

**GOVERNING BOARD AGENDA ITEM FORM  
AMPHITHEATER UNIFIED SCHOOL DISTRICT NO. 10**

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**DATE OF MEETING:** August 24, 2010

**TITLE:** Annual Notice Pursuant to Business Loan Agreement Between Pima County and Bank of America Relating to a Line of Credit for the Benefit of the District.

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**BACKGROUND:** As the Board is aware, the District's funds are held by the Pima County Treasurer, as they are collected from tax revenues. Occasionally, the timing of revenue collection follows expenditure requirements, necessitating use of short term borrowing to ensure adequate cash flow for the district. Pima County then borrows funds, on behalf of the District, pursuant to a line of credit between Bank of America and the County. This is a common practice; the County does so for other Pima County school districts as well. The use of a line of credit is very rare, and the District has in fact not utilized the existing line of credit. Nonetheless, the line should be in place.

On August 26, 2008 the Governing Board approved the Original Loan Agreement providing a \$6,000,000 line of credit and a prime interest rate. Following that initial approval, the County changed the terms of the agreement to extend until 2010. A revised form of agreement was subsequently approved by the Board on November 18, 2008.

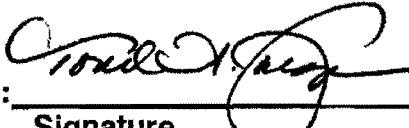
The Bank has mandated and prepared the attached amendment to the existing line of credit agreement to extend the term of the Agreement until June 30, 2013. This form requires approval through Board resolution; thus, a formal Resolution is also included with this item.

Legal counsel has reviewed the attached agreement. It is in standard and appropriate form. Counsel must issue a legal opinion to Bank of America as to the validity of the Agreement and other issues. A form of opinion which counsel will generally follow is also attached for the Board's information.

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**RECOMMENDATION:** The administration recommends the Governing Board approve the attached form of agreement.

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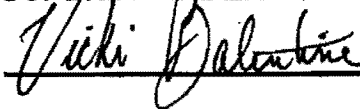
<b>INITIATOR:</b>		Todd A. Jaeger Associate to the Supt. 8/16/2010
	<b>Signature</b>	<b>Name/Title                      Date</b>

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**ASSOCIATE SUPERINTENDENT  
SIGNATURE:**

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**SUPERINTENDENT SIGNATURE:**



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**2010 AMENDMENT TO  
BUSINESS LOAN AGREEMENT**

THIS 2010 AMENDMENT TO BUSINESS LOAN AGREEMENT (this "Amendment"), effective as of July 1, 2010, is entered into by and among BANK OF AMERICA, N.A. (the "Bank"), the BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA (the "County") and the AMPHITHEATER UNIFIED SCHOOL DISTRICT NO. 10 OF PIMA COUNTY, ARIZONA, a political subdivision of the State of Arizona (the "District").

RECITALS

A. The County, the District and the Bank are parties to a Business Loan Agreement, dated as of July 1, 2008 (the "Original Loan Agreement"), pursuant to which the Bank has extended certain credit facilities to the District.

B. The County has requested that the Bank extend the term of the Original Loan Agreement.

C. The Bank is willing to extend the Original Loan Agreement, subject to the terms and conditions of this Amendment.

D. All capitalized terms used in this Amendment and not defined shall have the meanings assigned to such terms in the Original Loan Agreement.

NOW, THEREFORE, for valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Availability Period. The revolving line of credit is available between the effective date of this Amendment and the "Expiration Date," being June 30, 2013, subject to earlier termination as provided in the Original Loan Agreement.

2. Amendment to Section 1.3(a)(i) of Original Loan Agreement. Section 1.3(a)(i) is amended to read as follows:

(i) **TAXABLE OBLIGATIONS:** For those obligations outstanding hereunder with respect to which interest thereon is subject to federal income tax, the interest rate thereon is the Taxable Rate. As used herein, "Taxable Rate" shall be 105% of the Prime Rate in effect from time to time, provided however, this interest rate will not exceed the maximum rate of interest allowed by applicable law.

3. Amendment to Section 5.2(a) of the Original Loan Agreement. Section 5.2(a) of the Original Loan Agreement is amended to read as follows:

(a) The District shall furnish to the Bank, as soon as available and in any event with two hundred seventy (270) days after the end of each fiscal year of the District, copies of its Annual Financial Statement. "Annual Financial Statements" shall mean District-prepared financial statements audited by an independent certified public accountant.

4. Representations and Warranties. All representations and warranties of the District contained in the Original Loan Agreement are true and correct, as if made as of the date hereof.

5. Effective Date. This Amendment will become effective as of July 1, 2010 (the "Effective Date"), provided that the Bank has received from the District each of the following items:

- (i) Amendment. A duly executed original of this Amendment.
- (ii) Authorization by District. Evidence that the execution, delivery, and performance by the District of this Amendment have been duly authorized by the District, in the form and substance of Exhibit B attached hereto.
- (iii) Legal Opinion. A written opinion of the District's legal counsel, covering such matters as the Bank may require, in the form and substance of Exhibit C attached hereto.
- (iv) Other Required Documentation. A copy of the adopted budget for the District for its fiscal year 2010-2011, and such other information and documents as the Bank may reasonably request.

6. Miscellaneous.

(a) Except as herein expressly amended, all terms, covenants, and provisions of the Original Loan Agreement are and shall remain in full force and effect and all references therein to such Original Loan Agreement shall henceforth refer to the Original Loan Agreement as amended by this Amendment. This Amendment shall be deemed incorporated into, and a part of, the Loan Agreement.

(b) This Amendment shall be binding upon and inure to the benefit of the parties hereto and thereto and their respective successors and assigns. No third party beneficiaries are intended in connection with this Amendment.

(c) This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

(d) This Amendment, together with the Original Loan Agreement, contains the entire and exclusive agreement of the parties hereto with reference to the matters discussed herein and therein. This Amendment supersedes all prior drafts and communications with respect thereto. This Amendment may not be amended except in writing.

(e) If any term or provision of this Amendment shall be deemed prohibited by or invalid under any applicable law, such provision shall be invalidated without affecting the remaining provisions of this Amendment or the Original Loan Agreement, respectively.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Amendment as of the dates shown below.

**THE BOARD OF SUPERVISORS OF  
PIMA COUNTY, ARIZONA**

By: \_\_\_\_\_  
Chairman, Board of Supervisors

Attest:

By: \_\_\_\_\_  
Clerk, Board of Supervisors

**AMPHITHEATER UNIFIED SCHOOL  
DISTRICT NO. 10 OF PIMA COUNTY,  
ARIZONA**, a political subdivision of the  
State of Arizona

**BANK OF AMERICA, N.A.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

[Signature page to 2010 Amendment to Business Loan Agreement]

**EXHIBIT A**

**FORM 8038-G**

**INFORMATION RETURN FOR TAX-EXEMPT GOVERNMENTAL OBLIGATIONS**

**Information Return for Tax-Exempt Governmental Obligations**

Under Internal Revenue Code section 149(e)  
 See separate instructions.

OMB No. 1545-0720

Caution: If the issue price is under \$100,000, use Form 8038-GC.

<b>Part I Reporting Authority</b>		If Amended Return, check here <input type="checkbox"/>	
1 Issuer's name <b>Amphitheater Unified School District No. 10 of Pima County, Arizona</b>	2 Issuer's employer identification number <b>86 6000547</b>	3 Number and street (or P.O. box if mail is not delivered to street address) <b>c/o Pima County Treasurer, 115 N. Church Avenue</b>	4 Report number <b>3 LOC 1</b>
5 City, town, or post office, state, and ZIP code <b>Tucson, Arizona 85701</b>	6 Date of issue	7 Name of issue <b>Business Loan Agreement (2010)</b>	8 CUSIP number <b>NA</b>
9 Name and title of officer or legal representative whom the IRS may call for more information <b>Beth Ford, Pima County Treasurer</b>	10 Telephone number of officer or legal representative <b>( 520 ) 740-8775</b>		

<b>Part II Type of Issue (check applicable box(es) and enter the issue price)</b> See instructions and attach schedule	
11 <input type="checkbox"/> Education	11
12 <input type="checkbox"/> Health and hospital	12
13 <input type="checkbox"/> Transportation	13
14 <input type="checkbox"/> Public safety	14
15 <input type="checkbox"/> Environment (including sewage bonds)	15
16 <input type="checkbox"/> Housing	16
17 <input type="checkbox"/> Utilities	17
18 <input checked="" type="checkbox"/> Other. Describe <b>Various governmental purposes</b>	18 <b>6,000,000</b>
19 If obligations are TANs or RANs, check box <input type="checkbox"/> If obligations are BANs, check box <input type="checkbox"/>	
20 If obligations are in the form of a lease or installment sale, check box <input type="checkbox"/>	

<b>Part III Description of Obligations. Complete for the entire issue for which this form is being filed.</b>				
(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21 <b>June 30, 2013</b>	<b>\$ 6,000,000</b>	<b>\$ 6,000,000</b>	years	VR %

<b>Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)</b>				
22 Proceeds used for accrued interest	22	0		
23 Issue price of entire issue (enter amount from line 21, column (b))	23	6,000,000		
24 Proceeds used for bond issuance costs (including underwriters' discount)	24	0		
25 Proceeds used for credit enhancement	25	0		
26 Proceeds allocated to reasonably required reserve or replacement fund	26	0		
27 Proceeds used to currently refund prior issues	27	0		
28 Proceeds used to advance refund prior issues	28	0		
29 Total (add lines 24 through 28)	29	0		
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30	6,000,000		

<b>Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)</b>	
31 Enter the remaining weighted average maturity of the bonds to be currently refunded	_____ years
32 Enter the remaining weighted average maturity of the bonds to be advance refunded	_____ years
33 Enter the last date on which the refunded bonds will be called	_____
34 Enter the date(s) the refunded bonds were issued	_____

<b>Part VI Miscellaneous</b>	
35 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35
36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)	36a
b Enter the final maturity date of the guaranteed investment contract	_____
37 Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units	37a
b If this issue is a loan made from the proceeds of another tax-exempt issue, check box <input type="checkbox"/> and enter the name of the issuer _____ and the date of the issue _____	
38 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box <input type="checkbox"/>	
39 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box <input type="checkbox"/>	
40 If the issuer has identified a hedge, check box <input type="checkbox"/>	

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

**Sign Here**

Signature of Issuer's authorized representative \_\_\_\_\_ Date \_\_\_\_\_ Type or print name and title \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Amendment as of the dates shown below.

**THE BOARD OF SUPERVISORS OF  
PIMA COUNTY, ARIZONA**

By: \_\_\_\_\_  
Chairman, Board of Supervisors

Attest:

By: \_\_\_\_\_  
Clerk, Board of Supervisors

**AMPHITHEATER UNIFIED SCHOOL  
DISTRICT NO. 10 OF PIMA COUNTY,  
ARIZONA**, a political subdivision of the  
State of Arizona

**BANK OF AMERICA, N.A.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

[Signature page to 2010 Amendment to Business Loan Agreement]

## **EXHIBIT B**

**A RESOLUTION OF THE GOVERNING BOARD  
OF AMPHITHEATER UNIFIED SCHOOL DISTRICT NO. 10  
OF PIMA COUNTY, ARIZONA,  
AUTHORIZING THE EXECUTION AND DELIVERY OF A  
2010 AMENDMENT TO A REVOLVING LINE OF CREDIT AGREEMENT  
AMONG AMPHITHEATER UNIFIED SCHOOL DISTRICT NO. 10 OF PIMA COUNTY,  
ARIZONA, THE BOARD OF SUPERVISORS OF PIMA COUNTY  
AND BANK OF AMERICA, N.A.  
PURSUANT TO ARIZONA REVISED STATUTES SECTION 11-604.01 AND  
AUTHORIZING RELATED DOCUMENTS AND ACTIONS.**

**WHEREAS**, Bank of America N.A. (the "Bank") is the "Servicing Bank" for Pima County, Arizona (the "County"); and

**WHEREAS**, pursuant to Section 11-604.01, Arizona Revised Statutes (the "Act"), the Amphitheater Unified School District No. 10 of Pima County, Arizona (the "Political Subdivision") and the Board of Supervisors of the County have entered into Business Loan Agreement, dated as of July 1, 2008 (the "Business Loan Agreement") with the Bank for the purpose of obtaining a separate and distinct revolving line of credit for the Political Subdivision to pay the lawful claims and obligations of the Political Subdivision for the current fiscal year until sufficient monies for payment from property taxes and other non-restricted revenues are received by the Pima County Treasurer (the "Treasurer");

**WHEREAS**, the parties wish to enter into a 2010 Amendment to Business Loan Agreement to extend and amend the Business Loan Agreement:

**NOW, THEREFORE, BE IT RESOLVED** by the Amphitheater Unified School District Governing Board as follows:

Section 1. Any proper officer of the Political Subdivision or any member of this Governing Board is hereby authorized and directed to execute and deliver on behalf of the Political Subdivision the 2010 Amendment to Business Loan Agreement with the Bank to extend and amend the Loan Agreement.

Section 2. From and after the adoption of this Resolution, the officers, agents and employees of the Political Subdivision are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents, certificates or other instruments as may be necessary to carry out and comply with the provisions of the Business Loan Agreement, as amended, including, without limitation, any



covenants, representations, findings, determinations, designations or actions deemed necessary for interest paid by the Political Subdivision under the Agreements to be exempt from federal or state income taxes. All actions of the officers, staff and agents of the Political Subdivision which are in conformity with the purposes and intent of this resolution and in furtherance of the Act and the Business Loan Agreement, whether heretofore or hereafter taken, shall be and are hereby ratified, confirmed and approved.

Section 3. This Resolution shall become effective immediately upon its adoption.

**PASSED AND ADOPTED** by the Governing Board this 24<sup>th</sup> day of August, 2010.

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Jeff Grant  
President  
Amphitheater Governing Board

**CERTIFICATE**

I, the undersigned, hereby certify that I am the duly qualified and acting Vice President of the Governing Board of the Amphitheater Unified School District No. 10 of Pima County, Arizona, and as such official, I do further certify as follows:

1. The foregoing Resolution constitutes a true and correct copy of the Resolution adopted by the Governing Board of said District at a meeting held on August 24, 2010 at which a quorum of the Governing Board was present and the requisite number of members of such Governing Board voted in favor of said Resolution.

2. The Resolution has not been repealed and is still in full force and effect on the date hereof, and the signatures of proper officers or Governing Board members appearing below represent the genuine signatures of such officials.

<u>Name</u>	<u>Title</u>	<u>Signature</u>
Jeff Grant	President	_____
	Amphitheater Governing Board	
Diana L. Boros	Vice President	_____
	Amphitheater Governing Board	

IN WITNESS WHEREOF, I have hereunto set my hand this 24<sup>th</sup> day of August, 2010.

By: \_\_\_\_\_  
Diana L. Boros  
Vice President, Amphitheater Governing Board



## OFFICE OF LEGAL COUNSEL

Todd A. Jaeger, J.D.  
Associate Superintendent  
(520) 696-5156  
FAX (520) 696-5074

701 W. Wetmore Road • Tucson, AZ 85705 • TDD (520) 696-5055

### GOVERNING BOARD MEMBERS

SUPERINTENDENT  
Vicki Balentine, Ph.D.

Jeff Grant  
President

Diana L. Boros  
Vice President

Kent Paul Barrabee, Ph.D.

Patricia Clymer

Linda Loomis, Ph.D.

August 24, 2010

Bank of America, National Association  
Commercial Lending Phoenix, AZ1-200-22-32  
201 East Washington Street  
Phoenix, Arizona 85004

Dear Ladies and Gentlemen:

I serve as General Counsel for Amphitheater Unified School District No. 10 of Pima County, Arizona, a political subdivision of the State of Arizona (the "District"), and have acted in that respect in connection with the execution and delivery of the 2010 Amendment to Business Loan Agreement (the "Amendment"), amending a Business Loan Agreement, dated as of July 1, 2008 (as amended by the Amendment, the "Loan Agreement"), among the District, Pima County, Arizona (the "County"), and Bank of America, National Association (the "Bank"), and all other documents and agreements executed by the District in connection with the Amendment.

This opinion is provided to the Bank as required pursuant to Paragraph 5(iii) of the Amendment. Capitalized terms not otherwise defined herein have the respective meanings set forth in the Loan Agreement.

For purposes of this opinion letter, I have examined such questions of law and fact as I have deemed necessary or appropriate and have reviewed copies of the Loan Documents executed by the District. In addition, I have made such other investigation as I deemed necessary to enable me to express the opinions hereinafter set forth. I have also examined applicable regulations or statutes of and relating to the District, in each case as amended to date, and records of proceedings of the Governing Board of the District during or by which actions were taken relating to matters covered by this opinion.

Based upon the foregoing, and further subject to the other qualifications and limitations set forth below, I hereby advise you that, in my opinion:

1. The District has been duly formed and is validly existing and in good standing under the laws of the State of Arizona as a political subdivision of the State of Arizona.

2. The District has the corporate and governmental power and authority to own, lease and operate its properties, to conduct the business in which it is currently engaged, and to execute, deliver, and perform the Loan Agreement, as amended by the Amendment.

3. The Amendment has been duly authorized by the District, and no further corporate action is required by the District in connection therewith. The execution and delivery of the Amendment and the due performance of the provisions of the Loan Agreement, as amended by the Amendment, does not and will not violate, contravene, or constitute a default under any statutes relating to the formation and operations of the District, or any agreement, indenture, or other document or instrument to which the District is a party or by the terms by which the District or any of their respective property is bound or affected. The Amendment has been duly executed and delivered on behalf of the District, and constitute the legal, valid, and binding obligations of the District, enforceable against the District in accordance with their terms.

4. No consent, approval, authorization, registration, or filing with any governmental authority is required in connection with the execution, delivery, or performance of the Amendment by the District, except as may have been obtained and certified copies of which may have been delivered to the Bank.

5. The execution, delivery, and performance by the District of the Amendment will not violate, contravene, or result in a breach of any requirement of law applicable to the District, or of any agreement, indenture, or other contract or instrument to which the District is a party, or result in or require the creation or imposition of any lien on any of its respective properties or revenues of the District pursuant to such requirement of law or any such agreement, indenture, contract, or instrument.

6. (a) There are no actions, suits, proceedings, claims, or disputes pending, or to the best of my knowledge, threatened or contemplated, at law, in equity, in arbitration or before any governmental authority against the District or any of its properties:

(i) with respect to the Loan Agreement, any other Loan Document, or any of the transactions contemplated thereby; or

(ii) which, if determined adversely to the District, would have a material adverse effect on the District's financial or other condition.

(b) No injunction, writ, temporary restraining order, or any order of any nature has been issued against the District by any court or other governmental authority purporting to enjoin or restrain the execution, delivery, or performance of the Loan Agreement, as amended by the Amendment, or directing that the transactions provided for therein not be consummated as therein provided.

7. To the best of my knowledge, no event has occurred or would result from the incurring of the obligations by the District under the Loan Agreement which is, or with the lapse of time or notice both would become, an Event of Default.

In rendering the foregoing opinions, I have made several assumptions. Those assumptions are as follows:

- A. That all natural persons executing the Loan Agreement, as amended by the Amendment, did so with legal and mental capacity required to do so;
- B. That all signatures of persons signing the Loan Agreement, as amended by the Amendment, on behalf of the parties thereto, other than the District, are genuine;
- C. That all documents submitted to me as originals were authentic;
- D. That all documents submitted to me as conformed, certified or photostatic copies conformed to their authentic originals;
- E. That the Loan Agreement, as amended by the Amendment, accurately describes and contains the mutual understandings of the parties and that there are no oral or written statements or agreements that modify, amend or vary, or purport to modify, amend or vary any of the terms of the Loan Agreement, as amended by the Amendment, which have not been presented to me;
- F. That the Bank will receive no interest, charges, fees or other benefits or compensation in the nature of interest or otherwise in connection with the subject matter of the Loan Agreement, as amended by the Amendment, other than those that the parties to the Loan Agreement, as amended by the Amendment, have agreed in writing to pay and those permitted by law; and
- G. That the Bank will act in a commercially reasonable manner in enforcing the Loan Agreement, as amended by the Amendment.

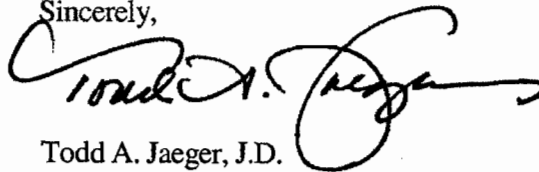
My opinions as set forth above are subject to the following qualifications and limitations:

- i. Enforceability of the Loan Agreement, as amended by the Amendment, may be subject to or limited by bankruptcy, insolvency, reorganization, arrangements, moratorium or other similar laws relating to or affecting the rights of creditors generally;
- ii. Enforceability of the Loan Agreement, as amended by the Amendment, is subject to general principles of equity and may also be subject to court decisions invoking state statutes or principles of due process of law or involving principles of public policy;
- iii. Enforceability of the Loan Agreement, as amended by the Amendment, is further subject to the qualification that certain waivers, procedures, remedies and other provisions of the Loan Agreement, as amended by the Amendment, may be unenforceable under or limited by the law of the State of Arizona as it currently exists or as it may hereafter be amended; however such does not, in my opinion, substantially prevent the practical realization of the benefits intended by the documents.

I am a member of the Bar of the State of Arizona, and I do not express any opinion herein concerning any law other than the law of the State of Arizona and the federal law of the United States. Furthermore, the opinions expressed herein are based upon the law in effect as of the date of this opinion, and I assume no obligation to revise or supplement this opinion should such law be hereafter modified, whether by legislative action, judicial decision or otherwise.

This letter has been furnished to you solely for your use and only in connection with the Loan Agreement, as amended by the Amendment, and may not be relied upon for any other purpose or by any other party, in any instance, without my written consent.

Sincerely,



Todd A. Jaeger, J.D.  
Associate to the Superintendent  
General Counsel

TAJ/crm