

**CHERRY CREEK SCHOOL DISTRICT**

**Resolution #055-16    Approval of a resolution calling an election on November 8, 2016, to authorize an increase in taxes for operating expenses and the incurrence of general obligation indebtedness by the District and authorize the levy of ad valorem property taxes to pay for such general obligation indebtedness; and setting the ballot titles and ballot questions for the foregoing.**

Date:    April 11, 2016

To:    Board Of Education

From:    Superintendent and Chief Financial Officer

**Recommendation:**

It is the administration’s recommendation that the Board of Education adopt the following resolution:

WHEREAS, the Cherry Creek School District No. 5 (the “District”), in the County of Arapahoe and the State of Colorado, is a public corporation duly organized and existing under the Constitution and the laws of the State of Colorado; and

WHEREAS, the members of the Board of Education of the District (the “Board”) have been duly elected, chosen and qualified; and

WHEREAS, Article X, Section 20 of the Colorado Constitution (“TABOR”) requires voter approval for any new tax, the creation of any debt and for spending certain moneys above limits established by TABOR; and

WHEREAS, the Board has determined that the interest of the District and the public interest and necessity demand and require that the District seek voter approval for a tax increase of \$23,900,000 in the first full fiscal year and by up to twenty-five percent (25%) of its total program funding thereafter to provide additional funds for the District’s general operating expenses pursuant to Section 22-54-108, C.R.S.; and

WHEREAS, the Board has determined that the total additional local property tax revenues generated by the tax increase of \$23,900,000 plus any tax revenues generated pursuant

to prior authorization does not exceed twenty five percent (25%) of the District's total program in compliance with Section 22-54-108, C.R.S.; and

WHEREAS, the Board has determined the interest of the District and the public interest and necessity demand and require enlarging, improving, remodeling, repairing, or making additions to any school building, constructing or erecting school buildings, equipping or furnishing any school building, improving school grounds, all at a cost estimated at approximately \$250,000,000 (the "Project"); and

WHEREAS, TABOR requires the District to submit ballot issues (as defined in TABOR) to the District's electors on limited election days before action can be taken on such ballot issues; and

WHEREAS, November 8, 2016, is one of the election dates at which ballot issues may be submitted to the eligible electors of the District pursuant to TABOR; and

WHEREAS, the County Clerk and Recorder in Arapahoe County (the "County Clerk") will conduct the election on November 8, 2016 as a coordinated election (the "election"); and

WHEREAS, it is necessary to submit to the eligible electors of the District, at the election, the proposition of (1) increasing District taxes by \$23,900,000 (first full fiscal year) in excess of the District's total program funding as determined pursuant to the School Finance Act, Title 22, Article 54, Part 1, C.R.S., and (2) creating general obligation indebtedness in the aggregate principal amount of not to exceed \$250,000,000 to finance the Project and increasing taxes to pay such debt; and

WHEREAS, the District has not held any other election on the question of contracting a bonded indebtedness for any purpose within the twelve months immediately preceding the election herein called.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF EDUCATION OF CHERRY CREEK SCHOOL DISTRICT NO. 5, IN THE COUNTY OF ARAPAHOE AND STATE OF COLORADO:

Section 1. All action heretofore taken (not inconsistent with the provisions of this resolution) by the District and the officers thereof, directed towards the election and the objects and purposes herein stated and the questions set forth herein are, ratified, approved and confirmed. Unless otherwise defined herein, all terms used herein shall have the meanings specified in Section 22-42-101, C.R.S. or Section 1-1-104, C.R.S.

Section 2. Pursuant to TABOR, Title 22, C.R.S. and the Uniform Election Code of 1992, and all laws amendatory thereof and supplemental thereto, the District hereby determines that the election shall be held on November 8, 2016, and that there shall be submitted to the eligible electors of the District the questions set forth herein. Because the election will be held as part of the coordinated election, the Board hereby determines that the County Clerk shall conduct the election on behalf of the District. The officers of the District are hereby authorized to enter into one or more intergovernmental agreements with the County Clerk pursuant to Section 1-7-116, C.R.S. Any such intergovernmental agreement heretofore entered into in connection with the election is hereby ratified, approved and confirmed.

Section 3. The total aggregate principal amount of the indebtedness to be incurred from time to time for the portion of the Project to be acquired pursuant to this resolution shall not exceed the sum of \$250,000,000.

Section 4. The Board hereby authorizes and directs the officers of the District to certify on or before September 9, 2016, the following questions in substantially the forms hereinafter set forth to the County Clerk. Such questions shall be submitted to the eligible electors of the District at the election:

MILL LEVY OVERRIDE QUESTION:

SHALL CHERRY CREEK SCHOOL DISTRICT NO. 5 TAXES BE INCREASED \$23,900,000 FOR TAX COLLECTION YEAR 2017 AND BY SUCH AMOUNT ANNUALLY THEREAFTER WHICH, WHEN COMBINED WITH OTHER AMOUNTS RECEIVED PURSUANT TO SECTION 22-54-108, C.R.S., DOES NOT EXCEED TWENTY-FIVE PERCENT OF THE DISTRICT'S TOTAL PROGRAM FUNDING (AS SUCH TERM IS DEFINED IN STATE LAW OR ANY SIMILAR TERMS PROVIDED IN ANY SUCCESSOR PROVISION OF STATE LAW); SUCH ADDITIONAL REVENUES TO BE DEPOSITED IN THE GENERAL FUND AND USED FOR EDUCATIONAL PURPOSES, INCLUDING BUT NOT LIMITED TO:

- **MAINTAIN CLASS SIZES IN THE KINDERGARTEN THROUGH TWELFTH GRADES;**
- **PROVIDE STUDENTS WITH THE CURRICULUM AND INSTRUCTION NECESSARY FOR SUCCESS IN COLLEGE AND THE WORKPLACE;**
- **CONTINUE THE DISTRICT’S COMMITMENT TO ACADEMIC EXCELLENCE AND PROVIDE AN EDUCATIONAL PROGRAM OF THE HIGHEST QUALITY AND STANDARDS;**
- **UTILIZE TECHNOLOGY AND COMPUTER APPLICATIONS TO PREPARE STUDENTS FOR CAREERS OR HIGHER EDUCATION;**

AND SHALL THE DISTRICT BE AUTHORIZED TO COLLECT, RETAIN AND SPEND ALL REVENUES FROM SUCH TAXES AND THE EARNINGS FROM THE INVESTMENT OF SUCH REVENUES AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

BOND QUESTION:

SHALL CHERRY CREEK SCHOOL DISTRICT NO. 5 DEBT BE INCREASED \$250,000,000 WITH A REPAYMENT COST OF \$460,000,000, AND SHALL DISTRICT TAXES BE INCREASED \$33,250,000 ANNUALLY TO PAY SUCH DEBT, ALL FOR THE PURPOSE TO

- **CONSTRUCT AND EQUIP A CAREER AND INNOVATION ACADEMY TO INCREASE THE PATHWAYS FOR STUDENTS TO COMPLETE HIGH SCHOOL GRADUATION REQUIREMENTS AND BE PREPARED FOR CAREERS;**
- **RENOVATE LEARNING SPACE AT ALL ELEMENTARY AND MIDDLE SCHOOLS TO PROVIDE FOR INNOVATIVE EDUCATIONAL DELIVERY AND INSTRUCTION;**
- **ACQUIRE, CONSTRUCT AND EQUIP SCHOOL BUILDINGS AND OTHER SCHOOL FACILITIES TO MANAGE STUDENT GROWTH;**
- **REPAIR, RENOVATE, OR MAKE ADDITIONS TO SCHOOL BUILDINGS, INCLUDING, BUT NOT LIMITED TO, MODERNIZE WIRING, FIRE PROTECTION, HEAT AND AIR CONDITIONING SYSTEMS AND PLUMBING AT EXISTING SCHOOLS TO PROVIDE FOR THE HEALTH, SAFETY AND COMFORT OF STUDENTS AND TEACHERS,**

- **EQUIP OR FURNISH SCHOOL BUILDINGS, INCLUDING, BUT NOT LIMITED TO, SCHOOL SAFETY EQUIPMENT, TECHNOLOGY AND INTERNET OR NETWORK EQUIPMENT,**
- **ACQUIRE OR PURCHASE BUILDINGS OR LAND AND IMPROVE SCHOOL GROUNDS, INCLUDING SAFETY IMPROVEMENTS TO THE ARRIVAL AND DISMISSAL AREA FOR STUDENTS;**

AND SHALL THE MILL LEVY BE INCREASED IN ANY YEAR WITHOUT LIMITATION AS TO RATE AND AMOUNT SUFFICIENT TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON SUCH DEBT OR ANY REFUNDING DEBT (OR TO CREATE A RESERVE FOR SUCH PAYMENT); SUCH DEBT TO BE EVIDENCED BY THE ISSUANCE OF GENERAL OBLIGATION BONDS TO BE SOLD IN ONE SERIES OR MORE, FOR A PRICE ABOVE OR BELOW THE PRINCIPAL AMOUNT OF SUCH SERIES, ON TERMS AND CONDITIONS AND WITH SUCH MATURITIES AS PERMITTED BY LAW, INCLUDING PROVISIONS FOR REDEMPTION OF THE BONDS PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF THE PREMIUM OF NOT TO EXCEED ONE PERCENT; AND SHALL SUCH TAX REVENUES AND THE EARNINGS FROM THE INVESTMENT OF SUCH BOND PROCEEDS AND TAX REVENUES BE COLLECTED, RETAINED AND SPENT AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

Section 5. Sonja S. McKenzie is hereby appointed as the designated election official of the District for purposes of performing acts required or permitted by law in connection with the election.

Section 6. If a majority of the votes cast on the questions to authorize general obligation indebtedness and the levy of ad valorem property taxes submitted at the election shall be in favor of incurring general obligation indebtedness and levying ad valorem property taxes as provided in such questions, the District acting through the Board shall be authorized to proceed with the necessary action to incur general obligation indebtedness and levy ad valorem property taxes in accordance with such questions.

Any authority to contract general obligation indebtedness or to levy ad valorem property taxes, if conferred by the results of the election, shall be deemed and considered a continuing authority to contract the general obligation indebtedness and levy the ad valorem taxes so authorized at any one time, or from time to time, and neither the partial exercise of the authority so conferred, nor any lapse of time, shall be considered as exhausting or limiting the full authority so conferred.

Section 7. If a majority of the votes cast on the question authorize the issuance of bonds as described in the bond question set forth above, the District intends to issue such bonds in the approximate aggregate principal amount of \$250,000,000 to pay the costs of the Project, including the reimbursement of certain costs incurred by the District prior to the execution and delivery of such bonds, upon terms acceptable to the District, as authorized in a resolution to be hereafter adopted and to take all further action which is necessary or desirable in connection therewith. The officers, employees and agents of the District shall take all action necessary or reasonably required to carry out, give effect to and consummate the transactions contemplated hereby and shall take all action necessary or desirable to finance the Project and to otherwise carry out the transactions contemplated by the resolution. The District shall not use reimbursed moneys for purposes prohibited by Treasury Regulation §1.150-2(h). This resolution is intended to be a declaration of “official intent” to reimburse expenditures within the meaning of Treasury Regulation §1.150-2.

Section 8. Pursuant to Section 1-11-203.5, C.R.S., any election contest arising out of a ballot issue or ballot question election concerning the order of the ballot or the form or content of the ballot title shall be commenced by petition filed with the proper court within five days after the title of the ballot issue or ballot question is set, and for contests concerning the order of a ballot, within five days after the ballot order is set by the county clerk and recorder and not thereafter.

Section 9. The officers of the District are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this resolution.

Section 10. All orders, bylaws and resolutions, or parts thereof, in conflict with this resolution, are hereby repealed.

Section 11. If any section, paragraph, clause or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution.

ADOPTED AND APPROVED this April 11, 2016.

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President  
Cherry Creek School District No. 5

(SEAL)

ATTEST:

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Secretary  
Cherry Creek School District No. 5