

Boonton Town Board of Education

D – Operations

K-12 Issues #6

November 6, 2017

Resolution of the Board of Education of the Town of Boonton in the County of Morris, New Jersey, determining to finance acquisition and installation of various lighting and security equipment by means of an equipment lease purchase financing in an amount not exceeding \$550,000, authorizing an advertisement for bids to finance the equipment if necessary, delegating the award of the bid, authorizing the execution of the lease and related documents and authorizing other actions necessary to complete the transaction.

WHEREAS, The Board of Education of the Town of Boonton in the County of Morris, New Jersey (the "Board") is created and is charged by law with the responsibility to provide a system of public education within the school district over which it has jurisdiction and to acquire and install equipment therefor; and

WHEREAS, the Board has determined to fund the acquisition and installation of various lighting, electrical, security and technology equipment, including related work and equipment, financing and incidental or related costs (the "Equipment") by means of a lease purchase financing for a term that does not exceed five (5) years pursuant to the provisions of N.J.S.A. 18A:20-4.2(f) and N.J.S.A. 18A:18A-1 *et. seq.*; and

WHEREAS, the Board has selected the Hunterdon County Educational Services Commission as financial advisor (the "Financial Advisor") and McManimon, Scotland & Baumann, LLC, as special counsel (the "Special Counsel") for the purpose of advising as necessary and assisting with the proposed lease purchase financing of the Equipment; and

WHEREAS, in accordance with the procedures set forth in N.J.S.A 18A:18A-1 *et. seq.* (the "Public School Contracts Law") and the regulations promulgated thereunder, a notice of the bid will be published if required and bids or quotes (hereinafter simply referred to as bids) are scheduled to be returned to the Business Administrator, who, with the assistance of the Special Counsel and the Financial Advisor, will determine the lowest responsive and responsible bidder to purchase the Lease (as hereinafter defined) from the Board (hereinafter referred to as the "Purchaser"); and

WHEREAS, the Board will enter into a lease purchase agreement (the "Lease") and other related documents with the Purchaser in an amount not to exceed \$550,000 to finance the Equipment; and

WHEREAS, the Board desires to authorize the delegation of the award of the bid to the Business Administrator and further authorizes the Board President, Business Administrator/Board Secretary, Financial Advisor and Special Counsel to prepare and to execute the Lease and certain other documents and agreements necessary or incidental to the transactions contemplated thereby;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF EDUCATION OF THE TOWN OF BOONTON IN THE COUNTY OF MORRIS, as follows:

Section 1. The Board hereby determines to finance the Equipment by means of a lease purchase financing in a principal amount not exceeding \$550,000 in accordance with the requirements of the Public School Contracts Law. The lease shall be for a period not to exceed five years and the interest portion of rent shall be calculated at a rate per annum not in excess of

the rate set forth in the legally responsive bid providing the lowest yield. The Business Administrator/Board Secretary, the Financial Advisor, the Special Counsel and other appropriate representatives of the Board (the "Professionals") are hereby authorized to prepare the necessary timetables, bid documents and other related documents as may be necessary and to take other steps necessary to prepare for and to implement the proposed financing.

Section 2. The Board hereby authorizes the publication of a request for bid if required in accordance with the Public School Contracts Law or the solicitation of quotes in order to prepare for the proposed transaction.

Section 3. The Board President and/or the Business Administrator are authorized to award the bid and the Lease in accordance with the terms of this resolution to the lowest bidder in accordance with the bid proposals or quotes submitted to the Business Administrator, which winning bid proposal or quote will be retained on file in the Business Administrator's office. The Purchaser's interest rate will be held fixed for a period of thirty (30) days from the date of the bid. If the closing does not occur within thirty (30) days of the date of the bid, the interest rate will be calculated in accordance with the index rate recommended by the Financial Advisor as set forth in the bid specifications.

Section 4. The Board President and/or the Business Administrator are hereby authorized to execute and deliver the Lease, an agent or an escrow agreement, an assignment agreement, if necessary, and such other documents as may be necessary to consummate the transaction in a form approved by Special Counsel. The Business Administrator/Board Secretary is authorized to direct the investment of funds under an escrow deposit agreement (the "Escrow Agreement") between the Board and a GUDPA approved escrow agent, consistent with the provisions of New Jersey law and the Escrow Agreement, and is authorized to enter into such agreement and to execute such documents on behalf of the Board as may be necessary therefor. The Business Administrator/Board Secretary is also authorized to pay any agreed upon fees of the escrow agent, if any. The Board President and/or Business Administrator/Board Secretary are also authorized and directed to take on behalf of the Board such other actions as shall be necessary and appropriate to accomplish the lease purchase financing for the Equipment in accordance with the terms of the lease and this resolution and pursuant to the terms of the agreements and instruments authorized to be prepared hereby and to accomplish the performance of the obligations of the Board in respect thereto.

Section 5. The payment of rent or other monies due under the Lease shall be made only from the General Fund of the Board. Neither the Board, nor any agency, department or political subdivision thereof, shall be obligated to pay any sum due under the Lease to the Purchaser from any taxing source unless an appropriation is made in a duly approved budget of the Board. The obligations of the Board shall not constitute indebtedness of the Board or of the Town of Boonton or of any department, agency or political subdivision thereof. The Lease shall set forth the term of the lease purchase agreement for the Equipment, the rental payments to be paid by the Board in respect thereof and the dates on which such rent shall be due and payable.

Section 6. If the Lease can be issued on a tax exempt basis, the Board hereby determines as set forth in this paragraph. Otherwise, the Lease will be issued on a federally taxable basis and these representations and covenants will not apply. The Board hereby covenants that it will comply with any conditions subsequent imposed by the Internal Revenue Code of 1986, as amended (the "Code"), in order to preserve the exemption from taxation of interest on the Lease, including the requirement to rebate all net investment earnings on the gross proceeds above the yield on the Lease, if applicable. The Board authorizes the Business

Administrator to act on behalf of the Board to determine whether the Lease will be designated as “bank qualified” within the meaning of Section 265 of the Code. The Board hereby declares its intent to issue the Lease in the expected maximum principal amount of the Lease set forth herein and to use the proceeds of the Lease to pay or to reimburse expenditures for the costs of the purpose for which the Lease is authorized herein. This resolution is a declaration of intent within the meaning and for the purposes of Treasury Regulations Section 1.150-2 or any successor provisions of federal income tax law. There will be a reimbursement for certain Equipment costs paid not prior to 60 days before the date of this resolution.