

RESOLUTION 2017-39

Non-Appropriation of Copier Contract Funds

Whereas Colorado Springs School District 11, El Paso County, 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;

Whereas the Board of Education of the District (the "Board") has the power, pursuant to C.R.S. § 22-32-110(1)(c), to provide furniture, equipment, library books, and everything needed to carry out the education program of the District;

Whereas for the purpose of financing the costs of acquiring certain copiers for school purposes (the "Equipment"), and for the maintenance of the same, the District has entered into a copier repair and maintenance agreement (the "Maintenance Agreement") with Ricoh, U.S.A. (the "Vendor") dated June 11, 2015, and a master lease agreement with the Vendor dated June 29, 2015 (the "Lease" or, together with the Maintenance Agreement, the "Agreements");

Whereas the Agreements are subject to annual appropriation by the Board, and are subject to annual renewal terms;

Whereas pursuant to Section C.11 of the Maintenance Agreement, the performance of the District's obligations under the Maintenance Agreement is expressly subject to the appropriation of funds by the Board;

Whereas if funds are not available in any fiscal year to continue the Maintenance Agreement, the Maintenance Agreement will be terminated at no cost to the District upon a 30-day written notice to the Vendor; upon termination, any materials, supplies, or items of equipment which have not been fully paid for by the District will be returned to the Vendor at the Vendor's expense;

Whereas pursuant to Section 18 of the Lease, if the Board fails to appropriate sufficient monies in any fiscal period for rentals and other payments coming due under the Lease in the next succeeding fiscal period for any Equipment which will perform services and functions which, in whole or in part, are essentially the same service and functions performed under the Lease, then a "non-appropriation" shall be deemed to have occurred;

Whereas if such non-appropriation occurs, then the District must provide immediate notice at least 60 days prior to the end of the then current fiscal year, and the Board shall make available all of the Equipment covered by the Lease; and

Whereas the Board has determined that it is in the best interest of the District to exercise its option to not renew the Agreements, to non-appropriate funds for the lease payments from April 21, 2017 to June 30, 2017 and to not appropriate sufficient revenue to pay for the same for the entire 2017-18 fiscal year and thereafter; now, therefore, be it

Resolved, that the Board of Education of Colorado Springs School District 11, in the county of El Paso and state of 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 Agreements are hereby ratified, approved and confirmed.

Section 2. Intent to Exercise Option to Non-appropriate Funds. The Board hereby determines to not renew the Agreements for an additional renewal term and exercise its option to non-appropriate funds for payment in the 2017-18 fiscal year. Any Equipment remaining with the District shall be returned to the Vendor pursuant to the Agreements.

Section 3. 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 4. 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 5. Interpretation. This resolution shall be so interpreted and construed as to effectuate its general purpose.

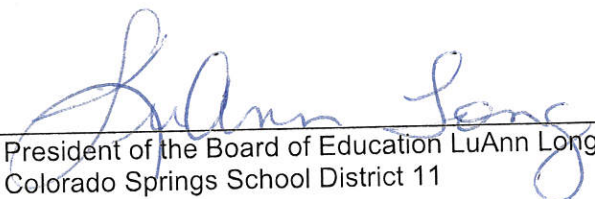
Section 6. Effective Date. This resolution shall be in full force and effect upon its passage and adoption.

PASSED, ADOPTED AND APPROVED this April 12, 2017.

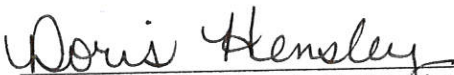


(SEAL)

ATTEST:



President of the Board of Education LuAnn Long
Colorado Springs School District 11



Secretary to the Board of Education Doris Hensley
Colorado Springs School District 11