RESOLUTION ADOPTING POST-ISSUANCE DEBT COMPLIANCE PROCEDURES

BE IT RESOLVED, by the School Board (the "School Board") of Independent School District No. 709, St. Louis County, Minnesota (the "District"), as follows:

The School Board of Independent School District No. 709 (Duluth) (the "District") has chosen to take steps to help ensure that all tax-exempt obligations will be in compliance with all applicable state and federal regulations.

Background
The Internal Revenue Service (IRS) is responsible for enforcing compliance with the Internal Revenue Code and most other regulations governing certain obligations (As example: tax-exempt obligations, Build America Bonds, Recovery Zone Development Bonds and various "Tax Credit" Bonds). The IRS expects issuers and beneficiaries of these obligations to adopt and implement post-issuance debt compliance procedures to safeguard against post-issuance violations.

Post-Issuance Debt Compliance Objectives
The District desires to monitor these obligations to ensure compliance with the IRS Code and all other regulations governing such obligations. To help ensure compliance, the District has developed procedures which apply to these obligations including bonds, notes, loans, lease purchase contracts, lines of credit, commercial paper or any other form of debt that is subject to compliance.

Post-Issuance Debt Compliance
The CFO/Executive Director of Business Services of the District is designated as the District's agent who is responsible for post-issuance compliance of these obligations.

The CFO/Executive Director of Business Services shall assemble all relevant documentation, records and activities required to ensure post-issuance debt compliance as further detailed in the "Post-Issuance Debt Compliance Procedures" attached hereto. At a minimum, the Post-Issuance Debt Compliance Procedures for each qualifying obligation will address the following:

1. General Post-Issuance Compliance;
2. Proper and timely use of bond proceeds and bond-financed property;
3. Arbitrage yield restriction and rebate;
4. Timely filings and other general requirements;
5. Additional undertakings or activities that support points 1 through 4 above;
6. Other requirements that become necessary in the future.

The CFO/Executive Director of Business Services shall apply the Post-Issuance Debt Compliance Procedures to each qualifying obligation and maintain a record of the results.

Further, the CFO/Executive Director of Business Services will ensure that the Post-Issuance Debt Compliance Procedures are updated on a regular and as needed basis.

The CFO/Executive Director of Business Services, or any other individuals responsible for assisting the CFO/Executive Director of Business Services in maintaining records needed to ensure post-issuance compliance, are authorized to expend funds as needed to attend training or secure use of other educational resources for ensuring compliance such as consulting, publications, and compliance assistance.

Adopted: June 19, 2012

Motion made by Member ________________, seconded by Member _______________, to approve Resolution #B-6-12-____, as presented. Upon a vote taken, the same was approved as follows:

Yeah:

Nay:

______________________________ ________________________________

Clerk Chair

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Post-Issuance Debt Compliance Procedures

The School Board of Independent School District No. 709 (the "District") has adopted a process for Debt Compliance on June 19, 2012. Post-Issuance Debt Compliance applies to qualifying debt obligations issued by the District. The CFO/Executive Director of Business Services will perform the following Post-Issuance Debt Compliance Procedures for tax-exempt obligations, Build America Bonds, Recovery Zone Development Bonds and other various "Tax Credit" Bonds).

1. General Post-Issuance Compliance

a. Ensure written procedures and/or guidelines have been put in place for individuals to follow when more than one person is responsible for ensuring compliance with Post-Issuance Procedures.

b. Ensure training and/or educational resources for post-issuance compliance have been approved and obtained.

c. The CFO/Executive Director of Business Services of the District understands that that there are options for voluntarily correcting failures to comply with post-issuance compliance requirements (i.e. Treasury Regulations 1.141-12 remedial actions, Tax-Exempt Bonds Voluntary Closing Agreement Program and the ability to enter into a closing agreement under the Tax-Exempt Bonds Voluntary Closing Agreement Program described in Notice 2001-60).

2. General Recordkeeping

a. Retain records and documents for the obligation for a period of at least three years following the final payment or the date in which the obligation is redeemed unless otherwise directed by Bond Counsel.

b. Retain both paper and electronic versions of records and documents for the obligation.

c. General Records and Documentation to be Assembled and Retained

i. Description of the purpose of the obligation (referred to as the project) and the state statute authorizing the project.

ii. Record of tax-exempt status or revocation of tax-exempt status, if applicable.

iii. Any correspondence between the District and the IRS.

iv. Audited financial statements.

v. Bond transcripts, official statements and other offering documents of the obligation.

vi. Minutes and resolutions authorizing the issuance of the obligation.

vii. Certifications of the issue price of the obligation.

viii. Any formal elections for the obligation (i.e. election to employ an accounting methodology other than the specific tracing method).

ix. Appraisals, demand surveys, or feasibility studies for property financed by the obligation.

x. Documents related to governmental grants, associated with construction, renovation or purchase of property financed with the obligation.

xi. Reports of any prior IRS examinations of the District or the District's obligation.

3. <u>Arbitrage Yield Restriction and Rebate Recordkeeping</u>

a. Investment and Arbitrage Documentation to be Assembled and Retained

i. An accounting of all deposits, expenditures, interest income and asset balances associated with each fund established in connection with the obligation. This includes an accounting of all monies deposited to the Debt Service Account to make debt service payments on the obligation, regardless of the source derived. Accounting for expenditures and assets is described in further detail in Section 3b.

ii. Statements prepared by Trustee or Investment Provider.

iii. Documentation of at least quarterly allocations of investments and investment earnings to each obligation (i.e. uncommingling analysis).

iv. Documentation for investments made with obligation proceeds such as:

1. Investment contracts (i.e. guaranteed investment contracts).
2. Credit enhancement transactions (i.e. bond insurance contracts).
3. Financial derivatives (swaps, caps, etc.).
4. Bidding of financial products.
   - Investments acquired with obligation proceeds are purchased at fair market value (i.e. three bids for open market securities needed in advance refunding escrows).

b. Computations of the arbitrage yield.

c. Computations of yield restriction and rebate amounts including but not limited to:

i. Compliance in meeting the "Temporary Period from Yield Restriction Exception" and limiting the investment of funds after the temporary period expires.

ii. Compliance in meeting the "Rebate Exception."

1. Qualifying for the "Small Issuer Exception."
2. Qualifying for a "Spending Exception."
   - 6 Month Spending Exception
   - 18 Month Spending Exception
   - 24 Month Spending Exception
3. Qualifying for the "Bona Fide Debt Service Fund Exception."
4. Quantifying arbitrage on all funds established in connection with the obligation in lieu of satisfying arbitrage exceptions (including Reserve Funds and Debt Service Funds).

d. Computations of yield restriction and rebate payments.

e. Timely Tax Form 8038-T filing, if applicable.

i. Remit any arbitrage liability associated with the obligation to the IRS at each five year anniversary date of the obligation, and the date in which the obligation is no longer outstanding (redemption or maturity date), whichever comes sooner, within 60 days of said date.

f. Timely Tax Form 8038-R filing, if applicable.

g. Procedures or guidelines for monitoring instances where compliance with applicable yield restriction requirements depends on subsequent reinvestment of obligation proceeds in lower yielding investments (i.e. reinvestment in zero coupon SLGS).

4. <u>Expenditure and Asset Documentation to be Assembled and Retained</u>

a. Documentation of allocations of obligation proceeds to expenditures (i.e. allocation of proceeds to expenditures for the construction, renovation or purchase of facilities owned and used in the performance of exempt purposes).

b. Documentation of allocations of obligation proceeds to issuance costs.

c. Copies of requisitions, draw schedules, draw requests, invoices, bills and cancelled checks related to obligation proceed expenditures during the construction period.

d. Copies of all contracts entered into for the construction, renovation or purchase of facilities financed with obligation proceeds.

e. Records of expenditure reimbursements incurred prior to issuing bonds for facilities financed with obligation proceeds (Declaration of Official Intent/Reimbursement Resolutions including all modifications).

f. List of all facilities and equipment financed with obligation proceeds.

g. Depreciation schedules for depreciable property financed with obligation proceeds.

h. Documentation that tracks the purchase and sale of assets financed with obligation proceeds.

i. Documentation of timely payment of principal and interest payments on the obligation.

j. Tracking of all issue proceeds and the transfer of proceeds into the debt service fund as appropriate.

k. Documentation that excess earnings from a Reserve Fund is transferred to the Debt Service Fund on an annual basis. Excess earnings are balances in a Reserve Fund that exceed the Reserve Fund requirement.

5. <u>Miscellaneous Documentation to be Assembled and Retained</u>

a. Procedures to ensure that the project, while the obligation is outstanding, will avoid IRS private business concerns.

b. Changes in the project that impact the terms or commitments of the obligation are properly documented and necessary certificates or opinions are on file.

6. Additional Undertakings and Activities that Support Sections 1 through 4 above

a. The CFO/Executive Director of Business Services will notify the District's Bond Counsel, Financial Advisor and Arbitrage Provider of any survey or inquiry by the IRS immediately upon receipt (Usually responses to IRS inquiries are due within 21 days of receipt. Such IRS responses require the review of the above mentioned data and must be in writing. As much time as possible is helpful in preparing the response).

b. The CFO/Executive Director of Business Services will consult with the District's Bond Counsel, Financial Advisor and Arbitrage Provider before engaging in post-issuance credit enhancement transactions (i.e. bond insurance, letter of credit, or hedging transactions (i.e. interest rate swap, cap).

c. The CFO/Executive Director of Business Services will monitor all "qualified tax-exempt debt obligations" within the first calendar year to determine if the limit is exceeded, and if exceeded, will address accordingly. For tax-exempt debt obligations issued during years 2009 and 2010, the limit is $30,000,000 (The limit was $10,000,000 prior to 2009. In 2011 and thereafter it will remain at $10,000,000 unless changed by Congress). During this period, the limit also applies to pooled financings of the governing body and provides a separate $30,000,000 for each 501 (c)(3) conduit borrower.

d. Comply with Continuing Disclosure Requirements

i. If applicable, the timely filing of annual information agreed to in the Continuing Disclosure Certificate.

ii. Give notice of any Material Event.

e. Identify any post-issuance change to terms of bonds which could be treated as a current refunding of "old" bonds by "new" bonds, often referred to as a "reissuance".

f. Confirm whether any "remedial action" in connection with a "change of use" must be treated as a "reissuance".

g. The CFO/Executive Director of Business Services will put written procedures in place which designate and direct certain individuals to submit the appropriate tax form and application for federal subsidy payments in a timely fashion for applicable obligations (i.e. Build America Bonds).

7. Compliance with Future Requirements

a. Take measures to comply with any future requirements issued beyond the date of these Post-Issuance Debt Compliance Procedures which are essential to ensuring compliance with the applicable state and federal regulations.