

RESOLUTION NO. 15-02

TO EXECUTE AND DELIVER A FIRST SUPPLEMENTAL LEASE PURCHASE AGREEMENT IN CONNECTION WITH THE ISSUANCE AND DELIVERY OF \$4,530,000 PRINCIPAL AMOUNT OF LEASE PURCHASE AGREEMENT REFUNDING CERTIFICATES OF PARTICIPATION, SERIES 2015, UPON THE TERMS AND CONDITIONS SET FORTH THEREIN, FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING LEASE PURCHASE AGREEMENT CERTIFICATES OF PARTICIPATION, SERIES 2008; AND APPROVING AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

WHEREAS, K.S.A. 71-201 *et seq.* (the "Act") empowers community colleges such as Barton County Community College (the "College") to enter into lease agreements for the use of real or personal property, the terms of which may not exceed ten (10) years, subject to change or termination at any time by act of the Kansas Legislature; and

WHEREAS, the costs of acquiring and constructing a certain Project (as defined in the hereinafter referenced Lease), were initially financed in 2008 pursuant to a Declaration of Trust dated December 1, 2008 (the "Original Declaration of Trust") by and between the College and Security Bank of Kansas City, Kansas City, Kansas (the "Trustee") authorizing the execution and delivery of Certificates of Participation, Series 2008, dated December 1, 2008 (the "Series 2008 Certificates"); and

WHEREAS, the College, as lessor, has leased a tract of land in Barton County, Kansas (the "Real Property") to the Trustee, as Lessee pursuant to a site lease dated December 1, 2008 (the "Site Lease") and the Real Property and the library building, technical building and math and science building improvements thereon comprise the "Project;" and

WHEREAS, pursuant to the terms of a Lease Purchase Agreement dated December 1, 2008, (the "Original Lease"), the Trustee, as Lessor, leases the Project to the College, as Lessee thereunder; and

WHEREAS, the Board of Trustees of the College (the "Board") has determined that it is necessary and advisable to refund the outstanding Series 2008 Certificates maturing in the years 2019 to 2036, inclusive, in advance of maturity (the "Refunded Certificates"), and to accomplish such refunding approve a First Supplemental Declaration of Trust (the "First Supplemental Declaration of Trust," and, with the Original Declaration of Trust, jointly, the "Declaration of Trust"), a First Supplemental Lease Purchase Agreement (the "First Supplemental Lease" and, with the Original Lease, jointly the "Lease"), an Escrow Trust Agreement, dated as of November 3, 2015, between the College and the Trustee (the "Escrow Agreement"), the issuance of "Refunding Certificates of Participation, Series 2015" (the "Series 2015 Certificates") by the Trustee pursuant to the Declaration of Trust and a Certificate Purchase Agreement entered into with Piper Jaffray & Co., Leawood, Kansas (the "Original Purchaser"); and

WHEREAS, the Declaration of Trust provides terms and conditions under which additional certificates of participation may be issued, and prior to or simultaneously with the issuance of the Series 2015 Certificates, such terms and conditions will be satisfied.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF BARTON COUNTY COMMUNITY COLLEGE:

SECTION 1. All actions heretofore taken (not inconsistent with the provisions of this Resolution) by the governing body or the officials of the College, directed toward the refunding of the Refunded Certificates, are hereby ratified, approved and confirmed.

SECTION 2. The First Supplemental Lease, the First Supplemental Declaration of Trust and the Escrow Agreement, in substantially the forms presented to this meeting of the Board, are in all respects approved, authorized and confirmed, and the Chairperson and the Secretary of the Board (the "Secretary") are hereby authorized and directed to sign and affix the seal of the College to the First Supplemental Lease and Escrow Agreement, for and on behalf of the College, but with such changes therein as the Chairperson may deem necessary or appropriate, as evidenced by signature thereof. The prior execution of the Certificate Purchase Agreement by the Chairperson and Secretary is hereby ratified and confirmed.

SECTION 3. The College hereby designates the Lease payments to be hereafter made and the Series 2015 Certificates authorized under the Declaration of Trust as "qualified tax-exempt obligations," as such term is defined in *Section 265(b)(3)* of the Internal Revenue Code of 1986 (the "Code"), and with respect to said designation certifies as follows:

(a) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds which are not "qualified 501(c)(3) bonds") which will be issued by the College (and all subordinate entities thereof) during calendar year that the Series 2015 Certificates are issued is not reasonably expected to exceed \$10,000,000; and

(b) the College (including all subordinate entities thereof) will not issue an aggregate principal amount of obligations designated by the College to be "qualified tax-exempt obligations" during calendar year that the Series 2015 Certificates are issued, including the Series 2015 Certificates, in excess of \$10,000,000, without first obtaining an opinion of Special Tax Counsel that the designation of the Series 2015 Certificates as "qualified tax-exempt obligations" will not be adversely affected.

SECTION 4. The Chairperson, the Secretary and other officials of the College are hereby authorized to execute and deliver for and on behalf of the College any and all additional certificates, documents and other papers and to perform all other acts that they may deem necessary or transactions and other matters authorized by this Resolution. The appropriate officials of the College are authorized to execute on behalf of the College agreements concerning the deposit and investment of funds in connection with the transactions contemplated by this Resolution.

SECTION 5. If any Section, paragraph, clause or provision of this Resolution (other than provisions for the payment of Basic Rent Payments by the College during the term of the Lease, provisions for the quiet enjoyment of the Project by the College during the term of the Lease and any provisions respecting the conveyance of the Project to the College under the conditions provided in the Lease) shall for any reason be held to be invalid or unenforceable, such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution. The authority granted to any official of the College to sign, approve or deliver any document may be exercised by any official authorized by law to perform such official's duties if such official is absent or otherwise unable to perform such act.

SECTION 6. No provisions of this Resolution, the Lease, the Declaration of Trust, the Escrow Agreement, or the Series 2015 Certificates shall be construed as creating or constituting a general obligation or other indebtedness of the College. The College shall have no obligation to make any payment with respect

to the Series 2015 Certificates except in connection with the payment of Basic Rent Payments and certain other payments under the Lease.

SECTION 7. Pursuant to K.S.A. 71-201c, the College shall omit from the Lease, the Declaration of Trust, the Escrow Agreement and other College documents relating to the Series 2015 Certificates, the mandatory contract provisions of DA-146a.

SECTION 8. This Resolution shall be in full force and effect upon its adoption by a majority of the Board.

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ADOPTED by the Board of Trustees of Barton County Community College this 27th day of October, 2015.

(SEAL)

Chairperson

ATTEST:

Secretary

CERTIFICATE OF COPY

I hereby certify that the attached copy is a true and correct copy of Resolution No. ____ of Barton County Community College duly passed by the Board of Trustees and signed by the Chairperson of the Board of Trustees on the date stated therein, and that the signed original of such Resolution is on file in my office.

(SEAL)

Assistant to the President