

Draft: 4/10/2019

**SUPPLEMENT TO
DECLARATION OF TRUST**

BETWEEN

**ASSOCIATED TRUST COMPANY, NATIONAL ASSOCIATION,
AS TRUSTEE**

AND

**INDEPENDENT SCHOOL DISTRICT NO. 709
(DULUTH), MINNESOTA**

DATED AS OF MAY 1, 2019

**RELATING TO
FULL TERM REFUNDING
CERTIFICATES OF PARTICIPATION, SERIES 2019B**

THIS SUPPLEMENT TO DECLARATION OF TRUST (the “Supplement to Declaration”), dated as of May 1, 2019, supplementing the Declaration of Trust dated as of October 1, 2009, as supplemented, between ASSOCIATED TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association, organized under the laws of the United States of America and qualified to conduct business in the State of Minnesota (the “Trustee”), and INDEPENDENT SCHOOL DISTRICT NO. 709 (DULUTH), MINNESOTA, an independent school district organized under the laws of the State of Minnesota (the “District”).

W I T N E S S E T H:

WHEREAS, the District, as vendee, and Associated Trust Company, National Association, as vendor (acting in its trust capacity) (the “Vendor”), entered into that certain Installment Purchase Contract dated as of October 1, 2009 (the “Original Contract”), to provide for the acquisition, construction and equipping of the Project in order to carry out a portion of the District’s long-range facilities plan, and its governmental function.

WHEREAS, the District and the Trustee entered into a Declaration of Trust, dated as of October 1, 2009 (the “Original Declaration”), which provided for the execution and delivery of \$71,170,000 Taxable Full Term Certificates of Participation, Series 2009A (Build America Bonds – Direct Pay), dated October 1, 2009 (the “2009A Certificates”), evidencing a proportionate interest in the Installment Payments to be made by the District under the Original Contract.

WHEREAS, the proceeds of the 2009A Certificates were used to finance a portion of the Costs of the Project.

WHEREAS, other than the 2009A Certificates, no other certificates or obligations are payable from Installment Payments under the Original Contract, as amended.

WHEREAS, the District has modified the terms of the Original Contract, as amended, and as set forth in an Amendment to Installment Purchase Contract dated May 1, 2019, between the Vendor and the District (the “Amendment to Contract”); such amendment modified the Original Contract, as amended.

WHEREAS, the School Board of the District has found and determined that, in order to reduce debt service, that the Trustee execute and deliver \$_____ Full Term Refunding Certificates of Participation, Series 2019B, dated May 29, 2019 (the “2019B Certificates”), for the refunding and prepayment of the Outstanding 2009A Certificates maturing on and after February 1, 2020 (the “Refunded Certificates”).

WHEREAS, the District, pursuant to this Supplement to Declaration, shall deposit its cash and proceeds of the 2019B Certificates in the Prepayment Fund under the Original Declaration in an aggregate amount sufficient to pay, without investment income, the Principal Portion and the Interest Portion of the Installment Payments of the Contract represented by the Refunded Certificates maturing on and after February 1, 2020, for prepayment and redemption on May 29, 2019 (the “Redemption Date”), from the deposits made pursuant to Article VIII of the Original Declaration.

WHEREAS, the District and the Trustee have agreed that the Trustee will execute and deliver the 2019B Certificates in the form set forth on Attachment A hereto evidencing a proportionate interest in the Installment Payments to be made by the District under the Amendment to Contract (the Amendment to Contract and the Original Contract, as amended, are collectively referred to herein as the “Contract”).

WHEREAS, upon delivery from the District to the Trustee of this executed Supplement to Declaration, a Request and Authorization and the other items required by Section 2.01.2 of the Original Declaration, the Trustee has agreed to execute and to deliver the 2019B Certificates to the purchaser of the 2019B Certificates.

WHEREAS, the 2019B Certificates are being issued as Additional Certificates under the Original Declaration, as amended.

WHEREAS, the Trustee has agreed on behalf of the Owners of the Refunded Certificates to hold a portion of the proceeds of the 2019B Certificates, and the cash deposit, if any, in the Prepayment Fund and to disburse them in accordance this Supplement to Declaration.

WHEREAS, the Trustee has agreed on behalf of the Owners of the Refunded Certificates and the 2019B Certificates to receive the Installment Payments due under the Contract and to apply and to disburse them in accordance herewith.

WHEREAS, by this Supplement to Declaration, the District agrees to forward the Installment Payments due under the Contract to the Trustee.

WHEREAS, the execution and delivery of this Supplement to Declaration and the execution and delivery of the 2019B Certificates provided for herein have been in all respects duly and validly authorized by resolution of the District.

WHEREAS, all things necessary to make the 2019B Certificates, when authenticated by the Trustee as in this Supplement to Declaration provided, the valid, binding and legal limited obligations of the District, according to the import thereof have been done and performed.

NOW, THEREFORE, in consideration of the premises, the covenants and the conditions hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Section 1. Definitions. Except as otherwise defined herein, each of the capitalized terms used in this Supplement to Declaration shall have the same meaning as set forth in the Original Declaration and shall have the same meaning as set forth in the Contract. With respect to any defined term that is given a different meaning under this Supplement to Declaration, it shall have the meaning designated herein. As used in this Supplement to Declaration and recitals hereto, the terms defined in the Original Declaration, as supplemented, shall have the meanings assigned to them therein, except as amended herein. In addition, unless otherwise indicated or the context otherwise requires, the following terms shall have the following respective meanings hereunder:

“Principal Payment Date” shall mean the date on which an Installment Payment is required to be paid on the 2019B Certificates to the Owners thereof, beginning February 1, 2020, and each February 1 thereafter through and including February 1, 2028.

“Refunded Certificates” shall mean the Outstanding 2009A Certificates with stated maturities on and after February 1, 2020, presently outstanding in the aggregate principal amount of \$45,590,000.

“2009A Certificates” shall mean the \$71,170,000 Taxable Full Term Certificates of Participation, Series 2009A (Build America Bonds – Direct Pay), dated October 1, 2009, issued under the Original Declaration.

“2019B Certificates” shall mean the \$_____ Full Term Refunding Certificates of Participation, Series 2019B, dated May 29, 2019, issued under this Supplement to Declaration.

Section 2. Creation of 2019B Certificates for Issuance. There is hereby created for issuance a series of Additional Certificates to be designated:

FULL TERM REFUNDING CERTIFICATES OF PARTICIPATION, SERIES 2019B
 Evidencing the Proportionate Interest of the Registered Owner in Installment
 Payments to be made by
 INDEPENDENT SCHOOL DISTRICT NO. 709 (DULUTH), MINNESOTA
 Pursuant to an Installment Purchase Contract dated October 1, 2009, as amended,
 and as further amended as of May 1, 2019, with
 Associated Trust Company, National Association

A. Under Section 2.01.2 of the Original Declaration, as supplemented, the 2019B Certificates shall be issued in the aggregate original principal amount of \$_____. The 2019B Certificates shall specify May 29, 2019, as their original issue date.

B. In accordance with the restated schedule for Installment Payments under the Amendment to Contract, the 2019B Certificates shall be due and payable on the dates and in the respective amounts, and shall bear interest at the respective rates per annum, set forth in the table below:

Maturity Date (February 1)	Principal Amount of 2019B Certificates	Interest Rate
2020		
2021		
2022		
2023		
2024		
2025		
2026		
2027		
2028		

Maturity Date (February 1)	Principal Amount of 2019B Certificates	Interest Rate
TOTAL		

C. For purposes of complying with Minnesota Statutes, Section 475.54, Subd. 1, the maturity schedule for the 2019B Certificates shall be combined with the other full term certificates of participation of the District issued and outstanding.

D. Pursuant to Section 3.02(a) of the Original Declaration, the following optional prepayment provision is added for the 2019B Certificates:

“The 2019B Certificates maturing on and after February 1, 2026, shall be subject to prepayment, at the option of the District, in whole and in part, at the applicable Prepayment Price on February 1, 2025, and on any date thereafter, if the District elects to prepay all or a portion of the Principal Portion and Accrued Interest Portion thereon of the Installment Payments.”

E. The form of the 2019B Certificates is set forth as Attachment A hereto and shall constitute a “Certificate” or “Certificates” under the Original Declaration, as supplemented, except where the context refers to the 2009A Certificates or the 2019B Certificates or as otherwise provided for in this Supplement to Declaration.

Section 3. Delivery of 2019B Certificates. Upon the execution and delivery of this Supplement to Declaration by the District and the Trustee, the Trustee shall execute and deliver the 2019B Certificates to the Purchaser (or to The Depository Trust Company, New York, New York (“DTC”) as may be directed by the District).

Prior to the delivery of the 2019B Certificates by the Trustee there shall be filed with the Trustee:

(a) a certified copy of the resolution or resolutions of the District authorizing the issuance of the 2019B Certificates and the execution and delivery of this Supplement to Declaration, the Amendment to Contract and the Continuing Disclosure Certificate;

(b) an Opinion of Special Counsel to the effect that the 2019B Certificates have been duly and validly authorized and issued and regarding the tax-exempt nature of the Interest Portion of the Installment Payments on the Contract represented by the 2019B Certificates;

(c) an original executed counterpart of the Amendment to Contract;

(d) an original executed counterpart of this Supplement to Declaration;

(e) a Request and Authorization to the Trustee, executed on behalf of the District by its Chair or Clerk of the District, to deliver the 2019B Certificates to the Purchaser therein identified, in the form and amount requested upon payment to the Trustee, for the account of the District, of a specified sum plus accrued interest, if any, on the 2019B Certificates to the date of delivery thereof;

(f) a certificate of an Authorized Representative of the District to the effect that no Event of Default or event which, with the passage of time or giving of notice or both, would become an Event of Default exists or would be created by the issuance of the 2019B Certificates and the execution and delivery of the related documents;

(g) a certificate signed by the Chair and the Clerk of the District calling for the prepayment and redemption of the Refunded Certificates as hereinafter provided;

(h) a Certificate of Participation issued by the Commissioner pursuant to Minnesota Statutes Section 126C.55; and

(i) such other customary closing papers as the Trustee or Special Counsel may reasonably require.

Section 4. Application of Proceeds of 2019B Certificates. The Trustee shall deposit the 2019B Certificates proceeds received by it for the account of the District from the original sale of the 2019B Certificates into the following funds and account:

(a) to the Prepayment Fund to be held, invested and distributed by the Trustee pursuant to this Supplement to Declaration, \$_____ of proceeds of the 2019B Certificates, plus \$_____ of funds of the District in its Contract Revenue Fund;

(b) to the Contract Revenue Fund (the accrued interest in the amount of \$0.00 and the rounding amount of \$_____), \$_____; and

(c) \$_____ of proceeds shall be used for costs of issuance of the 2019B Certificates.

Section 5. Prepayment of Refunded Certificate. On the date of issuance of the 2019B Certificates, the following amounts from the following sources shall be deposited in the Prepayment Fund established under Section 4.01(c) of the Original Declaration:

(a) From the proceeds of the 2019B Certificates	\$_____
(b) From funds of the District in the Contract Revenue Fund:	_____
Total	\$_____

The Trustee is irrevocably directed to use such monies in the Prepayment Fund for prepayment and redemption of the Refunded Certificates on May 29, 2019, pursuant to the District's Notice of Prepayment, to prepay and redeem the outstanding 2009A Certificates maturing on and after February 1, 2020, on May 29, 2019, the Redemption Date (\$45,590,000), plus accrued interest on the outstanding 2009A Certificates to the Redemption Date (\$779,998.85) for a total of \$46,369,998.85.

ATTACHMENT A

FORM OF CERTIFICATE OF PARTICIPATION

No. _____ \$ _____

FULL TERM REFUNDING CERTIFICATE OF PARTICIPATION, SERIES 2019B

Evidencing the Proportionate Interest of the Registered Owner Hereof in

Installment Payments to be Made by
**INDEPENDENT SCHOOL DISTRICT
NO. 709 (DULUTH), MINNESOTA**

due under its Installment Purchase Contract dated October 1, 2009, as amended, and
as further amended as of May 1, 2019, with Associated Trust Company, National Association

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: _____ DOLLARS

<u>Maturity Date</u>	<u>Interest Rate Per Annum</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
February 1, _____	_____ %	May 29, 2019	_____

The registered owner (the "Owner") of this Full Term Refunding Certificate of Participation, Series 2019B (the "Certificate") specified above is entitled to receive on the earlier of the Maturity Date shown above or on the prepayment date, if any (in either case, the "Certificate Payment Date"), the Principal Amount specified above, and on each February 1 and August 1 (the "Interest Payment Date") commencing February 1, 2020 (or the next day if the first is not a Business Day), until such Certificate Payment Date, an amount equal to interest on such principal amount computed at the Interest Rate Per Annum set forth above on the basis of a 360-day year consisting of twelve 30-day months, all subject to the provisions set forth herein. This Certificate evidences an interest in the "Installment Payments" under that certain Installment Purchase Contract dated as of October 1, 2009, as amended, and as further amended by Amendment to Installment Purchase Contract dated as of May 1, 2019 (collectively, the "Contract"), by and between Associated Trust Company, National Association (the "Vendor") and Independent School District No. 709 (Duluth), Minnesota (the "District"). The Certificates are being issued pursuant to that certain Supplement to Declaration of Trust, dated as of May 1, 2019, supplementing the Declaration of Trust dated as of October 1, 2009, as supplemented (collectively, the "Declaration of Trust"), between the District and Associated Trust Company, National Association (the "Trustee"). The principal corporate trust office of the Trustee is located at St. Paul, Minnesota (such principal office herein being referred to as the "Principal Office").

The aforesaid Principal Amount is payable subject to the terms of the Contract and represents an interest of the Owner hereof in portions of the Installment Payments designated as principal coming due under the Contract. The Owner is also entitled to receive, subject to the terms of the Contract, the Owner's share of the Installment Payments designated as interest coming due under the Contract. All amounts payable hereunder are payable in lawful money of

the United States of America that at the time of payment shall be legal tender for the payment of public and private debts. The amounts representing principal are payable upon presentation of the Certificate at the Principal Office of the Trustee on the Certificate Payment Date and the amounts representing interest are payable by check or draft of the Trustee mailed on each Interest Payment Date to the Owner of record as set forth herein. Interest on this Certificate will be paid to the Registered Owner in whose name this Certificate is registered on the registration books maintained by the Trustee and at the address appearing thereon at the close of business on the 15th day of the calendar month next preceding the Interest Payment Date (the "Regular Record Date"). Any interest not so timely paid shall cease to be payable to the person who is the Registered Owner hereof as of the Regular Record Date, and shall be payable to the person who is the Registered Owner hereof at the close of business on a date (the "Special Record Date") fixed by the Trustee whenever money becomes available for payment of the defaulted interest. Notice of the Special Record Date shall be given to the Registered Owners not less than 10 days prior to the Special Record Date.

So long as this Certificate is registered in the name of DTC or its Nominee as provided in the Declaration of Trust, and as those terms are defined therein, payment of principal of, premium, if any, and interest on this Certificate and notice with respect thereto shall be made as provided in the Representation Letter, as defined in the Declaration of Trust, and surrender of this Certificate shall not be required for payment of the redemption price upon a partial redemption of this Certificate. Until termination of the book-entry only system pursuant to the Declaration of Trust, the Certificates may only be registered in the name of DTC or its Nominee.

All capitalized terms not defined herein shall have the meaning set forth in the Declaration of Trust.

This Certificate has been executed by the Trustee pursuant to the terms of the Declaration of Trust. Copies of the Contract and the Declaration of Trust are on file at the office of the District and at the Principal Office of the Trustee, and reference to the Contract and the Declaration of Trust and any and all amendments to such agreements is made for a description of the pledges and the covenants of the District securing the payment of Installment Payments, the nature, the extent and the manner of enforcement of such pledges and covenants and the rights and the terms and the conditions upon which the Certificates are delivered thereunder. To the extent and in the manner permitted by the terms thereof, the provisions of the Contract and the Declaration of Trust may be amended with respect to the Certificates by the parties thereto and, with respect to the Declaration of Trust with the written consent of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding, as more fully set forth in the Declaration of Trust or without such consent for the purpose of curing any ambiguity, correcting defects or in regard to questions arising under the Declaration of Trust, provided such amendment does not adversely affect the interest of the Owners of the Certificates.

The registration of this Certificate shall be transferable upon the Certificate register, which shall be kept for that purpose at the Principal Office of the Trustee, upon surrender hereof together with a written instrument of transfer approved by the Trustee duly executed by the Owner of this Certificate or his duly authorized attorney. Upon the registration of the transfer and the surrender of this Certificate, the Trustee shall provide in the name of the transferee a new fully registered Certificate or Certificates of the same aggregate principal amount and Certificate

Payment Date as the surrendered Certificate. The Trustee also shall require the payment by the Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer. The Trustee may charge a transfer fee for such transfer. No exchange of any Certificates shall be required of the Trustee after such Certificate has been called for prepayment and no transfer of any Certificate shall be required between the Record Date and the relevant Certificate Payment Date. No exchange of any Certificates shall be required of the Trustee after such Certificate has been called for prepayment, and no transfer of any Certificate shall be required between the Record Date and the relevant Interest Payment Date.

The Certificates are issued originally only as global book-entry certificates in the denomination of the entire principal amount of the issue maturing on a single date, or, if a portion of said principal is prepaid, said principal amount less the payment, in the form of fully registered Certificates in Authorized Denominations of \$5,000 each or any integral multiple thereof. Upon surrender thereof at the Principal Office of the Trustee with a written request of exchange satisfactory to the Trustee duly executed by the Owner or by his attorney duly authorized in writing, at the option of the Owner thereof, the Certificate may be exchanged for an equal aggregate principal amount of Certificates of other Authorized Denominations of the same maturity, interest rate and tenor.

The District has qualified the Certificates for participation in the State of Minnesota program to preclude default of school district debt, pursuant to Minnesota Statutes, Section 126C.55. If the District is unable to make any portion of the Installment Payments under the Contract represented by the Certificates on or before any Interest Payment Date, the State of Minnesota has agreed to make such payment in the District's place.

This Certificate is one of the Certificates issued pursuant to the Declaration of Trust and for the purposes of providing funds to finance the full gross cash refunding of certain outstanding obligations of the District and paying certain expenses related to the issuance of the Certificates. This Certificate and the rights of the Owner hereof are in all respects subject to and governed by the Declaration of Trust.

The Certificates are being issued as Additional Certificates in the aggregate principal amount at maturity of \$_____ under the Declaration of Trust.

All or a part of the Outstanding Certificates, as provided for in the Contract, are subject to redemption and prepayment at any time, at the option of the District, at their principal amount and accrued interest to the date of redemption if the Project, or a part thereof, is damaged or destroyed to the extent described in Section 6.01(b) and 9.03(b)(ii) of the Contract.

All Certificates maturing in the years 2026 and thereafter are subject to optional redemption in whole or in part on February 1, 2025, and on any date thereafter at a price of the principal amount thereof, plus accrued interest.

If less than all of the Certificates are called for prepayment, the District shall determine the maturity year and amount within each maturity year to be prepaid and the Trustee shall select the Certificates or any given portion thereof to be prepaid from the Outstanding Certificates by lot within any maturity. The Trustee shall promptly notify the District in writing of the numbers

of the Certificates or portions thereof so selected for prepayment. Upon surrender of any Certificate prepaid in part only, the Trustee shall execute and shall deliver to the Owner thereof at the expense of the District a new Certificate or Certificates of Authorized Denominations and of the same maturity, and interest rate, equal in aggregate principal amount to the unprepaid portion of the Certificate surrendered.

As more fully described in the Declaration of Trust, notice of prepayment shall be given by the Trustee by mailing a copy of the notice of prepayment not less than 30 days nor more than 60 days prior to the Prepayment Date to the District and the Owner of each Certificate affected at the address shown on the Certificate register maintained by the Trustee on the date such notice is mailed. Each notice of prepayment shall be dated and shall state the Prepayment Date, the place of prepayment, the CUSIP numbers to the extent applicable, the Prepayment Price and, if less than all the Certificates are to be prepaid, the distinctive numbers of the Certificates to be prepaid, and shall also state that the Interest Portion of the Installment Payments represented by the Certificates designated for prepayment shall cease to accrue from and after such Prepayment Date and that on such date there will become due and payable on each of such Certificates the Prepayment Price.

Notice of prepayment having been duly given as aforesaid and moneys for payment of the Prepayment Price of such Certificates (or portions thereof) being held by the Trustee on the Prepayment Date designated in such notice, the Certificates or the portions thereof so called for prepayment shall become due and payable at the Prepayment Price specified in such notice and the Interest Portion of the Installment Payments represented by the Certificates so called for prepayment shall cease to accrue, Certificates or portions thereof shall cease to be entitled to any benefit or security under the Declaration of Trust and the Owners of such Certificates shall have no rights in respect thereof except to receive payment of such Prepayment Price.

The District has certified, recited and declared that all acts, conditions and things required by the Constitution and the statutes of the State of Minnesota and the Contract to exist, to have happened and to have been performed precedent to the delivery of the Contract exist, have happened and have been performed in due time, form and manner as required by law.

IN WITNESS WHEREOF, the Trustee has caused this Certificate to be executed by signature of an authorized officer as of the Date of Original Issue set forth above.

ASSOCIATED TRUST COMPANY,
NATIONAL ASSOCIATION

By _____
Authorized Signatory

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto _____, the within-mentioned Certificate and does hereby irrevocably constitute and appoint _____ to transfer such Certificate on the Certificate register with full power of substitution in the premises.

Dated:

Signature(s):

Signature(s):

NOTICES: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank, trust company, national bank association or other banking institution incorporated under the laws of the United States or a state of the United States.

NOTICE: The signatures of this Assignment must correspond with the name that appears upon the face of the within Certificate in particular, without alteration, enlargement or any change whatever.

The Trustee will be required to register a Certificate in the name of a transferee only if provided with the information requested below. The transferee (or his designated representative) should provide as much of the information requested below as is applicable to him prior to submitting this Certificate for transfer.

Name: _____

Address: _____

Social Security or Employer Identification Number: _____

If a Trust, Name and Address of Trustee: _____

Unless this Certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the District or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.