

BOARD AGENDA NO. 7C

RESOLUTION NUMBER FIVE
2015-2016

RESOLUTION

A RESOLUTION OF THE BOARD OF EDUCATION OF BRIGHTON SCHOOL DISTRICT NO. 27J AUTHORIZING THE EXECUTION AND DELIVERY OF A SITE LEASE, A LEASE PURCHASE AGREEMENT, AND RELATED DOCUMENTS BY THE DISTRICT; APPROVING THE FORMS OF RELATED DOCUMENTS; AND PROVIDING FOR OTHER MATTERS RELATING THERETO.

WHEREAS, Brighton School District No. 27J, Adams and Weld Counties and the City and County of Broomfield, Colorado (the "District") is a duly and regularly created, organized and existing school district, existing as such under and by virtue of the Constitution and laws of the State of Colorado; and

WHEREAS, the Board of Education of the District (the "Board") has the power, pursuant to Section 22-32-110(1) (b) and (c), Colorado Revised Statutes, to lease or rent, with or without an option to purchase, undeveloped or improved real property located within or outside the territorial limits of the District on such terms as the Board sees fit for use as school sites, buildings or structures, or for any school purpose authorized by law, and to provide furniture, equipment, library books and everything needed to carry out the education program of the District; and

WHEREAS, the Board has the power pursuant to Section 22-32-110(1)(f), Colorado Revised Statutes, to rent or lease district property not needed for its purposes for terms not exceeding ten years, provided that if the board anticipates that the District will become the subtenant of the property under a sublease, no finding that the property is not needed for district purposes is necessary and the term of the lease may not exceed fifty years; and

WHEREAS, For the purpose of financing certain capital improvements of the District (the "Prior Project"), the District has previously executed and delivered:

- i. A Site Lease dated December 15, 2005 (the "Prior Site Lease") between the District and American National Bank (the "Prior Trustee"); and
- ii. A Lease Purchase Agreement dated December 15, 2005 between the Prior Trustee and the District (the "Prior Lease"); and

WHEREAS, pursuant to the Prior Site Lease, a leasehold interest in certain real property (the "Prior Leased Property") was conveyed by the District to the Prior Trustee, and pursuant to the Prior Lease, the Prior Leased Property was leased by the Prior Trustee to the District; and

WHEREAS, in connection with the execution and delivery of the Prior Site Lease and the Prior Lease, the Prior Trustee executed and delivered an Indenture of Trust, dated December 15, 2005 (the "Prior Indenture") pursuant to which there were executed and delivered

certain Certificates of Participation, Series 2005, in the original principal amount of \$3,775,000, of which \$2,430,000 is outstanding (the "Prior Certificates"); and

WHEREAS, the Board has determined and now hereby determines that it is in the best interests of the District and its inhabitants that the District refinance its obligations under the Prior Lease by effecting a refunding of all of the outstanding Prior Certificates (the "Refunding Project"); and

WHEREAS, that upon the completion of the Refunding Project and the payment of the Purchase Option Price under the Prior Lease, the District will own, in fee title, the Prior Leased Property;

WHEREAS, the Board has determined, and now hereby determines, that it is in the best interest of the District and its residents and taxpayers that the District lease the Prior Leased Property (the "Leased Property") to UMB Bank, n.a., as trustee under an Indenture of Trust (the "2015 Trustee"), pursuant to the Site Lease (the "2015 Site Lease"), and lease back the 2015 Trustee's interest in the Leased Property pursuant to the terms of a Lease Purchase Agreement (the "2015 Lease") between the 2015 Trustee, as lessor, and the District, as lessee; and

WHEREAS, pursuant to the 2015 Lease, and subject to the right of the District to terminate the 2015 Lease and other limitations as therein provided, the District will pay certain Base Rentals and Additional Rentals (as such terms are defined in the Lease) in consideration for the right of the District to use the Leased Property; and

WHEREAS, the District's obligation under the 2015 Lease to pay Base Rentals and Additional Rentals shall be from year to year only; shall constitute currently budgeted expenditures of the District; shall not constitute a mandatory charge or requirement in any ensuing budget year; and shall not constitute a general obligation or other indebtedness or multiple fiscal year financial obligation of the District within the meaning of any constitutional or statutory limitation or requirement concerning the creation of indebtedness or multiple fiscal year financial obligation, nor a mandatory payment obligation of the District in any ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect; and

WHEREAS, the 2015 Trustee will enter into an Indenture of Trust (the "2015 Indenture") pursuant to which there is expected to be executed and delivered certain certificates of participation (the "2015 Certificates") dated as of their date of delivery that shall evidence proportionate interests in the right to receive certain Revenues (as defined in the 2015 Lease), shall be payable solely from the sources therein provided and shall not directly or indirectly obligate the District to make any payments beyond those appropriated for any fiscal year during which the 2015 Lease shall be in effect; and

WHEREAS, the net proceeds of the 2015 Certificates are expected to be used by the District for the Refunding Project; and

WHEREAS, there has been presented to the Board and are on file at the District offices the following: (i) the proposed form of the 2015 Site Lease; and (ii) the proposed form of the 2015 Lease; and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings set forth in the 2015 Lease and the 2015 Site Lease; and

WHEREAS, Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, Colorado Revised Statutes (the "Supplemental Act"), provides that a public entity, including the District, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF EDUCATION OF BRIGHTON SCHOOL DISTRICT NO. 27, ADAMS AND WELD COUNTIES AND THE CITY AND COUNTY OF BROOMFIELD, COLORADO:

Section 1. Ratification and Approval of Prior Actions. All action heretofore taken (not inconsistent with the provisions of this resolution) by the Board or the officers, agents or employees of the Board or the District relating to the 2015 Site Lease, the 2015 Lease, the implementation of the Refunding Project, and the execution and delivery of the 2015 Certificates is hereby ratified, approved and confirmed.

Section 2. Finding of Best Interests. The Board hereby finds and determines, pursuant to the Constitution and the laws of the State of Colorado that the acquisition, implementation of the Refunding Project and financing the costs thereof pursuant to the terms set forth in the 2015 Site Lease and the 2015 Lease are necessary, convenient, and in furtherance of the District's purposes and are in the best interests of the District and inhabitants of the District and the Board hereby authorizes and approves the same.

Section 3. Supplemental Act; Parameters. The Board hereby elects to apply all of the provisions of the Supplemental Act to the 2015 Lease and the 2015 Site Lease and the 2015 Lease and in connection therewith delegates either the Superintendent or the Chief Financial Officer the independent authority to make any determination delegable pursuant to Section 11-57-205(1)(a-i), Colorado Revised Statutes, in relation to the 2015 Site Lease and the 2015 Lease, and to execute a sale certificate (the "Sale Certificate") setting forth such determinations, including without limitation, the term of the 2015 Site Lease, the rental amount to be paid by the Trustee pursuant to the 2015 Site Lease, the term of the 2015 Lease and the rental amount to be paid by the District pursuant to the 2015 Lease, subject to the following parameters and restrictions:

- (a) the aggregate principal amount of the Base Rentals relating to the 2015 Lease shall not exceed \$2,290,000;
- (b) the 2015 Site Lease Term shall not extend beyond June 30, 2036;
- (c) the 2015 Lease Term shall not extend beyond June 30, 2026;
- (d) the 2015 Lease shall not be subject to optional prepayment prior to maturity;

(e) the maximum annual and maximum total amount of the Base Rentals (principal and interest) relating to the 2015 Certificates at the time of issuance shall not exceed \$290,000 and \$2,800,000 respectively;

(f) the purchase price of the 2015 Certificates shall be 100% of par; and

(g) the maximum tax exempt fixed interest rate on the interest component of the Base Rentals relating to the 2015 Certificates shall not exceed 2.50% per annum; and

(h) the default interest rate on the interest component of the Base Rentals relating to the 2015 Certificates shall not exceed 6.50% per annum; and

(i) the maximum taxable interest rate on the interest component of the Base Rentals relating to the 2015 Certificates shall not exceed 3.75% per annum.

Pursuant to Section 11-57-205 of the Supplemental Act, the Board hereby delegates to either the Superintendent or the Chief Financial Officer the independent authority to sign a contract for the purchase of the Certificates, a term sheet, or to accept a binding bid for the Certificates and to execute any agreement or agreements in connection therewith.

The Board hereby agrees and acknowledges that the proceeds of the 2015 Certificates will be used to finance the costs of the Refunding Project and to pay other costs of issuance.

Section 4. Approval of Documents. The 2015 Site Lease and the 2015 Lease, in substantially the forms presented to the Board and on file with the District (subject to further modifications as hereafter may be approved by the Superintendent or the Chief Financial Officer), are in all respects approved, authorized and confirmed, and the President, or in his or her absence, the Vice President of the District is hereby authorized and directed for and on behalf of the District to execute and deliver the 2015 Site Lease and the 2015 Lease, in substantially the forms and with substantially the same contents as presented to the Board, provided that such documents may be completed, corrected or revised as deemed necessary by the parties thereto in order to carry out the purposes of this resolution.

Section 5. Authorization to Execute Collateral Documents. The Secretary is hereby authorized and directed to attest all signatures and acts of any official of the District in connection with the matters authorized by this resolution and to place the seal of the District on any document authorized and approved by this resolution. The President, Vice President, the Secretary and other appropriate officials or employees of the District are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this resolution, including without limiting the generality of the foregoing, executing, attesting, authenticating and delivering for and on behalf of the District any and all necessary documents, instruments or certificates and performing all other acts that they deem necessary or appropriate in order to implement and carry out the transactions and other matters authorized by this resolution. The approval hereby given to the various documents referred to above includes an approval of such additional details therein as may be necessary and appropriate for their completion, deletions therefrom and additions thereto as may be approved by bond counsel prior to the execution of the documents. The execution of any document or instrument by the aforementioned officers or

members of the Board shall be conclusive evidence of the approval by the District of such document or instrument in accordance with the terms hereof and thereof.

Section 6. No General Obligation Debt. No provision of this resolution, the 2015 Site Lease, the 2015 Lease, the Indenture, or the 2015 Certificates shall be construed as creating or constituting a general obligation or other indebtedness or multiple fiscal year financial obligation of the District within the meaning of any constitutional, statutory provision, nor a mandatory charge or requirement against the District in any ensuing fiscal year beyond the then current fiscal year. The District shall have no obligation to make any payment with respect to the 2015 Certificates except in connection with the payment of the Base Rentals (as defined in the 2015 Lease) and certain other payments under the 2015 Lease, which payments may be terminated by the District in accordance with the provisions of the 2015 Lease. Neither the 2015 Lease nor the Certificates shall constitute a mandatory charge or requirement of the District in any ensuing fiscal year beyond the then current fiscal year or constitute or give rise to a general obligation or other indebtedness or multiple fiscal year financial obligation of the District within the meaning of any constitutional or statutory debt limitation and shall not constitute a multiple fiscal year direct or indirect debt or other financial obligation whatsoever. No provision of the 2015 Site Lease, the 2015 Lease or the 2015 Certificates shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the District within the meaning of Sections 1 or 2 of Article XI of the Colorado Constitution. Neither the 2015 Lease nor the 2015 Certificates shall directly or indirectly obligate the District to make any payments beyond those budgeted and appropriated for the District's then current fiscal year.

Section 7. Reasonableness of Rentals. The Board hereby determines and declares that the Base Rentals due under the 2015 Lease, in the maximum amounts authorized pursuant to Section 3 hereof, constitute the fair rental value of the Leased Property and do not exceed a reasonable amount so as to place the District under an economic compulsion to renew the 2015 Lease or to exercise its option to purchase the 2015 Trustee's leasehold interest in the 2015 Leased Property pursuant to the 2015 Lease. The Board hereby determines and declares that the period during which the District has an option to purchase the 2015 Trustee's leasehold interest in the 2015 Leased Property (i.e., the entire maximum term of the Lease) does not exceed the useful life of the 2015 Leased Property. The Board hereby further determines that the amount of rental payments to be received by the District from the 2015 Trustee pursuant to the 2015 Site Lease is reasonable consideration for the leasing of the 2015 Leased Property to the 2015 Trustee for the term of the 2015 Site Lease as provided therein.

Section 8. No Recourse against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Board, or any officer or agent of the District acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal, interest or prior redemption premiums on the 2015 Certificates. Such recourse shall not be available either directly or indirectly through the Board or the District, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the 2015 Certificates and as a part of the consideration of their sale or purchase, any person purchasing or selling such 2015 Certificate specifically waives any such recourse.

Section 9. Severability. If any one or more sections, sentences, clauses or parts of this resolution shall for any reason be held invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this resolution, but shall be confined in its operation to the specific sections, sentences, clauses or parts of this resolution so held unconstitutional or invalid, and the inapplicability and invalidity of any section, sentence, clause or part of this resolution in any one or more instances shall not affect or prejudice in any way the applicability and validity of this resolution in any other instances.

Section 10. Repealer. All bylaws, orders, and resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, or resolution, or part thereof, heretofore repealed.

Section 11. Interpretation. This resolution shall be so interpreted and construed as to effectuate its general purpose.

Section 12. Effective Date. This resolution shall be in full force and effect upon its passage and adoption.

PASSED, ADOPTED AND APPROVED this November 10, 2015.

BRIGHTON SCHOOL DISTRICT NO. 27J,
ADAMS AND WELD COUNTIES AND THE
CITY AND COUNTY OF BROOMFIELD,
COLORADO

By: _____
President of the Board of Education

(SEAL)

ATTEST:

Secretary of the Board of Education

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of
said District, this November 10, 2015.

BRIGHTON SCHOOL DISTRICT NO. 27J,
ADAMS AND WELD COUNTY AND THE
CITY AND COUNTY OF BROOMFIELD,
COLORADO

(SEAL)

Secretary

Exhibit A

(Notice of Meeting)