

EXTRACT from the minutes of a regular meeting of The Board of Education of the Township of Livingston in the County of Essex, New Jersey held at _____, Essex, New Jersey on June 18, 2018 at _____ p.m.

PRESENT:

ABSENT:

_____ introduced and moved the adoption of the following resolution and _____ seconded the motion:

RESOLUTION OF THE BOARD OF EDUCATION OF THE TOWNSHIP OF LIVINGSTON IN THE COUNTY OF ESSEX, NEW JERSEY DETERMINING TO ACQUIRE AND TO FINANCE EQUIPMENT BY MEANS OF A LEASE PURCHASE FINANCING IN AN AMOUNT NOT EXCEEDING \$1,500,000, AUTHORIZING THE ADVERTISEMENT FOR BIDS TO FINANCE THE EQUIPMENT, 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 Township of Livingston in the County of Essex, New Jersey (the “Board”) is created and is charged by law with the responsibility of providing a system of public education within the school district over which it has jurisdiction and to acquire equipment therefor; and

WHEREAS, the Board has determined to fund the acquisition of various technology equipment, buildings and grounds equipment and five (5) school buses, including financing and all incidental or related costs (the “Equipment”) by means of a lease purchase financing for a

term that does not exceed five (5) years for the school bus and buildings and grounds equipment and a term that does not exceed three (3) years for the technology equipment, all pursuant to the provisions of *N.J.S.A. 18A:20-4.2(f)*, *N.J.S.A. 18A:20-4.2(h)* and *N.J.S.A. 18A:18A-1 et. seq.*; and

WHEREAS, the Board has selected Phoenix Advisors, LLC, as financial advisor (the “Financial Advisor”) and McManimon, Scotland & Baumann, LLC, as special counsel (the “Special Counsel”) for the purpose of advising 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.* (“Public School Contract Law”) and the regulations promulgated thereunder, a notice of the bid will be published and bids are scheduled to be returned to the Business Administrator/Board Secretary, 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 \$1,500,000 to finance the Equipment; and

WHEREAS, the Board desires to authorize the delegation of the award of the bid to the Business Administrator/Board Secretary 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 TOWNSHIP OF LIVINGSTON IN THE COUNTY OF ESSEX, NEW JERSEY 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 \$1,500,000 in accordance with the requirements of the Public School Contracts Law. The Business Administrator/Board Secretary, the 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 and 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 the request for bid in accordance with the requirements of the Public School Contracts Law in order to prepare for the proposed transaction.

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

Section 4. The Board President and/or the Business Administrator/Board Secretary are hereby authorized to negotiate, execute and deliver, subject to the review of Special Counsel, 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. Specifically, the Board authorizes the Board President or the Business Administrator/Board Secretary to establish an escrow account for the deposit of the Lease proceeds and to direct the deposit and investment of the Lease proceeds in the escrow for the term of the Lease in accordance with the requirements of law. The Board hereby authorizes and directs the Board President or the Business Administrator/Board Secretary to approve any changes, additions, or deletions to the Lease or such other documents as may, in the judgment of Special Counsel, be necessary or advisable, such approval to be evidenced by the execution of the Lease or such other documents by the Board President or the Business Administrator/Board Secretary. 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 to the Purchaser under the Lease from any taxing source for the payment of any sums due under the Lease 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 Township of Livingston 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. 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.

Section 7. The Board authorizes the Business Administrator/Board Secretary to act and determine on behalf of the Board 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.

Section 8. This resolution shall take effect immediately.

The foregoing resolution was adopted by the following vote:

AYES:

NAYS:

CERTIFICATE

I, Steven K. Robinson, Business Administrator/Board Secretary of The Board of Education of the Township of Livingston in the County of Essex, New Jersey, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the Board of Education duly called and held on June 18, 2018 has been compared by me with the original minutes as officially recorded in my office in the Minute Book of the Board of Education and is a true, complete and correct copy thereof and of the whole of the original minutes so far as they relate to the subject matters referred to in the extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Board of Education this _____ day of _____, 2018.

Steven K. Robinson,
Business Administrator/Board Secretary