Series 2007, 2008, 2009, 2011 and 2012 bond proceeds is to be deposited and maintained by the trustee in the Debt Service Fund.

Restricted Cash - General

Cash is restricted to support obligations related to workers' compensation claims.

Restricted Cash - JSCB Fund

Proceeds from Series 2007, 2008, 2009, 2011, and 2012 bonds, held in trust, and can only be utilized for approved project costs.

Restricted Cash - Debt Service Fund

In accordance with the Local Share Trust and Depository Agreement, the local share contribution is to be held in trust and can only be disbursed as specified by the aforementioned agreement.

Cash held by City of Buffalo

Amounts on deposit with the City on behalf of the Board total \$280,463,331. Cash held by the City of Buffalo represents cash held in the City's bank accounts. The cash is an asset of the Board and is specifically designated for Board purposes. These deposits are subject to applicable city and state investment and collateralization policies. The City has also advanced \$44,765,982 of certain Board funds, as discussed in Note 8.

Extraclassroom Activity Cash

Deposits totaled \$753,580 and were fully collateralized at June 30, 2012.

Investment and Deposit Policy

The Board implemented Governmental Accounting Standards Board Statement No. 40, *Deposit and Investment Risk Disclosures*.

The Board follows an investment and deposit policy, the overall objective of which is to adequately safeguard the principal amount of funds invested or deposited; conformance with federal, state and other legal requirements; and provide sufficient liquidity of invested funds in order to meet obligations as they become due. Oversight of investment activity is the responsibility of the Finance Department.

Interest Rate Risk

Interest rate risk is the risk that the fair value of investments will be affected by changing interest rates. The Board's investment policy does not limit investment maturities as a means of managing its exposure to fair value losses arising from increasing interest rates.

BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK  
NOTES TO BASIC FINANCIAL STATEMENTS

**NOTE 3 - DETAIL NOTES ON ALL FUNDS AND ACCOUNT GROUPS (Continued)**

Credit Risk

The Board's policy is to minimize the risk of loss due to failure of an issuer or other counterparty to an investment to fulfill its obligations. The Board's investment and deposit policy authorizes the reporting entity to purchase the following types of investments:

- Interest bearing demand accounts.
- Certificates of deposit.
- Obligations of the United States Treasury and United States agencies.
- Obligations of New York State and its localities.

Custodial Credit Risk

Custodial credit risk is the risk that in the event of a failure of a depository financial institution, the reporting entity may not recover its deposits. In accordance with the Board's investment and deposit policy, all deposits of the Board including interest bearing demand accounts and certificates of deposit, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act (FDIC) shall be secured by a pledge of securities with an aggregate value equal to 102% of the aggregate amount of deposits. The Board restricts the securities to the following eligible items:

- Obligations issued, fully insured or guaranteed as to the payment of principal and interest, by the United States Treasury and United States agencies.
- Obligations issued or fully insured or guaranteed by New York State and its localities.

**2. RECEIVABLES**

Major revenues accrued by the Board include the following:

Accounts receivable consist of the following at June 30, 2012:

General Fund:	
Health Services	\$ 986,112
E-Rate	1,011,612
Tuition billing	285,700
Miscellaneous revenues	<u>1,766,715</u>
	4,050,139
Special Aid Fund	<u>27,579</u>
Total	<u>\$ 4,077,718</u>

State and federal aid receivable, consist of the following at June 30, 2012:

General Fund:	
State Aid - basic	\$ 11,482,761
State Aid - excess	14,117,794
State and Federal Aid - Medicaid	<u>510,195</u>
	26,110,750

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**NOTES TO BASIC FINANCIAL STATEMENTS**

**NOTE 3 - DETAIL NOTES ON ALL FUNDS AND ACCOUNT GROUPS (Continued)**

Special Aid Fund:  
 Federal and State grants           52,782,245\*

\*Amount reported net of deferred revenue.

Total                                   \$ 78,892,995

Due from other governments which represents amounts due primarily from Erie County consist of the following at June 30, 2012:

General Fund:  
 Erie County Sales Tax           \$ 4,084,505  
 Miscellaneous                   1,008,874  
 Total                                   \$ 5,093,379

**3. INTERFUND ACTIVITY**

Interfund activity at June 30, 2012 are as follows:

	<u>Interfund Receivable</u>	<u>Interfund Payable</u>	<u>Interfund Revenues</u>	<u>Interfund Expenditures</u>
General Fund	\$ 10,344	\$ 549,182	\$ 1,594,098	\$ 98,850,477
Debt Service Fund	-	-	94,623,557	2,186,059
Special Aid Fund	-	-	3,343,189	-
Capital Projects Fund	-	-	507,604	-
Joint Schools Construction Board Fund	-	-	873,186	-
School Food Service Fund	-	-	376,127	281,225
Agency Fund	<u>549,182</u>	<u>10,344</u>	-	-
Total	<u>\$ 559,526</u>	<u>\$ 559,526</u>	<u>\$ 101,317,761</u>	<u>\$ 101,317,761</u>

Interfund receivable and payables, other than between governmental activities and fiduciary funds are eliminated on the Statement of Net Assets.

Interfund receivables and payables were incurred primarily due to cash not being transferred prior to fiscal year end. The majority of the interfund revenues and expenses were for debt service expenses.

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**NOTES TO BASIC FINANCIAL STATEMENTS**

**NOTE 3 - DETAIL NOTES ON ALL FUNDS AND ACCOUNT GROUPS (Continued)**

**4. CAPITAL ASSETS**

Capital asset balances and activity for the year ended June 30, 2012 were as follows:

	<u>Balance</u> <u>6/30/11</u>	<u>Additions</u>	<u>Retirements/ Reclassifications</u>	<u>Balance</u> <u>6/30/12</u>
Governmental activities:				
Capital assets that are not depreciated:				
Land	\$ 3,621,542	\$ -	\$ -	3,621,542
Construction in progress	<u>162,505,896</u>	<u>73,508,600</u>	<u>115,853,267</u>	<u>120,161,229</u>
Capital assets, not being depreciated	<u>166,127,438</u>	<u>73,508,600</u>	<u>115,853,267</u>	<u>123,782,771</u>
Capital assets that are depreciated:				
Land improvements	4,601,390	1,245,983	-	5,847,373
Buildings and building improvements	1,303,405,174	167,807,765	-	1,471,212,939
Equipment	<u>17,605,018</u>	<u>3,007,478</u>	<u>-</u>	<u>20,612,496</u>
Capital assets, being depreciated	<u>1,325,611,582</u>	<u>172,061,226</u>	<u>-</u>	<u>1,497,672,808</u>
Less accumulated depreciation:				
Land improvement	4,235,513	79,198	-	4,314,711
Buildings and building improvements	387,982,917	56,654,015	-	444,636,932
Equipment	<u>11,277,284</u>	<u>1,508,050</u>	<u>-</u>	<u>12,785,334</u>
Total accumulated depreciation	<u>403,495,714</u>	<u>58,241,263</u>	<u>-</u>	<u>461,736,977</u>
Total capital assets being depreciated, net	<u>922,115,868</u>	<u>113,819,963</u>	<u>-</u>	<u>1,035,935,831</u>
Governmental activities capital assets, net	<u>\$ 1,088,243,306</u>	<u>\$ 187,328,563</u>	<u>\$ 115,853,267</u>	<u>\$ 1,159,718,602</u>

**B. LIABILITIES**

**1. PENSION PLANS**

The Board participates in the New York State and Local Employees' Retirement System (ERS), and the New York State Teachers' Retirement System (TRS). These are cost-sharing multiple employer, public employee retirement systems. The Systems offer a wide range of plans and benefits which are related to years of service and final average salary, vesting of retirement benefits, death and disability.

**a. PLAN DESCRIPTIONS**

**Teachers' Retirement System (TRS)**

The New York State Teachers' Retirement System is administered by the New York State Teachers' Retirement Board. The System provides retirement, disability, withdrawal and death benefits to plan members and beneficiaries as authorized by the Education Law and the Retirement and Social Security Law of the State of New York. The New York State TRS issues a publicly available financial report that contains financial statements and required supplementary information for the System. The report may be obtained by writing to the New York State Teachers' Retirement System, 10 Corporate Woods Drive, Albany, NY 12211-2395.

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**NOTES TO BASIC FINANCIAL STATEMENTS**

**NOTE 3 - DETAIL NOTES ON ALL FUNDS AND ACCOUNT GROUPS (Continued)**

**Employees' Retirement System (ERS)**

The New York State and Local Employees' Retirement System provides retirement benefits, as well as death and disability benefits. Obligations of employers and employees to contribute and benefits to employees are governed by the New York State Retirement and Social Security Law (NYSRSSL). The System issues a publicly available financial report that includes financial statements and required supplementary information. That report may be obtained by writing to the New York State and Local Retirement System, 110 State Street, Albany, NY 12244.

**b. FUNDING POLICIES**

The Systems are noncontributory except for employees who joined the Systems after July 27, 1976 who contribute 3.0% to 3.5% of their salary. With the exception of ERS tier V and VI employees, employees in the system more than ten years are no longer required to contribute. In addition, employees contribution rates under ERS tier VI vary based on a sliding salary scale. For the New York State and Local Employees' Retirement System, the Comptroller shall certify annually the rates expressed as proportions of payroll of members, which shall be used in computing the contributions required to be made by employers to the pension accumulated fund. Pursuant to Article 11 of the Education Law, rates are established annually for TRS by the New York State Teachers' Retirement Board.

The Board is required to contribute at an actuarially determined rate. While the Board records the retirement expenditures on a full accrual basis, TRS contributions are withheld from aid to education payments in the fall of the fiscal year subsequent to which the contributions were applicable. ERS contributions are paid in December for the State's fiscal year beginning the preceding April 1<sup>st</sup> through March 31<sup>st</sup>. The retirement contributions withheld or paid during the current year and two preceding years (for previous fiscal year wages) were:

	<u>TRS</u>	<u>ERS</u>
2012	\$ 33,198,819	\$ 7,129,235
2011	17,683,274	4,483,867
2010	21,196,134	2,391,143

The Board contributions made to the Systems were equal to 100 percent of the contributions required for each year. In 2012, the Board paid \$10,430,079 and \$1,821,893 to TRS and ERS, respectively, for the New York State retirement incentive offered in 2010-11.

The Board chose to prepay the required contributions to ERS by December 15, 2011 and received a discount of \$63,804.

**2. POST EMPLOYMENT BENEFITS OTHER THAN PENSIONS (OPEB)**

**a. PLAN DESCRIPTION**

The Board administers the Board of Education, City of Buffalo, New York's Retiree Medical and Prescription Drug (the Plan) as a single-employer defined benefit Other Post Employment Benefit plan (OPEB). The Plan provides for continuation of medical insurance benefits for certain retirees and their spouses and can be amended by action of the Board subject to applicable collective bargaining and employment agreements. The Plan does not issue a stand-alone financial report since there are no assets legally segregated for the sole purpose of paying benefits under the Plan.

BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK  
NOTES TO BASIC FINANCIAL STATEMENTS

**NOTE 3 - DETAIL NOTES ON ALL FUNDS AND ACCOUNT GROUPS (Continued)**

b. FUNDING POLICY

The obligations of the plan members, employers and other entities are established by action of the Board pursuant to applicable collective bargaining and employment agreements. The required contribution rates of the employer and the members vary depending on the applicable agreement. The Board currently contributes enough money to the plan to satisfy current obligations on a pay-as-you-go basis. The costs of administering the plan are paid by the Board.

c. ACCOUNTING POLICY

The accrual basis of accounting is used. The fair market value of assets, if any, is determined by the market value of assets, if any, paid by a willing buyer to a willing seller.

d. ANNUAL OPEB COST AND NET OPEB OBLIGATION

The Board's annual other post employment benefit (OPEB) cost (expense) is calculated based on the annual required contribution of the employer (ARC). The Board has engaged an actuary to calculate the ARC and related information per the provisions of GASB Statement No. 45 for employers in plans with more than one hundred total plan members. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover normal cost each year and to amortize any unfunded actuarial liabilities (or funding excess) over a period not to exceed thirty years. The following table shows the components of the Board's annual OPEB cost for the year, the amount actually contributed to the plan, and the Board's net OPEB obligation to the Retiree Health Plan at June 30, 2012:

<u>Annual OPEB Cost</u>	<u>(in thousands)</u>
Normal Cost	\$ 61,242
Amortization of UAL	100,934
Interest to end of the year	<u>6,487</u>
Annual Retirement Contribution	168,663
Interest on OPEB Obligation	15,073
Adjustment to Annual Retirement Contribution	<u>(21,792)</u>
OPEB Expense	161,944
Net OPEB contributions made during the fiscal year	<u>(60,349)</u>
Net increase in OPEB obligation	101,595
Net OPEB obligation at beginning of year	<u>376,827</u>
Net OPEB obligation at end of year	<u>\$ 478,422</u>
Percentage of expense contributed	37%

e. FUNDED STATUS AND FUNDING PROGRESS

As of June 30, 2012, the most recent actuarial report provided, the actuarial accrued liability for benefits was \$1,815,174,000, all of which was unfunded. The covered payroll (annual payroll of active employees covered by the plan) was \$277,774,000, and the ratio of the unfunded actuarial accrued liability to the covered payroll was 653%. The total post employment health insurance cost to the Board was \$60,349,000, for the year ended June 30, 2012.

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**NOTES TO BASIC FINANCIAL STATEMENTS**

**NOTE 3 - DETAIL NOTES ON ALL FUNDS AND ACCOUNT GROUPS (Continued)**

The projection of future benefit payments for an ongoing plan involves estimates of the value of reported amounts and assumptions about the probability of occurrence of events far into the future. Examples include assumptions about future employment, mortality, and the healthcare cost trend. Amounts determined regarding the funded status of the plan and the annual required contributions of the employer are subject to continual revision as actual results are compared with past expectations and new estimates are made about the future. The schedule of funding progress, presented as required supplementary information on page A33, presents the funded status of the plan.

As of June 30, 2012, the Board has designated \$32,500,000 of fund balance towards the funding of this liability although under the technical provisions of GASB Statement No. 45 the liability is not considered funded with the designation of fund balance.

f. **METHODS AND ASSUMPTIONS**

Projections of benefits for financial reporting purposes are based on the substantive plan (the plan as understood by the employer and plan members) and include the types of benefits provided at the time of each valuation and the historical pattern of sharing of benefit costs between the employer and plan members to that point. The methods and assumptions used include techniques that are designed to reduce the effects of short-term volatility in actuarial accrued liabilities and the actuarial value of assets, consistent with the long-term perspective of the calculations. The following assumptions were made:

The June 30, 2012 actuarial valuation utilized the projected unit credit cost method. The actuarial assumptions included a 4 percent investment rate of return (net of administrative expenses), which is the expected short-term investment rate of the Board's own assets since currently the plan has no assets at the valuation date in order to establish a plan investment rate. The assumed rate for all pre-65 healthcare benefits is initially at 9.0% and decreases to a 5% long-term trend rate after eight years. For all post-65 healthcare benefits this rate initially is at 7.5% and decreases to a 5% long-term trend rate after six years. Both rates included a 3 percent inflation assumption. The UAAL is being amortized as a level percentage of projected payrolls on an open basis. The amortization period at June 30, 2012 was twenty-seven years.

3. **INDEBTEDNESS**

**LONG-TERM DEBT**

a. Long-term liability balances and activity for the year are summarized below:

	<u>Balance</u> <u>6/30/11</u>	<u>Issued</u>	<u>Redeemed</u>	<u>Balance</u> <u>6/30/12</u>	<u>Due Within</u> <u>One Year</u>
Government activities:					
Due to other governments	\$ 13,833,332		\$ 713,332	\$ 13,120,000	\$ 713,334
Due to City of Buffalo					
Debt Service Fund	116,615,559	31,975,000	33,173,739	115,416,820	12,268,006
Revenue bonds payable	22,585,000		615,000	21,970,000	650,000
JSCB bonds payable	1,183,170,000	322,100,000	429,805,000	1,075,465,000	46,210,000
Other long-term debt -					
EPC	2,499,095		827,251	1,671,844	839,380
Compensated absences	21,264,375	7,798,779	7,658,585	21,404,569	7,709,077

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**NOTES TO BASIC FINANCIAL STATEMENTS**

**NOTE 3 - DETAIL NOTES ON ALL FUNDS AND ACCOUNT GROUPS (Continued)**

Post employment benefits	376,827,000	161,944,000	60,349,000	478,422,000	-
Judgments, claims, and Contingencies	310,829	-	310,829	-	-
Workers' Compensation	<u>19,854,163</u>	<u>26,110,210</u>	<u>7,248,818</u>	<u>38,715,555</u>	-
<b>Total</b>	<b><u>\$ 1,756,959,353</u></b>	<b><u>\$ 549,927,989</u></b>	<b><u>\$540,701,554</u></b>	<b><u>\$ 1,766,185,788</u></b>	<b><u>\$68,389,797</u></b>

- b. Source of Funding - Amounts due to other governments; due to City of Buffalo (bond debt); revenue bonds payable; other long-term debt - EPC; and judgments, claims, and contingencies are repaid through annual appropriation of the General Fund. Payments for compensated absences are charged to the General Fund.
- c. Due to Other Governments - In June 2000 the State Legislature passed special legislation to advance the Board \$20,000,000 in lottery aid to help pay for litigation settlement with the Buffalo Teachers Federation. In June 2006 the Board received an additional lottery aid advance of \$1,400,000. The advances are recorded as long-term interest-free loans with annual maturities as follows:

<u>Fiscal Year</u> <u>Ending June 30</u>	<u>Principal</u>
2013	\$ 713,334
2014	713,334
2015	713,332
2016	713,334
2017	713,334
2018-2022	3,566,666
2023-2027	3,566,666
2028-2032	2,233,334
2033-2036	186,666
	<u>\$ 13,120,000</u>

- d. Due to City of Buffalo Debt Service Fund - Represents payments due to the City for the maturity of serial bonds, which were issued by the City on behalf of the Board. The remaining annual maturities are as follows:

In April 2012, the City issued \$6,720,000 refunding bonds on behalf of the Board that mature in 2025. In July 2011 the City issued \$4,900,000 of serial bonds on behalf of the Board that mature in 2026. In August 2011, the City issued \$15,355,000 refunding bonds on behalf of the Board that mature in 2020. Also, in April 2012, the City issued \$5,000,000 of serial bonds on behalf of the Board that matures in 2027.

<u>Fiscal Year</u> <u>Ending June 30</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2013	\$ 12,268,006	\$ 4,966,464	\$ 17,234,470
2014	11,764,371	4,465,053	16,229,424
2015	11,866,083	3,906,803	15,772,886
2016	12,007,360	3,327,824	15,335,184
2017	11,733,000	2,731,757	14,464,757
2018-2022	41,808,000	7,729,903	49,537,903
2023-2025	<u>13,970,000</u>	<u>1,009,229</u>	<u>14,979,229</u>
	<u>\$115,416,820</u>	<u>\$ 28,137,033</u>	<u>\$143,553,853</u>

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**NOTES TO BASIC FINANCIAL STATEMENTS**

**NOTE 3 - DETAIL NOTES ON ALL FUNDS AND ACCOUNT GROUPS (Continued)**

- e. Revenue Bonds Payable - Represents amounts due for Municipal Bond Agency Revenue Bonds issued pursuant to the State of New York Municipal Bond Agency (the Agency) Act and a General Resolution and a Series Resolution to provide funds to (i) finance a portion of the cost of settling litigation involving the Board and the Buffalo Teachers Federation; (ii) fund the Debt Service Reserve Fund to at least the Debt Service Reserve Fund Requirement; and (iii) pay legal, accounting, financing, and other fees and expenses relating to the issuance of the Bonds.

The Bonds are special revenue obligations of the Agency and are secured by Annual Payments payable by the City from all monies legally available (which availability is, in general, dependent upon annual appropriations by the City), and amounts received by the Agency pursuant to the Agency's statutory right to intercept State School Aid payable to the City and all funds and accounts established by the General Resolution described in the Official Statement.

The remaining annual maturities are as follows:

Fiscal Year Ending June 30	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2013	\$ 650,000	\$ 1,146,281	\$ 1,796,281
2014	680,000	1,112,156	1,792,156
2015	715,000	1,076,456	1,791,456
2016	755,000	1,038,919	1,793,919
2017	790,000	1,001,169	1,791,169
2018-2022	4,605,000	4,358,700	8,963,700
2023-2027	5,945,000	3,024,000	8,969,000
2028-2031	<u>7,830,000</u>	<u>1,193,850</u>	<u>9,023,850</u>
	<u>\$ 21,970,000</u>	<u>\$ 13,951,531</u>	<u>\$ 35,921,531</u>

- f. JSCB Bonds Payable - Represents bond payments due for the design, construction, and financing of public educational facilities in the City (see Note 5).

On July 1, 2011, the Board issued \$112,590,000 in school facility revenue bonds with an average interest rate of 4.97% to advance refund \$139,445,000 of outstanding school facility revenue bonds with an average interest rate of 5.74%. The net proceeds of \$122,691,675 (after payment of \$1,879,999 in underwriting fees, insurance and other issuance costs) were deposited in an irrevocable trust with an escrow agent to provide for all future debt service payments on the bonds.

On April 13, 2012, the Board issued \$209,540,000 in school facility revenue bonds with an average interest rate of 4.97% to advance refund \$262,130,000 of outstanding school facility revenue bonds with an average interest rate of 5.74%. The net proceeds of \$240,846,449 (after payment of \$3,621,987 in underwriting fees, insurance and other issuance costs) were deposited in an irrevocable trust with an escrow agent to provide for all future debt service payments on the bonds.

As a result, the bonds are considered to be defeased and the liability for those bonds has been removed from the Board's financial statements. The Board advance refunded the bonds to revise its payment schedules to take advantage of more favorable interest rates. The economic gain (loss) on the transaction (the difference between the present values of the debt service payments on the old and new debt) is approximately \$41,200,000.

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**NOTES TO BASIC FINANCIAL STATEMENTS**

**NOTE 3 - DETAIL NOTES ON ALL FUNDS AND ACCOUNT GROUPS (Continued)**

The Board defeases bonded debt by placing the proceeds of new bonds in an irrevocable trust to provide for all future debt service payments on the old bonds. Accordingly, the trust account assets and the liability for the defeased bonds are not included in the Board's financial statements. As of June 30, 2012, \$299,195,000 of bonds outstanding are considered defeased.

The remaining annual maturities are as follows:

<u>Fiscal Year</u> <u>Ending June 30</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2013	\$ 46,210,000	\$ 56,085,768	\$ 102,295,768
2014	32,095,000	54,009,575	86,104,575
2015	42,355,000	52,407,425	94,762,425
2016	44,515,000	50,289,675	94,804,675
2017	56,345,000	48,063,925	104,408,925
2018-2022	329,485,000	194,047,900	523,532,900
2023-2027	334,370,000	102,401,638	436,771,638
2028-2032	190,090,000	21,080,663	211,170,663
	<u>\$ 1,075,465,000</u>	<u>\$ 578,386,569</u>	<u>\$ 1,653,851,569</u>

- g. Compensated Absences - As described in Note 1, compensated absences, which total \$21,404,568 at June 30, 2012, represent amounts relating to sick, vacation and personal leave for employees. Payments of these liabilities are dependent upon many factors (including retirement, termination, or employees leaving service). The Board has estimated that \$7,709,077 will be paid in the next fiscal year.
- h. Other Long-Term Debt - Energy Performance Contracts (EPC) - Represents amounts due for equipment installed at school facilities to improve energy efficiency. Payments totaled \$827,251 during the year leaving a balance of \$1,671,844 at year end.

The remaining annual maturities are as follows:

<u>Fiscal Year</u> <u>Ending June 30</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2013	\$ 839,380	\$ 26,567	\$ 865,947
2014	832,464	10,423	842,887
	<u>\$ 1,671,844</u>	<u>\$ 36,990</u>	<u>\$ 1,708,834</u>

- i. Workers' Compensation - Workers' compensation obligations total \$38,715,555 at June 30, 2012, represent estimated amounts due for various outstanding claims.
- j. Operating Leases - Operating lease obligations are primarily for rental of space and equipment. Lease expenditures and expenses for the year were \$4,400,773. The future minimum lease payments required for noncancellable operating leases are as follows:

<u>Fiscal Year</u>	
2013	\$ 4,044,755
2014	2,939,765
2015	2,428,622
2016	2,324,318
2017	2,416,093
2018-2022	7,306,654
2023-2025	1,129,733
Total	<u>\$ 22,589,960</u>

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**NOTES TO BASIC FINANCIAL STATEMENTS**

**NOTE 3 - DETAIL NOTES ON ALL FUNDS AND ACCOUNT GROUPS (Continued)**

**C. FUND BALANCE**

As of June 30, 2012, fund balances on the fund basis statements are classified as follows:

**Nonspendable** - amounts that cannot be spent because they are either not in spendable form or legally or contractually required to be maintained intact.

**Restricted** - amounts with constraints placed on the use of resources either externally imposed by creditors, grantors, contributors or laws or regulations of other governments; or imposed by law through constitutional provisions or enabling legislation.

**Committed** - amounts that can only be used for the specific purposes pursuant to constraints imposed by formal action of the Board's highest level of decision making authority, i.e., the Board. As of June 30, 2012, the Board had no committed fund balances.

**Assigned** - amounts that are constrained by the Board's intent to be used for specific purposes, but are neither restricted nor committed. The assigned category typically includes funds encumbered and appropriation of fund balances. Also, the Board has authorized the Chief Financial Officer to assign amounts for specific purposes.

**Unassigned** - all other spendable amounts that do not meet the definition of the above four classifications and are deemed to be available for general use by the Board.

As of June 30, 2012, fund balances were classified as follows:

	<u>General</u>	<u>Special Aid</u>	<u>Joint Schools Construction Board</u>	<u>Debt Service</u>	<u>Non-Major Funds</u>	<u>Total</u>
<b><u>Nonspendable:</u></b>						
Inventory	\$ 1,003,622	\$ -	\$ -	\$ -	\$ 961,561	\$ 1,965,183
Endowment	-	-	-	-	324,000	324,000
<b><u>Restricted:</u></b>						
Unemployment insurance	3,156,044	-	-	-	-	3,156,044
Judgments, property loss and claims	23,000,000	-	-	-	-	23,000,000
Stabilization	8,103,160	-	-	-	-	8,103,160
Joint School Construction						
Board projects	-	-	106,242,959	-	-	106,242,959
Debt service	-	-	-	76,324,077	-	76,324,077
Capital projects	-	-	-	-	963,844	963,844
Special activities fund	-	-	-	-	201,479	201,479
Permanent fund	-	-	-	-	16,830	16,830
<b><u>Assigned:</u></b>						
Subsequent years' expenditures	20,400,000	-	-	-	2,973,138	23,373,138
Other post employment Benefits	32,500,000	-	-	-	-	32,500,000
Prior year claims	76,300,000	-	-	-	-	76,300,000
Capital projects and repairs	9,500,000	-	-	-	4,625,383	14,125,383
School food service	-	-	-	-	12,609,805	12,609,805

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**NOTES TO BASIC FINANCIAL STATEMENTS**

**NOTE 3 - DETAIL NOTES ON ALL FUNDS AND ACCOUNT GROUPS (Continued)**

	<u>General</u>	<u>Special Aid</u>	<u>Joint Schools Construction Board</u>	<u>Debt Service</u>	<u>Non-Major Funds</u>	<u>Total</u>
Encumbrances						
General support	2,370,788	10,772	-	-	6,845,131	9,226,681
Instruction	1,272,246	940,632	-	-	246,100	2,458,978
Transportation		38,991	-	-	-	38,991
<u>Unassigned (deficit):</u>						
General fund	43,617,345	-	-	-	-	43,617,345
Special aid fund	-	(990,395)	-	-	-	(990,395)
<b>Total</b>	<b>\$ 221,223,205</b>	<b>\$ -</b>	<b>\$106,242,959</b>	<b>\$76,324,077</b>	<b>\$ 29,767,271</b>	<b>\$433,557,512</b>

When both restricted and unrestricted fund balance are available for expenditure, the Board will expend first from funds classified under GASB Statement No. 54 as unrestricted. When unrestricted funds are used for expenditures, unassigned funds will be used first, followed by assigned, and then committed. The use of restricted funds as classified by GASB Statement No. 54 will occur after the exhaustion of unrestricted funds, unless the expenditure meets the legal purpose of a particular restricted reserve fund and the use of those monies is recommended by the Chief Financial Officer and is approved by a majority vote of the Board of Education.

**NOTE 4 - AGENCY FUNDS**

An agency fund exists for temporary deposit of funds. The following is a summary of changes in assets and liabilities for the fiscal year ended June 30, 2012.

	<u>Balance 6/30/11</u>	<u>Additions</u>	<u>Deletions</u>	<u>Balance 6/30/12</u>
Cash	\$ 7,877	\$ 29,107,733	\$ 29,104,035	\$ 11,575
Extraclassroom activity cash	731,942	2,227,802	2,206,164	753,580
Due from other funds	<u>584,317</u>	<u>14,380,289</u>	<u>14,415,424</u>	<u>549,182</u>
<b>Total assets</b>	<b>\$ 1,324,136</b>	<b>\$ 45,715,824</b>	<b>\$ 45,725,623</b>	<b>\$ 1,314,337</b>
Employee liabilities	\$ 584,318	\$ 29,104,035	\$ 29,139,170	\$ 549,183
Extraclassroom activity balance	731,942	2,227,802	2,206,164	753,580
Due to other funds	6,811	15,669	12,136	10,344
Agency reserve	<u>1,065</u>	<u>1,582</u>	<u>1,417</u>	<u>1,230</u>
<b>Total liabilities</b>	<b>\$ 1,324,136</b>	<b>\$ 31,349,088</b>	<b>\$ 31,358,887</b>	<b>\$ 1,314,337</b>

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**NOTES TO BASIC FINANCIAL STATEMENTS**

**NOTE 5 - JOINT SCHOOLS CONSTRUCTION BOARD**

The Buffalo Joint Schools Construction Board (the JSCB) is an inter-municipal board created as a joint cooperative board by resolutions of the Board and the City of Buffalo Common Council (the Council) and amendment of the City Charter, §18-59 and §18-60, to assist in a comprehensive program to redevelop the Board's school buildings and facilities. The JSCB is comprised of two Board designees, the Superintendent of Schools, the Mayor, the City Comptroller and one Council designee.

Although the Buffalo Schools Act confers extensive powers upon the JSCB in relation to the construction of new educational facilities, it assigns to the JSCB only limited functions in relation to the reconstruction of existing schools, which the act authorizes the Board to finance and implement as projects of the Erie County Industrial Development Agency (the ECIDA). Phase I, II, III, IV and V of the Program have been authorized by amendments to the Buffalo Schools Act as ECIDA reconstruction projects. The JSCB's role in those phases has been principally to assist and advise the Board in developing projects up to the point when plans and specifications have been approved by the State Education Department, financing is completed and available and construction can begin. The JSCB has also been assigned to monitor implementation of the Program's workforce and business diversification plan and to compare the financing of the Project available through ECIDA with financing of the Project available through the Municipal Bond Agency (and to employ the financing that will result in the lowest cost to the taxpayers of the City and the State). For Phase III, the JSCB is also required to submit certain cost reports to state officials and cannot proceed with the projects if estimated costs do not meet certain limits prescribed in the Phase III regulation.

**Financing of JSCB**

In accordance with Chapter 605 of the Laws of 2000 of the State of New York pursuant to Indenture of Trusts (Series 2003, 2004, 2007, 2008, 2009 and 2011 Projects) between the ECIDA (the Issuer) and M&T Trust Company (the Trustee), School Facility Reserve Bonds, Series 2003, dated September 1, 2003, totaling \$180,335,000, Series 2004, dated December 22, 2004, totaling \$310,125,000, Series 2007A, dated August 23, 2007, totaling \$180,000,000, Series 2008A, dated February 28, 2008, totaling \$173,225,000, Series 2009A, dated November 6, 2009, totaling \$294,905,000, Series 2011A, dated May 26, 2011, totaling \$165,315,000, Series 2011B, dated July 1, 2011, totaling \$112,560,000 and Series 2012A, dated April 13, 2012, totaling \$209,540,000 were issued by the ECIDA for the purpose of financing a portion of the cost of projects, consisting of the acquisition, renovation, reconstruction, improvement, equipping, and furnishing of certain public school buildings and the acquisition of certain equipment and fixtures all for use by the Board. The Series 2011B issue defeased the Series 2003 issue and the Series 2012A issue defeased the Series 2004 issue.

Pursuant to the Ground Leases, the City and the Board will lease to the ECIDA those public school buildings, improvements, real property, equipment, fixtures, and machinery related thereto to be improved by the Series 2003, 2004, 2007, 2008, 2009, and 2011 Projects (collectively the Series 2003, 2004, 2007, 2008, 2009, and 2011 Facilities).

The Ground Leases will be entered into concurrently with the issuance of the Bonds and will be for a term of approximately 20 years or such later period as the respective bond issuances (or any later series of refunding bonds issued under the Indenture) shall remaining outstanding.

The ECIDA will sell its leasehold interest in the project to the Board pursuant to the Amendatory Installment Sale Agreements.

Base Installment Purchase Payments due under the Installment Sale Agreement will equal principal and interest due on the bonds. The Board's obligation to pay installment purchase payments under the Installment Sale Agreements is executory only to the extent of State Aid appropriated by the State and available to the Board, and apportioned by the Board. In the event State Aid is appropriated by the State to the Board and the Board does not appropriate such State Aid to make installment purchase payments under the Installment Sale Agreements, the Trustee, on behalf of the Issuer, shall direct the State Comptroller to intercept State Aid for the payment of such Installment Purchase Payments.

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**NOTES TO BASIC FINANCIAL STATEMENTS**

**NOTE 5 - JOINT SCHOOLS CONSTRUCTION BOARD (Continued)**

The Board will be responsible for the maintenance and operation of the facilities.

The proceeds of the bonds were deposited in accordance with the respective Indenture Trust Agreements between the Issuer and M&T Bank. The bond proceeds were recorded as revenues within the fund financial statements and as liabilities within the government-wide financial statements of the Board. Projects costs and debt service payments were recorded as expenditures of the Board.

**NOTE 6 - COMMITMENTS AND CONTINGENCIES**

**Judgments, Claims, and Contingencies**

Various types of claims have been asserted against the Board by various claimants. Claims probable of resulting in an unfavorable outcome to the Board have been reasonably estimated and recorded in the government-wide financial statements. The claims are in various stages of processing and some may ultimately be brought to trial. Claims are paid and ultimately funded by the fund associated with the loss. For claims not accrued, the ultimate outcome of the suits cannot presently be determined and no provisions for loss if any, has been made in the accompanying financial statements. It is the opinion of management that there will not be any material adverse effects on the Board's financial statements as a result of these actions.

**State Aid**

The State periodically reviews its distribution of aid to school boards throughout the state. Thus, revenues recorded as of June 30, 2012 are subject to potential revision.

**Health Insurance Litigation**

On September 1, 2005, following a competitive bid process, the Board selected one insurance carrier to provide four health care plans to school district employees - three HMO plans and one traditional indemnity plan. Prior to September 1, 2005, the Board paid three insurance carriers to provide the same four plans. Some of the Board's unions, including the Buffalo Teachers' Federation (hereinafter, BTF), challenged the Board's decision to go to a single carrier in arbitration. On October 21, 2006, the arbitrator in the BTF arbitration ruled that the Board must return to multiple carriers effective January 1, 2007 and reinstate all teachers laid-off effective September 1, 2005 with "make-whole" monetary damages, including back pay and benefits with interest at the statutory judgment rate. The arbitrator also retained jurisdiction to decide any unresolved claims for reimbursement of out-of-pocket expenses incurred by individual teachers under the single carrier arrangement. The Board appealed the decision and the Appellate Division ruled that while the Board violated the contract in moving to a single carrier for healthcare, the Board is not required to reinstate all laid off teachers. The BTF moved and the Board cross moved to appeal to the Court of Appeals. The leave to appeal was denied. Subsequently, the BTF commenced a contempt proceeding in the Supreme Court, which remains pending. The Court has agreed to several continuances of the return date with the expectation that negotiation of a successor collective bargaining agreement may resolve the health insurance issue. Contract negotiations are continuing.

**Construction Commitment**

As of June 30, 2012, the Board has approximately \$6,845,131 committed to various renovations.

**Grants**

The Board has received grants, which are subject to audit by agencies of the State and federal governments. Such audits may result in disallowances and a request for a return of funds. Based on prior years' experience, the Board's administration believes disallowances, if any, will be immaterial.

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**NOTES TO BASIC FINANCIAL STATEMENTS**

**NOTE 7 - RISK FINANCING**

The Board is self insured for workers' compensation and has accrued its best estimate of workers' compensation losses. The plan establishes reserve liabilities based on the estimated cost of individual claims incurred. Those estimates are determined based on many factors, one of the most significant being past experience. Since the reserve liability is an estimate it may not reflect the plan's ultimate liability.

The schedule below presents the changes in the Board's estimated claims since June 30, 2011. The estimated claims represent claims that have occurred and are open due to an actual or future final determination of benefit payout as prescribed by the New York State Workers' Compensation Board. Estimated claims represents anticipated future payouts based on prior experience with actual payments of claims.

Estimated claims as of June 30, 2011	\$ 19,854,163
Claims incurred during the year	26,110,210
Payments made during the year, net	<u>7,248,818</u>
Estimated claims as of June 30, 2012	\$ <u>38,715,555</u>

**NOTE 8 - RELATED PARTY TRANSACTIONS**

The amounts classified as due to the City of Buffalo, in the Special Aid Fund, represent cash advances made to the Board totaling \$44,765,982.

Additionally, the Board transferred \$16,592,210 to the City for payment of the Board's portion of principal and interest on long-term debt.

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**SCHEDULE OF FUNDING PROGRESS FOR RETIREE HEALTH PLAN**  
**FOR THE YEAR ENDED JUNE 30, 2012**

<u>Schedule of Funding Progress:</u>	Actuarial Valuation Date		
	June 30, 2012 (in thousands)	June 30, 2011 (in thousands)	June 30, 2009 (in thousands)
Actuarial accrued liability	\$ 1,815,714	\$ 1,681,374	\$ 1,206,245
Actuarial value of assets	-	-	-
Unfunded actuarial accrued liability	<u>\$ 1,815,714</u>	<u>\$ 1,681,374</u>	<u>\$ 1,206,245</u>
Funded ratio	0%	0%	0%

<u>Schedule of Employer Contributions:</u>	Fiscal Year Ended (in thousands)
June 30, 2012	\$ 60,349
June 30, 2011	58,256
June 30, 2010	51,422
June 30, 2009	48,527

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**BUDGETARY COMPARISON SCHEDULE FOR THE GENERAL FUND**  
**FOR THE YEAR ENDED JUNE 30, 2012**

	Original Budget*	Amended Budget	Actual Revenues	Over (Under) Amended Budget
<b>REVENUES:</b>				
<b>Local sources:</b>				
Contribution from City of Buffalo	\$ 53,940,370	\$ 53,940,370	\$ 54,926,228	\$ 985,858
School tax relief reimbursement	16,382,388	16,382,388	15,396,530	(985,858)
Nonproperty tax items	34,000,000	34,000,000	35,770,200	1,770,200
Charges for services	1,720,000	1,720,000	1,677,228	(42,772)
Use of money and property	190,000	190,000	78,502	(111,498)
Sale of property and compensation for loss	-	-	28,014	28,014
Miscellaneous local sources	11,608,158	11,608,158	16,005,835	4,397,677
<b>State sources:</b>				
Basic formula	535,465,078	535,465,078	511,950,227	(23,514,851)
Lottery aid	60,787,875	60,787,875	76,006,894	15,219,019
Other aid	6,254,398	6,254,398	5,496,791	(757,607)
Federal sources	2,800,000	2,800,000	2,238,275	(561,725)
<b>Total revenues</b>	<b>723,148,267</b>	<b>723,148,267</b>	<b>719,574,724</b>	<b>(3,573,543)</b>
<b>Other sources:</b>				
Interfund transfers in	3,500,000	3,500,000	1,594,098	(1,905,902)
Appropriated fund balance	35,389,745	40,783,666	-	(40,783,666)
<b>Total revenues and other sources</b>	<b>\$ 762,038,012</b>	<b>\$ 767,431,933</b>	<b>\$ 721,168,822</b>	<b>\$ (46,263,111)</b>

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**BUDGETARY COMPARISON SCHEDULE FOR THE GENERAL FUND**  
**FOR THE YEAR ENDED JUNE 30, 2012**

(Continued)

	Original Budget*	Amended Budget	Actual Expenditures	Encumbrances	Unencumbered Balances
<b>EXPENDITURES:</b>					
General support:					
Board of education	\$ 235,908	\$ 282,269	\$ 258,183	\$ 8,430	\$ 15,656
Central administration	1,664,453	803,145	591,436	-	211,709
Finance	2,755,016	3,893,129	3,103,175	496,156	293,798
Staff	3,043,558	3,276,725	2,663,451	12,811	600,463
Central services	61,529,541	62,196,403	54,031,248	1,851,296	6,313,859
Special items	2,596,892	3,596,959	3,470,942	2,095	123,922
Instruction:					
Instruction, administration, and improvements	19,372,648	21,161,324	19,790,951	5,593	1,364,780
Teaching - regular school	217,798,552	222,972,257	217,727,174	377,730	4,867,353
Charter school payments	92,600,000	92,600,000	90,251,983	495	2,347,522
Instructional media	5,708,268	5,685,694	4,982,835	373,297	329,562
Pupil services	13,339,627	13,566,884	12,448,559	515,131	603,194
Pupil transportation	47,798,003	47,939,797	45,177,589	-	2,762,208
Home and community services	19,846	25,950	25,949	-	1
Employee benefits	176,973,874	174,577,275	165,723,601	-	8,853,674
<b>Total expenditures</b>	<b>645,436,186</b>	<b>652,577,811</b>	<b>620,247,076</b>	<b>3,643,034</b>	<b>28,687,701</b>
Other uses:					
Interfund transfers out	116,601,826	114,854,122	115,442,687	-	(588,565)
<b>Total expenditures and other uses</b>	<b>\$ 762,038,012</b>	<b>\$ 767,431,933</b>	<b>\$ 735,689,763</b>	<b>\$ 3,643,034</b>	<b>\$ 28,099,136</b>
<b>Net change in fund balance</b>			<b>\$ (14,520,941)</b>		

\* See Schedule of Change from Original Budget to Revised Budget on page B4 for reconciliation of GAAP to budgetary basis.

**SECTION B**  
**SUPPLEMENTAL SCHEDULES**

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**COMBINING BALANCE SHEET - NON-MAJOR GOVERNMENTAL FUNDS**

JUNE 30, 2012

	Capital Projects	School Food Service	Special Activities	Permanent Fund	Total
<b>ASSETS:</b>					
Cash and cash equivalents	\$ -	\$ 300	\$ 201,479	\$ -	\$ 201,779
Cash held by City of Buffalo	12,953,371	14,960,907	-	-	27,914,278
Cash and cash equivalents - restricted	-	-	-	340,830	340,830
Accounts receivable	-	96,282	-	-	96,282
State and federal aid receivable	-	1,654,419	-	-	1,654,419
Inventory	-	961,560	-	-	961,560
	-	961,560	-	-	961,560
<b>Total assets</b>	<b>\$ 12,953,371</b>	<b>\$ 17,673,468</b>	<b>\$ 201,479</b>	<b>\$ 340,830</b>	<b>\$ 31,169,148</b>
<b>LIABILITIES AND FUND BALANCES:</b>					
<b>Liabilities:</b>					
Accounts payable	\$ 502,523	\$ 737,239	\$ -	\$ -	\$ 1,239,762
Accrued liabilities	-	145,625	-	-	145,625
Due to Other Governments	16,490	-	-	-	16,490
<b>Total liabilities</b>	<b>519,013</b>	<b>882,864</b>	<b>-</b>	<b>-</b>	<b>1,401,877</b>
<b>Fund balances:</b>					
Non-spendable	-	961,561	-	324,000	1,285,561
Restricted	963,844	-	201,479	16,830	1,182,153
Assigned	11,470,514	15,829,043	-	-	27,299,557
<b>Total fund balances</b>	<b>12,434,358</b>	<b>16,790,604</b>	<b>201,479</b>	<b>340,830</b>	<b>29,767,271</b>
<b>Total liabilities and fund balances</b>	<b>\$ 12,953,371</b>	<b>\$ 17,673,468</b>	<b>\$ 201,479</b>	<b>\$ 340,830</b>	<b>\$ 31,169,148</b>

BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK  
COMBINING STATEMENT OF REVENUES, EXPENDITURES AND  
CHANGES IN FUND BALANCES - NON-MAJOR GOVERNMENTAL FUNDS  
FOR THE YEAR ENDED JUNE 30, 2012

	<u>Capital Projects</u>	<u>School Food Service</u>	<u>Special Activities</u>	<u>Permanent Fund</u>	<u>Total</u>
<b>REVENUES:</b>					
Charges for services	\$ -	\$ 1,531,014	\$ -	\$ -	\$ 1,531,014
Use of money and property	5,458	-	-	2,027	7,485
Miscellaneous local sources	70,578	61,511	83,086	-	215,175
State sources	-	927,843	-	-	927,843
Federal sources	-	21,182,778	-	-	21,182,778
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
Total revenues	76,036	23,703,146	83,086	2,027	23,864,295
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
<b>EXPENDITURES:</b>					
General support	-	1,092,328	-	-	1,092,328
Instruction - regular schools	-	19,024,750	-	-	19,024,750
Home and community services	-	-	70,261	6,507	76,768
Employee benefits	-	1,769,957	-	-	1,769,957
Debt service:					
Bond issuance costs	309,517	-	-	-	309,517
Capital outlay	7,411,555	-	-	-	7,411,555
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
Total expenditures	7,721,072	21,887,035	70,261	6,507	29,684,875
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**COMBINING STATEMENT OF REVENUES, EXPENDITURES AND**  
**CHANGES IN FUND BALANCES - NON-MAJOR GOVERNMENTAL FUNDS**  
**FOR THE YEAR ENDED JUNE 30, 2012**  
**(CONTINUED)**

	<u>Capital Projects</u>	<u>School Food Service</u>	<u>Special Activities</u>	<u>Permanent Fund</u>	<u>Total</u>
Excess (deficit) of revenues over expenditures	(7,645,036)	1,816,111	12,825	(4,480)	(5,820,580)
<b>OTHER FINANCING SOURCES (USES):</b>					
Proceeds from bond issues	9,900,000	-	-	-	9,900,000
Premium on issuance of debt	259,344	-	-	-	259,344
Use of reserves	(711,310)	-	-	-	(711,310)
Interfund transfers in	1,218,914	376,127	-	-	1,595,041
Interfund transfers out	-	(281,225)	-	-	(281,225)
<b>Total other financing sources (uses)</b>	<u>10,666,948</u>	<u>94,902</u>	<u>-</u>	<u>-</u>	<u>10,761,850</u>
Net change in fund balances	3,021,912	1,911,013	12,825	(4,480)	4,941,270
Fund balances - beginning of year	<u>9,412,446</u>	<u>14,879,591</u>	<u>188,654</u>	<u>345,310</u>	<u>24,826,001</u>
Fund balances - end of year	<u>\$ 12,434,358</u>	<u>\$ 16,790,604</u>	<u>\$ 201,479</u>	<u>\$ 340,830</u>	<u>\$ 29,767,271</u>

BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK  
SCHEDULE OF CHANGE FROM ADOPTED BUDGET  
TO FINAL BUDGET - GENERAL FUND  
FOR THE YEAR ENDED JUNE 30, 2012

Adopted Budget	\$ 756,848,267
Additions:	
Prior year encumbrances	<u>5,189,745</u>
Original Budget	762,038,012
Budget Revisions:	
Budget amendment for PCTEA Union contract settlement	5,700,000
Cancelled encumbrances	<u>(306,079)</u>
Final Budget	<u>\$ 767,431,933</u>

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**SCHEDULE OF PROJECT EXPENDITURES -**  
**CAPITAL PROJECTS FUND**  
**FOR THE YEAR ENDED JUNE 30, 2012**

Project Title	Expenditures/Reclassifications To Date					Outstanding Encumbrances	Under (Over) Budget
	Original Appropriation	Revised Appropriation	Prior Years	Current Year	Total		
Planning & Plan Addition 89	\$ 3,400,000	\$ 1,955,506	\$ 1,944,464	\$ 10,975	\$ 1,955,439	\$ -	\$ 67
New Library Facilities - Phase III	2,558,559	2,934,101	2,934,101	-	2,934,101	-	-
Consultants for Capital Reconstruction Projects	6,658,954	6,664,057	6,659,112	4,945	6,664,057	-	-
Reconstruction of Various Schools	1,000,630	1,000,631	957,345	43,286	1,000,631	-	-
Oil Tank Improvements	500,415	602,465	557,656	44,809	602,465	-	-
Site Acquisition & Improvements East High School	1,004,053	519,188	389,241	129,947	519,188	-	-
Oil Tank Improvements	751,611	755,119	711,293	43,826	755,119	-	-
ADA Improvements	1,953,694	2,057,724	694,233	250,815	945,048	1,112,676	-
Computers & Technology	4,158,954	4,158,954	4,110,180	-	4,110,180	-	48,774
Reconstruction of Various Schools	2,025,789	2,025,790	1,870,265	155,525	2,025,790	-	-
Chimney Reconstruction	759,671	759,671	346,744	411,423	758,167	-	1,504
Mechanical / Electrical Reconstruction	790,058	790,058	721,801	68,257	790,058	-	-
Reconstruction of Various Schools	3,290,399	3,290,399	1,334,074	1,314,291	2,648,365	642,034	-
Mechanical / Electrical Reconstruction	1,748,024	1,748,025	1,019,544	220,716	1,240,260	507,765	-
Bennett High School / All High Parking Lot	598,000	686,750	380,950	305,800	686,750	-	-
Reconstruction of Various Schools	4,900,000	5,039,582	-	3,082,521	3,082,521	1,633,626	323,435
Reconstruction of Various Schools	2,700,000	2,782,038	-	82,038	82,038	825,319	1,874,681
Computers & Technology	1,200,000	1,236,462	-	205,112	205,112	841,086	190,264
Mechanical / Electrical Reconstruction	1,100,000	1,101,262	-	-	-	1,083,465	17,797
Redevelopment of Johnnie B Wiley Sports Complex	2,000,000	2,000,000	1,928,966	70,584	1,999,550	-	450
A/E Services for Parking Lot at Bennett / All High	38,960	43,960	36,159	7,801	43,960	-	-
A/E Services for New Boiler at School 89	21,260	25,250	23,270	1,980	25,250	-	-
A/E Services for Interior & Exterior Reconstr Sch 67	105,620	113,620	98,896	14,724	113,620	-	-
Incidental Costs - Roof Replacements	5,469	5,469	-	3,809	3,809	1,660	-
A/E Services Roof/Masonry/Water Infiltration Sch 79	215,740	215,740	-	131,342	131,342	36,300	48,098
A/E Services Cafeteria / Library Redesign at Sch 69	114,265	114,265	-	10,594	10,594	103,671	-
Transfer of Debt Service Costs	468,434	33,973,154	33,261,844	711,310	33,973,154	-	-
Design / Consultants for Capital Projects	500,000	500,000	169,004	263,205	432,209	57,529	10,262
JSCB Phase I - County Contribution	5,000,000	5,030,588	4,899,151	131,437	5,030,588	-	-
JSCB ECIDA Funds Phase II	612,111	3,529,432	1,419,840	-	1,419,840	-	2,109,592
<b>Total Capital Project Expenditures and Other Financing Uses</b>	<b>\$ 50,180,670</b>	<b>\$ 85,659,260</b>	<b>\$ 66,468,133</b>	<b>\$ 7,721,072</b>	<b>\$ 74,189,205</b>	<b>\$ 6,845,131</b>	<b>\$ 4,624,924</b>

BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK  
INVESTED IN CAPITAL ASSETS, NET OF RELATED DEBT  
FOR THE YEAR ENDED JUNE 30, 2012

Capital assets, net	\$ 1,159,718,602
Add:	
Cash held by City of Buffalo	12,953,371
Cash with fiscal agents	65,288,588
Cash – restricted	<u>106,242,959</u>
Total additions	184,484,918
Deduct:	
Due to City of Buffalo debt service fund	115,416,820
Joint School Construction Board bonds payable	1,075,465,000
Other long-term debt - EPC	<u>1,671,844</u>
Total deductions	<u>1,192,553,664</u>
Invested in capital assets, net of related debt	\$ <u>151,649,856</u>

**SECTION C**  
**SUPPLEMENTARY INFORMATION -**  
**FEDERAL FINANCIAL ASSISTANCE**

BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK  
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS  
FOR THE YEAR ENDED JUNE 30, 2012

<u>Federal Grantor/Pass-Through Grantor/Program Title</u>	<u>Federal CFDA Number</u>	<u>Pass-Through/ Grantor Entity Identifying Number</u>	<u>Disbursements/ Expenditures</u>
<u>U.S. DEPARTMENT OF AGRICULTURE:</u>			
<i>Direct programs:</i>			
Summer Lunch	10.559	N/A	\$ 1,274,694
<i>Passed through State Department of Agriculture:</i>			
School Food Service Equipment	10.579	0005-11-0002	252,593
Fresh Fruits & Vegetables	10.582	0004-12-0024	519,301
School Breakfast	10.553	---	6,474,100
School Lunch	10.555	---	12,101,087
School Snack	10.555	---	85,126
USDA Commodity Food Program	10.555	---	1,247,771
Total U.S. Department of Agriculture			<u>21,954,672</u>
<u>NATIONAL ENDOWMENT FOR THE HUMANITIES:</u>			
<i>Passed through New York State:</i>			
Library Services and Technology Act	45.310	0070-12-0063	<u>5,276</u>
<u>U.S. DEPARTMENT OF EDUCATION:</u>			
<i>Direct Programs:</i>			
JROTC Program - 2010-2011	12.357	N/A	31,830
JROTC Program - 2011-2012	12.357	N/A	672,643
Native American Project #19	84.060A	S060A091033	4,980
Indian Education Formula	84.060A	S060A111033	223,044
Elementary & Secondary School Counseling	84.215E	Q215E090059	352,629
Teaching American History	84.215X	U215X080307	(93)
Professional Development for Arts Ed.	84.351C	U351C080039-10A	97,294
Professional Development for Arts Ed.	84.351C	U351C110014	208,884
<i>Passed through State Department of Education:</i>			
WIA Title II - English Language Civics Education	84.002	0040-12-1004	53,052
WIA Correction Education	84.002	0138-12-0060	111,023
WIA Title II - Adult Basic	84.002A	2338-11-1006	4,168
WIA Title II - Adult Basic	84.002A	2338-12-1006	206,693
WIA Title II - English Language Civics Education	84.002A	0040-11-1004	7,005
WIA Literacy Zone - East Zone	84.002A	2338-11-9026	33,587
WIA Literacy Zone - East Zone	84.002A	2338-12-9026	292,854
WIA Correction Education	84.002A	0138-11-0060	7,004
Title I School Improvement	84.010	0011-11-2002	867,357
STEM/ELA/Leadership Academy Title I	84.010	0011-12-4052	1,169,004
Title I SIG #204, #205, #301	84.010	0011-11-5003	7,888
Title I LEP-ELL	84.010	0011-11-3042	99,978
Title I School Improvement - JIT, ESCA, SQR	84.010	0011-12-2002	320,247
Title I Parts A & D	84.010A	0021-09-0740	(18)
Title I Parts A & D	84.010A	0021-10-0740	(18)
Title I Parts A & D	84.010A	0021-11-0740	1,084,779
Title I Parts A & D	84.010A	0021-12-0740	32,984,024
Out of District Title I Payment	84.010A	---	19,135
ARRA - Title I	84.389A	5021-12-0740	2,068
ARRA - Title I	84.389A	5021-11-0740	7,264,939
RSE-TASC (Regular Special Ed - Tech Asst Spt)	84.027	C010307	2,906
RSE-TASC (Regular Special Ed - Tech Asst Spt)	84.027	C010307	365,471
Section 611 - IDEA Part B (Regular)	84.027A	0032-11-0202	765,975
Section 611 - IDEA Part B (Regular)	84.027A	0032-12-0202	11,623,518
Response to Intervention - IDEA	84.027A	0031-11-5511	52,147
Response to Intervention - IDEA	84.027A	0031-12-5511	10,334
IDEA Section 619-Pre-School Regular	84.173A	0033-11-0202	91,522
IDEA Section 619-Pre-School Regular	84.173A	0033-12-0202	488,528
ARRA - IDEA Section 611	84.391A	5032-11-0202	637,147
ARRA - IDEA Section 619	84.392A	5033-11-0202	30,973

BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK  
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS  
FOR THE YEAR ENDED JUNE 30, 2012  
(Continued)

<u>Federal Grantor/Pass-Through Grantor/Program Title</u>	<u>Federal CFDA Number</u>	<u>Pass-Through/ Grantor Entity Identifying Number</u>	<u>Disbursements/ Expenditures</u>
Perkins VATEA Adult Project	84.048	8000-11-9002	20,814
Perkins VATEA Adult Project	84.048	8000-12-9002	565,194
VATEA Basic Grant - Perkins Secondary	84.048	8000-11-0075	3,188
VATEA Basic Grant - Perkins Secondary	84.048	8000-12-0075	745,352
Title IV Safe & Drug Free School	84.186	0180-11-0740	18,111
S3TAIR Effective Practice Replication	84.323A	1035-11-5002	447
S3TAIR Effective Practice Replication	84.323A	1035-12-5002	3,837
Title III - Immigrant Funds	84.365	0149-11-0740	105,154
Title III - Immigrant Funds	84.365	0149-12-0740	204,377
Title III - LEP	84.365	0293-11-0740	54,483
Title III - LEP	84.365	0293-12-0740	476,876
Math & Science Partnership - Math	84.366	0294-11-0213	13,476
Math & Science Partnership - Science	84.366	0294-11-0207	14,853
Math & Science Partner - Math	84.336B	0294-12-0213	319,745
Math & Science Partner - Science	84.366B	0294-12-0207	368,012
Title II Part A	84.367A	0147-11-0740	530,172
Title II Part A	84.367A	0147-12-0740	4,567,836
STEM/ELA/Leadership ACAD - Title I	84.377A	0123-10-4052	9,761
Joint Intervention Team Grant	84.377A	0123-10-3101	38,086
Title II Part D	84.318X	0292-11-0740	14,665
ARRA - Title II Part D	84.386A	5291-11-0004	453,850
ARRA - Education for Homeless Children and Youth	84.387	5212-11-0501	27,883
ARRA - School Improvement Grant - #39, #45, #200, #206	84.388A	5123-11-0002	783,650
ARRA - School Improvement Grant - #39, #45, #200, #206	84.388A	5123-12-1002	4,711,579
ARRA - School Improvement Grant - #205, #301	84.388A	5123-12-2002	1,637,057
ARRA - Race To The Top	84.395A	5500-12-0740	1,523,088
ARRA - Education Jobs Fund	84.410	5400-12-0740	8,417,875
Total U.S. Department of Education			<u>85,823,922</u>
<u>U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES:</u>			
<i>Passed through New York State Department of Health and Human Services:</i>			
Educational Resources Program	93.558	C020716	<u>33,459</u>
<b>TOTAL EXPENDITURES OF FEDERAL AWARDS</b>			<b>\$ <u>107,817,329</u></b>

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**NOTES TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS**  
**FOR THE YEAR ENDED JUNE 30, 2012**

**NOTE 1 - BASIS OF PRESENTATION**

The accompanying Schedule of Expenditures of Federal Awards includes the federal grant activity of the Board. The information in this schedule is presented in accordance with the requirements of OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. Therefore, some amounts presented in this schedule may differ from amounts presented in, or used in the preparation of, the financial statements.

Indirect costs may be included in the reported expenditures to the extent that they are included in the federal financial reports used as the source for the data presented.

Matching costs (the Board's share of certain program costs) are not included in the reported expenditures.

Because the schedule presents only a selected portion of the operations of the Board, it is not intended to and does not present the financial position, changes in net assets or cash flows of the Board.

**NOTE 2 - BASIS OF ACCOUNTING**

The basis of accounting varies by federal program consistent with the underlying regulations pertaining to each program.

The amounts reported as federal expenditures were obtained from the Board's financial reporting system, which is the source of the Board's basic financial statements. Negative amounts shown on the schedule represent adjustments or credits made in the normal course of business to amounts reported as expenditures in prior years.

**NOTE 3 - PASS-THROUGH GRANTOR**

With the exception of the summer lunch, JROTC, Professional Development for Arts Educators, School Counseling, Teaching, American History, and Native American Education programs, all Federal financial assistance received was passed-through departments of the State of New York.

**NOTE 4 - MAJOR PROGRAM DETERMINATION**

Major program determination is a risk based assessment which classifies programs as either a Type A program or a Type B program. Since the Board's total Federal expenditures exceeded \$100 million, all federal programs with expenditures exceeding the greater of 0.3% of the total federal awards or \$3,000,000 are considered Type A programs and all other programs are considered Type B programs. The Type B federal programs with expenditures which do not exceed the greater of .03% of the total federal awards or \$300,000 are considered insignificant and were not further evaluated. All other programs were then further assessed based on risk and major programs were selected.

**NOTE 5 - NON-MONETARY FEDERAL PROGRAM**

The Board is the recipient of a federal award program that does not result in cash receipts or disbursements, termed a "non-monetary program." During the year ended June 30, 2012, the Board received \$1,247,771 worth of commodities under the Surplus Food Distribution Program (CFDA 10.555).

**SECTION D**  
**INTERNAL CONTROL AND COMPLIANCE**



**Independent Auditor's Report on Internal Control  
Over Financial Reporting and on Compliance and  
Other Matters Based on an Audit of the Financial  
Statements Performed in Accordance with  
Government Auditing Standards**

To the Board of Education of  
City of Buffalo, New York

We have audited the financial statements of the governmental activities, each major fund, and the aggregate remaining fund information of the Board of Education, City of Buffalo, New York (the Board), as of and for the year ended June 30, 2012, which collectively comprise the Board's basic financial statements and have issued our report thereon dated October 15, 2012. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

**Internal Control Over Financial Reporting**

Management of the Board is responsible for establishing and maintaining effective internal control over financial reporting. In planning and performing our audit, we considered the Board's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Board's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Board's internal control over financial reporting.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Board's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain matters that we reported to management of Board of Education, City of Buffalo, New York in a separate letter dated October 15, 2012.

This report is intended solely for the information and use of the Board of Education, the Audit Committee, management, federal awarding agencies and pass-through entities, and is not intended to be and should not be used by anyone other than these specified parties.

*Freed Maxick CPAs, P.C.*

Buffalo, New York  
October 15, 2012



**Independent Auditor's Report on Compliance With Requirements That Could  
Have a Direct and Material Effect on Each Major Program and on  
Internal Control Over Compliance in  
Accordance with OMB Circular A-133**

To the Board of Education of  
City of Buffalo, New York

**Compliance**

We have audited the compliance of the Board of Education, City of Buffalo, New York (the Board) with the types of compliance requirements described in the OMB Circular A-133, *Compliance Supplement* that could have a direct and material effect on each of the Board's major federal programs for the year ended June 30, 2012. The Board's major federal programs are identified in the summary of auditor's results section of the accompanying Schedule of Findings and Questioned Costs. Compliance with the requirements of laws, regulations, contracts and grants applicable to each of its major federal programs is the responsibility of the Board's management. Our responsibility is to express an opinion on the Board's compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*. Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the Board's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination on the Board's compliance with those requirements.

In our opinion, the Board complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended June 30, 2012.

### Internal Control Over Compliance

Management of the Board is responsible for establishing and maintaining effective internal control over compliance with requirements of laws, regulations, contracts and grants applicable to federal programs. In planning and performing our audit, we considered the Board's internal control over compliance with requirements that could have a direct and material effect on a major federal program to determine our auditing procedures for the purpose of expressing our opinion on compliance and to test and report on internal control over compliance in accordance with OMB Circular A-133, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the Board's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect and correct noncompliance with a type of compliance requirement of a federal program on a timely basis. A material weakness in internal control over compliance is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above.

This report is intended solely for the information and use of the Board of Education, Audit Committee, management, federal awarding agencies and pass-through entities, and is not intended to be and should not be used by anyone other than these specified parties.

*Freed Maxick CPAs, P.C.*

Buffalo, New York  
October 15, 2012

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**SCHEDULE OF FINDINGS AND QUESTIONED COSTS**  
**FOR THE YEAR ENDED JUNE 30, 2012**

**I. SUMMARY OF AUDITOR'S RESULTS**

***Financial Statements***

Type of auditor's report(s) issued: Unqualified

Internal control over financial reporting:

Material weakness(es) identified?          yes        X  no

Significant deficiency(ies) identified?          yes        X  none reported

Noncompliance material to financial statements noted?          yes        X  no

***Federal Awards***

Internal control over major programs:

Material weakness(es) identified?          yes        X  no

Significant deficiency(ies) identified?          yes        X  none reported

Type of auditor's opinion(s) issued on compliance for major programs: Unqualified

Any audit findings disclosed that are required to be reported in accordance with section 510(a) of Circular A-133?          yes        X  no

Identification of major programs: CFDA #

ARRA - Education Jobs Fund	84.410
Title IIA	84.367
School Improvement Grants (Including ARRA)	84.377/84.388
ARRA - Race to the Top	84.395
Nutrition Cluster	10.553/10.555/10.559

Dollar threshold used to distinguish between Type A and Type B Programs \$ 3,000,000

Auditee qualified as low risk?        X  yes          no

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**SCHEDULE OF FINDINGS AND QUESTIONED COSTS**  
**FOR THE YEAR ENDED JUNE 30, 2012**  
**(Continued)**

II. **FINDINGS - FINANCIAL STATEMENT AUDIT**

There were no findings related to the financial statement audit noted in the current year.

III. **FINDINGS AND QUESTIONED COSTS FOR FEDERAL AWARDS**

There were no findings and questioned costs related to federal awards noted in the current year.

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**SCHEDULE OF PRIOR YEAR FINDINGS AND QUESTIONED COSTS**  
**FOR THE YEAR ENDED JUNE 30, 2012**

I. **FINDING - FINANCIAL STATEMENT AUDIT**

There were no findings related to the financial statement audit noted in the prior year.

II. **FINDINGS AND QUESTIONED COSTS FOR FEDERAL AWARDS**

There were no findings and questioned costs related to federal awards noted in the prior year.

**SECTION E**  
**EXTRACLASROOM ACTIVITY**



Independent Auditor's Report

To the Board of Education of  
City of Buffalo, New York

We have audited the accompanying Statement of Cash Receipts, Disbursements and Changes in Cash Basis Net Assets of the Extraclassroom Activity Funds of the Board of Education, City of Buffalo, New York (the Board), as of and for the year ended June 30, 2012. The financial statement is the responsibility of the Board's management. Our responsibility is to express an opinion on the financial statement based on our audit.

Except as discussed in the following paragraph, we conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

Insufficient accounting controls are exercised over cash receipts from the point of collection to the time of submission to the Central Treasurer. Accordingly, it was impracticable to extend our audit of such receipts beyond the amounts recorded.

The Board's policy is to prepare the financial statements of the Extraclassroom Activity Funds on the basis of cash receipts and disbursements as explained in Note 1 to the financial statement. Accordingly, the accompanying Statement of Cash Receipts, Disbursements and Changes in Cash Basis Net Assets of the Extraclassroom Activity Funds is not intended to present financial position, results of operations, and cash flows in conformity with accounting principles generally accepted in the United States of America.

In our opinion, except for the effects of any adjustments which might have resulted had the cash collections been susceptible to satisfactory audit tests, the financial statements referred to above present fairly, in all material respects, the recorded transactions of the Extraclassroom Activity Funds of the Board for the year ended June 30, 2012, arising from cash collected and disbursements made during the year then ended on the basis of accounting described in Note 1.

*Freed Maxick CPAs, P.C.*

Buffalo, New York  
October 15, 2012

BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK  
STATEMENT OF CASH RECEIPTS, DISBURSEMENTS  
AND CHANGES IN CASH BASIS NET ASSETS OF THE  
EXTRACLASROOM ACTIVITY FUNDS  
FOR THE YEAR ENDED JUNE 30, 2012

School	Balance June 30, 2011	Cash Receipts	Cash Disbursements	Balance June 30, 2012
3	\$ 2,731	\$ 16,071	\$ 14,717	\$ 4,085
6	4,831	21,233	17,758	8,306
17	9,958	6,724	7,381	9,301
18	5,246	7,323	9,030	3,539
19	9,418	11,115	12,325	8,208
27	23,938	28,131	39,234	12,835
30	4,978	33,802	27,133	11,647
31	666	20,569	19,764	1,471
32	22,678	69,136	63,754	28,060
33	2,931	22,047	21,460	3,518
37	(995)	25,247	22,998	1,254
39	10,408	22,253	21,918	10,743
40	-	245	125	120
42	5,851	18,180	16,324	7,707
43	9,425	18,295	19,346	8,374
45	12,800	33,026	33,014	12,812
53	2,708	13,375	13,405	2,678
54	12,322	7,929	12,591	7,660
56	3,028	49,135	45,585	6,578
59	4,330	20,517	23,025	1,822
61	910	5,331	4,898	1,343
64	2,377	28,728	27,398	3,707
65	3,858	27,153	26,083	4,928
66	6,518	14,208	15,020	5,706
67	5,521	32,650	24,995	13,176
69	3,130	4,906	5,585	2,451
72	4,038	17,980	16,198	5,820
74	5,732	26,686	29,993	2,425
76	774	14,542	14,849	467
79	21,060	12,357	12,851	20,566
80	8,243	36,031	39,565	4,709
81	1,098	4,766	3,204	2,660
82	9,026	11,153	10,094	10,085
84	11,504	12,962	4,818	19,648
89	9,890	15,021	22,856	2,055
90	4,865	12,095	15,786	1,174
91	4,873	22,137	19,578	7,432
93	4,034	35,452	24,085	15,401
94	15,552	33,307	26,627	22,232
95	15,000	18,748	23,409	10,339
96	14,219	887	15,106	-
97	559	4,875	4,969	465
99	8,995	22,042	28,697	2,340
131	(54)	1,990	1,394	542
192	69,364	224,606	201,698	92,272
195	90,053	238,652	250,879	77,826
Subtotal	\$ 468,391	\$ 1,323,618	\$ 1,311,522	\$ 480,487

See note to financial statement.

BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK  
STATEMENT OF CASH RECEIPTS, DISBURSEMENTS  
AND CHANGES IN CASH BASIS NET ASSETS OF THE  
EXTRACLASSROOM ACTIVITY FUNDS  
FOR THE YEAR ENDED JUNE 30, 2012  
(CONTINUED)

School	Balance June 30, 2011	Cash Receipts	Cash Disbursements	Balance June 30, 2012
197	\$ 8,614	\$ 43,910	\$ 46,327	\$ 6,197
198	3,892	8,315	12,629	(422)
200	7,116	110,364	99,496	17,984
202	(1)	1	-	-
204	10,057	76,629	67,853	18,833
205	8,455	37,459	36,158	9,756
206	40,720	96,777	94,047	43,450
212	26,998	119,498	115,109	31,387
301	14,405	36,042	33,532	16,915
302	27,377	73,049	73,896	26,530
304	56,252	198,887	208,180	46,959
305	33,891	-	-	33,891
307	8,541	53,343	52,362	9,522
415	17,234	49,910	55,053	12,091
Subtotal	263,551	904,184	894,642	273,093
Subtotal (E2)	468,391	1,323,618	1,311,522	480,487
Total	\$ 731,942	\$ 2,227,802	\$ 2,206,164	\$ 753,580

See note to financial statement.

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**EXTRACLASSROOM ACTIVITY FUNDS**  
**NOTE TO FINANCIAL STATEMENT**

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

The transactions of the Extraclassroom Activity Funds are not considered part of the reporting entity of the Board of Education, City of Buffalo, New York (the Board). Consequently, such transactions are included in the basic financial statements of the Board only to the extent that cash and a corresponding liability are recorded in the Agency Fund in the Board's Statement of Net Assets - Fiduciary Funds at June 30, 2012.

The books and records of the Board's Extraclassroom Activity Funds are maintained on the cash basis of accounting. Under this basis of accounting revenues are recognized when cash is received and expenditures are recognized when cash is disbursed.

**BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK**  
**EXTRACLASROOM ACTIVITY FUNDS**  
**SUMMARY OF AUDIT FINDINGS**

**CASH RECEIPTS**

Based on our conversations with the Associate Auditor, we noted that student treasurers and advisors are not providing the Central Treasurer with documentation to support the amount of cash collected from fundraising activities. This deficiency has resulted in a qualification of our audit report.

Internal accounting control and control over undeposited cash collections could be strengthened if receipts for cash collections were issued at the point of sale and a preaudit of receipts was available for each major fundraiser.

Extracurricular activity funds are derived from a number of sources such as admissions, sales and campaigns and donations. The procedures used in collecting and preauditing (checking) these several types of receipts will naturally vary. As far as possible, devices should be used which will make it possible to determine in advance the amounts which should be received.

To facilitate the preaudit and recording of receipts, statements should be prepared by those collecting money. Such statements should, on the face of them, give all the essential data for a complete check and audit of the receipts. A determination should be made as to whether the activity falls within the provision of the New York State Sales Tax Law, and an estimate should be obtained as to the amount of sales tax which will be collected. Such statements should enable those collecting money to prepare a complete report and verify the money turned over to the treasurer. In addition, they will afford protection for those handling funds, facilitate a check, and serve as documentary evidence, which can be used for accounting purposes. A preaudit of receipts should make only reasonable allowances for errors in making change.

**ACTIVITY FUND MANAGEMENT**

During our audit, we noted instances in which neither budgets for fund-raising events nor annual budgets for annual fundraising activities were prepared. The Board of Education has the ultimate responsibility for the safeguarding of the Extracurricular Activity Fund. The Board delegates this responsibility to the Central Treasurer, the faculty advisors and the student treasurers.

Additionally, the only reconciliation of expected revenue to actual cash collected is performed by the internal audit staff after the school year is complete. Such reconciliations are performed on a random basis and not on a fundraiser-by-fundraiser basis, resulting in doubt about whether the cash deposit totals can be reasonably relied upon.

In order to help monitor the plans and operations of the various activities, we suggest that at the start of each school year the activity advisors and activity officers prepare a program outline indicating the various events to be held, the anticipated profits and the plans for the proceeds. A copy of the program outline should be submitted to the Building Principal, the Central Treasurer, and the Associate Auditor, so they can anticipate and approve the various events throughout the year.

As each event is completed, the program outline should be compared to the actual results. The profit and loss analysis should be filed with the activity records for future reference.

**CASH DISBURSEMENTS**

During our test of expenditures, we noted instances in which all the required signatures were not present on the payment order. We also noted instances where payments were made without an invoice.

We recommend the Central Treasurers refrain from issuing checks without a properly completed payment order that includes all required signatures and an original invoice.

BOARD OF EDUCATION, CITY OF BUFFALO, NEW YORK  
EXTRACLASSROOM ACTIVITY FUNDS  
SUMMARY OF AUDIT FINDINGS

STUDENT LEDGERS

During our testing, we noted that 6 of the 24 clubs tested did not maintain a student ledger.

We recommend each club maintain a student ledger as well as the Central Treasurer's ledger. We further recommend student ledgers be reconciled with those of the Central Treasurer and at least semi-annually. We also recommend the Central Treasurers remit club ledgers in a more timely manner so bank reconciliations can be prepared timely.

DEFINITION

We noted that certain accounts included in the Board's Student Activity Funds are not in compliance with Section 172.1 of the Commissioner of Education Regulations governing Financial Accounting of Extra Classroom Activity Funds since these accounts do not represent activities conducted by students. These accounts are "Teacher's Supply," "Principal's Supply," "Postage," "Miscellaneous," and other "General Funds."

Section 172.1 of the Regulations of the Commissioner of Education on Financial Accounting of Extra Classroom Activity Funds defines activity funds as follows:

An organization within a school district whose activities are conducted by and for the students and whose financial support is raised other than by taxation or through charges of the Board of Education.

The deposit of funds into the extraclassroom account shall consist only of monies received from the conduct, operation, or maintenance of extraclassroom activity (Regulation of the Commissioner of Education on Financial Accounting of Extra Classroom Activity Funds, Section 172.4).

We understand that these accounts are included with the Extraclassroom Activity Funds to assist improving internal control, to save on bank charges, and to streamline administrative requirements. However, we recommend that the Board review and evaluate these activities to determine if they meet the criteria of an extraclassroom activity.

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**APPENDIX B**  
**CERTAIN DEFINITIONS**

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## APPENDIX B

### CERTAIN DEFINITIONS

*As used in this Official Statement, the following terms shall have the meanings set forth below:*

Act or IDA Act shall mean, collectively, the New York State Industrial Development Agency Act (constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York), as amended, and Chapter 293 of the 1970 Laws of New York, as amended.

Additional Bonds shall mean one or more series of additional bonds issued, executed, authenticated and delivered under the Indenture, including the Series 2013A Bonds.

Additional Facilities shall mean any “educational facilities” of the City and/or the Buffalo CSD as shall after the Closing Date become subject to a Series Facilities Agreement other than the Installment Sale Agreement; provided, however, that to the extent that only items of machinery, equipment, furniture, furnishings or fixtures located within an “educational facility” owned by or leased to the City and/or the Buffalo CSD shall be financed in whole or in part from a Series of Project Bonds, then “Additional Facilities” shall mean only such items so financed and all replacements, repairs or additions thereto.

Additional Payments shall mean all amounts payable by the Buffalo CSD under the Installment Sale Agreement, other than for Installment Purchase Payments.

Agreement Term shall mean the duration of the Installment Sale Agreement.

Authorized Representative shall mean (i) in the case of the Issuer, the Chairman, Vice Chairman, President/CEO, Chief Operating Officer, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary or Executive Director of the Issuer, or any officer or employee of the Issuer authorized to perform specific acts or to discharge specific duties, (ii) in the case of the PPDS Provider, the President, any Vice President, the Treasurer or any Assistant Treasurer of the PPDS Provider, or any officer or employee of the PPDS Provider authorized to perform specific acts or to discharge specific duties, and (iii) in the case of the Buffalo CSD, (y) the Comptroller of the City, but only for the purposes of (1) directing the Trustee in the application of prepayments of Installment Purchase Payments, (2) directing the Trustee with respect to investments and reinvestments by the Trustee of moneys held under the Indenture, (3) directing the Trustee in the application of moneys from the Redemption Account of the Bond Fund to either the Interest Account or Principal Account of the Bond Fund as provided in the Indenture, (4) directing the Trustee to the purchase of Bonds from amounts in the Redemption Account of the Bond Fund, and the order of crediting of sinking fund payments upon the purchase or redemption of any Bonds subject to sinking fund payments, all as provided in the Indenture, (5) directing the Trustee in the investment of amounts held under the Indenture, requesting the Trustee to deliver statements of net investment gain or loss and of amounts held in the Project Fund and in each Account of the Bond Fund, and directing the Trustee to sell, redeem or exchange for cash any obligations in which moneys shall have been invested, all as provided in the Indenture, (6) directing the Trustee to make deposits to or transfers from the Rebate Fund as provided in the Indenture, (7) directing the Trustee as to the order of maturity of Bonds to be redeemed as provided in the Indenture, (8) directing the Trustee relative to action to be taken under the Tax Compliance Certificate as provided in the Indenture, (9) consenting to the execution of a Supplemental Indenture by the Issuer and the Trustee upon the circumstances set forth therefor under the Indenture, and (10) designating to the Trustee a “Qualified Swap” as provided in the definition of such term; or (z) the Superintendent of the Buffalo CSD, the President of the Board of Education of the Buffalo CSD or any other officer or employee of the Buffalo CSD authorized to so act, and without limitation in purpose as provided in preceding clause (y); provided, however, that in each case for which a

certification or other statement of fact or condition is required to be submitted by an Authorized Representative to any Person pursuant to the terms of the Installment Sale Agreement or the Indenture, such certificate or statement shall be executed only by an Authorized Representative in a position to know or to obtain knowledge of the facts or conditions that are the subject of such certificate or statement.

Bankruptcy Code shall mean Title 11 of the United States Code, as it is amended from time to time.

Base Facilities Agreement Payment Certificate shall have the meaning ascribed thereto in the State Aid Trust Agreement.

Beneficial Owner shall mean, whenever used with respect to a Bond, the Person in whose name such Bond is recorded as the beneficial owner of such Bond by the respective systems of DTC and each of the Participants of DTC.

Beneficial Ownership Interest shall mean the beneficial right to receive payments and notices with respect to the Bonds which are held by the Securities Depository under a book-entry system.

Bond Fund shall mean the special trust fund so designated, established pursuant to the Indenture.

Bondholder, Holder of Bonds, Holder or holder shall mean any Person who shall be the registered owner of any Bond or Bonds.

Bond Registrar shall mean the Trustee acting as registrar as provided in the Indenture.

Bond Resolution shall mean the resolutions of the Issuer adopted on September 11, 2002, as amended on October 16, 2002 and on June 11, 2003, and as amended and restated on November 10, 2004, and as further amended on April 11, 2005, June 11, 2007, July 9, 2007, January 17, 2008, October 19, 2009 and May 16, 2011, and adopted on March 25, 2013 authorizing the Series 2009 Project and the issuance of the Series 2009A Bonds and the Series 2013A Bonds.

Bonds shall mean the Series 2009A Bonds, the Series 2013A Bonds and any other Series of Additional Bonds issued under the Indenture.

Bond Service Charges shall mean the principal, interest and redemption premium, if any, required to be paid on the Bonds when and as the same become due, whether by scheduled maturity or prior redemption.

Bond Year shall mean each period of twelve months commencing on November 2 and ending on the succeeding November 1.

Buffalo CSD shall mean the City School District of the City of Buffalo, a school district of the State of New York, acting by and through the Board of Education of the City School District of Buffalo, and any body, board, authority, agency or other governmental agency or instrumentality which shall succeed to the powers, duties, obligations and functions thereof.

Buffalo Schools Act shall mean chapter 605 of the Laws of 2000 of the State, as amended by chapter 59 of the Laws of 2003 of the State, as further amended by chapter 421 of the Laws of 2004 of the State, as further amended by chapter 283 of the Laws of 2006 of the State, as further amended by chapter 403 of the Laws of 2008 of the State, as further amended by chapter 492 of the Laws of 2008 of the State,

as further amended by chapter 497 of the Laws of 2008 of the State, and as further amended by Chapter 209 of the Laws of 2009 of the State, as the same may be further amended from time to time.

Buffalo Schools Reconstruction Project shall mean the acquisition, renovation, construction, reconstruction, equipping and/or furnishing of public schools of the City and/or the Buffalo CSD as an authorized project of the Issuer pursuant to the Buffalo Schools Act.

Business Day shall mean any day other than (i) a Saturday or Sunday, (ii) a day on which banks in the State of New York, or in the cities in which the corporate trust office of the Trustee is located, are authorized or required by law to close, or (iii) a day on which the New York Stock Exchange, Inc. is closed.

Cede & Co. shall mean Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to Bonds in book-entry-only form.

City shall mean the City of Buffalo, New York.

Closing Date shall mean the date of the original issuance and delivery of the Series 2009A Bonds.

Code shall mean the Internal Revenue Code of 1986, as amended, including the regulations thereunder.

Costs of Issuance shall mean issuance costs with respect to a Series of Bonds described in Section 147(g) of the Code and any regulations thereunder, including but not limited to the following: underwriter's spread (whether realized directly or derived through purchase of such Series of Bonds at a discount below the price at which they are expected to be sold to the public); counsel fees (including bond counsel, underwriter's counsel, Trustee's counsel, Issuer's counsel, Buffalo CSD's counsel, as well as any other specialized counsel fees incurred in connection with the borrowing); financial advisor fees of any financial advisor to the Issuer or the Buffalo CSD incurred in connection with the issuance of the Series of Bonds; professional consultant's fees; Rating Agency fees; Trustee, Paying Agent and Depository Bank fees; Credit Facility fees and the fees and expenses of counsel to the provider of the Credit Facility; accountant fees and other expenses related to the issuance of such Series of Bonds; printing and reproduction costs; filing and recording fees; costs of Rating Agencies; fees and expenses of the Issuer incurred in connection with the issuance of such Series of Bonds; Blue Sky fees and expenses; and any other charges, fees, costs or expenses related to the issuance of such Series of Bonds.

County shall mean Erie County, New York.

Credit Facility shall mean any letter of credit, standby bond purchase agreement, line of credit, policy of bond insurance, surety bond, guarantee or similar instrument, or any agreement relating to the reimbursement of any payment thereunder (or any combination of the foregoing), which is obtained by the Issuer or the Buffalo CSD and is issued by a financial institution, insurance provider or other Person and which provides security or liquidity in respect of any Outstanding Bonds.

Defeasance Obligations shall mean only (1) cash, (2) non-callable direct obligations of the United States of America ("Treasuries"), (3) evidences of ownership of proportionate interests in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, (4) pre-refunded municipal obligations rated

“AAA” and “Aaa” by S&P and Moody’s, respectively, or (5) securities eligible for “AAA” defeasance under then existing criteria of S&P or any combination thereof.

Depository or Depository Bank shall mean Manufacturers and Traders Trust Company, Buffalo, New York, acting as depository bank pursuant to the State Aid Trust Agreement, and shall include its successors and assigns in such capacity.

DTC shall mean The Depository Trust Company, a limited purpose trust company, New York, New York.

“educational activity” or “educational facility” shall have the meanings assigned to such terms by the Buffalo Schools Act.

Environmental Compliance Agreement shall mean the Environmental Compliance and Indemnification Agreement, dated as of November 1, 2009, from the Buffalo CSD for the benefit of the Issuer, as amended or supplemented.

Event of Default shall have the meaning specified in the Indenture or the Installment Sale Agreement, as applicable.

Event of Nonappropriation shall mean failure by the Buffalo CSD, as a result of a nonappropriation of funds, to pay or cause to be paid, when due, the Installment Purchase Payments or Additional Payments to be paid under the Installment Sale Agreement.

Facility or Facilities shall mean, as applicable, each “educational facility” owned by, or leased to, the City and/or the Buffalo CSD, and described in the Installment Sale Agreement, including the land upon which such “educational facility” is located and all rights or interests therein or appertaining thereto (subject, in the case of School #84, to the School #84 Prime Lease), together with all structures, buildings, foundations, related facilities, fixtures and other improvements now or at any time made, erected or situated thereon (including the improvements made pursuant to the Installment Sale Agreement and the Master Construction Agreement), and all replacements, improvements, extensions, substitutions, restorations, repairs or additions thereto, together with all items of machinery, equipment, furniture, furnishings and fixtures located and used therein from time to time; provided, however, that (x) to the extent that only items of machinery, equipment, furniture, furnishings or fixtures located within an “educational facility” owned by, or leased to, the City and/or the Buffalo CSD shall be financed in whole or in part from the proceeds of the Bonds, then “Facility” shall mean only such items so financed and all replacements, repairs or additions thereto, (y) to the extent that an item of property constituting a fixture located at an “educational facility” is financed in whole or in part from the proceeds of the Bonds, and such “educational facility” shall not otherwise itself be included within the Facilities subject to either the Ground Lease or the Ground Sublease, as applicable, and to the Installment Sale Agreement, then such fixture shall be deemed property severable from the remainder of the “educational facility” and thereby subject to the leasehold estate of the Ground Lease (or, in the case of School #84, to the subleasehold estate of the Ground Sublease) and to the Installment Sale Agreement, and (z) “Facility” shall include any item of machinery, equipment, furniture, furnishings or fixtures to the extent any such item is installed or erected pursuant to the Buffalo CSD’s E-RATE 5 Program (involving certain technological upgrades to public schools within the Buffalo CSD) or Energy Management Program, as such items of machinery, equipment, furniture, furnishings or fixtures are generally described in the Installment Sale Agreement as to item and proposed location (but subject in all respects to the authority of the Buffalo CSD to make modifications thereto), but in each case only to the extent the costs of all or any portion of the same are financed with the proceeds of the Bonds.

Fiscal Year shall mean a year commencing on July 1 and ending on the next succeeding June 30.

Ground Lease shall mean the Ground Lease (Series 2009 Project), dated as of November 1, 2009, between the City and the Buffalo CSD, as lessor, and the Issuer, as lessee, with respect to the Facilities (other than School #84), as amended or supplemented.

Ground Sublease shall mean the Ground Sublease (Series 2009 Project), dated as of November 1, 2009, between the Buffalo CSD, as sublessor, and the Issuer, as sublessee, with respect to School #84, as amended or supplemented.

Indenture shall mean the Indenture of Trust (Series 2009 Project), dated as of November 1, 2009, as supplemented and amended by the First Supplemental Indenture of Trust (Series 2009 Project), dated as of April 1, 2013, each between the Issuer and the Trustee, as from time to time further amended or supplemented by Supplemental Indentures in accordance with the Indenture.

Installment Purchase Payment Date shall mean, in the case of the Series 2009A Bonds, April 1 of each year commencing April 1, 2010, and in the case of the Series 2013A Bonds, April 1 of each year commencing April 1, 2014, all as set forth in the schedule of Installment Purchase Payments attached to the Installment Sale Agreement, subject, however, to modification as provided in the Installment Sale Agreement.

Installment Purchase Payments shall mean those installment purchase payments payable by the Buffalo CSD pursuant to the Installment Sale Agreement with respect to principal of and interest on the Bonds.

Installment Sale Agreement shall mean the Installment Sale Agreement (Series 2009 Project), dated as of November 1, 2009, as amended by the First Amendment to Installment Sale Agreement (Series 2009 Project), dated as of April 1, 2013, each between the Issuer and the Buffalo CSD, and shall include any and all further amendments and supplements thereto made in conformity with the Indenture.

Interest Account shall mean the special trust account of the Bond Fund so designated, established pursuant to the Indenture.

Interest Payment Date shall mean, with respect to the Series 2009A Bonds, May 1 and November 1 of each year, commencing May 1, 2010, and the maturity date of the Series 2009A Bonds; and (ii) with respect to the Series 2013A Bonds, May 1 and November 1 of each year, commencing November 1, 2013, and the maturity date of the Series 2013A Bonds.

Issuer shall mean the Erie County Industrial Development Agency, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State, duly organized and existing under the laws of the State, and any body, board, authority, agency or other governmental agency or instrumentality which shall succeed to the powers, duties, obligations and functions thereof.

Issuer's Reserved Rights shall mean, collectively,

(i) the right of the Issuer to exercise in its own behalf its rights under the Installment Sale Agreement with respect to the payment and/or collection of Additional Payments due to the Issuer in its own behalf under the Installment Sale Agreement;

(ii) the right of the Issuer in its own behalf to receive all Opinions of Counsel, reports, financial statements, certificates, insurance policies, binders or certificates, or other notices or communications required to be delivered to the Issuer under the Installment Sale Agreement;

(iii) the right of the Issuer to grant or withhold any consents or approvals required of the Issuer under the Installment Sale Agreement;

(iv) the right of the Issuer to enforce or otherwise exercise in its own behalf all agreements of the Buffalo CSD with respect to ensuring that the Facilities shall always constitute a qualified “project” and “educational facility” for “educational activities” as defined in and as contemplated by the IDA Act and the Buffalo Schools Act;

(v) the right of the Issuer in its own behalf to enforce, receive Additional Payments payable under or otherwise exercise its rights under certain specified provisions of the Installment Sale Agreement, including those relating to Issuer fees and expenses, indemnification, liability insurance and compliance with laws;

(vi) the right of the Issuer to enforce the Environmental Compliance Agreement; and

(vii) the right of the Issuer in its own behalf to enforce the Issuer’s Reserved Rights upon the occurrence of an Event of Default or an Event of Nonappropriation.

Master Construction Agreement shall mean the Phase IV Master Design and Construction Agreement, dated as of September 1, 2008, between the Buffalo CSD, on its own behalf and as agent for the Issuer, the Joint Board and the PPDS Provider, pursuant to which the PPDS Provider has undertaken to perform the Series 2009 Project, as the same may be amended and supplemented from time to time in accordance therewith.

Moody’s shall mean Moody’s Investors Service Inc., a Delaware corporation, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Trustee, by notice to the other Notice Parties.

Nationally Recognized Bond Counsel shall mean Hawkins Delafield & Wood LLP or other counsel acceptable to the Issuer and the Trustee experienced in matters relating to tax exemption of interest on bonds issued by states and their political subdivisions.

Net Base Facilities Agreement Payment shall mean the Installment Purchase Payment as reduced by any credits from amounts available in the Bond Fund.

Notice Parties shall mean the Issuer, the Buffalo CSD, the Paying Agent and the Trustee.

Opinion of Counsel shall mean a written opinion of counsel who may (except as otherwise expressly provided in the Installment Sale Agreement or any other Security Document) be counsel for the Buffalo CSD or the Issuer and who shall be acceptable to the Trustee.

Outstanding, when used with reference to a Bond or Bonds, as of any particular date, shall mean all Bonds which have been issued, executed, authenticated and delivered under the Indenture, except:

(i) Bonds cancelled by the Trustee because of payment or redemption prior to maturity or surrendered to the Trustee under the Indenture for cancellation;

(ii) any Bond (or portion of a Bond) for the payment or redemption of which, in accordance with the defeasance provisions of the Indenture, there has been separately set aside and held in the Redemption Account of the Bond Fund either:

(A) moneys, and/or

(B) Defeasance Obligations in such principal amounts, of such maturities, bearing such interest and otherwise having such terms and qualifications as shall be necessary to provide moneys,

in an amount sufficient to effect payment of the principal or applicable Redemption Price of such Bond, together with accrued interest on such Bond to the payment or redemption date, which payment or redemption date shall be specified in irrevocable instructions given to the Trustee to apply such moneys and/or Defeasance Obligations to such payment on the date so specified, together with that documentation required under the defeasance provisions of the Indenture, provided, that, if such Bond or portion thereof is to be redeemed, notice of such redemption shall have been given as provided in the Indenture or provision satisfactory to the Trustee shall have been made for the giving of such notice; and

(iii) Bonds in exchange for or in lieu of which other Bonds shall have been authenticated and delivered under the Indenture,

provided, however, that in determining whether the Holders of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under the Indenture, Bonds owned by the Buffalo CSD shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which a Responsible Officer of the Trustee actually knows to be so owned shall be so disregarded. Bonds which have been pledged in good faith to a Person may be regarded as Outstanding for such purposes if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Buffalo CSD.

Participants shall mean those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

Paying Agent shall mean any paying agent for the Bonds appointed pursuant to the Indenture (and may include the Trustee) and its successor or successors and any other corporation which may at any time be substituted in its place pursuant to the Indenture.

Permitted Encumbrances shall mean and include:

(i) undetermined liens and charges incident to construction or maintenance, and liens and charges incident to construction or maintenance filed on record which are being contested in good faith and have not proceeded to judgment;

(ii) the liens of taxes and assessments which are not delinquent;

(iii) the liens of taxes and assessments which are delinquent but the validity of which is being contested in good faith unless thereby any of the affected Facilities or the interest of the City or the Buffalo CSD therein may be in danger of being lost or forfeited;

(iv) minor defects and irregularities in the title to any Facility which do not in the aggregate materially impair the use of the affected Facility for the purposes for which it is or may reasonably be expected to be held;

(v) easements, exceptions or reservations for the purpose of pipelines, telephone lines, telegraph lines, power lines and substations, roads, streets, alleys, highways, railroad purposes, drainage and sewerage purposes, dikes, canals, laterals, ditches, the removal of oil, gas, coal or other minerals, and other like purposes, or for the joint or common use of real property, facilities and equipment, which do not materially impair the use of the affected Facility for the purposes for which it is or may reasonably be expected to be held;

(vi) rights reserved to or vested in any municipality or governmental or other public authority to control or regulate or use in any manner any portion of a Facility which do not materially impair the use of the affected Facility for the purposes for which it is or may reasonably be expected to be held;

(vii) any obligations or duties affecting any portion of a Facility of any municipality or governmental or other public authority with respect to any right, power, franchise, grant, license or permit;

(viii) present or future valid zoning laws or ordinances;

(ix) the Installment Sale Agreement, the Ground Lease, the School #84 Prime Lease, the Ground Sublease and the Indenture;

(x) the liens of any Series Ground Lease, Series Facilities Agreement or Series Indenture;  
and

(xi) any other lien which, in the opinion of counsel to the Buffalo CSD delivered and addressed to the Issuer and the Trustee, will not have a material adverse effect upon the obligations of the Buffalo CSD under the Installment Sale Agreement.

Phase IV Facilities shall have the meaning provided for such term in the Installment Sale Agreement.

Plans and Specifications shall mean, as to a particular Facility, the plans and specifications for the acquisition, construction, reconstruction, renovation, improvement, equipping and/or furnishing of such Facility, prepared by the PPDS Provider and approved by the Buffalo CSD and the State Education Department, including site plans, as the same may be amended from time to time.

PPDS Agreement shall mean the Comprehensive Program Packaging and Development Services Provider Agreement, dated June 5, 2002, by and among LPCiminelli, Inc., a corporation organized pursuant to the Delaware Corporation Law, and the Joint School Construction Board, created pursuant to Sections 18-59, 18-60 and 18-61 of the City of Buffalo Charter and the Buffalo School Act and resolutions of the Board of Education of the City School District of the City of Buffalo and the Common Council of the City of Buffalo, to act for itself and as agent and on behalf of the City and the Buffalo CSD, and shall include any and all amendments thereof and supplements made in conformity therewith.

PPDS Provider shall mean LPCiminelli, Inc., a corporation organized pursuant to the Delaware Corporation Law, and its successors and assigns under the PPDS Agreement.

Principal Account shall mean the special trust account of the Bond Fund so designated, established pursuant to the Indenture.

Project Bonds shall mean the Bonds and any series of bonds of the Issuer or any other public entity issued under a Series Indenture to finance all or a portion of the costs of the Buffalo Schools Reconstruction Project.

Project Costs shall mean, together with any other proper item of cost not specifically mentioned in the Indenture but authorized pursuant to the IDA Act or the Buffalo Schools Act, the cost of construction, acquisition, building, alteration, enlargement, reconstruction, renovation, remodeling, improvement, equipping or furnishing of a Facility and the financing or refinancing thereof, including interest on a Series of Bonds from the date thereof to completion of construction, renovation or improvement of a Facility, the payment of the fees and expenses of the Trustee and of any provider of a Credit Facility during the construction, renovation or improvement of a Facility, the cost of acquisition of any land or interest (including rights, easements and franchises) therein required as the site of a Facility or for use in connection therewith, the cost of preparation of the site of a Facility and of any land to be used in connection therewith, the cost of any indemnity and surety bonds and premiums on insurance, the cost of reserves, a Credit Facility or a Qualified Swap, all Costs of Issuance, the costs of audits, the cost of all labor, materials, services, supplies and other expenses, the cost of all contract bonds, the cost of all machinery, apparatus, furniture, fixtures and equipment, the cost of engineering, architectural services, design, plans, specifications and surveys, estimates of cost, and all other expenses necessary or incident to determining the feasibility or practicability of a Facility, and such other expenses not specified in the Indenture as may be necessary or incident to the construction, acquisition, building, alteration, enlargement, reconstruction, renovation, remodeling, improvement, equipping and furnishing of a Facility, the financing or refinancing thereof and the placing of the same in use and operation.

Project Documents shall mean, collectively, the Security Documents, the Ground Lease, the Ground Sublease, the State Aid Trust Agreement, the Master Construction Agreement, the PPDS Agreement and the Environmental Compliance Agreement.

Project Fund shall mean the special trust fund so designated, established pursuant to the Indenture.

Qualified Investments shall mean, to the extent permitted by applicable law, the following:

(1) (a) Direct obligations (other than an obligation subject to variation in principal repayment) of the United States of America (“United States Treasury Obligations”), (b) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by the United States of America, (c) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by any agency or instrumentality of the United States of America when such obligations are backed by the full faith and credit of the United States of America, or (d) evidences of ownership of proportionate interests in future interest and principal payments on obligations described above held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying government obligations are not available to any person claiming through the custodian or to whom the custodian may be obligated.

(2) Federal Housing Administration debentures which are unconditionally guaranteed as to payment of principal and interest by an agency or instrumentality of the United States of America when such obligations are backed by the full faith and credit of the United States of America.

(3) Collateralized (but such collateralization, if any, shall only be to the extent required by, and acceptable to, the Buffalo CSD as determined by the Comptroller of the City) Certificates of Deposit issued by a commercial bank or trust company authorized to do business in the State and Time Deposit, Demand Deposit, and Money Market Accounts in a bank or trust company authorized to do business in the State.

(4) Deposits the aggregate amount of which are fully insured by the Federal Deposit Insurance Corporation (FDIC), in banks which have capital and surplus of at least \$5 million.

(5) Commercial paper (having original maturities of not more than 270 days) rated “A-1+” by S&P and “Prime-1” by Moody’s.

(6) Money market funds rated “AAm” or “AAm-G” by S&P, or better.

(7) “State Obligations”, which means:

(A) Direct general obligations of any state of the United States of America or any subdivision or agency thereof to which is pledged the full faith and credit of a state the unsecured general obligation debt of which is rated “A3” by Moody’s and “A” by S&P, or better, or any obligation fully and unconditionally guaranteed by any state, subdivision or agency whose unsecured general obligation debt is so rated.

(B) Direct general short-term obligations of any state agency or subdivision or agency thereof described in (A) above and rated “A-1+” by S&P and “MIG-1” by Moody’s.

(C) Special Revenue Bonds (as defined in the United States Bankruptcy Code) of any state, state agency or subdivision described in (A) above and rated “AA” or better by S&P and “Aa” or better by Moody’s.

(8) Pre-refunded municipal obligations rated “AAA” by S&P and “Aaa” by Moody’s meeting the following requirements:

(A) the municipal obligations are (1) not subject to redemption prior to maturity, or (2) the trustee for the municipal obligations has been given irrevocable instructions concerning their call and redemption and the issuer of the municipal obligations has covenanted not to redeem such municipal obligations other than as set forth in such instructions;

(B) the municipal obligations are secured by cash or United States Treasury Obligations which may be applied only to payment of the principal of, interest and premium on such municipal obligations;

(C) the principal of and interest on the United States Treasury Obligations (plus any cash in the escrow) has been verified by the report of independent certified public accountants to be sufficient to pay in full all principal of, interest, and premium, if any, due and to become due on the municipal obligations (“Verification”);

(D) the cash or United States Treasury Obligations serving as security for the municipal obligations are held by an escrow agent or trustee in trust for owners of the municipal obligations;

(E) no substitution of a United States Treasury Obligation shall be permitted except with another United States Treasury Obligation and upon delivery of a new Verification; and

(F) the cash or United States Treasury Obligations are not available to satisfy any other claims, including those by or against the trustee or escrow agent.

(9) Repurchase agreements:

With (1) any domestic bank, or domestic branch of a foreign bank, the long term debt of which is rated at least “A” by S&P and Moody’s; or (2) any broker-dealer with “retail customers” or a related affiliate thereof which broker-dealer has, or the parent company (which guarantees the provider) of which has, long-term debt rated at least “A” by S&P and Moody’s, which broker-dealer falls under the jurisdiction of the Securities Investors Protection Corporation; or (3) any other entity rated “A” or better by S&P and Moody’s, provided that:

(A) The market value of the collateral and the type of the collateral are approved by the Comptroller of the City;

(B) The Trustee or a third party acting solely as agent therefor or for the Issuer (the “Holder of the Collateral”) has possession of the collateral or the collateral has been transferred to the Holder of the Collateral in accordance with applicable state and federal laws (other than by means of entries on the transferor’s books);

(C) The repurchase agreement shall state and an opinion of counsel to the provider addressed to the Issuer and the Trustee shall be rendered at the time such collateral is delivered that the Holder of the Collateral has a perfected first priority security interest in the collateral, any substituted collateral and all proceeds thereof (in the case of bearer securities, this means the Holder of the Collateral is in possession); and

(D) The repurchase agreement shall provide that if during its term the provider’s rating by either Moody’s or S&P is withdrawn or suspended or falls below “A-” by S&P or “A3” by Moody’s, as appropriate, the provider must, at the direction of the Trustee (who shall give such direction if so directed by the Comptroller of the City), within ten (10) days of receipt of such direction, repurchase all collateral and terminate the agreement, with no penalty or premium to the Issuer or the Trustee.

(10) Investment agreements with a domestic or foreign bank or corporation (other than a life or property casualty insurance company) the long-term debt of which, or, in the case of a guaranteed corporation the long-term debt, or, in the case of a monoline financial guaranty insurance company, claims paying ability, of the guarantor is rated at least “AA” by S&P and “Aa” by Moody’s; provided that, by the terms of the investment agreement:

(A) interest payments are to be made to the Trustee at times and in amounts as necessary to pay debt service (or, if the investment agreement is for the Project Fund, construction draws) on the Bonds;

(B) the invested funds are available for withdrawal without penalty or premium, at any time upon not more than seven (7) days’ prior notice; the Trustee agrees to give or cause to be given notice in accordance with the terms of the investment agreement so as to receive funds thereunder with no penalty or premium paid;

(C) the investment agreement shall state that is the unconditional and general obligation of, and is not subordinated to any other obligation of, the provider thereof or, if the provider is a bank, the agreement or the opinion of counsel shall state that the obligation of the provider to make payments thereunder ranks pari passu with the obligations of the provider to its other depositors and its other unsecured and unsubordinated creditors;

(D) the Trustee receives the opinion of domestic counsel (which opinion shall be addressed to the Issuer and the Trustee) that such investment agreement is legal, valid, binding and enforceable upon the provider in accordance with its terms and of foreign counsel (if applicable) in form and substance acceptable, and addressed to, the Issuer and the Trustee;

(E) the investment agreement shall provide that if during its term

(i) the provider's rating by either S&P or Moody's falls below "AA-" or "Aa3", respectively (but not below "A-" or "A3", respectively), the provider shall, at its option, within ten (10) days of receipt of publication of such downgrade, either (a) collateralize the investment agreement by delivering or transferring in accordance with applicable state and federal laws (other than by means of entries on the provider's books) to the Issuer, the Trustee or a third party acting solely as agent therefor (the "Holder of the Collateral") collateral (of the type and having a market value as approved by the Comptroller of the City) free and clear of any third-party liens or claims, provided, however, that the provider can only exercise its option under this clause (a) if the Trustee shall receive a Rating Confirmation with respect thereto; or (b) repay the principal of and accrued but unpaid interest on the investment with no penalty or premium to the Issuer or the Trustee, and

(ii) the provider's rating by either S&P or Moody's is withdrawn or suspended or falls below "A-" or "A3", respectively, the provider must, at the direction of the Issuer or the Trustee (who shall give such direction, if so directed by the Comptroller of the City), within ten (10) days of receipt of such direction, repay the principal of and accrued but unpaid interest on the investment, in either case with no penalty or premium to the Issuer or the Trustee, and

(F) the investment agreement shall state and an opinion of counsel to the provider addressed to the Issuer and the Trustee shall be rendered, in the event collateral is required to be pledged by the provider under the terms of the investment agreement, at the time such collateral is delivered, that the holder of the Collateral has a perfected first priority security interest in the collateral, any substituted collateral and all proceeds thereof (in the case of bearer securities, this means the holder of the Collateral is in possession); and

(G) the investment agreement must provide that if during its term

(i) the provider shall default in its payment obligations, the provider's obligations under the investment agreement shall, at the direction of the Issuer or the Trustee (who shall give such direction, if so directed by the Comptroller of the City), be accelerated and amounts invested and accrued but

unpaid interest thereon shall be repaid to the Issuer or the Trustee, as appropriate, and

(ii) the provider shall become insolvent, not pay its debts as they become due, be declared or petition to be declared bankrupt, etc. (“event of insolvency”), the provider’s obligations shall automatically be accelerated and amounts invested and accrued but unpaid interest thereon shall be repaid to the Issuer or the Trustee, as appropriate.

(11) Any other investment, whether similar or dissimilar to any of the foregoing, to the extent that the Trustee (if so directed by the Comptroller of the City) shall receive a Rating Confirmation with respect thereto.

Qualified Swap shall mean, to the extent from time to time permitted by law, with respect to Bonds, any financial arrangement (i) which is entered into by the Issuer or the Buffalo CSD with an entity that is a Qualified Swap Provider at the time the arrangement is entered into, (ii) which is a cap, floor or collar; forward rate; future rate; swap (such swap may be based on an amount equal either to the principal amount of such Bonds of the Issuer as may be designated or a notional principal amount relating to all or a portion of the principal amount of such Bonds); asset, index, price or market-linked transaction or agreement; other exchange or rate protection transaction agreement; other similar transaction (however designated); or any combination thereof; or any option with respect thereto, in each case executed by the Issuer or the Buffalo CSD for the purpose of moderating interest rate fluctuations, reducing debt service costs or creating either fixed or variable interest rate Bonds on a synthetic basis or otherwise, (iii) which has been designated in writing to the Trustee by an Authorized Representative of the Buffalo CSD as a Qualified Swap with respect to such Bonds, and (iv) which provides that any termination or like payment thereunder shall be subordinated to the payment of the Bonds.

Qualified Swap Provider shall mean an entity whose senior long term obligations, other senior unsecured long term obligations, financial program rating, counterparty rating, or claims paying ability, or whose payment obligations under an interest rate exchange agreement are guaranteed by an entity whose senior long term debt obligations, other senior unsecured long term obligations, financial program rating, counterparty rating, or claims paying ability, are rated at least as high as the third highest Rating Category of each Rating Agency then maintaining a rating for the Qualified Swap Provider.

Rating Agency shall mean S&P or Moody’s and such other nationally recognized securities rating agency as shall have awarded a rating to the Bonds at the request of the Issuer.

Rating Category shall mean one of the generic rating categories of either Moody’s or S&P without regard to any refinement or gradation of such rating by a numerical modifier or otherwise.

Rating Confirmation shall mean written evidence from each Rating Agency that no Outstanding Bond rating then in effect from such Rating Agency will be withdrawn, reduced or suspended solely as a result of an action to be taken as described or referred to therein.

Rebate Fund shall mean the special trust fund so designated, established pursuant to the Indenture.

Record Date shall mean, with respect to the Series 2009A Bonds and the Series 2013A Bonds, the fifteenth (15<sup>th</sup>) day of the month immediately preceding an Interest Payment Date.

Redemption Account shall mean the special trust account of the Bond Fund so designated, established pursuant to the Indenture.

Redemption Price shall mean, with respect to any Bond or a portion thereof, the principal amount thereof to be redeemed in whole or in part, plus the applicable premium, if any, payable upon redemption thereof pursuant to such Bond or the Indenture.

Refunded Bonds shall mean, with respect to a Series of Refunding Bonds, the Bonds refunded by such Refunding Bonds pursuant to the Indenture, including a portion of the Series 2009A Bonds.

Refunding Bonds shall mean one or more series of Refunding Bonds, including the Series 2013A Bonds, issued, executed, authenticated and delivered under the Indenture.

Refunding Escrow Trust Agreement shall mean the Refunding Escrow Trust Agreement (Series 2009 Project), dated as of April 1, 2013, among the Agency, the Buffalo CSD and the Trustee, as escrow agent, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Related Security Documents shall mean all Security Documents other than the Indenture.

Representation Letter shall mean the Blanket Issuer Letter of Representations from the Issuer and the Trustee to DTC.

Responsible Officer shall mean, with respect to the Trustee, any officer within the corporate trust office of the Trustee, including any vice-president, any assistant vice-president, any secretary, any assistant secretary, the treasurer, any assistant treasurer or other officer of the corporate trust office of the Trustee customarily performing functions similar to those performed by any of the above designated officers, who has direct responsibility for the administration of the trust granted in the Indenture, and shall also mean, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of that officer's knowledge of and familiarity with the particular subject.

S&P shall mean Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., a corporation organized and existing under the laws of the State, its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Trustee, by notice to the other Notice Parties.

School #84 shall mean the Erie County Health Care Center for Children #84, located at 462 Grider Street, Buffalo, New York.

School #84 Prime Lease shall mean that certain Lease Agreement, dated as of June 1, 2007, as extended by a First Lease Extension Agreement, dated as of November 1, 2009, between the County, as landlord, and the Buffalo CSD, as tenant, as the same may be further extended, amended or supplemented.

Securities Depository shall mean any securities depository that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a book-entry system to record ownership of book-entry interests in the Bonds, and to effect transfers of book-entry interests in the Bonds in book-entry form, and includes and means initially DTC.

Security Documents shall mean, collectively, the Installment Sale Agreement, the Indenture and the Tax Compliance Certificate.

Series shall mean all of the Bonds designated as being of the same series authenticated and delivered on original issuance in a simultaneous transaction, and any Bonds thereafter authenticated and delivered in lieu thereof or in substitution therefor pursuant to the Indenture.

Series Facilities Agreement shall mean the Series 2003 Bonds Facilities Agreement, the Series 2004 Bonds Facilities Agreement, the Series 2007 Bonds Facilities Agreement, the Installment Sale Agreement, the Series 2011A Bonds Facilities Agreement, the Series 2011B Bonds Facilities Agreement, the 2012A Installment Sale Agreement and each other installment sale agreement or facilities lease agreement pursuant to which the Issuer or other public entity shall sell, lease or sublease Additional Facilities to the Buffalo CSD, and the Buffalo CSD shall be obligated to make installment purchase payments or rental payments, as applicable, with respect to a Series of Project Bonds upon terms substantively comparable to that provided in the Installment Sale Agreement.

Series Ground Lease shall mean, collectively, the Series 2003 Ground Lease, the Amended 2004 Ground Lease, the Series 2007 Ground Lease, the Series 2007 Ground Sublease, the Ground Lease, the Ground Sublease, the Series 2011A Ground Lease, the Series 2011B Ground Lease, and each other lease or sublease by the City and/or the Buffalo CSD to the Issuer or other public entity of Additional Facilities to be financed in whole or in part with a Series of Project Bonds.

Series Indenture shall mean, collectively, the Series 2003 Bonds Indenture, the Series 2004 Bonds Indenture, the 2007 Indenture, the Indenture, the Series 2011A Indenture, the Series 2011B Indenture, the Series 2012A Indenture and each other indenture of trust or bond resolution pursuant to which a Series of Project Bonds shall be issued to finance all or a portion of the costs of the Buffalo Schools Reconstruction Project.

Series Trustee shall mean, collectively, the Series 2003 Bonds Trustee, the Series 2004 Bonds Trustee, the 2007 Indenture Trustee, the Trustee, the 2011A Indenture Trustee, the 2011B Indenture Trustee, the Series 2012A Trustee and each financial institution acting as Trustee under a Series Indenture (other than the Indenture).

Series 2003 Bonds Facilities Agreement shall mean the Facilities Lease Agreement (Series 2003 Project), dated as of September 1, 2003, as amended by an Amendatory Installment Sale Agreement (Series 2003 Project), dated as of June 28, 2005, each between the Issuer and the Buffalo CSD.

Series 2003 Bonds Indenture shall mean the Indenture of Trust (Series 2003 Project), dated as of September 1, 2003, as supplemented and amended by a First Supplemental Indenture of Trust (Series 2003 Project), dated as of June 28, 2005, each between the Issuer and the Series 2003 Bonds Trustee.

Series 2003 Bonds Trustee shall mean Manufacturers and Traders Trust Company, Buffalo, New York, in its capacity as trustee under the Series 2003 Bonds Indenture, and its successors in such capacity and their assigns appointed in the manner provided in the Series 2003 Bonds Indenture.

Series 2003 Ground Lease shall mean the Ground Lease (Series 2003 Project), dated as of September 1, 2003, as amended by a First Amendment to Ground Lease (Series 2003 Project), dated as of June 28, 2005, each between the City and the Buffalo CSD, as lessors, and the Issuer, as lessee.

Series 2004 Bonds Facilities Agreement shall mean the Installment Sale Agreement (Series 2004 Project), dated as of December 1, 2004, as amended by a First Amendment to Installment Sale Agreement

(Series 2004 Project), dated as of June 28, 2005, and by a Second Amendment to Installment Sale Agreement (Series 2004 Project), dated as of August 1, 2007, each between the Issuer and the Buffalo CSD.

Series 2004 Bonds Indenture shall mean the Indenture of Trust (Series 2004 Project), dated as of December 1, 2004, as supplemented and amended by a First Supplemental Indenture of Trust (Series 2004 Project), dated as of June 28, 2005, and by a Second Supplemental Indenture of Trust (Series 2004 Project), dated as of August 1, 2007, each between the Issuer and the Series 2004 Bonds Trustee.

Series 2004 Bonds Trustee shall mean Manufacturers and Traders Trust Company, Buffalo, New York, in its capacity as trustee under the Series 2004 Bonds Indenture.

Series 2007 Bonds Facilities Agreement shall mean the Installment Sale Agreement (Series 2007 Project), dated as of August 1, 2007, as amended by a First Amendment to Installment Sale Agreement (Series 2008 Project), dated as of February 1, 2008, each between the Issuer and the Buffalo CSD, and shall include any and all further amendments and supplements thereto hereafter made in conformity therewith and with the 2007 Indenture.

Series 2007 Ground Lease shall mean the Ground Lease (Series 2007 Project), dated as of August 1, 2007, as amended by a First Amendment to Ground Lease (Series 2008 Project), dated as of February 1, 2008, each between the City and Buffalo CSD, as lessors, and the Issuer, as lessee, with respect to the “Facilities” (as such term is defined in the Series 2007 Bonds Facilities Agreement), as amended or supplemented.

Series 2007 Ground Sublease shall mean the Ground Sublease (Series 2007 Project), dated as of August 1, 2007, between the City and the Buffalo CSD, as sublessors, and the Issuer, as sublessee, with respect to the Phase II Facilities and the Phase III Facilities-First Part (as such terms are defined in the Series 2007 Bonds Facilities Agreement), as amended or supplemented.

Series 2011A Bonds Facilities Agreement shall mean the Installment Sale Agreement (Series 2011 Project), dated as of June 1, 2011, between the Issuer and Buffalo CSD, and shall include any and all amendments and supplements thereto hereafter made in conformity therewith and with the 2011A Indenture.

Series 2011A Ground Lease shall mean the Ground Lease (Series 2011 Project), dated as of June 1, 2011, between the City and Buffalo CSD, as lessors, and the Issuer, as lessee, with respect to the “Facilities” (as such term is defined in the Series 2011A Bond Facilities Agreement), as amended or supplemented.

Series 2011B Bonds Facilities Agreement shall mean the Amended and Restated Installment Sale Agreement (Series 2003 Project), dated as of July 1, 2011, between the Issuer and Buffalo CSD, and shall include any and all amendments and supplements thereto hereafter made in conformity therewith and with the 2011B Indenture.

Series 2011B Ground Lease shall mean the Amended and Restated Ground Lease (Series 2003 Project), dated as of July 1, 2011, between the City and Buffalo CSD, as lessors, and the Issuer, as lessee, with respect to the “Facilities” (as such term is defined in the Series 2011B Bonds Facilities Agreement), as amended or supplemented.

Series 2012A Indenture shall mean the Amended and Restated Indenture of Trust (Series 2004 Project), dated as of April 1, 2012, between the Issuer and the Series 2012A Trustee, as from time to time further amended or supplemented in accordance with the Series 2012A Indenture.

Series 2009A Bonds shall mean the \$294,905,000 School Facility Revenue Bonds (City School District of the City of Buffalo Project), Series 2009A of the Issuer authorized, issued, executed, authenticated and delivered under the Indenture.

Series 2009 Project shall mean the acquisition, construction, renovation, reconstruction, improvement, equipping and furnishing of each Facility in accordance with the related Plans and Specifications.

Series 2013A Bonds shall mean the Issuer's \$62,540,000 School Facility Refunding Revenue Bonds (City School District of the City of Buffalo Project), Series 2013A, authorized, issued, executed, authenticated and delivered under the Indenture

Special Record Date shall mean such date as may be fixed for the payment of defaulted interest in accordance with the Indenture.

State shall mean the State of New York.

State Aid Revenues shall mean the total amount of annual aid to education appropriated by the New York State Legislature and paid by the State to the Buffalo CSD or intercepted by the Comptroller of the State of New York and paid to the Issuer or the related Series Trustee (acting on behalf of the ECIDA) pursuant to Chapter 59 of the Laws of 2003 of the State of New York, as amended, and earnings on the investment thereof while in the custody of the Depository Bank.

State Aid Trust Agreement shall mean the Second Amended and Restated State Aid Trust Agreement, dated as of October 1, 2012, among the Buffalo CSD, the Depository Bank, the City and the Series Trustee, and shall include any and all further amendments thereof and supplements thereto made in conformity therewith.

Supplemental Indenture shall mean any indenture supplemental to or amendatory of the Indenture, executed and delivered by the Issuer and the Trustee in accordance with the Indenture.

2007 Indenture shall mean the Indenture of Trust (Series 2007 Project), dated as of August 1, 2007, as supplemented and amended by a First Supplemental Indenture of Trust (Series 2008 Project), dated as of February 1, 2008, each between the Issuer and the 2007 Indenture Trustee, as from time to time further amended or supplemented in accordance with the 2007 Indenture.

2007 Indenture Trustee shall mean Manufacturers and Traders Trust Company, Buffalo, New York, in its capacity as trustee under the 2007 Indenture, and its successors in such capacity and their assigns appointed in the manner provided in the 2007 Indenture.

2011A Indenture shall mean the Indenture of Trust (Series 2011 Project), dated as of June 1, 2011, between the Issuer and the 2011A Indenture Trustee, as from time to time amended or supplemented in accordance with the 2011A Indenture.

2011A Indenture Trustee shall mean Manufacturers and Traders Trust Company, Buffalo, New York, in its capacity as trustee under the 2011A Indenture, and its successors in such capacity and their assigns appointed in the manner provided in the 2011A Indenture.

2011B Indenture shall mean the Amended and Restated Indenture of Trust (Series 2003 Project), dated as of July 1, 2011, between the Issuer and the 2011B Indenture Trustee, as from time to time amended or supplemented in accordance with the 2011B Indenture.

2011B Indenture Trustee shall mean Manufacturers and Traders Trust Company, Buffalo, New York, in its capacity as trustee under the 2011B Indenture, and its successors in such capacity and their assigns appointed in the manner provided in the 2011B Indenture.

2012A Installment Sale Agreement shall mean the Amended and Restated Installment Sale Agreement (Series 2004 Project) dated as of April 1, 2012, between the Issuer and Buffalo CSD, and shall include any and all amendments and supplements thereto made in conformity with the Series 2012 Indenture.

Tax Compliance Certificate shall mean, with respect to a Series of Bonds, the Tax Compliance Certificate of the Buffalo CSD and the Issuer relating to such Series of Bonds.

Trustee shall mean Manufacturers and Traders Trust Company, Buffalo, New York, in its capacity as trustee under the Indenture, and its successors in such capacity and their assigns appointed in the manner provided in the Indenture.

Trust Estate shall mean all property, interests, revenues, funds, contracts, rights and other security granted to the Trustee under the Security Documents.

Yield shall have the meaning set forth for such term in the Tax Compliance Certificate.

**APPENDIX C**

**SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE OF TRUST**

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## APPENDIX C

### SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE OF TRUST

*The following is a summary of certain provisions of the Indenture of Trust (Series 2009 Project), dated as of November 1, 2009, as supplemented and amended by the First Supplemental Indenture of Trust (Series 2009 Project), dated as of April 1, 2013 (collectively, the "Indenture"). This summary is qualified in its entirety by reference to such documents.*

**Additional Bonds.** So long as the Installment Sale Agreement is in effect and no Event of Default exists thereunder, one or more Series of Additional Bonds may be issued, authenticated and delivered upon original issuance for the purpose of (i) financing Facilities in connection with the Buffalo Schools Reconstruction Project, (ii) providing funds to repair, relocate, replace, rebuild or restore an affected Facility in the event of damage, destruction or taking by eminent domain, (iii) providing extensions, additions, improvements or facilities to one or more Facilities, the purpose of which shall be to constitute a "project" and an "educational facility" within the meaning of the IDA Act and the Buffalo Schools Act, or (iv) refunding Outstanding Bonds. Such Series of Additional Bonds shall be payable from the Installment Purchase Payments under the Installment Sale Agreement. Prior to the issuance of a Series of Additional Bonds and the execution of a Supplemental Indenture in connection therewith, the City, the Buffalo CSD and the Issuer shall enter into an amendment to the Ground Sublease or the Ground Lease, as applicable and if necessary, to subject the Facility(ies) to the subleasehold or leasehold estate thereof, as applicable, and the Issuer and the Buffalo CSD shall enter into an amendment to the Installment Sale Agreement to subject the Facility(ies) to the Installment Sale Agreement and to provide, among other things, that the Installment Purchase Payments payable under the Installment Sale Agreement shall be increased and computed so as to amortize in full the principal of and interest on the Bonds including such Series of Additional Bonds. In addition, the Buffalo CSD and the Issuer shall enter into an amendment to the Tax Compliance Certificate.

Each such Series of Additional Bonds shall be deposited with the Trustee and thereupon shall be authenticated by the Trustee. Upon payment to the Trustee of the proceeds of sale of the Additional Bonds, they shall be made available by the Trustee for pick-up by the order of the purchaser or purchasers thereof, but only upon receipt by the Trustee of:

(1) a copy of the resolution, duly certified by the Secretary or Assistant Secretary of the Issuer, authorizing, issuing and awarding the Additional Bonds to the purchaser or purchasers thereof and providing the terms thereof and authorizing the execution of any Supplemental Indenture and any amendments of or supplements to the Ground Sublease or the Ground Lease, as applicable, and the Installment Sale Agreement;

(2) original executed counterparts of the Supplemental Indenture and an amendment of or supplement to the Ground Sublease or the Ground Lease, as applicable, and the Installment Sale Agreement, expressly providing that, to the extent applicable, for all purposes of the Supplemental Indenture, the Ground Sublease or the Ground Lease, as applicable, and the Installment Sale Agreement, the Facilities referred to therein and the premises subleased or leased pursuant to the Ground Sublease or the Ground Lease, as applicable, and sold under the Installment Sale Agreement, shall include the buildings, structures, improvements, machinery, equipment or other facilities being financed, and the Bonds referred to therein shall mean and include the Additional Bonds being issued as well as the Bonds now being issued and any Additional Bonds theretofore issued;

(3) a written opinion by Nationally Recognized Bond Counsel, to the effect that the issuance of the Additional Bonds and the execution thereof have been duly authorized, that all conditions

precedent to the delivery thereof have been fulfilled, and that the issuance of the Additional Bonds will not cause the interest on any Series of Bonds Outstanding to become includable in gross income for federal income tax purposes;

(4) except in the case of Refunding Bonds (defined below) refunding all Outstanding Bonds, a certificate of an Authorized Representative of the Buffalo CSD to the effect that the Ground Lease, the Ground Sublease, the Tax Compliance Certificate and the Installment Sale Agreement continues in full force and effect and that there is no Event of Default nor any event which upon notice or lapse of time or both would become an Event of Default;

(5) to the extent applicable, those documents required under the Installment Sale Agreement;

(6) an original, executed counterpart of the amendment, if any, to the Tax Compliance Certificate; and

(7) a written order to the Trustee executed by an Authorized Representative of the Issuer to authenticate and make available for pick-up the Series of Additional Bonds to the purchaser or purchasers therein identified upon payment to the Trustee of the purchase price therein specified, plus accrued interest, if any.

Upon the request of the Buffalo CSD, one or more Series of Additional Bonds may be authenticated and made available for pick-up upon original issuance to refund (“Refunding Bonds”) all Outstanding Bonds or any Series of Outstanding Bonds or any part of one or more Series of Outstanding Bonds. Bonds of a Series of Refunding Bonds shall be issued in a principal amount sufficient, together with other moneys available therefor, to accomplish such refunding and to make such deposits required by the provisions of the Indenture and of the resolution authorizing said Series of Refunding Bonds. In the case of the refunding under this heading of less than all Bonds Outstanding of any Series or of any maturity within such Series, the Trustee shall proceed to select such Bonds in accordance with the Indenture.

Refunding Bonds may be authenticated and made available for delivery only upon receipt by the Trustee (in addition to the receipt by it of the documents required by the second paragraph under this heading, as may be applicable) of:

(A) Irrevocable instructions from the Issuer to the Trustee, satisfactory to it, to give due notice of redemption pursuant to the Indenture to the Holders of all the Outstanding Bonds to be refunded prior to maturity on the redemption date specified in such instructions; and

(B) Either:

(i) moneys in an amount sufficient to effect payment at maturity or upon redemption at the applicable Redemption Price of the Bonds to be refunded, together with accrued interest on such Bonds to the maturity or redemption date, which moneys shall be held by the Trustee or any Paying Agent in a separate account irrevocably in trust for and assigned to the respective Holders of the Outstanding Bonds being refunded, or

(ii) Defeasance Obligations in such principal amounts, having such maturities, bearing such interest, and otherwise having such terms and qualifications, as shall be necessary to comply with the defeasance provisions of the Indenture, and any moneys required pursuant to the defeasance provisions of the Indenture (with respect to all Outstanding Bonds or any part of one

or more series of Outstanding Bonds being refunded), which Defeasance Obligations and moneys shall be held in trust and used only as provided in the defeasance provisions of the Indenture.

The Buffalo CSD shall furnish to the Trustee and the Issuer at the time of delivery of the Series of Refunding Bonds a certificate of an independent certified public accountant stating that the Trustee and/or the Paying Agent (and/or any escrow agent as shall be appointed in connection therewith) hold in trust the moneys or such Defeasance Obligations and moneys required to effect such payment at maturity or earlier redemption.

Each Series of Additional Bonds issued pursuant to this heading shall be equally and ratably secured under the Indenture with the Series 2009A Bonds and all other Series of Additional Bonds, if any, issued pursuant to the provisions under this heading, without preference, priority or distinction of any Bond over any other Bonds except as expressly provided in or permitted by the Indenture.

Notwithstanding anything in the Indenture to the contrary, no Series of Additional Bonds shall be issued unless the Ground Lease, the State Aid Trust Agreement, the Tax Compliance Certificate and the Installment Sale Agreement are in effect and at the time of issuance there is no Event of Default nor any event which upon notice or lapse of time or both would become an Event of Default.

Creation of Funds and Accounts. The Issuer establishes and creates the following special trust Funds and Accounts comprising such Funds under the Indenture: (1) Project Fund with (a) Series 2009A Bonds Account and (b) Series 2013A Additional Bonds Account; (2) Bond Fund with (a) Principal Account, (b) Interest Account and (c) Redemption Account; and (3) Rebate Fund.

All of the Funds and Accounts created under the Indenture shall be held by the Trustee. Additional Accounts, including Accounts within the Project Fund, may be established upon the issuance of a Series of Additional Bonds. All moneys required to be deposited with or paid to the Trustee for the credit of any Fund or Account under any provision of the Indenture and all investments made therewith shall be held by the Trustee in trust and applied only in accordance with the provisions of the Indenture, and while held by the Trustee shall constitute part of the Trust Estate and be subject to the lien of the Indenture, subject to the provisions of the Granting Clauses of the Indenture.

The amounts deposited in the Funds and Accounts created under the Indenture shall be subject to a security interest, lien and charge in favor of the Trustee (for the benefit of the Holders of the Bonds) until disbursed as provided in the Indenture, subject to the provisions of the Granting Clauses of the Indenture.

Project Fund. There shall be deposited in the appropriate Account of the Project Fund any and all amounts required to be deposited therein pursuant to the Indenture or otherwise required to be deposited therein pursuant to the Installment Sale Agreement. The amounts in the Project Fund shall be subject to a security interest, lien and charge in favor of the Trustee, for the benefit of the Bondholders, until disbursed as provided in the Indenture. The Trustee shall apply the amounts on deposit in each Account of the Project Fund to the payment, or reimbursement to the extent the same have been paid by or on behalf of the Buffalo CSD or the Issuer, of Project Costs.

The Trustee is authorized to disburse from each Account of the Project Fund the amount required for the payment of Project Costs and is directed to issue its checks (or make wire transfers if requested by the Buffalo CSD) for each disbursement from each Account of the Project Fund, upon a requisition submitted to the Trustee, (i) signed by an Authorized Representative of the PPDS Provider and approved by an Authorized Representative of the Buffalo CSD or (ii) signed by an Authorized Representative of the

Buffalo CSD for disbursements of Costs of Issuance in the case of the issuance of a Series of Refunding Bonds.

The completion of the Series 2009 Project or abandonment thereof shall be evidenced by the filing of a certificate of an Authorized Representative of the Buffalo CSD in accordance with the Installment Sale Agreement. Upon the filing of such certificate, the balance in the Project Fund, after making any transfer to the Rebate Fund as directed pursuant to the Tax Compliance Certificate and the Indenture as described under the heading "Payments into Rebate Fund; Application of Rebate Fund" below, shall be deposited in a segregated sub-account of the Redemption Account of the Bond Fund and applied (together with any investment earnings derived from the amount so deposited) on the first date upon which the Series 2009A Bonds may be called for general optional redemption, to the payment of only the principal portion of the Redemption Price of the Series 2009A Bonds on such redemption date to the extent of the amount so held in such sub-account (to the nearest \$5,000 integral multiple with any excess to be deposited in the Interest Account of the Bond Fund), provided, however, that the amounts so deposited in such segregated sub-account shall not be invested at a Yield in excess of the Yield on the Series 2009A Bonds as determined in accordance with the Tax Compliance Certificate.

In the event the Buffalo CSD shall be required to or shall elect to cause the Bonds to be redeemed in whole pursuant to the Installment Sale Agreement (other than in connection with a refunding in whole of the Bonds), the balance in the Project Fund, after making any transfer to the Rebate Fund as directed pursuant to the Tax Compliance Certificate and the Indenture as described under the heading "Payments into Rebate Fund; Application of Rebate Fund" below, shall be deposited in the Bond Fund for redemption of Bonds.

All earnings on amounts held in any Account of the Project Fund, excluding earnings required no less frequently than quarterly to be transferred to the Rebate Fund in compliance with the Tax Compliance Certificate and the Indenture as described under the heading "Payments into Rebate Fund; Application of Rebate Fund" below, shall be maintained within the respective Account of the Project Fund and made available for Project Costs.

Upon the occurrence and during the continuance of an Event of Default, the balance in the Project Fund, after making any transfer to the Rebate Fund as directed pursuant to the Tax Compliance Certificate and the Indenture as described under the heading "Payments into Rebate Fund; Application of Rebate Fund" below, shall be deposited in the Bond Fund to be applied toward payment of the Bonds as provided under the heading "Application of Revenues and Other Moneys After Default" below.

Payments into Bond Fund. On or before November 10 of each Fiscal Year (as defined in the State Aid Trust Agreement), commencing November 10, 2010, the Trustee shall deliver a Base Facilities Agreement Payment Certificate (computed as of the immediately preceding last Business Day of October of such Fiscal Year) to the Depository Bank in accordance with the State Aid Trust Agreement. The Trustee shall promptly deposit the following receipts into the Bond Fund:

(a) Proceeds of the Series 2009A Bonds, in the amount specified in the Indenture, shall be deposited in the Interest Account of the Bond Fund pursuant to the Indenture. Upon the issuance of any Series of Additional Bonds, there shall be deposited in the Interest Account of the Bond Fund such amount, if any, of the proceeds of such Series of Additional Bonds as may be set forth in the related Supplemental Indenture.

(b) Moneys received from the Depository Bank pursuant to the disbursement provisions of the State Aid Trust Agreement shall be deposited into the Bond Fund and applied first, to the payment of interest (and deposited in the Interest Account), second, to the payment of principal (and deposited in the

Principal Account), and third, to the payment of sinking fund payments (and deposited in the Redemption Account).

(c) Moneys received from the State Comptroller pursuant to the State Aid intercept provisions of the Indenture in respect of Installment Purchase Payments and available for the payment of interest on the Bonds, which, subject to the priority for the application of such moneys so received set forth below under “State Aid Intercept”, shall be placed in the Interest Account of the Bond Fund and applied, together with amounts available in the Interest Account, to the payment of interest on the Bonds.

(d) Moneys received from the State Comptroller pursuant to the State Aid intercept provisions of the Indenture in respect of Installment Purchase Payments and available for the payment of principal of the Bonds, which, subject to the priority for the application of such moneys so received set forth below under “State Aid Intercept”, shall be placed in the Principal Account of the Bond Fund and applied, together with amounts available in the Principal Account, to the payment of principal of the Bonds.

(e) Moneys received from the State Comptroller pursuant to the State Aid intercept provisions of the Indenture in respect of Installment Purchase Payments and available for the payment of the Redemption Price of Bonds to be redeemed in whole or in part, which, subject to the priority for the application of such moneys so received set forth below under “State Aid Intercept”, shall be placed in the Redemption Account of the Bond Fund and applied, together with amounts available in the Redemption Account, to the payment of the Redemption Price of Bonds to be redeemed in whole or in part.

(f) Excess amounts on deposit in the Redemption Account of the Bond Fund and not applied within twelve (12) months of their deposit to the purchase or redemption of Bonds, which shall be credited to the Interest Account of the Bond Fund.

(g) Moneys transferred by the Trustee from the Redemption Account of the Bond Fund which shall be deposited in either the Interest Account or Principal Account of the Bond Fund, as so directed by an Authorized Representative of the Buffalo CSD.

(h) Moneys transferred by the Trustee from the Project Fund to the Redemption Account of the Bond Fund (after making any transfer to the Rebate Fund as directed pursuant to the Tax Compliance Certificate and the Indenture as described under the heading “Payments into Rebate Fund; Application of Rebate Fund” below) as provided above under the heading “Project Fund”, which amounts shall be held separately by the Trustee in a restricted subaccount, and may be invested, until applied to the redemption of the Bonds in accordance with the Indenture, by the Trustee at the direction of the Buffalo CSD, and otherwise in accordance with the requirements set forth below under “Investment of Funds and Accounts”, except the certification by the Buffalo CSD required by the Indenture shall include an additional certification by the Buffalo CSD that the contemplated investment is not at a Yield in excess of the Yield on the related Series of Bonds.

(i) All other receipts when and if required by the State Aid Trust Agreement, by the Installment Sale Agreement, by the Indenture or by any other Security Document to be paid into the Bond Fund, which shall be credited (except as provided under the heading “Application of Revenues and Other Moneys After Default” below) to the Redemption Account of the Bond Fund and applied as provided in the Indenture.

In the event that any Installment Purchase Payment received by the Trustee shall be an amount insufficient to pay the interest, principal and sinking fund payments next coming due on the Bonds, such

amount shall be applied first, to the payment of interest, second, to the payment of principal, and third, to the payment of sinking fund payments.

State Aid Intercept. Pursuant to the Buffalo Schools Act, in the event the Buffalo CSD shall fail (for any reason, including the failure of the appropriate legislative body of the Buffalo CSD to appropriate moneys for such purpose) to make a payment under the Installment Sale Agreement in the amount and by the date the same is due, of which failure the Trustee has actual knowledge in the case of a failed Installment Purchase Payment (or other failed payment payable to the Trustee in its capacity as Trustee), or, in the case of any other failed payment of which the Trustee has received written notice from the party to whom such failed payment is owed under the Installment Sale Agreement, the Issuer irrevocably appoints the Trustee to act as its agent for the purpose of delivering a certificate to the State Comptroller (in substantially the form set forth in the appendices attached to the Indenture) by no later than the next Business Day following the Trustee obtaining such actual knowledge or such notice of such failed payment, certifying as to such failure and setting forth the amount of such deficiency, and the State Comptroller, upon receipt of such certificate, shall, in accordance with the Buffalo Schools Act, withhold from the Buffalo CSD such State Aid Revenues as are payable to the Buffalo CSD to the extent of the amount so stated in such certificate of the Trustee as not having been made, and the State Comptroller shall immediately pay over to the Trustee on behalf of the Issuer, the amount of such State Aid Revenues so withheld. All State Aid Revenues so received shall be applied, *first*, to deposit in the Interest Account of the Bond Fund to the extent of any deficiency therein, *second*, to deposit in the Principal Account of the Bond Fund to the extent of any deficiency therein, *third*, to deposit in the Redemption Account of the Bond Fund to the extent of any deficiency therein, *fourth*, to satisfy any obligation of the Buffalo CSD under certain indemnification provisions of the Installment Sale Agreement, *fifth*, to satisfy any obligation of the Buffalo CSD under the liability insurance provisions of the Installment Sale Agreement, and *sixth*, to satisfy any other obligations of the Buffalo CSD under the Installment Sale Agreement.

The appointment by the Issuer of the Trustee as agent as above-described shall be deemed a non-exclusive but irrevocable appointment (coupled with an interest) and the Issuer may appoint any other Series Trustee to similar purpose under the related Series Indenture. The Trustee accepts such agency and agrees so to act on behalf of the Issuer. Any amounts of such State Aid Revenues received by the Trustee from the State Comptroller shall, subject to the priority set forth in the preceding paragraph, be deemed to satisfy the Buffalo CSD's obligation to make such defaulted payment to the extent of the amount received. Any amounts of such State Aid Revenues received by the Trustee from the State Comptroller that are not in respect of Installment Purchase Payments shall forthwith be forthwith paid to or upon the order of the Issuer.

The Issuer covenants and agrees that it shall enter into no agreement, indenture or other instrument, including any Series Indenture or Series Facilities Agreement, in connection with the issuance of a Series of Project Bonds under a Series Indenture which shall have the effect, directly or indirectly, of providing a greater priority or preference to the intercept of State Aid Revenues under the Buffalo Schools Act than the pledge effected pursuant to the Indenture; provided, however, that nothing contained in the Indenture shall be deemed (y) to limit or deny the ability of the Issuer or any other public entity, in connection with the issuance of another Series of Project Bonds, to pledge State Aid Revenues under the Buffalo Schools Act on a parity with the pledge effected under the Indenture, or (z) to require that any Series of Project Bonds issued under any other Series Indenture have the same payment dates or amortize principal on a schedule comparable to that of the Bonds Outstanding under the Indenture, or that any payment dates under a Series Facilities Agreement be the same as those under the Installment Sale Agreement.

Application of Bond Fund. The Trustee shall (i) on each Interest Payment Date on the Bonds pay or cause to be paid out of the Interest Account in the Bond Fund the interest due on the Bonds, and (ii)

further pay out of the Interest Account of the Bond Fund any amounts required for the payment of accrued interest upon any redemption of Bonds.

The Trustee shall on each principal payment date for the Bonds pay or cause to be paid to the respective Paying Agents therefor out of the Principal Account of the Bond Fund, the principal amount, if any, due on the Bonds (other than such as shall be due by mandatory sinking fund redemption), upon the presentation and surrender of the requisite Bonds (such presentation and surrender not being required if Cede & Co. is the Holder of the Bonds).

There shall be paid from the Redemption Account of the Bond Fund to the Paying Agents on each sinking fund payment date in immediately available funds the amounts required for the sinking fund payment due and payable with respect to Bonds which are to be redeemed from sinking fund payments on such date (accrued interest on such Bonds being payable from the Interest Account of the Bond Fund). Such amounts shall be applied by the Paying Agents to the payment of such sinking fund payment when due. The Trustee shall call for redemption, in the manner provided in the Indenture, Bonds for which sinking fund payments are applicable in a principal amount equal to the sinking fund payment then due with respect to such Bonds. Such call for redemption shall be made even though at the time of mailing of the notice of such redemption sufficient moneys therefor shall not have been deposited in the Redemption Account of the Fund.

Amounts in the Redemption Account of the Bond Fund shall be applied, at the written direction of the Buffalo CSD, as promptly as practicable, to the purchase of Bonds of a Series as directed by the Buffalo CSD at prices not exceeding the Redemption Price thereof applicable on the earliest date upon such Series of Bonds are next subject to optional redemption, plus in each case accrued interest to the date of redemption (accrued interest on such Bonds being payable out of the Interest Account of the Bond Fund). Any Bonds purchased in lieu of a mandatory redemption shall be surrendered to the Trustee for cancellation. Any amount in the Redemption Account not so applied to the purchase of Bonds by forty-five (45) days prior to the next date on which the Bonds are so redeemable shall be applied to the redemption of Bonds on such redemption date; provided that if such amount aggregates less than \$5,000, it need not be then applied to such redemption. Any amounts deposited in the Redemption Account and not applied within twelve (12) months of their date of deposit to the purchase or redemption of Bonds (except if held in accordance with the defeasance provisions of the Indenture) shall be transferred to the Interest Account. The Bonds to be purchased or redeemed shall be selected by the Trustee in the manner provided in the Indenture. Amounts in the Redemption Account to be applied to the redemption of Bonds shall be paid to the respective Paying Agents on or before the redemption date and applied by them on such redemption date to the payment of the Redemption Price of the Bonds being redeemed plus interest on such Bonds accrued to the redemption date (accrued interest on such Bonds being payable from the Interest Account of the Bond Fund). Upon the purchase of any Bonds subject to sinking fund payments, or upon the redemption of any Bonds subject to sinking fund payments, an amount equal to the principal of such Bonds so purchased or redeemed shall be credited against the next ensuing and future sinking fund payments in such order as an Authorized Representative of the Buffalo CSD shall direct, or, in the absence of any such direction, in chronological order of the due dates of such sinking fund payments, until the full principal amount of such Bonds so purchased or redeemed shall have been so credited. The portion of any such sinking fund payment remaining after the deduction of such amounts so credited shall constitute and be deemed to be the amount of such sinking fund payment for the purposes of any calculation thereof under the Indenture.

Moneys in the Redemption Account of the Bond Fund which are not set aside or deposited for the redemption or purchase of Bonds shall be transferred by the Trustee to the Interest Account or the Principal Account of the Bond Fund, as directed by an Authorized Representative of the Buffalo CSD.

In the event of the issuance of a Series of Refunding Bonds pursuant to the Indenture as described under the heading “Additional Bonds” above, the Trustee shall, upon the written direction of the Buffalo CSD, withdraw from the specified Accounts of the Bond Fund those amounts deposited in each such Account so specified held for the payment of the principal, sinking fund payments, Redemption Price and interest on the Series of Bonds or principal portion thereof to be refunded, provided, however, that such withdrawal shall not be made unless (i) immediately thereafter, the Series of Bonds or principal portion thereof being refunded shall be deemed to have been paid pursuant to the defeasance provisions of the Indenture, and (ii) the amount remaining in each Account of the Bond Fund after such withdrawal shall not be less than that amount otherwise then required to be on deposit in each such Account to pay the principal, sinking fund payments, Redemption Price and interest of those Series of Bonds or principal portions thereof not being refunded.

Investment of Funds and Accounts. Amounts in the Bond Fund, the Project Fund and the Rebate Fund, may, if and to the extent then permitted by law, be invested only in Qualified Investments. Any investment authorized by the Indenture is subject to the condition that no portion of the proceeds derived from the sale of the Bonds shall be used, directly or indirectly, in such manner as to cause any Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code. Such investments shall be made by the Trustee only at the written request of an Authorized Representative of the Buffalo CSD accompanied by a certificate to the effect that the related investment constitutes a Qualified Investment. Any investment under the Indenture shall be made in accordance with the Tax Compliance Certificate, and the Buffalo CSD shall so certify to the Trustee with each such investment direction as referred to in the Indenture. Such investments shall mature in such amounts and at such times as may be necessary to provide funds when needed to make payments from the applicable Fund. Net income or gain received and collected from such investments shall, in the case of the Project Fund or the Bond Fund, be credited and losses charged to such Fund, as applicable, subject, however, pursuant to the Indenture as described under the heading “Payments into Rebate Fund; Application of Rebate Fund” below.

Upon timely request of an Authorized Representative of the Buffalo CSD, the Trustee shall notify the Buffalo CSD ten (10) days prior to each Installment Purchase Payment Date under the Installment Sale Agreement of the amount of such net investment income or gain received and collected subsequent to the last such installment purchase payment and the amount then available in the Project Fund and in each Account of the Bond Fund.

Upon the written direction of an Authorized Representative of the Buffalo CSD, the Trustee shall sell at the best price reasonably obtainable, or present for redemption or exchange, any obligations in which moneys shall have been invested to the extent necessary to provide cash in the respective Funds or Accounts, to make any payments required to be made therefrom, or to facilitate the transfers of moneys or securities between various Funds and Accounts as may be required from time to time pursuant to the provisions of the Indenture. The Trustee shall not be liable for any losses incurred as a result of actions taken in good faith in accordance with the Indenture as described in this paragraph.

In computing the amount in any Fund or Account, obligations purchased as an investment of moneys therein shall be valued at fair market value as determined by the Trustee on the last Business Day of each October.

The fair market value of Qualified Investments shall be determined as follows:

(i) as to investments the bid and asked prices of which are published on a regular basis in The Wall Street Journal (or, if not there, then in The New York Times), the average bid and asked prices for such investments so published on or most recently prior to such time of determination;

(ii) as to investments the bid and asked prices of which are not published on a regular basis in The Wall Street Journal or The New York Times, the average bid price at such nationally recognized government securities dealers (selected by the Trustee in its absolute discretion) at the time making a market in such investments or as quoted in the Interactive Data Service; and

(iii) as to certificates of deposit and bankers acceptances and other investments, the face amount thereof, plus accrued interest.

If more than one provision of this definition of “fair market value” shall apply at any time to any particular investment, the fair market value thereof at such time shall be determined in accordance with the provision establishing the lowest value for such investment.

Neither the Trustee nor the Issuer shall be liable for any loss arising from, or any depreciation in the value of any obligations in which moneys of the Funds and Accounts shall be invested. The investments authorized by the Indenture as described under this heading shall at all times be subject to the provisions of applicable law, as amended from time to time.

Moneys to be Held in Trust. All moneys required to be deposited with or paid to the Trustee for the credit of any Fund or Account under any provision of the Indenture (excluding the Rebate Fund) and all investments made therewith shall be held by the Trustee in trust for the benefit of the Bondholders and while held by the Trustee constitute part of the Trust Estate, and be subject to the lien of the Indenture, but subject to the Granting Clauses thereof. Moneys held by the Depository Bank under the State Aid Trust Agreement are not part of the Trust Estate unless and until the same are transferred to the Trustee for deposit in the Bond Fund in accordance with the State Aid Trust Agreement. Moneys held by the Trustee in the Rebate Fund are not part of the Trust Estate nor subject to the lien of the Indenture.

Repayment to the Buffalo CSD from the Funds. After payment in full of the Bonds (in accordance with the defeasance provisions of the Indenture) and the payment of all fees, charges and expenses of the Issuer, the Trustee, the Bond Registrar and the Paying Agents and all other amounts required to be paid under the Indenture and under each of the Security Documents, and the payment of any amounts which the Buffalo CSD is required to rebate to the federal government pursuant to the Indenture and the Tax Compliance Certificate, all amounts remaining in the Project Fund and the Bond Fund shall be paid to the Buffalo CSD upon the expiration or sooner or later termination of the term of the Installment Sale Agreement.

Payments into Rebate Fund; Application of Rebate Fund. The Rebate Fund and the amounts deposited therein shall not be subject to a security interest, pledge, assignment, lien or charge in favor of the Trustee or any Bondholder or any other Person.

The Trustee, following the receipt of a certificate of written direction from an Authorized Representative of the Buffalo CSD pursuant to the Tax Compliance Certificate, shall deposit in the Rebate Fund that amount from the Project Fund, to the extent available, as shall be so specified in such certificate of written direction as necessary to satisfy the requirements of the Tax Compliance Certificate. In the case of the Project Fund, the Buffalo CSD shall so direct the Trustee no less frequently than quarterly.

In the event that the amount on deposit in the Rebate Fund exceeds the Rebate Amount as determined in accordance with the Tax Compliance Certificate, the Trustee, upon the receipt of written instructions from an Authorized Representative of the Buffalo CSD, shall withdraw such excess amount and deposit it (i) to any Account of the Project Fund or (ii) to the Interest Account of the Bond Fund, as the Buffalo CSD shall determine.

The Trustee, upon the receipt of written instructions from an Authorized Representative of the Buffalo CSD, shall pay to the United States, out of amounts in the Rebate Fund, (i) not less frequently than once each five (5) years after the date of original issuance of each Series of the Bonds, an amount such that, together with prior amounts paid to the United States, the total paid to the United States is equal to 90% of the Rebate Amount with respect to such Series of Bonds as of the date of such payment and (ii) notwithstanding the defeasance provisions of the Indenture, not later than thirty (30) days after the date on which all Bonds have been paid in full, 100% of the Rebate Amount as of the date of payment.

The Trustee shall have no obligation under the Indenture to transfer any amounts to the Rebate Fund unless the Trustee shall have received specific written instructions from an Authorized Representative of the Buffalo CSD to make such transfer.

Payment of Principal and Interest. The Issuer covenants that it will from the sources contemplated by the Indenture promptly pay or cause to be paid the principal of and interest on the Bonds, and the Redemption Price, if any, together with interest accrued thereon to the date of redemption, at the place, on the dates and in the manner provided in the Indenture and in the Bonds according to the true intent and meaning thereof. All covenants, stipulations, promises, agreements and obligations of the Issuer contained in the Indenture shall be deemed to be covenants, stipulations, promises, agreements and obligations of the Issuer and not of any member, officer, director, employee or agent thereof in his individual capacity, and no resort shall be had for the payment of the principal of, redemption premium, if any, or interest on the Bonds or the Redemption Price, if any, together with interest accrued thereon to the date of redemption or for any claim based thereon or under the Indenture against any such member, officer, director, employee or agent or against any natural person executing the Bonds. Neither the Bonds, the principal thereof, the interest thereon, nor the Redemption Price thereof, if any, together with interest accrued thereon to the date of redemption, shall ever constitute a debt of the State or of the County and neither the State nor the County shall be liable on any obligation so incurred, and the Bonds shall not be payable out of any funds of the Issuer other than those pledged therefor. The Issuer shall not be required under the Indenture or the Installment Sale Agreement or any other Security Document to expend any of its funds other than (i) the proceeds of the Bonds, (ii) the Installment Purchase Payments pledged to the payment of the Bonds, and (iii) any income or gains therefrom.

Performance of Covenants; Authority. The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in the Indenture, in any and every Bond executed, authenticated and delivered under the Indenture and in all proceedings pertaining thereto. The Issuer covenants that it is duly authorized under the Constitution and laws of the State, including particularly and without limitation the IDA Act, to issue the Bonds authorized by the Indenture and to execute the Indenture, to sell its leasehold interest in the Facilities (other than School #84) under the Ground Lease, and to sell its subleasehold interest in School #84 under the Ground Sublease, all pursuant to the Installment Sale Agreement, to assign the Installment Sale Agreement and to pledge the Installment Purchase Payments pledged in the manner and to the extent set forth in the Indenture; that all action on its part for the issuance of the Bonds and the execution and delivery of the Indenture has been duly and effectively taken; and that the Bonds in the hands of the Holders thereof are and will be the valid and enforceable special obligations of the Issuer according to the import thereof.

Creation of Liens; Indebtedness; Sale of Facilities. Except to the extent contemplated in the Indenture as described in the last paragraph under the heading "State Aid Intercept" above with respect to the issuance of Project Bonds under a Series Indenture other than the Indenture, the Issuer shall not create or suffer to be created, or incur or issue any evidences of indebtedness secured by, any lien or charge upon or pledge of the Trust Estate, except the lien, charge and pledge created by the Indenture, the Ground Sublease, the Ground Lease and the Installment Sale Agreement. The Issuer further covenants and agrees not to sell (except pursuant to the Installment Sale Agreement), convey, transfer, lease,

sublease, mortgage or encumber the real property constituting part of the Facilities or any of them or any part of such real property, except for Permitted Encumbrances or as specifically permitted under the Indenture, the Ground Sublease, the Ground Lease and the Installment Sale Agreement, so long as any of the Bonds are Outstanding. The Issuer shall have no pecuniary liability for its covenants set forth in the Indenture, including those described under this heading.

Issuer Tax Covenant. The Issuer covenants that it shall not take any action within its control, nor refrain from taking any action reasonably requested by the Buffalo CSD or the Trustee, which would cause the interest on the Bonds to become includable in gross income for federal income tax purposes; provided, however, the breach of this covenant shall not result in any pecuniary liability of the Issuer and the only remedy to which the Issuer shall be subject shall be specific performance.

Events of Default; No Acceleration of Due Date. Each of the following events shall constitute an “Event of Default” under the Indenture:

(1) Failure to duly and punctually pay the interest on any Bond when the same shall become due and payable;

(2) Failure to duly and punctually pay the principal or redemption premium, if any, of any Bonds, when the same shall become due and payable, whether at the stated maturity thereof or upon proceedings for redemption thereof or otherwise, or interest accrued thereon to the date of redemption after notice of redemption therefor or otherwise;

(3) Failure of the Issuer to observe or perform any covenant, condition or agreement in the Bonds or under the Indenture on its part to be performed (except as set forth in subparagraphs (1) or (2) above) and (A) continuance of such failure for a period of thirty (30) days after receipt by the Issuer and the Buffalo CSD of written notice specifying the nature of such default from the Trustee or the Holders of more than twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding, or (B) if by reason of the nature of such default the same can be remedied, but not within the said thirty (30) days, the Issuer or the Buffalo CSD fails to proceed with reasonable diligence after receipt of said notice to cure the same or fails to continue with reasonable diligence its efforts to cure the same; and

(4) The occurrence of an “Event of Default” under the Installment Sale Agreement caused by the Buffalo CSD’s failure to observe and perform certain covenants set forth therein.

In no event shall the principal of any Bond be declared due and payable in advance of its final stated maturity, anything in the Indenture or in any of the Bonds contained to the contrary notwithstanding.

Enforcement of Remedies. Subject to the last paragraph of the immediately preceding heading, upon the occurrence and continuance of any Event of Default, then and in every case the Trustee may proceed, and, upon the written request of the Holders of over twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding shall proceed, to protect and enforce its rights and the rights of the Bondholders under the IDA Act, the Buffalo Schools Act, the Bonds, the Installment Sale Agreement, the Indenture and under any other Security Document forthwith by such suits, actions or special proceedings in equity (including mandamus) or at law, or by proceedings in the office of any board or officer having jurisdiction, whether for the specific performance of any covenant or agreement contained in the Indenture or in any other Security Document or in aid of the execution of any power granted in the Indenture or in any other Security Document or in the IDA Act or the Buffalo Schools Act or for the enforcement of any legal or equitable rights or remedies as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce such rights or to perform any of its duties under

the Indenture or under any other Security Document. In addition to any rights or remedies available to the Trustee under the Indenture or elsewhere, upon the occurrence and continuance of an Event of Default the Trustee may take such action, without notice or demand, as it deems advisable, to the extent permitted by law.

In the enforcement of any right or remedy under the Indenture, under any other Security Document, under the IDA Act or under the Buffalo Schools Act, the Trustee shall be entitled to sue for, enforce payment on and receive any or all amounts then or during any default becoming, and any time remaining, due from the Issuer, for principal, interest, Redemption Price, or otherwise, under any of the provisions of the Indenture, of any other Security Document or of the Bonds, and unpaid, with interest on overdue payments at the rate or rates of interest specified in the Bonds, together with any and all costs and expenses of collection and of all proceedings under the Indenture, under any such other Security Document and under the Bonds, without prejudice to any other right or remedy of the Trustee or of the Bondholders, and to recover and enforce judgment or decree against the Issuer, but solely as provided in the Indenture and in the Bonds, for any portion of such amounts remaining unpaid, with interest, costs and expenses, and to collect (but solely from the moneys in the Bond Fund and other moneys available therefor to the extent provided in the Indenture) in any manner provided by law, the moneys adjudged or decreed to be payable. The Trustee shall file proof of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Bondholders allowed in any judicial proceedings relative to the Buffalo CSD or the Issuer or their creditors or property.

Regardless of the occurrence of an Event of Default, the Trustee, if requested in writing by the Holders of over twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding, and furnished with reasonable security and indemnity, shall institute and maintain such suits and proceedings as it may be advised shall be necessary or expedient to prevent any impairment of the security under the Indenture or under any other Security Document by any acts which may be unlawful or in violation of the Indenture or of such other Security Document or of any resolution authorizing any Bonds, and such suits and proceedings as the Trustee may be advised shall be necessary or expedient to preserve or protect its interests and the interests of the Bondholders; provided, that such request shall not be otherwise than in accordance with the provisions of law and of the Indenture and shall not be unduly prejudicial to the interests of the Holders of the Bonds not making such request.

Application of Revenues and Other Moneys After Default. All moneys received by the Trustee pursuant to any right given or action taken under the provisions of the Indenture or under any other Security Document shall, after payment of the cost and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses, liabilities and advances (including legal fees and expenses) incurred or made by the Trustee, be deposited in the Bond Fund and all moneys so deposited and available for payment of the Bonds shall be applied, subject to the provisions of the Indenture relating to compensation of the Trustee, the Bond Registrar and the Paying Agents, as follows:

First: To the payment to the Persons entitled thereto of all installments of interest then due on the Bonds, in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or privilege; and

Second: To the payment to the Persons entitled thereto of the unpaid principal or Redemption Price, if any, of any of the Bonds or principal installments which shall have become due (other than Bonds or principal installments called for redemption for the payment of which moneys are held pursuant to the provisions of the Indenture), in the order of their due dates, with interest on such Bonds, at the rate or rates expressed thereon, from the respective dates upon which they become due and, if the amount

available shall not be sufficient to pay in full Bonds or principal installments due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the Persons entitled thereto without any discrimination or privilege.

After payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses, liabilities and advances (including legal fees and expenses) incurred or made by the Trustee, the funds realized following the occurrence of an Event of Default shall be applied *first*, as provided in paragraph First and Second under this heading, *second*, to pay any amounts which the Buffalo CSD is required to rebate to the federal government pursuant to the Indenture and the Tax Compliance Certificate, *third*, to satisfy any obligation of the Buffalo CSD regarding indemnification of the Issuer and the Trustee, *fourth*, to satisfy any obligation of the Buffalo CSD regarding the maintenance of liability insurance, and *fifth*, to satisfy any other obligations of the Buffalo CSD under the Installment Sale Agreement. Nothing outlined under this heading shall be deemed to modify the application of State Aid Revenues pursuant to the provisions outlined above under the heading “State Aid Intercept”.

Whenever moneys are to be applied pursuant to the above provisions, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall give such written notice to all Bondholders promptly upon receipt of the deposit with it of any such moneys of such deposit and of the fixing of any such date, and shall not be required to make payment to the Holder of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Actions by Trustee. All rights of actions under the Indenture, under any other Security Document or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds, and any recovery of judgment shall, subject to the provisions outlined above under the heading “Application of Revenues and Other Moneys After Default”, be for the equal benefit of the Holders of the Outstanding Bonds.

Majority Bondholders Control Proceedings. The Holders of a majority in aggregate principal amount of the Bonds then Outstanding, shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of the Indenture, or for the appointment of a receiver or any other proceedings under the Indenture; provided, that such direction shall not be otherwise than in accordance with the provisions of law and of the Indenture.

Individual Bondholder Action Restricted. No Holder of any Bond shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of any provisions of the Indenture or of any other Security Document or the execution of any trust under the Indenture or for any remedy under the Indenture or under any other Security Document, unless such Holder shall have previously given to the Trustee written notice of the occurrence of an Event of Default as provided in the Indenture, and the Holders of over twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding shall have filed a written request with the Trustee, and shall have offered it reasonable opportunity either to exercise the powers granted in the Indenture or in such other Security Document or by the IDA Act or the Buffalo Schools Act or by the laws of the State or to institute such action, suit or proceeding in its own name, and unless such Holders shall have offered to the Trustee adequate security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby, and the

Trustee shall have refused to comply with such request for a period of sixty (60) days after receipt by it of such notice, request and offer of indemnity, it being understood and intended that no one or more Holders of Bonds shall have any right in any manner whatever by his, its or their action to affect, disturb or prejudice the pledge created by the Indenture, or to enforce any right under the Indenture except in the manner therein provided; and that 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, subject to the provisions described under the headings “Application of Revenues and Other Moneys After Default” and “Majority Bondholders Control Proceedings” above, be for the equal benefit of all Holders of the Outstanding Bonds, to the extent permitted by law.

Nothing in the Indenture, in any other Security Document or in the Bonds contained shall affect or impair the right of any Bondholder to payment of the principal or Redemption Price, if applicable, of, and interest on any Bond at and after the maturity thereof, or the obligation of the Issuer to pay the principal or Redemption Price, if applicable, of, and interest on each of the Bonds to the respective Holders thereof at the time, place, from the source and in the manner provided in the Indenture and in said Bonds expressed.

Effect of Discontinuance of Proceedings. In case any proceedings taken by the Trustee on account of any Event of Default shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every such case, the Issuer, the Trustee and the Bondholders shall be restored, respectively, to their former positions and rights under the Indenture, and all rights, remedies, powers and duties of the Trustee shall continue as in effect prior to the commencement of such proceedings.

Remedies Not Exclusive. No remedy by the terms of the Indenture conferred upon or reserved to the Trustee or to the Holders of the Bonds is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to any other remedy given under the Indenture or existing at law or in equity or by statute.

Delay or Omission. No delay or omission of the Trustee or of any Holder of the Bonds to exercise any right or power arising upon any default shall impair any right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by the Indenture to the Trustee and the Holders of the Bonds, respectively, may be exercised from time to time and as often as may be deemed expedient by the Trustee or by the Bondholders.

Notice of Default. The Trustee shall promptly mail to the Issuer, to registered Holders of Bonds and to the Buffalo CSD by registered or certified mail, postage prepaid, return receipt requested, written notice of the occurrence of any Event of Default. The Trustee shall not, however, be subject to any liability to any Bondholder by reason of its failure to mail any notice required under this heading.

Waivers of Default. The Trustee shall waive any default under the Indenture and its consequences only upon the written request of the Holders of at least a majority in aggregate principal amount of all the Bonds then Outstanding; provided, however, that there shall not be waived without the consent of the Holders of all the Bonds Outstanding (a) any default in the payment of the principal of any Outstanding Bonds at the date specified therein or (b) any default in the payment when due of the interest on any such Bonds, unless, prior to such waiver, all arrears of interest, with interest (to the extent permitted by law) at the rate borne by the Bonds on overdue installments of interest in respect of which such default shall have occurred, and all arrears of payment of principal when due, as the case may be, and all expenses of the Trustee and reasonable legal fees and expenses in connection with such default shall have been paid or provided for, and in case of any such waiver, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined

adversely to the Trustee, then and in every such case the Issuer, the Trustee and the Bondholders shall be restored to their former positions and rights under the Indenture, respectively, but no such waiver shall extend to any subsequent or other default, or impair any right consequent thereon.

Indemnity. The Trustee shall be under no obligation to institute any suit, or to take any remedial action under the Indenture or under any other Security Document or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of the trusts created or in the enforcement of any rights and powers under the Indenture, or under any other Security Document, until it shall be indemnified to its satisfaction against any and all reasonable compensation for services, costs and expenses, outlays, and counsel fees and other disbursements, and against all liability not due to its willful misconduct, unlawful conduct or gross negligence.

Approvals or Consents by Trustee. The Trustee shall grant no approval, request or consent under the Security Documents except upon a Rating Confirmation or at the direction of the Holders of a majority in aggregate principal amount of the Bonds Outstanding.

Defeasance. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of all Bonds the principal or Redemption Price, if applicable, of, interest and all other amounts due or to become due thereon or in respect thereof, at the times and in the manner stipulated therein and in the Indenture, and all fees and expenses and other amounts due and payable under the Indenture and the Installment Sale Agreement, and any other amounts required to be rebated to the federal government pursuant to the Tax Compliance Certificate or the Indenture, shall be paid in full or duly provided for, then the pledge of the Installment Purchase Payments under the Indenture and the estate and rights thereby granted, and all covenants, agreements and other obligations of the Issuer to the Bondholders under the Indenture shall thereupon cease, terminate and become void and be discharged and satisfied and the Bonds shall thereupon cease to be entitled to any lien, benefit or security under the Indenture, except as to moneys or securities held by the Trustee or the Paying Agents as provided below. At the time of such cessation, termination, discharge and satisfaction, the Trustee and the Paying Agents shall pay over or deliver to the Buffalo CSD or on its order all moneys or securities held by them pursuant to the Indenture which are not required (i) for the payment of principal or Redemption Price, if applicable, or interest on Bonds not theretofore surrendered for such payment or redemption, (ii) for the payment of all such other amounts due or to become due under the Security Documents or (iii) for the payment of any amounts to the federal government under the Tax Compliance Certificate or the Indenture.

Bonds or interest installments for the payment or redemption of which moneys (and/or Defeasance Obligations which shall not be subject to call or redemption or prepayment prior to maturity and the full and timely payment of the principal of and interest on which when due, together with the moneys, if any, set aside at the same time, will provide funds sufficient for such payment or redemption) shall then be set aside and held in trust by the Trustee or Paying Agents, whether at or prior to the maturity or the redemption date of such Bonds, shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph under this heading, if (i) in case any such Bonds are to be redeemed prior to the maturity thereof, all action necessary to redeem such Bonds shall have been taken and notice of such redemption shall have been duly given or provision satisfactory under the requirements of the Indenture to the Trustee shall have been made for the giving of such notice, and (ii) if the maturity or redemption date of any such Bond shall not then have arrived, provision shall have been made by deposit with the Trustee or other methods satisfactory to the Trustee for the payment to the Holders of any such Bonds upon surrender thereof of the full amount to which they would be entitled by way of principal or Redemption Price and interest and all other amounts then due under the Security Documents to the date of such maturity or redemption, and provision satisfactory to the Trustee shall have been made for the mailing of a notice to the Holders of such Bonds that such moneys are so available for such payment.

Prior to any defeasance becoming effective as provided in the immediately preceding paragraph, there shall have been delivered to the Issuer and to the Trustee (A) an opinion of Nationally Recognized Bond Counsel addressed to, and acceptable in form and substance to, the Issuer and the Trustee, to the effect that interest on any Bonds being discharged by such defeasance will not become subject to federal income taxation by reason of such defeasance, and that the Bonds being defeased are no longer “Outstanding” under the Indenture, (B) a verification report from an independent certified public accountant or firm of independent certified public accountants or other recognized consultant or verification agent (in each case reasonably acceptable to the Issuer and to the Trustee) to the effect that the moneys and/or Defeasance Obligations are sufficient, without reinvestment, to pay the principal of, interest on, and redemption premium, if any, of the Bonds to be defeased on the maturity or redemption date, as applicable, (C) an escrow deposit agreement (reasonably acceptable to the Issuer and the Trustee), and (D) a certificate of discharge of the Trustee with respect to the Bonds being defeased.

Supplemental Indentures Without Bondholders’ Consent. The Issuer and the Trustee may, from time to time and at any time, enter into Supplemental Indentures without consent of the Bondholders, for any of the following purposes:

(1) To cure any formal defect, omission or ambiguity in the Indenture or in any description of property subject to the lien of the Indenture, if such action is not materially adverse to the interests of the Bondholders.

(2) To grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, authority or security which may lawfully be granted or conferred and which are not contrary to or inconsistent with the Indenture as theretofore in effect.

(3) To add to the covenants and agreements of the Issuer in the Indenture other covenants and agreements to be observed by the Issuer which are not contrary to or inconsistent with the Indenture as theretofore in effect.

(4) To add to the limitations and restrictions in the Indenture other limitations and restrictions to be observed by the Issuer which are not contrary to or inconsistent with the Indenture as theretofore in effect.

(5) To confirm, as further assurance, any pledge under, and the subjection to any lien or pledge created or to be created by, the Indenture, of the Installment Purchase Payments or of any other moneys, securities or funds, or to subject to the lien or pledge of the Indenture additional revenues, properties or collateral.

(6) To modify or amend such provisions of the Indenture as shall, in the opinion of Nationally Recognized Bond Counsel, be necessary to assure the federal tax exemption of the interest on the Bonds.

(7) To authorize the issuance of a Series of Additional Bonds and prescribe the terms, forms and details thereof not inconsistent with the Indenture.

(8) To effect any other change in the Indenture which, in the judgment of the Trustee, is not to the material prejudice of the Trustee or the Bondholders.

(9) To effect the delivery of a Credit Facility and/or a Qualified Swap for a Series of Bonds.

(10) To modify, amend or supplement the Indenture or any Supplemental Indenture in such manner as to permit the qualification of either thereof under the Trust Indenture Act of 1939 or any similar federal statute in effect or to permit the qualification of the Bonds for sale under the securities laws of the United States of America or of any of the states of the United States of America, and, if they so determine, to add to the Indenture or any Supplemental Indenture such other terms, conditions and provisions as may be permitted by said Trust Indenture Act of 1939 or similar federal statute.

(11) To permit the appointment of a co-trustee under the Indenture.

(12) To effect any other amendment or supplement (except for which the written consents of one hundred percent (100%) of the Holders of the Outstanding Bonds, or affected Series of Bonds, are required as provided in the next heading) provided that the Trustee shall receive, in connection therewith, a Rating Confirmation.

Before the Issuer and the Trustee shall enter into any Supplemental Indenture pursuant to the Indenture, there shall have been filed with the Trustee an opinion of Nationally Recognized Bond Counsel stating that such Supplemental Indenture is authorized or permitted by the Indenture and complies with its terms, and that upon execution it will be valid and binding upon the Issuer in accordance with its terms.

Supplemental Indentures With Consent of Bondholders. Subject to the terms and provisions contained in the Indenture, the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding shall have the right from time to time, to consent to and approve the entering into by the Issuer and the Trustee of any Supplemental Indenture as shall be deemed necessary or desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in the Indenture; provided, however, that if any such Supplemental Indenture would affect only the Holders of a single Series of Bonds then Outstanding, then only the consent of the Holders of a majority in aggregate principal amount of the Bonds Outstanding of such affected Series shall be required. Nothing contained in the Indenture shall permit, or be construed as permitting, (i) a change in the times, amounts or currency of payment of the principal of, redemption premium, if any, or interest on any Outstanding Bonds, a change in the terms of redemption or maturity of the principal of or the interest on any Outstanding Bonds, or a reduction in the principal amount of or the Redemption Price of any Outstanding Bond or the rate of interest thereon, or any extension of the time of payment thereof, or a change in the method of determining the rate of interest on any Bond, without the consent of the Holder of such Bond, (ii) the creation of a lien upon or pledge of Installment Purchase Payments other than the liens or pledge created by the Indenture, except as provided in the Indenture with respect to Additional Bonds, (iii) a preference or priority of any Bond or Bonds over any other Bond or Bonds, (iv) a reduction in the aggregate principal amount of Bonds required for consent to such Supplemental Indenture, or (v) a modification, amendment or deletion with respect to any of the terms set forth in this paragraph, without, in the case of items (ii) through and including (v) of this paragraph, the written consents of one hundred percent (100%) of the Holders of the Outstanding Bonds.

If at any time the Issuer shall determine to enter into any Supplemental Indenture for any of the purposes of this heading, it shall cause notice of the proposed Supplemental Indenture to be mailed, postage prepaid, to S&P, Moody's and all Bondholders at least ten (10) days prior to the effective date thereof. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture, and shall state that a copy thereof is on file at the offices of the Trustee for inspection by all Bondholders.

Within one year after the date of such notice, the Issuer and the Trustee may enter into such Supplemental Indenture in substantially the form described in such notice only if there shall have first been filed with the Trustee (i) the written consents of the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding (or, as provided in the first paragraph under this heading

if applicable, the Holders of 100% in aggregate principal amount of the Bonds Outstanding) (or, if such Supplemental Indenture shall affect only a single Series of Bonds, the written consents of the Holders of not less than a majority in aggregate principal amount of such affected Series of Bonds Outstanding) and (ii) an opinion of Nationally Recognized Bond Counsel stating that such Supplemental Indenture is authorized or permitted by the Indenture and complies with its terms, and that upon execution it will be valid and binding upon the Issuer in accordance with its terms. Each valid consent shall be effective only if accompanied by proof of the holding, at the date of such consent, of the Bonds with respect to which such consent is given. A certificate or certificates by the Trustee that it has examined such proof and that such proof is sufficient in accordance with the Indenture shall be conclusive that the consents have been given by the Holders of the Bonds described in such certificate or certificates. Any such consent shall be binding upon the Holder of the Bonds giving such consent and upon any subsequent Holder of such Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Holder thereof has notice thereof), unless such consent is revoked in writing by the Holder of such Bonds giving such consent or a subsequent Holder thereof by filing such revocation with the Trustee prior to the execution of such Supplemental Indenture.

If the Holders of not less than the percentage of Bonds required above shall have consented to and approved the execution thereof as provided in the Indenture, no Holder of any Bond shall have any right to object to the execution of such Supplemental Indenture, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Issuer from executing the same or from taking any action pursuant to the provisions thereof.

Upon the execution of any Supplemental Indenture pursuant to the provisions of this heading, the Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under the Indenture of the Issuer, the Trustee and all Holders of Bonds then Outstanding shall thereafter be determined, exercised and enforced under the Indenture, subject in all respects to such modifications and amendments.

Rights of Buffalo CSD. Any Supplemental Indenture which materially and adversely affects any rights, powers and authority of the Buffalo CSD under the Installment Sale Agreement or requires a revision of the Installment Sale Agreement shall not become effective unless and until the Buffalo CSD shall have given its written consent to such Supplemental Indenture signed by an Authorized Representative of the Buffalo CSD.

Amendments of Related Security Documents Not Requiring Consent of Bondholders. Subject to the heading below, the Issuer and the Trustee may, without the consent of or notice to the Bondholders, consent to any amendment, change or modification of any of the Related Security Documents for any of the following purposes: (i) to cure any ambiguity, inconsistency, formal defect or omission therein; (ii) to grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, authority or security which may be lawfully granted or conferred; (iii) to subject thereto additional revenues, properties or collateral; (iv) to provide for the issuance of a Series of Additional Bonds; (v) to evidence the succession of a successor Trustee or to evidence the appointment of a separate or co-Trustee or the succession of a successor separate or co-Trustee; (vi) to make any change required in connection with a permitted amendment to a Related Security Document or a permitted Supplemental Indenture; (vii) to make any change if, in connection therewith, the Trustee shall receive a Rating Confirmation (except for which the written consents of one hundred percent (100%) of the Holders of the Outstanding Bonds, or affected Series of Bonds, are required as provided in clause (i) of the heading below); and (viii) to make any other change that, in the judgment of the Trustee (which, in exercising such judgment, may conclusively rely, and shall be protected in relying, in good faith, upon an Opinion of Counsel or an opinion or report of accountants or other experts) does not materially adversely affect the

Bondholders. The Trustee shall have no liability to any Bondholder or any other Person for any action taken by it in good faith pursuant to the Indenture as described under this heading. Before the Issuer or the Trustee shall enter into or consent to any amendment, change or modification to any of the Related Security Documents, there shall be filed with the Trustee an opinion of Nationally Recognized Bond Counsel to the effect that such amendment, change or modification will not adversely affect the exclusion from federal income taxation of interest on any Series of Bonds Outstanding.

Amendments of Related Security Documents Requiring Consent of the Bondholders. Except as provided in the immediately preceding heading, the Issuer and the Trustee shall not consent to any amendment, change or modification of any of the Related Security Documents, without mailing of notice and the written approval or consent of the Holders of a majority in aggregate principal amount of the Bonds Outstanding given and procured as provided in the Indenture as described under the heading “Supplemental Indentures With Consent of Bondholders” above (or, if such amendment, change or modification shall only affect one Series of Bonds, the consent of the Holders of not less than a majority in aggregate principal amount of the affected Series of Bonds Outstanding); provided, however, there shall be no amendment, change or modification to (i) the obligation of the Buffalo CSD to make Installment Purchase Payments under the Installment Sale Agreement (except as provided therein or in connection with the issuance of a Series of Additional Bonds), without the prior written approval of the Holders of 100% in aggregate principal amount of the Bonds at the time Outstanding given and procured as provided in the Indenture as described under the heading “Supplemental Indentures With Consent of Bondholders” above (or, if such amendment, change or modification shall affect only one Series of Bonds, the consent of the Holders of 100% in aggregate principal amount of the affected Series of Bonds Outstanding), or (ii) the Tax Compliance Certificate without the delivery of an opinion of Nationally Recognized Bond Counsel to the effect that such amendment, change, modification, reduction or postponement will not cause the interest on the related Series of Bonds to become includable in gross income for Federal income tax purposes. If at any time the Buffalo CSD shall request the consent of the Trustee to any such proposed amendment, change or modification, the Trustee shall cause notice of such proposed amendment, change or modification to be mailed to the same Persons and in the same manner as is provided in the Indenture with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the principal corporate trust office of the Trustee for inspection by all Bondholders. Before the Trustee shall enter into or consent to any amendment, change or modification to any of the Related Security Documents, there shall be filed with the Trustee an opinion of Nationally Recognized Bond Counsel to the effect that such amendment, change or modification will not adversely affect the exemption from federal income taxation of interest on any Series of Bonds Outstanding.

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**APPENDIX D**

**SUMMARY OF CERTAIN PROVISIONS OF  
THE INSTALLMENT SALE AGREEMENT**

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## APPENDIX D

### SUMMARY OF CERTAIN PROVISIONS OF THE INSTALLMENT SALE AGREEMENT

*The following is a summary of certain provisions of the Installment Sale Agreement (Series 2009 Project), dated as of November 1, 2009, as amended by the First Amendment to Installment Sale Agreement (Series 2009 Project), dated as of April 1, 2013 (collectively, the “Installment Sale Agreement”). This summary is qualified in its entirety by reference to such documents.*

Sale of the Facilities. The Issuer sells to the Buffalo CSD, and the Buffalo CSD purchases from the Issuer (both sale and purchase made effective on the Closing Date), the Issuer’s leasehold interest in the Facilities (other than School #84) pursuant to the Ground Lease, and the Issuer’s subleasehold interest in School #84 pursuant to the Ground Sublease, respectively, in their “as is”, “where is” and “subject to all faults condition” and upon and subject to the terms and conditions set forth in the Installment Sale Agreement. The Buffalo CSD shall at all times during the Agreement Term occupy, use and operate each of the Facilities, or cause each of the Facilities to be occupied, used and operated, as an “educational facility” for “educational activities” in accordance with the provisions of the Buffalo Schools Act and the IDA Act and for the general purposes specified in the recitals to the Installment Sale Agreement. The Buffalo CSD shall not occupy, use or operate any of the Facilities or allow any of the Facilities or any part thereof to be occupied, used or operated for any unlawful purpose or in violation of any certificate of occupancy affecting any of the Facilities or which may constitute a nuisance, public or private.

It is the intention of the Issuer and the Buffalo CSD under the Installment Sale Agreement that the sale by the Issuer thereunder of its leasehold interest in the Facilities (other than School #84) under the Ground Lease shall not result in (i) a merger of the leasehold estates and interests of the Buffalo CSD and the Issuer under the Ground Lease, (ii) a termination or any other impairment of the Ground Lease on the basis of merger or any other grounds, or (iii) the granting to the Buffalo CSD of any contractual rights of the Issuer under the Ground Lease; and until the termination of the Ground Lease in accordance with its terms or the expiration of the Installment Sale Agreement, the Ground Lease shall continue in full force and effect to the same extent as if the Issuer had not sold its leasehold interest in the Facilities (other than School #84) to the Buffalo CSD pursuant to the Installment Sale Agreement.

It is the further intention of the Issuer and the Buffalo CSD under the Installment Sale Agreement that the sale by the Issuer thereunder of its subleasehold interest in School #84 under the Ground Sublease shall not result in (i) a merger of the subleasehold estates and interests of the Buffalo CSD and the Issuer under the Ground Sublease, (ii) a termination or any other impairment of the Ground Sublease on the basis of merger or any other grounds, or (iii) the granting to the Buffalo CSD of any contractual rights of the Issuer under the Ground Sublease; and until the termination of the Ground Sublease in accordance with its terms or the expiration of the Installment Sale Agreement, the Ground Sublease shall continue in full force and effect to the same extent as if the Issuer had not sold its subleasehold interest in School #84 to the Buffalo CSD pursuant to the Installment Sale Agreement.

The Installment Sale Agreement does not constitute an “installment purchase contract” as referred to under Section 11 of the Buffalo Schools Act or under Section 109-b of the New York General Municipal Law.

Agreement Term. The Term of the Installment Sale Agreement commenced on November 19, 2009, and shall expire on midnight (New York City time) on May 1, 2031 (but in no event sooner than the date upon which the Bonds shall cease to be Outstanding and the lien of the Indenture shall have been discharged) or such earlier date as the Bonds shall cease to be Outstanding and all amounts payable by the

Buffalo CSD under the Installment Sale Agreement have been paid in full. Upon any termination of the Ground Lease with respect to a Facility (other than School #84), the Installment Sale Agreement shall concurrently terminate at such time with respect to the affected Facility. Upon any termination of the Ground Sublease, the Installment Sale Agreement shall concurrently terminate at such time with respect to School #84. The Issuer delivers to the Buffalo CSD and the Buffalo CSD accepts sole and exclusive possession of the Facilities, subject to the terms and conditions set forth in the Installment Sale Agreement. The Issuer makes no representations whatsoever in connection with the condition of any of the Facilities, and the Issuer shall not be liable for any defects therein.

Incorporation of Ground Lease Provisions. The Installment Sale Agreement is subject and subordinate to the Ground Lease, and all provisions thereof. In connection with the sale of the Issuer's leasehold interest in the Facilities (other than School #84) under the Ground Lease, the Issuer delegates to the Buffalo CSD all Ground Lease Promises (as defined in the Ground Lease) of the Issuer contained in the Ground Lease, and the Buffalo CSD assumes all of the Ground Lease Promises. All terms, covenants and provisions of the Ground Lease applicable to the "Lessee" therein are incorporated into the Installment Sale Agreement by reference, and the Buffalo CSD agrees to comply with the same and be responsible therefor. The delegation and assumption within the Installment Sale Agreement by the Buffalo CSD shall not create a merger of the estates of the Issuer and the Buffalo CSD under the Ground Lease.

Incorporation of Ground Sublease Provisions. The Installment Sale Agreement is subject and subordinate to the Ground Sublease, and all provisions thereof. In connection with the sale of the Issuer's subleasehold interest in School #84 under the Ground Sublease, the Issuer delegates to the Buffalo CSD all Ground Sublease Promises (as defined in the Ground Sublease) of the Issuer contained in the Ground Sublease, and the Buffalo CSD assumes all of the Ground Sublease Promises. All terms, covenants and provisions of the Ground Sublease applicable to the "Sublessee" therein are incorporated by reference into the Installment Sale Agreement, and the Buffalo CSD agrees to comply with the same and be responsible therefor. The delegation and assumption within the Installment Sale Agreement by the Buffalo CSD shall not create a merger of the estates of the Issuer and the Buffalo CSD under the Ground Sublease.

The Series 2009 Project. Pursuant to the Ground Lease, the City and the Buffalo CSD have vested the Issuer with a valid leasehold estate in the Facilities (other than School #84), and pursuant to the Ground Sublease, the Buffalo CSD has vested the Issuer with a valid subleasehold estate in School #84, which leasehold and subleasehold estates the Issuer has sold to the Buffalo CSD, subject to the terms and conditions set forth in the Installment Sale Agreement.

As promptly as practicable after receipt of the proceeds of sale of the Series 2009A Bonds and out of said proceeds of sale, the Buffalo CSD proceeded as agent for and on behalf of the Issuer to effect the acquisition, construction, renovation, reconstruction, improvement, equipping and/or furnishing of those Facilities to be financed in whole or in part from the proceeds of sale of the Series 2009A Bonds, the costs thereof to be paid from the proceeds of sale of the Series 2009A Bonds deposited in the Series 2009A Bonds Account of the Project Fund established under the Indenture. The Buffalo CSD agrees that it will use its best efforts to cause such acquisition, construction, renovation, reconstruction, improvement, equipping and furnishing of each Facility to be completed as soon as may be practicable, delays incident to strikes, riots, acts of God, the public enemy or any delay beyond its reasonable control only excepted, and no delay in such completion of any Facility shall be the basis for any diminution in or postponement of the amounts payable under the Installment Sale Agreement by the Buffalo CSD. In order to effect such work, the Buffalo CSD has entered into the Master Construction Agreement. The Master Construction Agreement and each other agreement, contract, purchase order or other obligation entered into by the Buffalo CSD as agent for the Issuer shall expressly provide that the Issuer shall have

no liability thereunder, except to the extent of proceeds from the sale of the Bonds which may be available therefor. The Issuer shall not be liable in any manner for payment or otherwise to any contractor, subcontractor, laborer or supplier of materials in connection with the purchase of any materials to be incorporated into a Facility or Facilities, except to the extent and solely from the proceeds of sale of the Bonds. In the event that moneys in the Project Fund are not sufficient to pay the costs necessary to complete the work with respect to a Facility in full, the Buffalo CSD shall not be entitled to any reimbursement therefor from the Issuer, the Trustee or the Holders of any of the Bonds (except from the proceeds of Additional Bonds which may be issued for that purpose), nor shall the Buffalo CSD be entitled to any diminution of the Installment Purchase Payments or Additional Payments to be made under the Installment Sale Agreement.

As between the Issuer and the Buffalo CSD, the Buffalo CSD, acting specifically as agent for the benefit of the Issuer, shall be responsible for the letting and supervision of contracts for the acquisition, construction, renovation, reconstruction, improvement, equipping and furnishing of each Facility, acceptance of the completed Facility or parts thereof, and all other matters incidental thereto. All contractors, materialmen, vendors, suppliers and other companies, firms or persons furnishing labor, services, equipment, furnishings or materials for or in connection with the work with respect to a Facility shall be designated by the Buffalo CSD, either on its own or as agent for the Issuer, through the Master Construction Agreement, the PPDS Agreement or otherwise.

As between the Issuer and the Buffalo CSD, the Buffalo CSD shall pay (i) all of the costs and expenses in connection with the preparation of any instruments of conveyance and transfer (y) of a leasehold interest in the Facilities (other than School #84) to the Issuer pursuant to the Ground Lease, and (z) of a subleasehold interest in School #84 to the Issuer pursuant to the Ground Sublease, together in each case with the delivery of any instruments and documents and their filing and recording, if required, (ii) all taxes and charges payable, if any, in connection with such conveyance and transfer, or attributable to periods prior to such conveyance and transfer, and (iii) all expenses or claims incurred in connection with the Series 2009 Project and not funded from the proceeds of sale of the Series 2009A Bonds (or of any Series of Additional Bonds).

The Buffalo CSD covenants that, at all times as it shall be effecting the work of the Series 2009 Project, it will comply with all laws, acts, rules, regulations, permits, orders and requirements lawfully made, of any national, State, legislative, executive, administrative or judicial body, commission or office exercising any power of regulation or supervision over such work or over the manner of construction or operation thereof and with the conditions and requirements of all policies of liability insurance as specified in the Installment Sale Agreement. Upon completion of the work with respect to a Facility, the Buffalo CSD will promptly obtain or cause to be obtained all required occupancy and operation permits, authorizations and licenses from appropriate authorities, if any be required, authorizing the occupancy, operation and use of such Facility for the purposes contemplated by the Installment Sale Agreement and shall furnish copies of same to the Trustee immediately upon receipt thereof.

Upon the completion or abandonment by the Buffalo CSD of the Series 2009 Project or any portion thereof, the Buffalo CSD shall deliver a certificate of an Authorized Representative of the Buffalo CSD to the Issuer and the Trustee to such effect.

Additional Facilities. The Issuer and the Buffalo CSD recognize that, under the provisions of and subject to the conditions set forth in the Indenture or a related Series Indenture, a Series of Additional Bonds or additional Series of Project Bonds may be issued from time to time pursuant to separate Series Indentures to finance the costs of the acquisition, construction, renovation, reconstruction, improvement, equipping and/or furnishing of Facilities and/or Additional Facilities.

Payment of Installment Purchase Payments. Subject to the provisions described under the heading “Nature of Obligations of the Buffalo CSD” below, the Buffalo CSD agrees to pay or cause to be paid, the Installment Purchase Payments for the Facilities in the amounts and on April 1 of the years as set forth in a schedule to the Installment Sale Agreement (the “Installment Purchase Payment Schedule”). Notwithstanding the Installment Purchase Payment Schedule, in the event the Buffalo CSD shall have failed to appropriate by November 1, commencing November 1, 2010, that amount of State Aid Revenues required to make (less any amount on deposit in the Bond Fund on such November 1 and available on such date), and for the stated purpose of making, the Installment Purchase Payment due on the immediately succeeding April 1 (as set forth in the Installment Payment Schedule), then, (y) the Buffalo CSD shall promptly deliver written notice of such failure to appropriate to the Issuer and the Trustee, and (z) that Installment Purchase Payment next due on such immediately succeeding April 1 (less any amount on deposit in the Bond Fund on such November 1 and available on such date) shall instead be due on the November 15 immediately following such November 1 as if that November 15 were the originally scheduled Installment Purchase Payment Date. Installment Purchase Payments must be deposited by or on behalf of the Buffalo CSD, as provided in the State Aid Trust Agreement, with the Trustee by no later than each Installment Purchase Payment Date; provided, however, that there shall be credited against any Installment Purchase Payments any amounts available for such purpose and on deposit in the Bond Fund, including any amounts deposited to the Bond Fund pursuant to the Indenture (such net amount being the “Net Base Facilities Agreement Payment”).

The Buffalo CSD shall have the option to make from time to time prepayments in part of payments due as aforesaid of Installment Purchase Payments, together with interest accrued and to accrue and premium, if any, to be paid on a Series of Bonds, if, but only if, such prepayment is to be used for the redemption or defeasance of such Series of Bonds. The Trustee shall apply such prepayments in such manner consistent with the provisions of the Indenture as may be specified in writing by an Authorized Representative of the Buffalo CSD at the time of making such prepayment. Upon any such prepayment, the Trustee shall, if necessary, recalculate the Installment Purchase Payment Schedule in accordance with the Indenture and deliver a revised Installment Purchase Payment Schedule to the Buffalo CSD and the Issuer, and such revised Installment Purchase Payment Schedule shall be deemed to replace the then-existing Installment Purchase Payment Schedule attached to the Installment Sale Agreement.

Direction as to Payment of Installment Purchase Payments. Installment Purchase Payments shall be paid to the Trustee for credit to the Bond Fund.

Indemnification of the Issuer and Trustee and Limitation on Liability. The Buffalo CSD shall, to the maximum extent permitted by law, at all times protect, defend and hold the Issuer, the Trustee, the Bond Registrar, the Paying Agents and the Depository Bank and their respective officers, members, directors, employees and agents (collectively, the “Indemnified Parties”) harmless of, from and against any and all claims (whether in tort, contract or otherwise), demands, expenses and liabilities for losses, damage, injury and liability of every kind and nature and however caused, and taxes (of any kind and by whomsoever imposed), other than, with respect to any Indemnified Party, losses arising from the gross negligence or willful misconduct of such Indemnified Party, arising upon or about any of the Facilities or resulting from, arising out of, or in any way connected with (i) the financing of the costs of the Series 2009 Project and the marketing, remarketing, issuance and sale of the Bonds from time to time for such purpose, (ii) the planning, design, acquisition, site preparation, construction, renovation, equipping, furnishing, installation or financing of the Facilities or any part of any thereof or the effecting of any work done in or about any of the Facilities, (iii) any defects (whether latent or patent) in any of the Facilities, (iv) the maintenance, repair, replacement, restoration, rebuilding, upkeep, use, occupancy, ownership, leasing, subletting or operation of any of the Facilities or any portion thereof, or (v) the Installment Sale Agreement, the Indenture or any other Project Document or other document or instrument delivered in connection therewith or the enforcement of any of the terms or provisions thereof or the transactions

contemplated thereby. Except as provided above, no Indemnified Party shall be liable for any damage or injury to the person or property of the Buffalo CSD or its directors, officers, employees, agents or servants or persons under the control or supervision of the Buffalo CSD, or any other Person who may be about any of the Facilities, due to any act or negligence of any Person other than for the gross negligence or willful misconduct of such Indemnified Party.

The Buffalo CSD releases each Indemnified Party from, and agrees, to the maximum extent permitted by law, that no Indemnified Party shall be liable for and agrees to defend, indemnify and hold each Indemnified Party harmless against any expense, loss, damage, injury or liability incurred because of any lawsuit commenced as a result of action taken by such Indemnified Party with respect to any of the matters set forth in the Installment Sale Agreement as described in clauses (i) through (v) of the paragraph above or at the direction of the Buffalo CSD with respect to any of such matters above referred to; provided, however, that such indemnification by the Buffalo CSD shall not extend to any Indemnified Party whose gross negligence or willful misconduct resulted in such expense, loss, damage, injury or liability. An Indemnified Party shall promptly notify the Buffalo CSD in writing of any claim or action brought against such Indemnified Party in which indemnity may be sought against the Buffalo CSD pursuant to the Installment Sale Agreement as described under this heading; such notice shall be given in sufficient time to allow the Buffalo CSD to defend or participate in such claim or action, but the failure to give such notice in sufficient time shall not constitute a defense under the Installment Sale Agreement nor in any way impair the obligations of the Buffalo CSD under the Installment Sale Agreement as described under this heading, except that if (i) the Indemnified Party shall have had knowledge or notice of such claim or action but shall not have timely notified the Buffalo CSD of any such claim or action, (ii) the Buffalo CSD shall have had no knowledge or notice of such claim or action, and (iii) the Buffalo CSD's ability to defend or participate in such claim or action is materially impaired by reason of not having received timely notice thereof from the Indemnified Party, then the Buffalo CSD's obligation to so defend and indemnify such Indemnified Party shall be qualified to the extent (and only to the extent) of such material impairment.

The indemnifications and protections set forth in the Installment Sale Agreement as described under this heading shall be extended, with respect to each Indemnified Party, to its members, directors, officers, employees, agents and servants and persons under its control or supervision.

Anything to the contrary in the Installment Sale Agreement notwithstanding, the indemnification, hold harmless and release covenants of the Buffalo CSD contained in the Installment Sale Agreement as described under this heading shall remain in full force and effect after the termination of the Installment Sale Agreement until the later of (i) the expiration of the period stated in the applicable statute of limitations during which a claim or cause of action may be brought and (ii) payment in full or the satisfaction of such claim or cause of action and of all expenses and charges incurred by the Indemnified Party relating to the enforcement of the provisions therein specified.

Nature of Obligations of the Buffalo CSD. Except as provided in the Installment Sale Agreement as described under this heading, the obligation of the Buffalo CSD to pay Installment Purchase Payments and Additional Payments shall be absolute and unconditional, and such Installment Purchase Payments and Additional Payments shall be payable without any rights of set-off, recoupment or counterclaim or deduction and without any right of suspension, deferment, diminution or reduction it might otherwise have against the Issuer, the Trustee, any purchaser of any Bond or any other person, and whether or not the Facilities or any of them are used or occupied by the Buffalo CSD or available for use or occupancy by the Buffalo CSD.

The obligation of the Buffalo CSD to pay Installment Purchase Payments shall be deemed executory only to the extent of State Aid Revenues appropriated and available to the Buffalo CSD for the

purpose of the Installment Sale Agreement and the State Aid Trust Agreement, and moneys appropriated by the Buffalo CSD for such purpose, and no liability on account thereof shall be incurred by the Buffalo CSD beyond the amount of such moneys; provided, however, that the failure of the Buffalo CSD for any reason (including a failure by the State or the Buffalo CSD to appropriate State Aid Revenues) to make an Installment Purchase Payment or an Additional Payment shall be deemed a failure to make a payment for purposes of the Installment Sale Agreement and the Buffalo Schools Act, and in such event, the Issuer has appointed the Trustee to act as its agent for purposes of taking action under the State Aid intercept provisions of the Indenture. Further, the obligation of the Buffalo CSD to pay Installment Purchase Payments is not a general obligation of the City or the Buffalo CSD. Neither the full faith and credit nor the taxing power of the City or the Buffalo CSD are pledged to the payment of any Installment Purchase Payment or Additional Payment due under the Installment Sale Agreement. However, the obligations of the Buffalo CSD under the Installment Sale Agreement to pay Additional Payments shall be a general obligation of the Buffalo CSD, executory, however, only to the extent of moneys appropriated therefor by the Buffalo CSD. It is understood that neither the Installment Sale Agreement nor any representation by any public employee or officer creates any legal or moral obligation to appropriate or make moneys available for the purposes of the Installment Sale Agreement.

The obligations of the Buffalo CSD under the Installment Sale Agreement, including its obligation to pay the Installment Purchase Payments and Additional Payments in any Fiscal Year for which the Installment Sale Agreement is in effect, shall constitute a current expense of the Buffalo CSD for such Fiscal Year and shall not constitute an indebtedness of the City or the Buffalo CSD within the meaning of any constitutional or statutory provision or other laws of the State. The only source of moneys available to the Buffalo CSD for the payment of any Installment Purchase Payment coming due under the Installment Sale Agreement shall be moneys comprising State Aid Revenues lawfully appropriated by the State and available therefor from time to time to or for the benefit of the Buffalo CSD, and appropriated for such purpose by the Buffalo CSD.

The Buffalo CSD agrees that its proposed expense budget for each ensuing Fiscal Year commencing with the Fiscal Year ending June 30, 2011 shall include, either as a separate unit of appropriation or as an expenditure within a unit of appropriation, the amount of Installment Purchase Payments and Additional Payments to come due in such next Fiscal Year, provided, however, that any such appropriation (y) of Installment Purchase Payments shall only be payable by the Buffalo CSD to the extent of State Aid Revenues available therefor and appropriated by the Buffalo CSD for such purpose, and (z) of Additional Payments shall only be payable by the Buffalo CSD to the extent appropriated for such purpose by the Buffalo CSD.

Subject to the limitations contained in the second paragraph under this heading, the Buffalo CSD will not terminate the Installment Sale Agreement (other than such termination as is provided for therein) or be excused from performing its obligations therein for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, failure of title, or frustration of purpose, or any damage to or destruction of any of the Facilities, or the taking by eminent domain of title to or the right of temporary use of all or any part of any of the Facilities, or the failure of the Issuer to perform and observe any agreement or covenant, whether expressed or implied, or any duty, liability or obligation arising out of or in connection with the Installment Sale Agreement.

The Buffalo CSD intends to continue the Installment Sale Agreement for its entire term and to pay all Installment Purchase Payments specified in the Installment Purchase Payment Schedule attached to the Installment Sale Agreement as such Installment Purchase Payments come due under the terms and provisions of the Installment Sale Agreement.

No provision contained above shall be deemed to limit, impair or modify the State Aid Revenues intercept provisions of the Buffalo Schools Act or the application of the State Aid intercept provisions of the Indenture.

Directed State Aid Revenues. Pursuant to instructions, the Comptroller of the City and the Superintendent of the Buffalo CSD have directed the State Comptroller's Office to deposit all State Aid Revenues into the State Aid Depository Fund established under the State Aid Trust Agreement, and the Comptroller of the City and the Superintendent of the Buffalo CSD have further instructed the Depository Bank, pursuant to the terms and provisions of the State Aid Trust Agreement, to transfer State Aid Revenues to the Trustee and each other Series Trustee in accordance with the State Aid Trust Agreement for the purpose of, in the case of the Indenture, making deposits in the Bond Fund with respect to amounts due on the Bonds. The Buffalo CSD agrees not to modify the procedures set forth in the State Aid Trust Agreement for the collection, deposit or disbursement of State Aid Revenues, except as and to the extent permitted under the State Aid Trust Agreement.

The Buffalo CSD acknowledges that, pursuant to the State Aid intercept provisions of the Indenture (and the Buffalo Schools Act), in the event it shall fail (for any reason, including the failure of the appropriate legislative body of the Buffalo CSD to appropriate moneys for such purpose) to make a payment under the Installment Sale Agreement in the amount and by the date the same is due, the Issuer has appointed the Trustee to act as its agent under the Indenture for the purpose of delivering a certificate to the State Comptroller certifying as to such failure and setting forth the amount of such deficiency, and the State Comptroller, upon receipt of such certificate, shall be authorized to withhold from the Buffalo CSD such State Aid Revenues as is payable to the Buffalo CSD to the extent of the amount so stated in such certificate of the Trustee as not having been made, and the State Comptroller shall immediately pay over to the Trustee on behalf of the Issuer, the amount of such State Aid Revenues so withheld. Notwithstanding anything to the contrary contained in the Installment Sale Agreement, amounts of such State Aid Revenues received by the Trustee on behalf of the Issuer and applied to the Installment Purchase Payments or Additional Payments shall be deemed to satisfy the Buffalo CSD's obligation to make such defaulted payment to the extent of the amount received.

Operation, Maintenance and Repair. During the Agreement Term, the Buffalo CSD shall be responsible for, and pay all costs of, operating the Facilities, maintaining the same in good and safe condition, and making all necessary repairs and replacements, interior and exterior, structural and non-structural. All replacements, renewals and repairs shall be equal in quality, class and value to the original work and be made and installed in compliance with the requirements of all governmental bodies. The Issuer shall be under no obligation to replace, service, test, adjust, erect, maintain or effect replacements, renewals or repairs of any of the Facilities, to effect the replacement of any inadequate, obsolete, worn-out or unsuitable parts of any of the Facilities, or to furnish any utilities or services for any of the Facilities and the Buffalo CSD agrees to assume full responsibility therefor.

Utilities, Taxes and Governmental Charges. The Buffalo CSD will pay or cause to be paid all charges for water, electricity, light, heat or power, sewage, telephone and other utility service, rendered or supplied upon or in connection with the Facilities during the Agreement Term.

In addition, the Buffalo CSD shall (i) pay, or make provision for payment of, all lawful taxes and assessments, including income, profits, property or excise taxes, if any, or other municipal or governmental charges, levied or assessed by any Federal, state or any municipal government upon the Issuer or the Buffalo CSD with respect to or upon any of the Facilities or any part thereof or upon any payments under the Installment Sale Agreement when the same shall become due; (ii) duly observe and comply with all valid requirements of any governmental authority relative to the Facilities; (iii) not create or suffer to be created any lien or charge upon any of the Facilities or any part of any thereof, except

Permitted Encumbrances, or upon the payments in respect thereof under the Installment Sale Agreement; and (iv) pay or cause to be discharged or make adequate provision to satisfy and discharge, within sixty (60) days after the same shall come into force, any lien or charge upon any of the Facilities or any part of any thereof, except Permitted Encumbrances, or upon any payments under the Installment Sale Agreement and all lawful claims or demands for labor, materials, supplies or other charges which, if unpaid, might be or become a lien upon any payments under the Installment Sale Agreement.

Additions, Enlargements and Improvements. The Buffalo CSD shall have the right at any time and from time to time during the Agreement Term, at its own cost and expense, to make such additions, enlargements, improvements and expansions to, or repairs, reconstruction and restorations of, any of the Facilities, as the Buffalo CSD shall deem necessary or desirable in connection with the use of such Facilities. All such additions, enlargements, improvements, expansions, repairs, reconstruction and restorations when completed shall be of such character as not to reduce or otherwise adversely affect the value of the related Facility or the rental value thereof. The cost of any such additions, enlargements, improvements, expansions, repairs, reconstruction or restorations shall be promptly paid or discharged so that the affected Facility shall at all times be free of liens for labor and materials supplied thereto other than Permitted Encumbrances. All additions, enlargements, improvements and expansions to, or repairs, reconstruction and restorations of, a Facility shall be and become a part of such Facility, and become subject to the Installment Sale Agreement and (y) in the case of School #84, the Ground Sublease, and (z) in the case of all other Facilities, the Ground Lease.

Additional Rights of the Buffalo CSD. The Issuer agrees that the Buffalo CSD shall have the right, option and privilege of erecting, installing and maintaining at its own cost and expense equipment (not constituting part of the Series 2009 Project) in or upon any Facility as may in the Buffalo CSD's judgment be necessary for its purposes. It is further understood and agreed that any equipment erected or installed under the provisions described under this heading shall be and remain the personal property of Buffalo CSD and, if not constituting part of the Series 2009 Project, shall not become subject to the Ground Sublease or the Ground Lease, as applicable, or the Installment Sale Agreement, and may be removed, altered or otherwise changed, upon or before the termination of the Installment Sale Agreement.

Liability Insurance. The Buffalo CSD shall maintain or cause to be maintained with responsible insurers, for the benefit of the Issuer and the Trustee until the completion of the Series 2009 Project in accordance with the provisions of the Installment Sale Agreement, the following kinds and the following amounts of insurance with respect to the Facilities, with such variations as shall reasonably be required to conform to customary insurance practice:

(a) During any period of construction or reconstruction of any of the Facilities, Builders' Special Form Insurance written on "100% builders' risk completed value, non-reporting form" including coverage therein for "completion and/or premises occupancy" and coverage for property damage insurance, all of which insurance shall include coverage for removal of debris, insuring the buildings, structures, facilities, machinery, equipment, fixtures and other property included within renovations to any of the Facilities against loss or damage by fire, lightning, vandalism, malicious mischief and other casualties, with standard extended coverage endorsement covering perils of windstorm, hail, explosion, aircraft, vehicles and smoke (except as limited in the standard form of extended coverage endorsement at the time in use in the State) at all times in an amount such that the proceeds of such insurance shall be sufficient to prevent the Buffalo CSD, the Issuer or the Trustee from becoming a co-insurer of any loss under the insurance policies; any such insurance may limit coverage to \$20,000,000 for any one Facility;

(b) During any period of construction or reconstruction of any of the Facilities, commercial public liability insurance with respect to the construction activities at the Facilities in a minimum amount of \$26,000,000 per occurrence and aggregate, which insurance (A) will also provide coverage of the

Buffalo CSD's obligations of indemnity under the Installment Sale Agreement, and (B) may be effected under overall blanket or excess coverage policies, provided, however, that at least \$1,000,000 is effected by a comprehensive liability insurance policy; and

(c) Workers' compensation insurance and such other forms of insurance which the Buffalo CSD or the Issuer is required by law to provide covering loss resulting from injury, sickness, disability or death of the employees of any contractor or subcontractor performing work with respect to any of the Facilities included within the Series 2009 Project; the Buffalo CSD shall require that all said contractors and subcontractors shall maintain all forms or types of insurance with respect to their employees required by laws.

All insurance required by the Installment Sale Agreement above shall be procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write such insurance in the State.

The Buffalo CSD shall, at its own cost and expense, make all proofs of loss and take all other steps necessary or reasonably requested by the Issuer or the Trustee to collect from insurers for any loss covered by any insurance required to be obtained pursuant to the Installment Sale Agreement as described under this heading.

The Buffalo CSD shall not do any act, or suffer or permit any act to be done, whereby any insurance required under this heading would or might be suspended or impaired. The Buffalo CSD assumes all risks that the proceeds of any insurance may be inadequate to fully indemnify the Issuer and the Trustee against, or to reimburse the Issuer and the Trustee for, any loss, liability, claim or judgment arising out of any risk, peril or insurable loss under the insurance required by the Installment Sale Agreement. The Issuer acknowledges that the Buffalo CSD shall be solely responsible for the payment of any loss, liability, claim or judgment, or any portion thereof, falling within any deductible or self insured retention or which is in excess of any available insurance coverage.

Damage or Destruction. The Buffalo CSD agrees to notify the Issuer and the Trustee immediately in the case of damage to or destruction of any Facility or any portion thereof in an amount exceeding \$100,000 resulting from fire or other casualty, and shall state the plans of the Buffalo CSD with respect to the repair, reconstruction and restoration of the affected Facility.

Condemnation. If any Facility or portion thereof shall be condemned or taken by eminent domain, the Installment Sale Agreement (with respect to the affected Facility or portion thereof) and the interest of the Buffalo CSD under the Installment Sale Agreement shall terminate when title to such Facility or portion thereof vests in the party condemning or taking the same (hereinafter referred to as the "termination date"), and the Buffalo CSD will promptly give notice thereof to the Issuer and the Trustee, and shall state the plans of the Buffalo CSD with respect to the replacement or restoration of the affected Facility.

Compliance with the IDA Act and the Buffalo Schools Act. The Buffalo CSD covenants and agrees to operate each of the Facilities or cause each of the Facilities to be operated in accordance with (i) the Installment Sale Agreement, and (ii) as a qualified "project" and "educational facility" for "educational activities" in accordance with and as defined under each of the IDA Act and the Buffalo Schools Act.

Compliance with Laws and Regulations. The Buffalo CSD will, at its own cost and expense, promptly comply with, or cause to be complied with, all laws, rules, regulations and other governmental requirements, whether or not the same require structural repairs or alterations, which may be applicable to

the Buffalo CSD and any of the Facilities or the use or manner of use of any of the Facilities; provided, however, the Buffalo CSD's obligation to comply with any such law, rule, regulation or governmental requirement shall be suspended during any contest thereof in good faith by the Buffalo CSD, which contest is being diligently prosecuted. The Buffalo CSD will also observe and comply with the requirements of all policies and arrangements of insurance at any time in force with respect to the Facilities.

Assignment and Sale by Buffalo CSD. The Buffalo CSD will not sell, sublease, sub-sublease or otherwise dispose of or encumber its interest in any of the Facilities except in the case of Permitted Encumbrances or pursuant to the Ground Sublease or the Ground Lease or as provided in the Installment Sale Agreement as described under the heading "Subletting" below or under the heading "Release of Facilities" below; provided, however, that the Buffalo CSD may sublet part of any Facility (x) for a purpose and use consistent with the Ground Sublease or the Ground Lease, as applicable, (y) upon delivery to the Trustee of an Opinion of Counsel to the Buffalo CSD to the effect that such sublease shall neither limit nor impair the obligations of the Buffalo CSD under the Installment Sale Agreement, and (z) upon delivery to the Trustee of an opinion of Nationally Recognized Bond Counsel to the effect that such sublet will not cause interest on any of the Bonds to become includable in gross income for federal income tax purposes. The Installment Sale Agreement may be assigned in whole or in part by the Buffalo CSD upon written consent of the Issuer and the Trustee (which consents of the Issuer or the Trustee may be unreasonably withheld) but no assignment shall relieve the Buffalo CSD from primary liability for any of its obligations under the Installment Sale Agreement, and in the event of any such assignment the Buffalo CSD shall continue to remain primarily liable for the payments specified in the Installment Sale Agreement and for performance and observance of the other agreements provided on its part in the Installment Sale Agreement.

Subletting. The Buffalo CSD may use, rent, sublease or sub-sublease space, as applicable, in any Facility, in excess of the space required for its purposes, as determined by an Authorized Representative of the Buffalo CSD. No such use, lease, sublease or sub-sublease shall have any adverse effect upon the Installment Sale Agreement or affect or reduce the Buffalo CSD's obligations under the Installment Sale Agreement. No sublease or sub-sublease to the Issuer shall become merged in the Buffalo CSD's fee or beneficial title or leasehold interest. The Buffalo CSD shall not rent, sublease, sub-sublease or otherwise dispose of all or any portion of any Facility if such rental, sublease, sub-sublease or disposition would cause the interest on any of the Bonds then Outstanding to lose their exemption from Federal income taxation. Any such use, rental, sublet or sub-sublet shall be for a use consistent with the limitations thereon set forth in the Installment Sale Agreement and the Ground Sublease or the Ground Lease, as applicable.

Covenant not to Affect the Tax Exempt Status of the Bonds. The Buffalo CSD agrees that throughout the Agreement Term, it will comply with the Tax Compliance Certificate and it will take no action, or permit any action to be taken, with respect to any Facility which will impair the exemption of interest on any Outstanding Bonds from Federal income taxes.

Covenants as to State Aid Trust Agreement. The Buffalo CSD agrees not to revoke the instructions furnished to the State Comptroller's office to forward all State Aid Revenues payments to the Depository Bank. The Buffalo CSD also agrees to comply with, and not to terminate, the State Aid Trust Agreement or materially modify the terms and provisions thereof in a manner which would materially adversely affect the owners of any Project Bonds, except as may be permitted under the terms of the State Aid Trust Agreement.

Release of Facilities. So long as there exists no event of default under the Installment Sale Agreement, nor any event which upon the giving of notice or the passage of time or both, would

constitute an event of default, the Buffalo CSD may, upon written notice to the Issuer and the Trustee and compliance with the following, effect the release of a Facility, to no longer be used by the Buffalo CSD as a public school, or the costs with respect to which have been financed with the Bonds which are no longer Outstanding, from the Installment Sale Agreement and the leasehold estate of the Ground Lease or, in the case of School #84, the subleasehold estate of the Ground Sublease. Upon receipt of such notice, the Issuer and the Trustee shall, at the sole cost and expense of the Buffalo CSD, execute and deliver any and all instruments necessary or appropriate to so release and remove such Facility from the Facilities subject to the Installment Sale Agreement, and the leasehold estate of the Ground Lease, or, in the case of School #84, the subleasehold estate of the Ground Sublease; provided, however, that in the event the release is of the last remaining Facility, the Buffalo CSD must further pay Installment Purchase Payments necessary to effect the redemption in whole of the Bonds.

No conveyance or release effected under the provisions described under this heading shall entitle the Buffalo CSD to any abatement or diminution of the Installment Purchase Payments or the Additional Payments required to be made by the Buffalo CSD under the Installment Sale Agreement.

Compliance with Requirements for State Aid Revenues. The Buffalo CSD will comply with all requirements necessary to ensure receipt of State Aid Revenues over the term of the Installment Sale Agreement.

No Impairment of Pledge of State Aid Revenues. The Buffalo CSD covenants and agrees that it shall enter into no agreement, indenture or other instrument, including any Series Facilities Agreement, in connection with a Series of Project Bonds under a Series Indenture, which shall have the effect, directly or indirectly, of providing a greater priority or preference to the intercept of State Aid Revenues under the Buffalo Schools Act than the pledge effected pursuant to the Indenture; provided, however, that nothing contained in the Installment Sale Agreement shall be deemed (y) to limit or deny the ability of the issuer of a Series of Project Bonds to pledge State Aid Revenues on a parity with the pledge effected by the Issuer under the Indenture, or (z) to require that any Series of Project Bonds issued under a Series Indenture have the same payment dates or amortize principal on a schedule comparable to that of the Bonds Outstanding under the Indenture, or that any lease rental payment dates or installment purchase payment dates, as applicable, under a Series Facilities Agreement be the same as provided for under the Installment Sale Agreement.

Events of Default. An “event of default” or a “default” shall mean any one or more of the following events under the Installment Sale Agreement:

(1) Failure by the Buffalo CSD to pay or cause to be paid when due (other than failure to pay as a result of an Event of Nonappropriation) the Installment Purchase Payments to be paid under the Installment Sale Agreement;

(2) Failure by the Buffalo CSD to pay or to cause to be paid when due any Additional Payment required to be made under the Installment Sale Agreement, which failure shall continue for a period of thirty (30) days after payment thereof was due;

(3) Failure by the Buffalo CSD to observe and perform the covenants set forth in the Installment Sale Agreement (i) as described in the fourth, fifth and sixth paragraphs under the heading “Nature of Obligations of the Buffalo CSD” above, (ii) as described under the heading “Covenants as to State Aid Trust Agreement” above or (iii) as described under the heading “Compliance with Requirements for State Aid Revenues” above;

(4) Failure of the Buffalo CSD to maintain the insurance coverage required as described under the heading “Liability Insurance” above or to observe and perform its covenants set forth in “Indemnification of the Issuer and Trustee and Limitation on Liability” above, and continuance of any such failure for a period of thirty (30) days after receipt by the Buffalo CSD of written notice specifying the nature of such default from the Issuer or the Trustee;

(5) Failure by the Buffalo CSD to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subparagraphs (1), (2), (3) and (4) under this heading, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Buffalo CSD by the Issuer, the Trustee or the Holders of more than twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding, unless by reason of the nature of such failure the same can not be remedied within such thirty (30) day period and the Buffalo CSD has within such period commenced to take appropriate actions to remedy such failure and is diligently prosecuting such actions;

(6) The Buffalo CSD shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or any proceeding shall be instituted by or against the Buffalo CSD seeking to adjudicate it a bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, or other similar official for it for any substantial part of its property; or the Buffalo CSD shall authorize any of the actions set forth above in this subparagraph or

(7) The entering of an order or decree appointing a receiver of the Facilities or any thereof with the consent or acquiescence of the Buffalo CSD or the entering of such order or decree without the acquiescence or consent of the Buffalo CSD if it shall not be vacated, discharged or stayed within ninety (90) days after entry.

Notwithstanding anything contained under this heading to the contrary, a failure by the Buffalo CSD to pay when due any payment required to be made under the provisions of the Installment Sale Agreement or a failure by the Buffalo CSD to observe and perform any covenant, condition or agreement on its part to be observed or performed under the provisions of the Installment Sale Agreement, resulting from a failure by the Board of Education of the Buffalo CSD to appropriate moneys for such purposes, shall not constitute an event of default under the provisions of the Installment Sale Agreement. However, the failure by the Buffalo CSD to pay when due any payment required to be made by it under the Installment Sale Agreement shall constitute a failure to make a payment under the Installment Sale Agreement for purposes of the Buffalo Schools Act, and in such event the Issuer has appointed the Trustee to act as its agent for purposes of taking action under the State Aid intercept provisions of the Indenture. The Buffalo CSD agrees to provide written notice to the Trustee indicating either (i) the Superintendent of the Buffalo CSD submitted a budget to the Board of Education that fails to include a separate line item representing the full amount of Installment Purchase Payments payable during the applicable Fiscal Period or (ii) the Board of Education adopted a Buffalo CSD budget that fails to include such a separate line item.

Remedies. Whenever any event of default as provided in the Installment Sale Agreement as described under the heading “Events of Default” above shall have happened and be continuing, or whenever an Event of Nonappropriation shall have occurred and be continuing, the Issuer (with the prior written consent of the Trustee) or the Trustee, subject in all respects to the provisions under the heading “Nature of Obligations of the Buffalo CSD” above, may take whatever action at law or in equity may appear necessary or desirable to collect the payments then due and thereafter to become due, or to enforce

performance and observance of any obligation, agreement or covenant of the Buffalo CSD under the Installment Sale Agreement. Notwithstanding the foregoing, for so long as any of the Bonds are Outstanding or any amounts remain due and payable by the Buffalo CSD under the Installment Sale Agreement, neither the Issuer nor the Trustee shall take any action which shall have the effect of terminating the Installment Sale Agreement or the interest in or rights of possession of the Buffalo CSD in the Facilities, provided, however, that in addition to any other rights or remedies granted by the Installment Sale Agreement as described under this heading to the Issuer, the Issuer may enforce any of the Issuer's Reserved Rights without the consent of the Trustee or any other person, by an action for damages, injunction or specific performance.

No action taken pursuant to provisions under this heading shall relieve the Buffalo CSD from the Buffalo CSD's obligations under the Installment Sale Agreement, all of which shall survive any such action.

Cure. Notwithstanding any remedy taken by the Issuer or the Trustee pursuant to the provisions of the Installment Sale Agreement as described under the immediately preceding heading, if all arrearages of Installment Purchase Payments, and all other Additional Payments, shall have been paid, all other things shall have been performed in respect of which there was an event of default or Event of Nonappropriation and there shall have been paid the reasonable fees and expenses, including expenses of the Trustee (including reasonable attorneys' fees paid or incurred), then the event of default or Event of Nonappropriation shall be waived without further action by the Trustee or the Issuer.

No Remedy Exclusive. Subject to the provisions of the second sentence under the heading "Remedies" above, no remedy conferred in the Installment Sale Agreement upon or reserved to the Issuer or the Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given in the Installment Sale Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee to exercise any remedy reserved to it in the Installment Sale Agreement it shall not be necessary to give any notice, other than such notice as may be expressly required in the Installment Sale Agreement.

Effect on Discontinuance of Proceedings. In case any proceeding taken by the Trustee under the Indenture or the Installment Sale Agreement or under any other Security Document on account of any event of default or Event of Nonappropriation under the Installment Sale Agreement or the Indenture shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee, then, and in every such case, the Issuer, the Trustee and the Holders of the Bonds shall be restored, respectively, to their former positions and rights thereunder, and all rights, remedies, powers and duties of the Trustee shall continue as in effect prior to the commencement of such proceedings.

Limitations on Termination of Agreement. Neither the Issuer, the Trustee nor the Buffalo CSD shall take or fail to take any action which would cause the Installment Sale Agreement to terminate while any Bonds remain Outstanding or any amounts remain due and payable under the Installment Sale Agreement or prior to the discharge of the lien of the Indenture.

Limitation on Liability of the Issuer, the State and the County. The liability of the Issuer to the Buffalo CSD under the Installment Sale Agreement and to the Trustee and the Holders of the Bonds shall be enforceable only out of, and limited to, the Issuer's interest under the Installment Sale Agreement, under the Ground Lease and under the Ground Sublease and the security interest created by the Indenture. There shall be no other recourse against the Issuer, its members, directors, officers, agents, servants and

employees and persons under the Issuer's control or supervision, past, present or future, or against any of the property now or hereafter owned by it or them. Any obligation the Issuer may incur for the payment of money in the performance of the Installment Sale Agreement shall not create a debt of the State or of the County, and neither the State nor the County shall be liable on any obligation so incurred. Any such obligation shall be payable solely out of any payments or other proceeds or funds derived from the Installment Sale Agreement. All obligations of the Issuer under the Installment Sale Agreement shall be deemed to be the obligation of the Issuer, and not of any member, director, officer, servant, employee or agent of the Issuer or person under the Issuer's control or supervision, past, present or future, in his individual capacity. No recourse shall be had against any such persons, or against any natural person executing the Bonds, for any claim against the Issuer arising under the Installment Sale Agreement, including, without limitation, any claim for the payment of the principal of, redemption premium, if any, or interest on the Bonds.

No Merger. During the Agreement Term, there shall be no merger of the Installment Sale Agreement and the interest sold thereby with the leasehold, subleasehold or fee interests of the City and/or the Buffalo CSD in the Facilities, as applicable, by reason of the fact that the Buffalo CSD both holds such leasehold or fee interest, as applicable, and is the purchaser of the Issuer's (y) leasehold interest in the Facilities (other than School #84) under the Ground Lease or (z) subleasehold interest in School #84 under the Ground Sublease, in each case pursuant to the Installment Sale Agreement.

**APPENDIX E**

**FORM OF BOND COUNSEL OPINION  
WITH RESPECT TO THE SERIES 2013A BONDS**

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**APPENDIX E**

**FORM OF BOND COUNSEL OPINION  
WITH RESPECT TO THE SERIES 2013A BONDS**

*Upon delivery of the Series 2013A Bonds, Bond Counsel to the Issuer proposes  
to issue its approving opinion in substantially the following form:*

*Hawkins Delafield & Wood LLP*

ONE CHASE MANHATTAN PLAZA  
NEW YORK, NY 10005  
WWW.HAWKINS.COM

April \_\_, 2013

Erie County Industrial  
Development Agency  
143 Genesee Street  
Buffalo, New York 14203

Re: Erie County Industrial Development Agency  
\$62,540,000 School Facility Refunding Revenue Bonds  
(City School District of the City of Buffalo Project), Series 2013A

Ladies and Gentlemen:

We have acted as Bond Counsel to the Issuer referred to below and, in such capacity, we have examined a record of proceedings relating to the issuance of School Facility Refunding Revenue Bonds (City School District of the City of Buffalo Project), Series 2013A, in the aggregate principal amount of \$62,540,000 (the "Series 2013A Bonds") of the Erie County Industrial Development Agency, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation organized and existing under the laws of the State of New York (the "Issuer").

The Series 2013A Bonds are issued under and pursuant to the New York State Industrial Development Agency Act (constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of the State of New York), as amended, and Chapter 293 of the 1970 Laws of New York, as amended (collectively, the "IDA Act"), Chapter 605 of the 2000 Laws of New York, as amended by Chapter 59 of the 2003 Laws of New York, by Chapter 421 of the 2004 Laws of New York, by Chapter 283 of the Laws of 2006 of New York, by Chapter 403 of the Laws of 2008 of New York, by Chapter 492 of the Laws of 2008 of New York, by Chapter 497 of the Laws of 2008 of New York, and by Chapter 209 of the Laws of 2009 of New York (collectively, the "Buffalo Schools Act"), an Indenture of Trust (Series 2009 Project), dated as of November 1, 2009, as supplemented and amended by a First Supplemental Indenture of Trust (Series 2009 Project), dated as of April 1, 2013 (collectively, the "Indenture"), between the Issuer and Manufacturers and Traders Trust Company, as trustee (the "Trustee"), and resolutions of the Issuer adopted on September 11, 2002, as amended on October 16, 2002 and on June 11, 2003, as amended and restated on November 10, 2004, and as amended on April 11, 2005, June 11, 2007, July 9, 2007, January 17, 2008, October 19, 2009 and May 16, 2011, and on March 25, 2013, authorizing the Series 2013A Bonds.

The Series 2013A Bonds shall be dated, shall mature, shall bear interest and shall be payable as set forth in the Indenture. The Series 2013A Bonds are subject to redemption prior to maturity, all in the manner and upon the terms and conditions set forth in the Indenture.

The Series 2013A Bonds are issued for the purpose of refunding a portion of the Agency's outstanding School Facility Revenue Bonds (City School District of the City of Buffalo Project), Series 2009A (the "2009 Bonds"), which were issued to finance a portion of the cost of the acquisition, renovation, reconstruction, improvement, equipping and furnishing of certain public schools (collectively, the "Facilities") for use by the City School District of the City of Buffalo (the "Buffalo CSD") within Erie County, New York.

Each of the Buffalo CSD, the City of Buffalo (the "City"), Manufacturers and Traders Trust Company, as Depository Bank (the "Depository Bank"), and the Trustee as a Series Trustee have entered into a Second Amended and Restated State Aid Trust Agreement, dated as of October 1, 2012 (the "State Aid Trust Agreement"), pursuant to and with respect to which each of the Comptroller of the City and the Buffalo CSD has instructed the New York State Comptroller to pay all New York State building and operating aid appropriated by the State of New York (the "State") for the Buffalo CSD (the "State Aid") directly to the State Aid Depository Fund established with and held by the Depository Bank pursuant to the State Aid Trust Agreement.

The City and the Buffalo CSD have leased their respective interests in the Facilities (excluding School #84, as defined in the Installment Sale Agreement referred to below) to the Issuer pursuant to a Ground Lease (Series 2009 Project), dated as of November 1, 2009 (the "Ground Lease"), from the City and the Buffalo CSD, as landlord, to the Issuer, as tenant. School #84 is the subject of a Lease Agreement dated as of June 1, 2007, as extended pursuant to a First Lease Extension Agreement dated as of November 1, 2009, between the County of Erie, New York (the "County"), as landlord, and the Buffalo CSD, as tenant (as the same may be further extended or amended, the "School #84 Prime Lease"), and the Buffalo CSD has subleased School #84 to the Issuer pursuant to a Ground Sublease (Series 2009 Project), dated as of November 1, 2009 (the "Ground Sublease"), between the Buffalo CSD, as sublessor, and the Issuer, as sublessee. The Issuer has sold its leasehold interest under the Ground Lease, and its subleasehold interest under the Ground Sublease, in the Facilities, to the Buffalo CSD pursuant to an Installment Sale Agreement (Series 2009 Project), dated as of November 1, 2009, as amended by a First Amendment to Installment Sale Agreement (Series 2009 Project), dated as of April 1, 2013, from the Issuer to the Buffalo CSD (collectively, the "Installment Sale Agreement"). Pursuant to the Installment Sale Agreement, the Buffalo CSD has agreed to pay scheduled installment purchase payments in amounts equal to the principal of and interest on the outstanding 2009 Bonds and the Series 2013A Bonds; *provided, however*, that such installment purchase payment obligation of the Buffalo CSD is executory only to the extent of State Aid Revenues (as defined in the State Aid Trust Agreement) available for such payment from the State Aid Depository Fund and transferred therefrom to the Trustee by the Depository Bank, and is further subject to appropriation by the Buffalo CSD.

Pursuant to the Indenture, the Issuer has assigned to the Trustee substantially all of the Issuer's right, title and interest in, to and under the Installment Sale Agreement, including the foregoing installment purchase payments to be made by the Buffalo CSD.

It is provided in the Indenture that, upon satisfying certain conditions, the Issuer may issue one or more series of additional bonds (the "Additional Bonds") from time to time on the terms and conditions and for the purposes stated in the Indenture, and the Additional Bonds, if issued, will be equally and ratably secured under the Indenture with the outstanding 2009 Bonds and the Series 2013A Bonds. The Indenture further provides that the amount of installment purchase payments required to be paid under the Installment Sale Agreement shall be re-calculated so as to provide money for the full and timely payment

of the principal of and interest on the outstanding 2009 Bonds and the Series 2013A Bonds and any such series of Additional Bonds.

The Internal Revenue Code of 1986, as amended (the “Code”), establishes certain requirements that must be met subsequent to the issuance and delivery of the Series 2013A Bonds in order that, for Federal income tax purposes, interest on the Series 2013A Bonds be excluded from gross income pursuant to Section 103 of the Code. These requirements include, but are not limited to, requirements relating to the use and expenditure of Series 2013A Bond proceeds, restrictions on the investment of Series 2013A Bond proceeds prior to expenditure, and the requirement that certain earnings be rebated to the Federal government. Noncompliance with such requirements may cause interest on the Series 2013A Bonds to become included in gross income for Federal income tax purposes retroactive to their date of issue, irrespective of the date on which such noncompliance occurs or is discovered.

On the date of delivery of the Series 2013A Bonds, the Issuer and the Buffalo CSD will execute a Tax Compliance Certificate, dated the date hereof (the “Tax Compliance Certificate”), containing provisions and procedures pursuant to which such requirements can be satisfied. In executing the Tax Compliance Certificate, the Issuer and the Buffalo CSD covenant that they will comply with the provisions and procedures set forth therein and that they will do and perform all acts and things necessary or desirable to assure that interest paid on the Series 2013A Bonds will, for Federal income tax purposes, be excluded from gross income under Section 103 of the Code.

We are of the opinion that:

1. The Issuer is duly created and validly existing under the IDA Act, and has good right and lawful authority under the IDA Act and the Buffalo Schools Act to refund a portion of the 2009 Bonds and sell its leasehold interest under the Ground Lease, and its subleasehold interest under the Ground Sublease, in the Facilities, to the Buffalo CSD and collect revenues and installment purchase payments therefrom, in accordance with the terms of the Installment Sale Agreement and as provided in the Indenture.

2. The Issuer has the right and power pursuant to the IDA Act and the Buffalo Schools Act to enter into the Indenture, and the Indenture has been duly authorized, executed and delivered by the Issuer, is in full force and effect, and is valid and binding upon the Issuer and enforceable against the Issuer in accordance with its terms.

3. The Issuer has the right and power pursuant to the IDA Act and the Buffalo Schools Act to enter into the Installment Sale Agreement, and the Installment Sale Agreement has been duly authorized, executed and delivered by the Issuer, is in full force and effect, and constitutes a valid and binding agreement of the Issuer enforceable against the Issuer in accordance with its terms.

4. The Series 2013A Bonds have been duly authorized and issued by the Issuer in accordance with law and in accordance with the Indenture, and are the valid and binding special limited obligations of the Issuer, payable by the Issuer solely from the installment purchase payments payable by the Buffalo CSD under the Installment Sale Agreement and pledged under the Indenture. The Series 2013A Bonds are enforceable in accordance with their terms and the terms of the Indenture and are entitled to the benefit of the IDA Act and the Indenture. The Indenture creates the valid pledge which it purports to create of the Installment Purchase Payments and all Funds and Accounts (as such terms are defined in the Indenture) established by the Indenture, including the investments thereof and the proceeds of such investments, if any, subject only to the provisions of the Indenture permitting the application thereof to the purposes and on the terms and conditions set forth in the Indenture.

5. Under existing statutes and court decisions, and assuming continuing compliance with the tax covenants and procedures set forth in the Tax Compliance Certificate in the form as in effect on the date hereof, (i) interest on the Series 2013A Bonds is excluded from gross income for Federal income tax purposes pursuant to Section 103 of the Code, and (ii) interest on the Series 2013A 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.

6. Under existing statutes, the interest on the Series 2013A Bonds is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York).

In rendering the opinions in paragraph 5 above, we have relied upon and assumed (i) the material accuracy of the representations, statements of intention and reasonable expectation, and certifications of fact contained in the Tax Compliance Certificate with respect to matters affecting the status of interest paid on the Series 2013A Bonds, and (ii) compliance by the Issuer and Buffalo CSD with the procedures and covenants set forth in the Tax Compliance Certificate and with the tax covenants set forth in the Indenture and the Installment Sale Agreement as to such tax matters.

Except as stated in paragraphs 5 and 6 above, we express no opinion as to any other Federal, state or local tax consequences arising with respect to the Series 2013A Bonds or the ownership or disposition thereof. Furthermore, we express no opinion herein as to 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 2013A Bonds, or the exclusion of interest on the Series 2013A Bonds from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York).

The foregoing opinions are qualified only to the extent that the enforceability of the Series 2013A Bonds, the Indenture, the Tax Compliance Certificate, the Installment Sale Agreement, the Ground Lease, the Ground Sublease and the State Aid Trust Agreement may be limited by bankruptcy, moratorium or insolvency or other laws affecting creditors' rights generally and are subject to general rules of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

In rendering this opinion, we have relied as to the Issuer's leasehold interest under the Ground Lease, and subleasehold interest under the Ground Sublease, in the real property constituting part of the Facilities, and the enforceability of each against the Buffalo CSD and the County, on the opinions of the Corporation Counsel to the City, and the County Attorney to the County, each dated November 19, 2009, and we have assumed the continued validity of each thereof.

In rendering this opinion, we have assumed the due recording of each of the Ground Lease (or a memorandum thereof), the Ground Sublease (or a memorandum thereof), the Installment Sale Agreement and the Indenture, and the due filing and sufficiency of financing statements under the New York State Uniform Commercial Code.

In rendering this opinion, with respect to the due authorization, execution and delivery of the School #84 Prime Lease by the County, and the validity and enforceability of the School #84 Prime Lease against the County, we have relied upon the opinion of the County Attorney to the County, dated November 19, 2009, and we have assumed the continued validity thereof.

In rendering this opinion, with respect to (y) the due authorization, execution and delivery of the Installment Sale Agreement, the School #84 Prime Lease, the Ground Lease, the Ground Sublease, the

Tax Compliance Certificate and the State Aid Trust Agreement by the Buffalo CSD, and the validity and enforceability of such documents against the Buffalo CSD, and (z) the due authorization, execution and delivery of the Ground Lease and the State Aid Trust Agreement by the City, and the validity and enforceability of such documents against the City, we have relied upon the opinion of the Corporation Counsel to the City, dated the date hereof.

In rendering this opinion, with respect to the due authorization, execution and delivery of (y) the Indenture and the State Aid Trust Agreement by the Trustee, and (z) the State Aid Trust Agreement by the Depository Bank, we have relied upon the opinion of Hodgson Russ LLP, counsel to the Trustee and the Depository Bank, dated the date hereof.

In rendering this opinion, we express no opinion as to the necessity for obtaining any licenses, permits or other approvals relating to the operation of any of the Facilities, or the application or effect of any environmental laws, ordinances, rules, regulations or other requirements of any governmental authority with respect to any of the Facilities or the transactions contemplated under the Indenture.

The foregoing opinions are further subject, however, to the qualification that we express no opinion as to matters relating to the rights in, title to or sufficiency of the description of any property or collateral described in the Ground Lease, the Ground Sublease, the Installment Sale Agreement or the Indenture.

Attention is called to the fact that we have not been requested to examine and have not examined any documents or information relating to the City, the County or the Buffalo CSD other than the record of proceedings hereinabove referred to, and no opinion is expressed as to any financial or other information, or the adequacy thereof, which has been or may be supplied to any purchaser of the Series 2013A Bonds.

We undertake no responsibility for the accuracy, completeness or fairness of any official statement or other offering materials relating to the Series 2013A Bonds and express no opinion herein relating thereto.

We have examined a Series 2013A Bond in fully registered form numbered AR-1 and, in our opinion, the form of said Series 2013A Bond and its execution are regular and proper.

We are rendering our opinion under existing statutes and court decisions as of the date hereof. We assume no obligation to update, revise or supplement this opinion to reflect any action hereafter taken or not taken, or any facts or circumstances that may hereafter come to our attention, or changes in law or in interpretations thereof, or otherwise, that may hereafter arise or occur, or for any other reason.

Very truly yours,

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**APPENDIX F**  
**FORM OF CONTINUING DISCLOSURE AGREEMENT**  
**FOR THE SERIES 2013A BONDS**

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## APPENDIX F

### FORM OF CONTINUING DISCLOSURE AGREEMENT FOR THE SERIES 2013A BONDS

#### SERIES 2013A CONTINUING DISCLOSURE AGREEMENT

This SERIES 2013A CONTINUING DISCLOSURE AGREEMENT (this “Disclosure Agreement”) is entered into as of April 1, 2013 by and between the CITY SCHOOL DISTRICT OF THE CITY OF BUFFALO (the “School District”) and MANUFACTURERS AND TRADERS TRUST COMPANY, as Trustee (the “Trustee”) in connection with the issuance by the Erie County Industrial Development Agency (the “Agency”) of its \$62,540,000 aggregate principal amount School Facility Refunding Revenue Bonds (City School District of the City of Buffalo Project), Series 2013A (the “Series 2013A Bonds”).

The Series 2013A Bonds are being issued under the Act (as defined in the Indenture referred to below) by the Agency pursuant to an Indenture of Trust (Series 2009 Project) dated as of November 1, 2009 (the “Original Indenture”), as supplemented and amended by a First Supplemental Indenture of Trust (Series 2009 Project) dated as of April 1, 2013 (the “First Supplemental Indenture”, together with the Original Indenture, the “Indenture”), each by and between the Agency and the Trustee. Proceeds of the Series 2013A Bonds are being used to refund a portion of the Agency’s outstanding School Facility Revenue Bonds (City School District of the City of Buffalo Project) Series 2009A in accordance with Chapter 605 of the Laws of 2000 of the State, as amended by Chapter 59 of the Laws of 2003 of the State, as further amended by Chapter 421 of the Laws of 2004 of the State, as further amended by Chapter 283 of the Laws of 2006 of the State, as further amended by Chapter 492 of the Laws of 2008 of the State, as further amended by Chapter 497 of the Laws of 2008 of the State, and as further amended by Chapter 209 of the Laws of 2009 of the State (collectively, the “Buffalo Schools Act”).

In order to permit the Underwriters of the Series 2013A Bonds to comply with the provisions of Rule 15c2-12 of the Securities Exchange Act of 1934 in connection with the public offering of the Series 2013A Bonds, the parties hereto, in consideration of the mutual covenants herein contained and other good and lawful consideration, hereby agree for the sole and exclusive benefit of the Bondholders, as follows:

**SECTION 1. Purpose of the Disclosure Agreement.** This Disclosure Agreement is being executed and delivered by the School District and the Trustee for the benefit of Bondholders and Beneficial Owners (as defined below) of the Series 2013A Bonds and in order to assist the Underwriters in complying with the Rule (as defined below). The School District and the Trustee acknowledge that none of the Agency, the City of Buffalo or Erie County has undertaken responsibility with respect to any reports, notices or disclosures provided or required under this Disclosure Agreement, and that none of the Agency, the City of Buffalo, or Erie County has liability to any person, including any Bondholder or Beneficial Owner, concerning the Rule.

**SECTION 2. Definitions.** Capitalized terms used but not defined in this Disclosure Agreement shall have the meanings ascribed to them in the Indenture.

“Annual Report” shall mean any annual report and related annual information to be provided by the School District pursuant to Sections 3 and 4 of this Disclosure Agreement.

“Beneficial Owner” shall mean any beneficial owner of a security, including a person who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has or

shares investment power which includes the power to dispose, or to direct the disposition, of such security subject to certain exceptions as set forth in the Undertaking, as defined below. Any assertion of beneficial ownership must be filed with full documentary support, as part of the written request described in Section 10 of this Disclosure Agreement.

“Disclosure Representative” shall mean the Superintendent of the School District or his or her designee, or such other person as the School District shall designate in writing to the Trustee from time to time.

“Dissemination Agent” shall mean the Trustee, acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the School District and which has filed with the Trustee a written acceptance of such designation.

“EMMA” shall mean the MSRB’s Electronic Municipal Market Access system.

“Fiscal Year” shall mean the period of twelve months beginning July 1 of each year and ending on June 30 of the same year, or any other twelve month period adopted by the School District as its fiscal year for accounting purposes.

“Listed Events” shall mean any of the events listed in Subsection 5(a) of this Disclosure Agreement.

“MSRB” shall mean the Municipal Securities Rulemaking Board.

“Repository” shall mean the MSRB as the sole repository of information required to be provided pursuant to the Rule, in each instance through and in accordance with EMMA.

“Rule” shall mean Rule 15c2-12(b)(5) promulgated by the SEC under the Securities Exchange Act of 1934, as such Rule may be amended from time to time.

“State” shall mean the State of New York.

“SEC” shall mean the U.S. Securities and Exchange Commission.

“Underwriters” shall mean collectively, Citigroup Global Markets Inc., on its own behalf and as Representative of the other Underwriters set forth on Schedule I attached hereto, as the original underwriters of the Series 2013A Bonds required to comply with the Rule in connection with the offering of the Series 2013A Bonds.

### SECTION 3. Obligations to Provide Continuing Disclosure.

(a) On an annual basis, no later than 360 days after the end of each respective Fiscal Year, commencing with the Fiscal Year ending June 30, 2013, the School District shall provide, or shall cause the Dissemination Agent to provide, to the Repository, an Annual Report which is consistent with the requirements of Sections 3 and 4 of this Disclosure Agreement. In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information, as provided in Section 4(ii) hereof. If the Fiscal Year changes, the School District shall give notice of such change in the same manner as required for a Listed Event. The School District shall provide sufficient copies of the Annual Reports to facilitate the Dissemination Agent’s carrying out its duties, as set forth under this Disclosure Agreement.

(b) If the Dissemination Agent has not received on or before the last business day of a Fiscal Year, an Annual Report from the School District for the preceding Fiscal Year, and the Dissemination Agent does not have actual knowledge that the Annual Report has been provided to the Repository, the Dissemination Agent shall send a notice to the Repository in substantially the form attached hereto as Exhibit A, with a copy to the School District.

(c) The Dissemination Agent shall file a report with the School District and (if the Dissemination Agent is not the Trustee) with the Trustee, certifying that the Annual Report has been provided to the Repository pursuant to this Disclosure Agreement, stating the date it was so provided.

SECTION 4. Content of Annual Report. The School District's Annual Report shall contain or include by reference the following core financial information and operating data:

(i) Specified Information.

(a) The audited financial statements of the School District for the most recently ended Fiscal Year prepared in accordance with generally accepted accounting principles consistently applied, as promulgated from time to time by the Financial Accounting Standards Board. If the School District's audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Subsection 3(a) of this Disclosure Agreement, the Annual Report shall contain unaudited financial statements, and the audited financial statements shall be filed in the same manner as the Annual Report promptly after they become available; and

(b) Material historical quantitative data, including, but not limited to, information on State Aid to be received by the School District and all statutory intercepts applicable to the School District, not otherwise described in the Final Official Statement dated April 17, 2013 ("Final Official Statement"), as well as any other revenues, expenditures, financial operations and indebtedness with respect to the Series 2013A Bonds generally of the type discussed in the sections and subsections of the Final Official Statement entitled, "PROGRAM PARTICIPANTS —The Buffalo CSD and Board of Education," "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2013A BONDS —State Aid;" and

(c) A report consolidating the information required from the School District under subsection 4(i)(a) above.

(ii) Cross-Reference. All or any portion of the Annual Report may be incorporated in the Annual Report by cross-reference to any other documents which were and are being filed under the Rule with the Repository, through and in accordance with EMMA. The audited or unaudited financial statements of the School District may be provided in the same manner.

(iii) Information Categories. The requirements contained in this Disclosure Agreement under Section 4(i)(b) are intended to set forth a general description of the type of financial information and operating data to be provided; such descriptions are not intended to state more than general categories of financial information and operating data; and where the provisions of Section 4(i)(b) call for information that no longer can be generated because the operations to which it related have been materially changed or discontinued, a statement to that effect shall be provided.

SECTION 5. Reporting of Listed Events.

(a) The School District shall provide or shall cause the Dissemination Agent to provide in a timely manner (not in excess of ten business days after the occurrence of the following significant events) to the Repository, written notice of any of the following significant events with respect to the Series 2013A Bonds (“Listed Events”):

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
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, the issuance by the Internal Revenue Service (“IRS”) of proposed or final determinations of taxability, Notices of Proposed Issuer (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax-exempt status of the Series 2013A Bonds or events affecting the tax status of the Series 2013A Bonds;
7. Modifications to rights of Bondholders, if material;
8. Bond calls, if material;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Series 2013A Bonds, if material;
11. Rating changes;
12. Tender offers;
13. Bankruptcy, insolvency, receivership or similar proceeding of the School District or the Agency<sup>1</sup>;
14. The consummation of a merger, consolidation, or acquisition involving the School District or the Agency or the sale of all or substantially all of

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<sup>1</sup> For the purposes of the event identified in clause (a)(13), the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governmental body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.

the assets of the School District or the Agency, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

15. Appointment of a successor or additional trustee, or the change of name of a trustee, if material; and
16. Failure of the School District to comply with the requirements of Sections 3 and 4 of this Disclosure Agreement;

(b) Certain of the six Listed Events subject to a materiality standard may not be applicable. Whenever the School District obtains knowledge of the occurrence of such a Listed Event, the School District shall as soon as possible determine if such event would constitute material information for Bondholders of the Series 2013A Bonds.

(c) The School District shall provide or shall cause the Dissemination Agent to provide in a timely manner to the Repository, written notice of a failure of any officer or other person authorized by the School District to comply with Sections 3, 4 and/or 5 hereof.

(d) Notwithstanding the preceding, neither the School District nor the Dissemination Agent will undertake to provide any of the following:

1. Notice with respect to (i) credit enhancement if (A) the credit enhancement is added after the primary offering of the Series 2013A Bonds, (B) the School District does not apply for or participate in obtaining the enhancement, and (C) the School District does not apply for or participate in obtaining the enhancement and the enhancement is not described in the Final Official Statement, or (ii) tax exemption other than pursuant to Section 103 of the Code;

2. The event notice, as described in Section 5(a)(8) above, with regard to a mandatory scheduled redemption not otherwise contingent upon the occurrence of an event, if (i) the terms, dates and amounts of redemption are set forth in detail in the Indenture, (ii) the only open issue is which Series 2013A Bonds will be redeemed in the case of a partial redemption, (iii) notice of redemption is given to the Bondholders as required under the terms of the Series 2013A Bonds, and (iv) public notice of the redemption is given pursuant to 1934 Act Release No. 23856 of the SEC, even if the originally scheduled amounts are reduced by prior optional redemptions or Bond purchases; and

3. Updates or revisions to any forward-looking statements contained in the Final Official Statement, including, but not limited to, those that include the words “expects,” “forecasts,” “projects,” “intends,” “anticipates,” “estimates,” “assumes,” “structured,” “targets” or analogous expressions.

SECTION 6. Termination of Reporting Obligation. The School District’s obligations under this Disclosure Agreement shall terminate upon the legal defeasance, prior redemption, or payment in full of all of the Series 2013A Bonds.

SECTION 7. Dissemination Agent. The School District may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement

and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the School District pursuant to this Disclosure Agreement. If at any time there is not any other designated Dissemination Agent, the Trustee shall be the Dissemination Agent. The initial Dissemination Agent shall be the Trustee. For so long as the Trustee shall be the Dissemination Agent, the School District shall pay the Dissemination Agent an annual fee of \$500.00 upon the execution of this Disclosure Agreement and on each anniversary thereof.

SECTION 8. Amendments. An amendment to the requirements set forth in this Disclosure Agreement (the “Requirements”) may only take effect if:

The amendment is made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of the School District, or type of business conducted; the Requirements, as amended, would have complied with the requirements of the Rule at the time of sale of the Series 2013A Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and the amendment does not materially impair the interests of Bondholders and/or Beneficial Owners, as determined by parties unaffiliated with the School District (such as, but without limitation, the School District’s financial advisor or transaction counsel) and the annual financial information containing (if applicable) the amended operating data or financial information will explain, in narrative form, the reasons for the amendment and the “impact” (as that word is used in the letter from the SEC staff to the National Association of Bond Lawyers dated June 23, 1995) of the change in the type of operating data or financial information being provided; or

All or any part of the Rule, as interpreted by the staff of the SEC at the date of the Series 2013A Bonds, ceases to be in effect for any reason, and the School District elects that the Requirements shall be deemed terminated or amended (as the case may be) accordingly.

SECTION 9. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the School District from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the School District chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Agreement, the School District shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 10. Default; Venue. No Bondholder may institute any suit, action or proceeding at law or in equity (“Proceeding”) for the enforcement of the Requirements (the “Undertaking”) or for any remedy for breach thereof, unless such Bondholder shall have filed with the School District evidence of ownership and a written notice of and request to cure such breach, and the School District shall have refused to comply within a reasonable time. All Proceedings shall be instituted only as specified herein, in any federal or state court located in the State and for the equal benefit of all holders of the outstanding Series 2013A Bonds benefited by the same or a substantially similar covenant, and no remedy shall be sought or granted other than specific performance of the covenant at issue.

SECTION 11. Duties, Immunities and Liabilities of Trustee and Dissemination Agent. The Dissemination Agent (if other than the Trustee or the Trustee in its capacity as Dissemination Agent) shall have only such duties as are specifically set forth in this Disclosure Agreement, and the School District agrees to release the Dissemination Agent and the Trustee from any claim arising out of the discharge of

any duties hereunder and to defend, indemnify and save the Trustee and the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including reasonable attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Trustee and the Dissemination Agent's negligence or willful misconduct. The obligations of School District under this Section 11 shall survive resignation or removal of the Dissemination Agent and payment of the Series 2013A Bonds.

SECTION 12. Notices. Any notices or communications to or among any of the parties to this Disclosure Agreement may be given as follows:

To the School District:

City School District of the City of Buffalo  
City Hall, Room 708  
Buffalo, New York 14202  
Attention: Chief Financial Officer  
Tel: (716) 816-3676  
Fax: (716) 851-3650

With a copy to

Harter, Secrest & Emery LLP  
Twelve Fountain Plaza, Suite 400  
Buffalo, New York 14202-2293  
Attention: Anthony D. Mancinelli

To the Trustee:

Manufacturers and Traders Trust Company  
Corporate Trust Administration – 7th Floor  
One M&T Plaza  
Buffalo, New York 14203-2399  
Attention: Corporate Trust Department  
E-mail address: rwhitley@mtb.com  
Tel: (716) 842-5602  
Fax: (716) 842-4474

Any person may, by written notice to the other persons noted above, designate a different address, telephone, electronic transmission, or facsimile number(s) to which subsequent notices or communications should be sent.

SECTION 13. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of Bondholders and Beneficial Owners (and the Trustee acting on behalf of Bondholders and/or Beneficial Owners), and shall create no rights in any other person or entity.

SECTION 14. Fiduciary Obligation. The Dissemination Agent agrees that it shall be bound by Section 9.3 of the Indenture as if it were a fiduciary under the Indenture.

SECTION 15. Counterparts. This Disclosure Agreement may be executed in one or more counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 16. Governing Law. THIS DISCLOSURE AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK DETERMINED WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAW. TO THE EXTENT THIS DISCLOSURE AGREEMENT ADDRESSES MATTERS OF FEDERAL SECURITIES LAW, THIS DISCLOSURE AGREEMENT SHALL BE GOVERNED BY FEDERAL SECURITIES LAWS AND OFFICIAL INTERPRETATIONS THEREOF.

CITY SCHOOL DISTRICT OF THE CITY OF  
BUFFALO

By: \_\_\_\_\_  
Name: Mary Ruth Kapsiak  
Title: President, Board of Education

MANUFACTURERS AND TRADERS TRUST  
COMPANY, as Trustee

By: \_\_\_\_\_  
Authorized Officer

SCHEDULE I

Citigroup Global Markets Inc.  
Ramirez & Co., Inc.

EXHIBIT A

NOTICE TO REPOSITORY OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: Erie County Industrial Development Agency

Name of Bond Issue: \$62,540,000 Erie County Industrial Development Agency  
School Facility Refunding Revenue Bonds  
(City School District of the City of Buffalo Project), Series 2013A

Date of Issuance: April 25, 2013

NOTICE IS HEREBY GIVEN that City School District of the City of Buffalo (the "School District") has not provided an Annual Report with respect to the above-named Series 2013A Bonds as required by the Series 2013A Continuing Disclosure Agreement, dated as of April 1, 2013 between the School District and Manufacturers and Traders Trust Company, as trustee. [The \_\_\_\_\_ anticipates that an Annual Report will be filed by \_\_\_\_\_.]

Dated: \_\_\_\_\_

**APPENDIX G**

**SUMMARY OF CERTAIN PROVISIONS OF THE STATE AID TRUST AGREEMENT**

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## APPENDIX G

### SUMMARY OF CERTAIN PROVISIONS OF THE STATE AID TRUST AGREEMENT

*The following is a summary of certain provisions of the Second Amended and Restated State Aid Trust Agreement dated as of October 1, 2012 (the "State Aid Trust Agreement"). This summary is qualified in its entirety by reference to the document itself.*

Definitions. In the State Aid Trust Agreement, unless a different meaning clearly appears from the context:

(1) "Aggregate" means, when used to qualify any other term in the State Aid Trust Agreement, the aggregate, of the relevant term, with respect to all then existing Project Bonds, and then existing Series Facilities Agreements;

(2) "Annual Payment Obligations on 2012 MBBA Refunding Bonds" means the annual payments by the City to MBBA for debt service on the 2012 MBBA Refunding Bonds;

(3) "Amendment Date" means the date as of which the State Aid Trust Agreement was entered into;

(4) "Base Facilities Agreement Payment" means, with respect to any Series Facilities Agreement, the Base Lease Payment, the Base Installment Purchase Payment or other like payment obligations as so defined in such Series Facilities Agreement;

(5) "Buffalo Schools Act" means the act of the Legislature of the State entitled: "AN ACT in relation to the construction of new educational facilities, the financing of such facilities, and the financing of the rehabilitation and reconstruction of existing facilities in the City of Buffalo", constituting Chapter 605 of the Laws of 2000 of the State, as amended by Chapter 59 of the Laws of 2003 of the State and by Chapter 421 of the Laws of 2004 of the State, and as the same may be further amended;

(6) "Chief Fiscal Officer" means the comptroller of the City or such other officer of the City who may be designated chief fiscal officer of the City;

(7) "City" means the City of Buffalo;

(8) "Collection Percentage" means, with respect to each month of a Collection Period, the ratio, expressed as a percentage, of the amount of State Aid Revenues expected to be received during such month of such Collection Period to the total amount of State Aid Revenues expected to be received during such Collection Period;

(9) "Collection Period" means the four month period from and including December 1 of a Fiscal Year through and including March 31 of such Fiscal Year;

(10) "Collecting Officer" means the Superintendent of the Buffalo CSD, the Chief Financial Officer of the Buffalo CSD and any other official empowered to demand, collect and receive State Aid Revenues;

(11) "Debt Service Reserve Fund" means, with respect to a Series of Project Bonds, the Debt Service Reserve Fund established for such Series of Project Bonds under the related Series Indenture;

(12) “Depository Bank” means Manufacturers and Traders Trust Company or any trust company or bank having the powers of a trust company in the State, having reported capital and surplus of not less than \$100,000,000 and rated not lower than investment grade by any Rating Agency appointed by the Buffalo CSD in the manner set forth in the State Aid Trust Agreement, and any successor trust company or bank having the powers of a trust company in the State which may be substituted in its place pursuant to the provisions of the State Aid Trust Agreement. The Depository Bank shall be the same financial institution as each Series Trustee;

(13) “ECIDA” means the Erie County Industrial Development Agency;

(14) “Facilities Agreement Payment Date” means, with respect to any Series Facilities Agreement, the date the Net Base Installment Purchase Payments or other base payment obligations for principal and interest are due under such Series Facilities Agreement;

(15) “Facilities Payment Obligations” means, with respect to any Facilities Agreement, the Lease Payments, the Installment Purchase Payments or other like payment obligations as so defined in such Series Facilities Agreement;

(16) “Fiscal Year” means the fiscal year of the City and the Buffalo CSD;

(17) “General Fund” means the bank account designated by the Chief Fiscal Officer in written instructions delivered to the Depository Bank on the date of issuance of the first Series of Project Bonds, as the same may be re-designated;

(18) “Investment Securities” means any investments that the City would be permitted to invest in under the provisions of Section 11 of the General Municipal Law of the State, as amended from time to time;

(19) “MBBA” means the State of New York Municipal Bond Bank Agency;

(20) “MBBA 2012 Series Trustee” means Bank of New York Mellon, as Trustee under the MBBA 2012 Bond Resolution, and any successor appointed pursuant to such Resolution;

(21) “MBBA 2012 Bond Resolution” means, collectively, the State Municipal Bond Bank Agency Special Program (City of Buffalo) Revenue Bond Resolution and the 2012 Series A Special Program (City of Buffalo) Revenue Bond Series Resolution each adopted by such Agency on September 13, 2012;

(22) “MBBA Provisions” means, collectively, the provisions of the State Aid Trust Agreement relating to MBBA, the Special Program Agreement, the Annual Payment Obligations on 2012 MBBA Refunding Bonds, the certificate described in the Student Aid Trust Agreement, and the 2012 MBBA Refunding Bonds;

(23) “Net Base Facilities Agreement Payments” means, with respect to any Facilities Agreement, the Net Base Installment Purchase Payments or other net base payment obligations for principal and interest on the related Project Bonds (net of (y) any Scheduled Debt Service Reserve Fund Earnings to the extent that any such Scheduled Debt Service Reserve Fund Earnings shall not first be required when received under the related Series Indenture to satisfy any deficiency in the Debt Service Reserve Fund established for such Project Bonds, and (z) any amounts available in the Bond Fund established under the Series Indenture for such Project Bonds) as so defined in such Series Facilities Agreement;

(24) “Project Bonds” means bonds issued by the ECIDA or some other public entity pursuant to Series Indentures and the Buffalo Schools Act;

(25) “Qualified Debt Service Reserve Fund Investment Agreement” means, with respect to a Series of the Project Bonds, that investment agreement entered into by the Series Trustee with respect to the Debt Service Reserve Fund as such Agreement is so defined in the related Series Facilities Agreement or Series Indenture;

(26) “Ratable Basis” means, ratably based on the ratio of the amount, at issue, owing to a Series Trustee to the Aggregate of such amounts, at issue, owing to all Series Trustees;

(27) “Rating Agency” means any nationally recognized credit rating agency then rating any Series of the Project Bonds;

(28) “Reserve Payment” means, with respect to any Facilities Agreement, the reserve payment obligation in respect of a deficiency in the amount on deposit in the Debt Service Reserve Fund established under a Series Indenture for a Series of Project Bonds;

(29) “Scheduled Debt Service Reserve Fund Earnings” means, with respect to any Base Facilities Agreement Payment, those earnings scheduled to be received under a Series Indenture from a Qualified Debt Service Reserve Fund Investment Agreement, based on the amount on deposit in the related Debt Service Reserve Fund and subject to the Qualified Debt Service Reserve Fund Investment Agreement as of the last Business Day of October immediately preceding the Facilities Agreement Payment Date for such Base Facilities Agreement Payment under the related Series Facilities Agreement, for the period commencing on such Facilities Agreement Payment Date through and including the next following October 23rd (or, if such October 23rd shall not be a Business Day, then on the next preceding Business Day) provided that such earnings are required by the related Series Indenture to be deposited into the Bond Fund under such Series Indenture after receipt by the Series Trustee under such Series Indenture of a Project Fund Sufficiency Certificate (as defined in such Series Indenture);

(30) “Series Facilities Agreement” means the Facilities Lease Agreement (Series 2003 Project), dated as of September 1, 2003, as amended by an Amendatory Installment Sale Agreement (Series 2003 Project), dated as of June 28, 2005, by and between the ECIDA and the Buffalo CSD, the Installment Sale Agreement (Series 2004 Project), dated as of December 1, 2004, between the ECIDA and the Buffalo CSD, and each other facilities lease agreement, facilities installment sale agreement or other facilities agreement, pursuant to which the ECIDA or some other public entity shall lease, sublease or sell its leasehold interest in facilities to the Buffalo CSD, in connection with the issuance of Project Bonds, as the same may be amended or supplemented;

(31) “Series Indenture” means the Indenture of Trust (Series 2003 Project) by and between the ECIDA and Manufacturers and Traders Trust Company, as Trustee, dated as of September 1, 2003, the Indenture of Trust (Series 2004 Project), by and between the ECIDA and Manufacturers and Traders Trust Company, as Trustee, dated as of December 1, 2004, and each other indenture of trust or bond resolution pursuant to which a series of Project Bonds shall be issued by ECIDA or some other public entity to finance all or a portion of the Buffalo Schools Reconstruction Project, as the same may be amended or supplemented;

(32) “Series Trustee” means Manufacturers and Traders Trust Company, as Trustee under the Indenture of Trust (Series 2003 Bonds) and under the Indenture of Trust (Series 2004 Bonds) and each financial institution acting as trustee under another Series Indenture, and its respective successors, if any, appointed pursuant to such Series Indenture;

(33) “Special Program Agreement” means the Special Program Agreement by and between the MBBA and the City dated as of October 1, 2012, as from time to time amended and supplemented;

(34) “State” means the State of New York;

(35) “State Aid Depository Fund” or “Fund” means the fund so entitled which is held by the Depository Bank and is described and provided for in the State Aid Trust Agreement;

(36) “State Aid Revenues” means the total amount of annual aid to education appropriated by the New York State Legislature and paid by the State to the Buffalo CSD or intercepted by the Comptroller of the State of New York and paid to the ECIDA or the related Series Trustee (acting on behalf of the ECIDA) pursuant to Chapter 59 of the Laws of 2003 of the State of New York, as amended, and earnings on the investment thereof while in the custody of the Depository Bank;

(37) “Superintendent” means the Superintendent of the City School District of the City of Buffalo; and

(38) “2012 MBBA Refunding Bonds” means the Special Program (City of Buffalo) Refunding Revenue Bonds, 2012 Series A issued by MBBA.

Establishment of State Aid Depository Fund. In order to facilitate the purposes of the Buffalo Schools Act and the payment of the Aggregate Facilities Payment Obligations and of Annual Payment Obligations on 2012 MBBA Refunding Bonds, the State Aid Trust Agreement established the State Aid Depository Fund to be held by and maintained with the Depository Bank. The Buffalo CSD agrees with the City, the Depository Bank, each Series Trustee and the MBBA 2012 Series Trustee that the Buffalo CSD will duly and punctually pay or cause to be paid the Aggregate Facilities Payment Obligations and the Annual Payment Obligations on 2012 Refunding Bonds from amounts received in the Fund, and that the Buffalo CSD will maintain the Fund with the Depository Bank, and will operate the Fund in the manner set forth in the State Aid Trust Agreement.

Operation of the Fund. Pursuant to written instructions to the New York State Comptroller, the Chief Fiscal Officer and the Collecting Officer have directed the New York State Comptroller’s Office to deposit all State Aid Revenues into the Fund except for any amount of State Aid Revenues withheld from the City or the Buffalo CSD in accordance with the provisions of Chapter 59 of the Laws of 2003 of the State, as the same may be amended.

(a) Notwithstanding the following provisions outlined under this heading, if the Depository Bank receives written instructions from the Chief Fiscal Officer with an accompanying monthly payment schedule from the Chief Fiscal Officer indicating that, pursuant to applicable state law and if applicable any credit enhancement agreement to which the City is a party, State Aid Revenues must be set aside in a special bank account designated in such instructions to be used only for the payment in accordance with such payment schedule of outstanding revenue anticipation notes issued by the City (the “RAN Repayment Requirement”); then, each month, the Depository Bank shall immediately withdraw from the Fund all State Aid Revenues that are received and cause the amounts so withdrawn to be immediately paid, before any further withdrawal or payment under the State Aid Trust Agreement as described under this heading, to such special bank account, until the total amount of such withdrawals is equal to the portion of such RAN Repayment Requirement required, in accordance with such payment schedule, to be withdrawn and paid to such special bank account for such month or any prior month to the extent not yet paid.

(b) Commencing on September 16, 2003 through and including November 30, 2003, the Depository Bank shall immediately upon receipt of any payment of State Aid Revenues pay over to the General Fund all such State Aid Revenues.

(c) The Collecting Officer and the Chief Fiscal Officer shall prepare and deliver a certificate, substantially in the form attached to the State Aid Trust Agreement (the "State Aid Payment Certificate") to the Depository Bank, each Series Trustee and, for so long as any 2012 MBBA Refunding Bonds shall remain outstanding, the MBBA Series 2012 Trustee on or before (i) November 1, 2012 (with any State Aid Payment Certificate so delivered on or before November 1, 2012 for the Fiscal Year ending June 30, 2013 replacing any State Aid Certificate previously delivered by the Collecting Officer and the Chief Fiscal Officer for such Fiscal Year), and (ii) July 15 of each subsequent Fiscal Year. The State Aid Payment Certificate shall set forth (i) a statement that the Buffalo CSD has appropriated an amount of State Aid Revenues necessary to fund the Buffalo CSD's Aggregate Facilities Payment Obligations and from and after the Amendment Date, the Annual Payment Obligations on 2012 MBBA Refunding Bonds for such Fiscal Year, (ii) the total amount of State Aid Revenues expected to be received during the next Collection Period and the Collection Percentage applicable to each month of such Collection Period, and (iii) a statement, developed with the assistance of the Financial Advisor of the Buffalo CSD or a nationally recognized municipal securities underwriting firm, setting forth the long-term debt rating of each provider of a Qualified Debt Service Reserve Fund Investment Agreement by each of Fitch, Inc., Moody's Investors Service, Inc. and Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. However, in the event that the Buffalo CSD shall not have appropriated such amount of State Aid Revenues in its adopted budget for such Fiscal Year the State Aid Payment Certificate for such Fiscal Year shall set forth a statement to such effect, shall not include any information regarding the collection of State Aid Revenues during the Collection Period and shall be substantially in the form attached to the State Aid Trust Agreement. Thereafter and not later than the end of the third business day immediately preceding March 31 of such Fiscal Year, if circumstances warrant, the Collecting Officer and the Chief Fiscal Officer shall from time to time prepare and deliver to the Depository Bank a revised State Aid Payment Certificate setting forth, as appropriate (i) a statement that the Buffalo CSD has, subsequent to adoption of its budget for such Fiscal Year, appropriated an amount of State Aid Revenues necessary to fund the Aggregate Facilities Payment Obligations of the Buffalo CSD and Annual Payment Obligations on 2012 MBBA Refunding Bonds for such Fiscal Year, or (ii) a revised total amount of State Aid Revenues expected to be received during the Collection Period for such Fiscal Year and, in either case, if applicable, Collection Percentages or revised Collection Percentages applicable to the remainder of such Collection Period.

(d) On or before November 10 of each Fiscal Year, commencing November 10, 2003, each Series Trustee shall prepare and deliver to the Collecting Officer, the Chief Fiscal Officer and the Depository Bank a certificate (the "Base Facilities Agreement Payment Certificate") setting forth the Net Base Facilities Agreement Payment (computed as of the immediately preceding last business day of October of such Fiscal Year) portion of the Facilities Payment Obligations due on the following April 1.

(e) On or before November 10 of each Fiscal Year, commencing November 10, 2003, each Series Trustee shall, in accordance with the provisions of the Series Indenture pursuant to which such Series Trustee has been appointed, prepare and deliver to the Collecting Officer, the Chief Fiscal Officer and the Depository Bank a certificate (the "Reserve Payment Certificate") setting forth the Reserve Payment (as defined in each Series Facilities Agreement and computed as of the immediately preceding last business day of October of such Fiscal Year) portion of the Facilities Payment Obligations due and the amount of the Debt Service Reserve Deficiency as of the date of such certificate.

(f) On or before November 10 of each Fiscal Year, commencing November 10, 2012, the Collecting Officer and the Chief Fiscal Officer shall, in accordance with the provisions of the MBBA

Special Program Agreement, prepare and deliver to the Depository Bank a certificate setting forth the Annual Payment Obligations on 2012 MBBA Refunding Bonds (computed as of the immediately preceding last business day of October of such Fiscal Year) due for such Fiscal Year as of the date of such certificate (the “Annual Payment Obligations on 2012 MBBA Refunding Bonds Certificate”).

(g) During each Collection Period beginning after November 30, 2003 (or beginning after the Amendment Date with respect to the Annual Payments on 2012 MBBA Refunding Bonds), if the Depository Bank has received a State Aid Payment Certificate with respect to such Collection Period that sets forth the statements required by clauses (i) and (ii) of the first sentence under paragraph (c) above, the Depository Bank shall, immediately upon receipt of any payment of State Aid Revenues, withdraw such State Aid Revenues from the Fund and cause the amounts so withdrawn to be immediately paid in the following order of priority:

(i) first, to each Series Trustee for deposit in the Bond Fund established pursuant to the related Series Indenture until the total amount of such withdrawals during each month of such Collection Period shall equal the sum of (A) the product of the Collection Percentage for such month multiplied by the Net Base Facilities Agreement Payment due the immediately following April 1 as set forth in the Base Facilities Agreement Payment Certificate most recently received by the Depository Bank, plus (B) during the months of January, February and March, the excess of the amount that should have been deposited in the Bond Fund in the immediately preceding month of the Collection Period pursuant to the provisions of this paragraph, over the amount in fact so deposited;

(ii) second, thereafter during each month of such Collection Period, to each Series Trustee for deposit in the Debt Service Reserve Fund established pursuant to the related Series Indenture until the total amount of such withdrawals is equal to the Reserve Payment due, if any, as set forth in the Reserve Payment Certificate most recently received by the Depository Bank,

(iii) third, thereafter during the month of March of such Collection Period (and only once the total amount of each such Base Facilities Agreement Payment and any such Reserve Payment has been paid in full to each Series Trustee), to the MBBA 2012 Series Trustee for deposit in the Revenue Fund established pursuant to the MBBA 2012 Bond Resolution until the total amount of such withdrawals during such month shall equal the aggregate Annual Payment Obligations on 2012 MBBA Refunding Bonds due on the immediately following April 1 as set forth in the Annual Payments on 2012 MBBA Refunding Bonds Certificate most recently received by the Depository Bank, and

(iv) fourth, thereafter during each month of such Collection Period, to the General Fund.

In the event that any amount on deposit in the Fund in any month of the Collection Period, at any time, shall be less than the amount required to be paid to a Series Trustee under clauses (i) or (ii) above, the Depository Bank shall make payment to each Series Trustee on a Ratable Basis, in the priority indicated above. For purposes of the preceding sentence, “Ratable Basis” shall be first computed based on amounts payable to each Series Trustee under clause (i) above if there is not enough in the Fund to pay to each Series Trustee what is payable under clause (i) above, and, if the amounts payable under clause (i) have been paid in full, then computed based on the amount payable to each Series Trustee under clause (ii). No amounts shall be paid the MBBA 2012 Series Trustee until all amounts payable to each Series Trustee under clause (i) and (ii) above have been paid in full.

Thereafter from April 1 until the commencement of the next Collection Period, immediately upon receipt of any payment of State Aid Revenues, the Depository Bank shall withdraw such State Aid Revenues from the Fund and cause the amounts so withdrawn to be immediately paid to the General Fund.

If the Depository Bank has not received with respect to a Collection Period for any reason a State Aid Payment Certificate that includes the statements required by clauses (i) and (ii) of the second sentence of paragraph (d) above, the Depository Bank, both during and after such Collection Period until the next Collection Period, shall withdraw any State Aid Revenues from the Fund and cause the amounts so withdrawn to be immediately paid to the General Fund.

Procedure for Collection and Deposit of State Aid Revenues. The procedure set forth in the State Aid Trust Agreement for the operation of the Fund is related to the current procedure of the Buffalo CSD for the collection, deposit and disbursement of State Aid Revenues. Nothing contained in the State Aid Trust Agreement shall prevent the City, the Depository Bank, the Buffalo CSD or the Series Trustees from effecting any change by amendment to the State Aid Trust Agreement modifying the procedures for the collection, deposit and disbursement of State Aid Revenues, without the consent of any other party; provided, however, that the Buffalo CSD agrees with the City, the Depository Bank, each Series Trustee and the MBBA 2012 Series Trustee that (i) prior to making any such change, the Buffalo CSD shall notify each Rating Agency of such change and that prior to any such change there shall be delivered to the Depository Bank a rating confirmation of each Rating Agency that the then current unenhanced rating of the Project Bonds or 2012 MBBA Refunding Bonds will not be withdrawn or reduced as a result of such change and (ii) the Buffalo CSD will not change or alter the procedure for the collection and deposit of State Aid Revenues which in any manner would result in insufficient State Aid Revenues being available to timely pay Facilities Payment Obligations or the 2012 MBBA Refunding Bonds in accordance with the terms of the State Aid Trust Agreement.

Moneys on Deposit with the Depository Bank in the Fund. The Depository Bank shall hold all moneys deposited in the Fund in trust for the benefit of the Buffalo CSD and the City, and shall withdraw such moneys as provided in the State Aid Trust Agreement.

Investment of State Aid Depository Fund. Pending the withdrawals provided for under the heading "Operation of the Fund" above, moneys in the Fund shall be invested in Investment Securities maturing at such times and in such amounts as shall provide available moneys to make such withdrawals and payments from the Fund when required. Such investments shall be made for and on behalf of the Buffalo CSD by the Depository Bank upon written instructions from the Chief Fiscal Officer or his authorized deputy.

Moneys held in Trust. All moneys held by the Depository Bank, as such, at any time pursuant to the terms of the State Aid Trust Agreement shall be and are assigned, transferred and set over unto such Depository Bank in trust for the purposes and under the terms and conditions of the State Aid Trust Agreement.

Regulations Regarding Investment of Fund. Investment Securities purchased as an investment of moneys in the Fund established under the State Aid Agreement shall be deemed at all times to be a part of the Fund, and the interest thereon and any profit arising on the sale thereof shall be credited to the Fund, and any loss resulting on the sale thereof shall be charged to the Fund. In computing the amount in the Fund for any purpose under the State Aid Trust Agreement, such Investment Securities shall be valued at the lower of cost or market price thereof, exclusive of accrued interest, such valuation to be completed by a valuation service selected by the Depository Bank.

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