

SPECIAL MEETING
OF THE WILMINGTON CITY SCHOOL DISTRICT
BOARD OF EDUCATION
May 15, 2015
BOARD OF EDUCATION OFFICE

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The Wilmington City School Board of Education met for a Special Meeting on May 15, 2015, at 7:45 AM at the Board of Education Office, 341 South Nelson Avenue, Wilmington OH. The meeting was called to order by Marty Beaugard, Vice President. The following members were present and answering the roll call:

Members Present: Marty Beaugard, Sr., Vice President
Steve Murphy, Member
Kevin N. Snarr, Member

Members Absent: Larry Roberts II, Member
Bill Liermann, President

Also present were Ron Sexton, Superintendent; Kim DeWeese, Treasurer.

119-015 APPROVAL OF AGENDA

Motion by Murphy, seconded by Snarr to approve the agenda. Voting aye on the roll call: Murphy, Snarr, and Beaugard. Nays: None. Motion carried.

120-015 APPROVAL OF RESOLUTION FOR RENOVATION OF ALUMNI FIELD

Motion by Murphy, seconded by Snarr to approve the following resolution for renovation of Alumni field.

A RESOLUTION APPROVING AND AUTHORIZING A GROUND LEASE, A LEASE-PURCHASE AGREEMENT, AN ESCROW AGREEMENT AND RELATED DOCUMENTS PROVIDING FOR CONSTRUCTING, RENOVATING, FURNISHING AND EQUIPPING IMPROVEMENTS TO SCHOOL FACILITIES AND AUTHORIZING AND APPROVING OTHER RELATED MATTERS.

WHEREAS, this Board has determined to provide for the construction, renovation, furnishing and equipping improvements to school facilities for school district purposes (the "Improvements"); and

WHEREAS, it will be necessary for the Board to enter into one or more ground leases, lease-purchase agreements and other agreements in order to finance the cost of the Improvements, all in accordance with the laws of the State of Ohio (the "State"); and

WHEREAS, the Board has determined to take the following actions in order to implement the financing arrangements with respect to the Improvements, in accordance with the following recitals:

A. The Board has determined to sign and deliver a ground lease (the "Ground Lease") to the Clinton County Port Authority (the "Authority") under which the Board will convey to the Authority, as lessor (the "Lessor"), a leasehold interest in the real property and

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improvements thereon (the "Project Site") for a term of not more than five years longer than the term of the related Facilities Lease described below;

B. The Board has determined to sign and deliver a lease-purchase agreement (the "Facilities Lease") under which the Board (a) will sublease the Project Site and lease the Improvements located on the Project Site (collectively, with the Project Site, the "Leased Property") from the Lessor for an Initial Term and for Renewal Terms (each a "Lease Term"), as defined in the Facilities Lease, upon appropriations being made by this Board of funds sufficient to enable the District to pay the Base Rent, as defined in the Facilities Lease, during the Renewal Terms and (b) will have an obligation, which will constitute a "public obligation" as defined in Section 133.01 of the Revised Code, to pay Base Rent during each Lease Term subject to such appropriations;

C. The Authority will assign its rights under the Facilities Lease to PNC Equipment Finance, LLC (the "Assignor") and the District, the Authority, the Assignor and U.S. Bank National Association will enter into an Escrow Agreement (the "Escrow Agreement") in order provide the funds sufficient to pay the costs of the Improvements; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Education of the Wilmington City School District, County of Clinton, State of Ohio, that:

Section 1. Ground Lease and Facilities Lease. The President or Vice-President of the Board (the "President") and the Treasurer of the Board (the "Treasurer") is each authorized to sign and deliver the Ground Lease, the Facilities Lease and the Escrow Agreement in form and substance not inconsistent with this Resolution and deemed advisable by the President or Vice President and Treasurer of the Board such to be conclusively evidenced and determined by the execution thereof. The Ground Lease, the Facilities Lease and the Escrow Agreement are hereby approved in form and substance not inconsistent with this Resolution and deemed advisable by the President or Vice-President and Treasurer as shall be conclusively evidenced and determined by the execution thereof.

Section 2. Leased Properties. This Board hereby determines that the Leased Properties are essential to the District including but not limited to its proper, efficient and economic operation and the welfare of its students.

Section 3. Determination of Facilities Lease Terms.

The Treasurer is hereby authorized to determine, having due regard for the best interest of and financial advantages to the District, (i) the Lease Term for the Facilities Lease, the final Renewal Term for which shall end not more than 30 years after the Closing Date (as defined in the Facilities Lease) of the Initial Term, (ii) the term for the Ground Lease, which shall be five years longer than the Lease Term for the related Facilities Lease, (iii) the prepayment terms for the Facilities Lease, provided that the prepayment premium shall not exceed 2% of the principal component of the amount prepaid, and (iv) the Base Rent (as defined in the Facilities Leases) for the Facilities Lease, provided, that: the aggregate principal

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components of the Base Rent for the Initial Term and all Renewal Terms for the Facilities Lease shall not exceed \$200,000; and the weighted average of the aggregate interest components of the Base Rent for the Initial Term and all Renewal Terms for the Facilities Lease shall not exceed 6.0% per year.

Section 4. Other Instruments. The President or Vice-President of the Board, the Superintendent and the Treasurer are each hereby authorized to take any and all other actions and to sign and deliver any and all other instruments, agreements, certificates and documents as may in their judgment be necessary, desirable, advisable or appropriate in connection with the signing and delivery of the Ground Lease, the Facilities Lease, the Escrow Agreement and the assignment of the Facilities Lease to the Assignor in order to give effect to the transactions contemplated to be performed on the part of the District under the Ground Lease, the Facilities Lease and the Escrow Agreement.

Section 5. Tax Covenants. The Treasurer, as the fiscal officer, or any other officer having responsibility for signing the Facilities Lease, is, alone or in conjunction with any of the foregoing or with any other officer or employee of the District, authorized to cooperate with the Assignor by making, on behalf of the District, such covenants and representations in the Facilities Lease as are appropriate and necessary so that (a) the Facilities Lease will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the "Code") or (ii) be treated other than as obligations to which Section 103 of the Code applies, (b) the interest components of Base Rent payable under the Facilities Lease will not be treated as an item of tax preference for purposes of the federal alternative minimum tax imposed on certain individuals and corporation, (c) the District will take or cause to be taken such actions that may be required of it for the interest components of Base Rent payable under the Facilities Lease to be and to remain excluded from gross income for federal income tax purposes, (d) the District will not take or authorize to be taken any actions that would adversely affect that exclusion, and (e) the District, or persons acting for it, will, among other acts of compliance, (i) apply or cause the application of the proceeds of the Facilities Lease of each series to the governmental purpose of the borrowing, (ii) restrict the yield on investment property acquired with those proceeds, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Treasurer, as the fiscal officer, or any other officer of the District having responsibility for signing of the Facilities Lease is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the District with respect to the Facilities Lease as the District is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in Section 148(f)(4)(C) of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Facilities Lease or the interest components thereof or assisting compliance with requirements

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for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the District, as may be appropriate to assure the Base Rent payable under the exclusion of interest from gross income and the intended tax status of the interest components of the Facilities Lease, and (c) to give one or more appropriate certificates of the District setting forth the reasonable expectations of the District regarding the amount and use of all the proceeds of the Facilities Lease, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest component of Base Rent payable under the Facilities Lease.

Section 6. Severability. Each section of this Resolution and each part of each section hereof is hereby declared to be independent, and the finding or holding of any section or part of any section hereof to be invalid or void shall not be deemed or held to affect the validity of any other section or part of any section of this Resolution.

Section 7. Retention of Special Counsel. The legal services of Roetzel & Andress, LPA, as special counsel, are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the Facilities Lease and the rendering of the necessary legal opinions upon the delivery of the Facilities Lease. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the District in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the District or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Treasurer is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

Section 8. Compliance with Open Meeting Law. This Board finds and determines that all formal actions of this Board and of any of its committees concerning and relating to the adoption of this Resolution were taken in open meetings of this Board or of its committees, and that all deliberations of this Board and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 9. Effective Date. This Resolution shall be in full force and effect immediately upon its adoption.

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Voting aye on the roll call: Murphy, Snarr, and Beaugard. Nays: None. Motion carried.

ADJOURNMENT

Motion by Snarr seconded by Murphy to adjourn the special meeting at 7:52 AM. Voting aye on the roll call: Murphy, Snarr, and Beaugard. Nays: None. Motion carried.

ATTEST

Treasurer

Board President