

Res. No.

RESOLUTION APPROVING THE FIVE YEAR EDUCATIONAL FACILITIES CAPITAL PLAN FOR 2010 – 2014 AS SUBMITTED BY THE CHANCELLOR AND DATED FEBRUARY 2009, PURSUANT TO SECTION 2590-p OF THE STATE EDUCATION LAW.

The Committee on Finance, to which was referred the above-captioned resolution, respectfully submits to The Council of the City of New York the following:

### **REPORT**

Introduction. In 2009, the Council received from the Chancellor of the New York City Public Schools the Five-Year Educational Facilities Capital Plan for 2009-2014 dated February 2009. This resolution constitutes the Council's approval of the Chancellor's Five Year Educational Facilities Capital Plan for the City's public school system for the period from July 1, 2009 until June 30, 2014. Council approval of the Plan is required pursuant to Section 2590-p of the State Education Law.

Analysis. The State Education Law sets forth a planning process for repair, maintenance and construction work in the City's public school facilities. Section 2590-p of the Education Law requires the Chancellor to prepare a five-year educational facilities capital plans ("Plans"). These Plans are required to break down the work proposed to be performed on the school facilities into categories called program elements and to provide cost estimates and start and completion dates for design and construction of projects. The current Plan ends on June 30, 2009. The Plan, which is the subject of the Chancellor's Communication and this Resolution, covers the period from July 1, 2009 until June 30, 2014.

Section 2590-p of the Education Law requires the Chancellor to produce a proposed plan by November 1<sup>st</sup> of the year prior to the start of the plan period. The law requires the plan to be submitted to the Community District Education Councils who are to hold public hearings. The Chancellor then revises the plan and submits a final proposed Plan to the City Board (now the Panel for Education Policy) no later than February 1<sup>st</sup> for its approval on or before March 1<sup>st</sup>. Pursuant to the State School Governance Legislation, which amended the State Education Law in 2002 to provide the Mayor more control over the City School System, section 2590-p of the Education law requires the Council and the Mayor to approve the Plan before it is final. This is the second plan since these amendments to the Education Law and thus this is the first time a Plan has been submitted to the Council for its approval.

In accordance with section 2590-p, the Chancellor prepared a proposed Plan in November 2008 and submitted it to the Community District Education Councils. Amendments to the Plan were made and a final proposed Plan was submitted to the Panel for Education Policy in February and adopted shortly thereafter. The Plan calls for an



expenditure of \$11.3 billion over the five-year Plan period and relies on State funding for half of that amount.

Over the course of the last six months, the Council has engaged in extensive discussions and negotiations with the Department of Education (DOE) over the content and specifics of the proposed and final proposed Five-Year Educational Facilities Capital Plan. In the area of capital investment, the Plan allocates \$6.1 billion to this element, however, projects that renovate existing buildings are only identified for the first two years of the plan, in the area of new capacity, although the Plan allocates \$3.8 billion to this element to provide for 25,000 seats in 44 new schools, the difficulty of site selection and other factors will require ongoing attention to and modification of the Plan;

In addition, as a condition to Council approval of the Plan, the Council, the Chancellor and the Mayor agreed to extend the Memorandum of Understanding (“MOU”) entered into by the Chancellor, New York City Council Speaker, and the Mayor on June 24, 2004, which expires on June 30, 2009. This MOU, which applies to the FY2005-2009 Capital Plan, requires, *inter alia*, the Chancellor to annually submit a proposed amendment to the Mayor and Council for approval prior to funding of the Plan. Pursuant to the MOU, the DOE and School Construction Authority (SCA) must meet at least twice a year with the Borough Delegations to develop a list of site recommendations for new schools.

The underlying purpose of the MOU was to balance the DOE’s need for flexibility in its planning process with the Council’s need to be informed and provide input on proposed changes to the Plan’s projects, prior to Council approval.

The purpose of the MOU is still enduring and as a condition to Council approval of the Plan, the Council, the Chancellor and the Mayor agreed to an Amended Memorandum of Understanding (“Amended MOU”) to extend the terms of the original MOU for one year or until the development of a new protocol that would specify the Mayor and Council’s involvement in reviewing and approving proposed amendments to the FY 2010-2014 Plan.

Specifically, in the Amended MOU, the Mayor, Speaker, and Chancellor agree to create a task force (including the DOE, SCA, and the City Council) to develop a protocol detailing the Mayor and Council’s involvement in reviewing and approving proposed amendments to the FY 2010-2014 Plan. Once the protocol is developed, the MOU and the Amended MOU will be terminated.

Description of Above-captioned Resolution. In the above-captioned resolution, the Council would approve the Five Year Educational Facilities Capital Plan for 2010-2014.



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By Council Member Weprin

Whereas, State Education Law Section 2590-p provides for the development and approval, every five years, of a five-year educational facilities capital plan; and

Whereas, The current five-year educational facilities capital plan covers the period from July 1, 2009 until June 31, 2014; and

Whereas, The next five-year educational facilities capital plan will commence on July 1, 2009 and cover the period from July 1, 2009 until June 30, 2014; and

Whereas, Pursuant to Education Law section 2590-p, the Chancellor prepared a proposed five-year educational facilities capital plan in November 2008 as well as a final proposed five-year educational facilities capital plan in February 2009; and

Whereas, The plan calls for an expenditure of \$11.3 billion over the five-year plan period and relies on State funding for half of that amount; and

Whereas, Over the course of the last six months, the Council has engaged in extensive discussions and negotiations with the Department of Education (“DOE”) over the content and specifics of the proposed and final proposed Five-Year Educational Facilities Capital Plan; and



Whereas, In addition, as a condition to Council approval of the Plan, the Council, the Chancellor and the Mayor agreed to extend the Memorandum of Understanding (“MOU”) entered into by the Chancellor, New York City Council Speaker, and the Mayor on June 24, 2004, which expires on June 30, 2009; and

Whereas, This MOU, which applies to the FY2005-2009 Capital Plan, requires, *inter alia*, the Chancellor to annually submit a proposed amendment to the Mayor and Council for approval prior to funding of the Plan; and

Whereas, Additionally, pursuant to the MOU, the DOE and School Construction Authority (SCA) must meet at least twice a year with the Borough Delegations to develop a list of site recommendations for new schools; and

Whereas, The underlying purpose of the MOU was to balance the DOE’s need for flexibility in its planning process with the Council’s need to be informed and provide input on proposed changes to the Plan’s projects, prior to Council approval; and

Whereas, As a condition to Council approval of the Plan, the Council, the Chancellor and the Mayor agreed to an Amended Memorandum of Understanding (“Amended MOU”) to extend the terms of the original MOU for one year or until the development of a new protocol that would specify the Mayor and Council’s involvement in reviewing and approving proposed amendments to the FY 2010-2014 Plan; now, therefore, be it

Resolved, That the Council of The City of New York hereby approves the Five-Year Educational Facilities Capital Plan for 2010-2014 as submitted by the Chancellor and dated February 2009, pursuant to section 2590-p of the State Education Law.

LS#7586  
TE 6-18-09

