

The IRS required public school districts to declare an official intent to reimburse itself for certain previously paid expenditures from the proceeds of subsequent Bonds or other borrowings. The resolution permits reimbursement to the general fund from the Certificates of Participation for preliminary expenses such as architectural, engineering, surveying, and soil testing. **I recommend approving the Reimbursement Resolution.**

CERTIFICATION OF MINUTES

ISSUER: INDEPENDENT SCHOOL DISTRICT NO. 726
(BECKER PUBLIC SCHOOLS)
BECKER, MINNESOTA

GOVERNING BODY: SCHOOL BOARD

KIND, DATE, TIME AND PLACE OF MEETING:

A regular meeting held December 4, 2017, at 6:30 o'clock p.m., in the School District.

MEMBERS PRESENT:

MEMBERS ABSENT:

DOCUMENTS ATTACHED: Extract of Minutes of said meeting.

**RESOLUTION ESTABLISHING PROCEDURES FOR
REIMBURSEMENT OF CERTAIN EXPENDITURES
FROM PROCEEDS OF FUTURE BOND ISSUES OR
OTHER BORROWINGS**

I, the undersigned, being the duly qualified and acting recording officer of the public corporation referred to in this certificate, certify that the documents attached hereto, as described above, have been carefully compared with the original records of said corporation in my legal custody, from which they have been transcribed; that said documents are a correct and complete transcript of the minutes of a meeting of the governing body of said corporation, and correct and complete copies of all resolutions and other actions taken and of all documents approved by the governing body at said meeting, as listed above; and that said meeting was duly held by the governing body at the time and place and was attended throughout by the members indicated above, pursuant to call and notice of such meeting given as required by law.

WITNESS MY HAND officially as such recording officer this ____ day of December, 2017.

School District Clerk

Member _____ moved the adoption of the following resolution:

RESOLUTION ESTABLISHING PROCEDURES FOR
REIMBURSEMENT OF CERTAIN EXPENDITURES
FROM PROCEEDS OF FUTURE BOND ISSUES
OR OTHER BORROWINGS

BE IT RESOLVED by the School Board of Independent School District No. 726, State of Minnesota, as follows:

1. Purpose. The Internal Revenue Service has issued Treasury Regulations Section 1.150-2 (the "Regulations") to provide rules governing Bonds issued after June 30, 1993, the proceeds of which are allocated to reimburse an Issuer for certain expenditures made prior to the date of issue of those Bonds. An allocation of the proceeds of a Bond issue to reimburse certain previously paid expenditures must comply with the Regulations to be an expenditure of Bond proceeds. If a Bond meets the requirements of the Regulations, the Bond proceeds are deemed to be spent when they are allocated to reimburse the prior expenditure. The Board of Independent School District No. 726 (the "District") desires to establish procedures necessary to comply with those Regulations. The terms used in this resolution shall be as defined in the Regulations.

2. Official Intent Requirement. The Regulations, in those situations in which they are applicable, require a District to declare a reasonable official intent (the "Official Intent Declaration") to reimburse itself for certain previously paid expenditures from the proceeds of subsequent Bonds or other borrowings of the District (the "Bonds"). The Board hereby authorizes the superintendent or the director of business services to make the District's Official Intent Declarations or to delegate that responsibility from time to time to other appropriate District officers or employees. Each Official Intent Declaration shall comply with the requirements of the Regulations, including, without limitation, the following:

a) Each Official Intent Declaration shall be made not later than sixty (60) days after the date the District pays the applicable expenditure and shall state that the District reasonably intends to reimburse itself for those expenditures with the proceeds of a future borrowing;

b) Each Official Intent Declaration shall, at a minimum, contain a general functional description of the property, project or program for which the expenditure to be reimbursed is paid (for example, "acquisition and betterment of school facilities" or a specific identifiable project). In the alternative, a description is sufficient if it identifies the fund or account from which the expenditure is to be paid and a general functional description of that fund or account (for example: General Fund - general school district operations and maintenance; Capital Expenditure Fund - school district equipment and capital improvements);

- c) Each Official Intent Declaration shall contain a statement of the maximum principal amount of debt to be issued for the purposes of the specified property, project or program;
- d) Each Official Intent Declaration shall be considered public data and shall be made available for public inspection in compliance with the Minnesota Government Data Practices Act at the main administrative offices of the District within a reasonable period of time, but not to exceed 30 days, after the date of said declaration. An Official Intent Declaration shall remain available for public inspection until at least the day after the issuance of the Bonds from which the prior expenditures are to be reimbursed, and shall be made available to the Bond counsel for that issue.

It is the intention of the Board that an Official Intent Declaration shall be made only if, as of the date of the declaration, the District reasonably expects that it will reimburse the expenditure with Bond or borrowing proceeds. The Board understands that the determination as to whether the expectation to reimburse is reasonable is based on all relevant facts and circumstances, including the purpose for the declaration, the history of actual reimbursement of other expenditures for which official intent was declared and which were actually paid, and the District's actions taken toward reimbursement of the expenditures.

3. Reimbursement Period Requirement. The administration shall advise the Board from time to time on timing issues relating to reimbursements for which Official Intent Declarations have been made, including recommendations on the timing of the issuance of Bonds so that the reimbursement allocations occur not earlier than the dates on which the expenditures are paid and not later than eighteen (18) months after the later of (a) the date on which the expenditure is paid or (b) the date on which the property is placed in service or abandoned (but in no event more than three (3) years after the original expenditure, except as provided in Treas. Reg. 1.150-2(2)(d)(ii) and (iii). The officials designated above to make the Official Intent Declarations shall also be responsible for making the appropriate reimbursement allocations to reimburse the source of temporary financing used by the District to make the payments for the prior expenditures. Each allocation shall be evidenced by an entry on the official books, records or accounts of the District maintained for such reimbursement Bonds; shall specifically identify the actual prior expenditure being reimbursed or, in the case of a reimbursement of a particular fund or account, the fund or account from which the expenditure was previously paid. This allocation shall be effective to relieve the Bond proceeds involved from any restrictions under the Bond resolution or other relevant legal documents for those Bonds and under any other state statute applicable to unspent proceeds of that Bond issue.

4. Capital Expenditure Requirement.

a) General. An original expenditure to be reimbursed from Bond proceeds must be a capital expenditure, a cost of issuance for a Bond or an expenditure defined in the applicable Treasury Regulation.

b) Capital Expenditures. The term "capital expenditure" as used in the Regulations means any cost of a type that is properly chargeable to a capital account. Whether an expenditure is a capital expenditure is determined at the time the expenditure is paid. Capital expenditures do not include expenditures for items of current operating expense that are not properly chargeable to a capital account. Costs incurred to acquire, construct or improve land, buildings, and equipment generally are capital expenditures. Under the Regulations, the issuance costs of issuing reimbursement Bonds are also treated as capital expenditures.

c) Preliminary Expenditures. The Official Intent Requirement does not apply to preliminary expenditures that are reimbursed with proceeds of a Bond that finances all or a portion of the property, project or program with respect to which the preliminary expenditures were incurred. The term "preliminary expenditures" includes architectural, engineering, surveying, soil testing, reimbursement Bond issuance, and similar costs that are incurred prior to commencement, rehabilitation or acquisition of a property, project or program, but does not include land acquisition, site preparation and similar costs incident to commencement of construction. Preliminary expenditures include only amounts that do not exceed in the aggregate twenty percent (20%) of the issue price of that portion of a Bond issue or Bond issues that finance the property, project or program with respect to which the preliminary expenditures were incurred.

d) Transition Rule Expenditures. The Official Intent Requirement also does not apply to certain expenditures paid by the Issuer if the expenditures comply with the transition rule provisions of the Regulations.

The motion for the adoption of the foregoing resolution was duly seconded by Member _____, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

DECLARATION OF OFFICIAL INTENT

The undersigned, being the duly appointed and acting _____
(title)

of Independent School District No. 726 (the "District") pursuant to and for purposes of compliance with Treasury Regulations Section 1.150-2 (the "Regulations"), which have been promulgated under the Internal Revenue Code of 1986, as amended, hereby states and certifies as follows:

1. Purpose. The undersigned has been and is on the date hereof duly authorized by the School Board of the District, to make and execute this Declaration of Official Intent (the "Declaration") for and on behalf of the District. This Declaration is a declaration of official intent under Treasury Regulations Section 1.150-2.

[Note: the following paragraphs 2a and 2b are alternatives; one or the other of those paragraphs must be completed, both may be, if applicable.]

2a. Project Description. The property, project, or program for which the Expenditures to be reimbursed will be paid is generally and functionally described as follows:

(check and complete, as applicable)

- Acquisition and betterment of school facilities
- Other use - (specify) _____
- A specific identifiable project - (specify) _____

2b. Fund or Account Description. The specific fund or account of the District from which the expenditure to be reimbursed will be paid, and the general functional purpose of that fund or account, are as follows:

(check and complete, as applicable)

- General Fund - District operations and maintenance
- Capital Expenditure Fund - District equipment and capital improvements
- Other Fund or Account: Specify and describe _____

3. Loans or Grants.

(check if this paragraph is applicable)

YES

The District intends to make the reimbursements described above from the proceeds of Bonds or other borrowings only if a grant or loan that the District is expecting for that property, project or

NO

program is not received or is received a substantial period of time after the expenditures have been paid.

4. Debt to be Issued. The maximum principal amount of the debt expected to be issued by the District for the purpose of reimbursing the expenditures to which this Declaration relates (the "Expenditures") is on the date hereof reasonably estimated to be \$_____. Each of the Expenditures is (or would be with a proper election) a capital expenditure under federal tax law principles, as described in the Regulations.

5. Reasonable Expectation to Reimburse. This Declaration has been made within sixty (60) days after the date the District has paid the Expenditures and the District intends and reasonably expects to reimburse itself for the payment of the Expenditures out of the proceeds of a borrowing (the "Bonds"), which the District reasonably expects to make after the date of payment of the Expenditures.

6. Reasonableness. As of the date hereof, there are no sources of District funds which have been or are reasonably expected to be allocated or available on a long-term basis, reserved, or otherwise set aside to provide permanent financing for the Expenditures, other than pursuant to the subsequent issuance of the Bonds. On the basis of the foregoing, the statements and certifications contained in this Declaration are believed to be reasonable and accurate, and this Declaration is believed to be consistent with the District's budgetary and financial circumstances as they exist or as are reasonably foreseeable on the date hereof, all within the meaning of the Regulations.

7. Public Availability. This Declaration is and shall remain a part of the publicly available official books, records, or proceedings of the District and shall be continuously available for inspection by the general public at the main administrative offices of the District during the District's regular business hours for a period ending not earlier than the day after the issuance of the Bonds from which the Expenditures are to be reimbursed. Upon request, the Declaration shall be made available to the Bond counsel for those Bonds subsequently issued.

IN WITNESS WHEREOF, the undersigned duly authorized individual has executed this Declaration and placed it on file in the official records of the District on the date specified below.

_____, 2017

/s/

Title _____

Independent School District No. 726
(Becker Public Schools)

Becker, Minnesota

STATUTORY AUTHORITY

Internal Revenue Service, Treasury: Sec. 1.150-2 **Proceeds of bonds used for reimbursement.**

(a) Table of contents. This table of contents contains a listing of the headings contained in Sec. 1.150-2.

- (a) Table of contents.
- (b) Scope.
- (c) Definitions.
- (d) General operating rules for reimbursement expenditures.
 - (1) Official intent.
 - (2) Reimbursement period.
 - (3) Nature of expenditure.
- (e) Official intent rules.
 - (1) Form of official intent.
 - (2) Project description in official intent.
 - (3) Reasonableness of official intent.
- (f) Exceptions to general operating rules.
 - (1) De minimis exception.
 - (2) Preliminary expenditures exception.
- (g) Special rules on refundings.
 - (1) In general--once financed, not reimbursed.
 - (2) Certain proceeds of prior issue used for reimbursement treated as unspent.
- (h) Anti-abuse rules.
 - (1) General rule.
 - (2) One-year step transaction rule.
- (i) Authority of the Commissioner to prescribe rules.
- (j) Effective date.
 - (1) In general.
 - (2) Transitional rules.

(b) Scope. This section applies to reimbursement bonds (as defined in paragraph (c) of this section) for all purposes of sections 103 and 141 to 150.

(c) Definitions. The following definitions apply:

Issuer means--

(1) For any private activity bond (excluding a qualified 501(c)(3) bond, qualified student loan bond, qualified mortgage bond, or qualified veterans' mortgage bond), the entity that actually issues the reimbursement bond; and

(2) For any bond not described in paragraph (1) of this definition, either the entity that actually issues the reimbursement bond or, to the extent that the reimbursement bond proceeds are to be loaned to a conduit borrower, that conduit borrower.

Official intent means an issuer's declaration of intent to reimburse an original expenditure with proceeds of an obligation.

Original expenditure means an expenditure for a governmental purpose that is originally paid from a source other than a reimbursement bond.

Placed in service means, with respect to a facility, the date on which, based on all the facts and circumstances--

(1) The facility has reached a degree of completion which would permit its operation at substantially its design level; and

(2) The facility is, in fact, in operation at such level.

Reimbursement allocation means an allocation in writing that evidences an issuer's use of proceeds of a reimbursement bond to reimburse an original expenditure. An allocation made within 30 days after the issue date of a reimbursement bond may be treated as made on the issue date.

Reimbursement bond means the portion of an issue allocated to reimburse an original expenditure that was paid before the issue date.

(d) General operating rules for reimbursement expenditures. Except as otherwise provided, a reimbursement allocation is treated as an expenditure of proceeds of a reimbursement bond for the governmental purpose of the original expenditure on the date of the reimbursement allocation only if:

(1) Official intent. Not later than 60 days after payment of the original expenditure, the issuer adopts an official intent for the original expenditure that satisfies paragraph (e) of this section.

(2) **Reimbursement period--(i) In general.** The reimbursement allocation is made not later than 18 months after the later of--

(A) The date the original expenditure is paid; or

(B) The date the project is placed in service or abandoned, but in no event more than 3 years after the original expenditure is paid.

(ii) **Special rule for small issuers.** In applying paragraph (d)(2)(i) of this section to an issue that satisfies section 148(f)(4)(D)(i) (I) through (IV), the "18 month" limitation is changed to "3 years" and the "3-year" maximum reimbursement period is disregarded.

(iii) **Special rule for long-term construction projects.** In applying paragraph (d)(2)(i) to a construction project for which both the issuer and a licensed architect or engineer certify that at least 5 years is necessary to complete construction of the project, the maximum reimbursement period is changed from "3 years" to "5 years."

(3) **Nature of expenditure.** The original expenditure is a capital expenditure, a cost of issuance for a bond, an expenditure described in Sec. 1.148-6(d)(3)(ii)(B) (relating to certain extraordinary working capital items), a grant (as defined in Sec. 1.148-6(d)(4)), a qualified student loan, a qualified mortgage loan, or a qualified veterans' mortgage loan.

(e) **Official intent rules.** An official intent satisfies this paragraph (e) if:

(1) **Form of official intent.** The official intent is made in any reasonable form, including issuer resolution, action by an appropriate representative of the issuer (e.g., a person authorized or designated to declare official intent on behalf of the issuer), or specific legislative authorization for the issuance of obligations for a particular project.

(2) **Project description in official intent--(i) In general.** The official intent generally describes the project for which the original expenditure is paid and states the maximum principal amount of obligations expected to be issued for the project. A project includes any property, project, or program (e.g., highway capital improvement program, hospital equipment acquisition, or school building renovation).

(ii) **Fund accounting.** A project description is sufficient if it identifies, by name and functional purpose, the fund or account from which the original expenditure is paid (e.g., parks and recreation fund--recreational facility capital improvement program).

(iii) **Reasonable deviations in project description.** Deviations between a project described in an official intent and the actual project financed with reimbursement bonds do not invalidate the

official intent to the extent that the actual project is reasonably related in function to the described project. For example, hospital equipment is a reasonable deviation from hospital building improvements. In contrast, a city office building rehabilitation is not a reasonable deviation from highway improvements.

(3) Reasonableness of official intent. On the date of the declaration, the issuer must have a reasonable expectation (as defined in Sec. 1.148-1(b)) that it will reimburse the original expenditure with proceeds of an obligation. Official intents declared as a matter of course or in amounts substantially in excess of the amounts expected to be necessary for the project (e.g., blanket declarations) are not reasonable. Similarly, a pattern of failure to reimburse actual original expenditures covered by official intents (other than in extraordinary circumstances) is evidence of unreasonableness. An official intent declared pursuant to a specific legislative authorization is rebuttably presumed to satisfy this paragraph (e)(3).

(f) Exceptions to general operating rules--(1) De minimis exception. Paragraphs (d)(1) and (d)(2) of this section do not apply to costs of issuance of any bond or to an amount not in excess of the lesser of \$100,000 or 5 percent of the proceeds of the issue.

(2) Preliminary expenditures exception. Paragraphs (d)(1) and (d)(2) of this section do not apply to any preliminary expenditures, up to an amount not in excess of 20 percent of the aggregate issue price of the issue or issues that finance or are reasonably expected by the issuer to finance the project for which the preliminary expenditures were incurred. Preliminary expenditures include architectural, engineering, surveying, soil testing, reimbursement bond issuance, and similar costs that are incurred prior to commencement of acquisition, construction, or rehabilitation of a project, other than land acquisition, site preparation, and similar costs incident to commencement of construction.

(g) Special rules on refundings--(1) In general--once financed, not reimbursed. Except as provided in paragraph (g)(2) of this section, paragraph (d) of this section does not apply to an allocation to pay principal or interest on an obligation or to reimburse an original expenditure paid by another obligation. Instead, such an allocation is analyzed under rules on refunding issues. See Sec. 1.148-9.

(2) Certain proceeds of prior issue used for reimbursement treated as unspent. In the case of a refunding issue (or series of refunding issues), proceeds of a prior issue purportedly used to reimburse original expenditures are treated as unspent proceeds of the prior issue unless the purported reimbursement was a valid expenditure under applicable law on reimbursement expenditures on the issue date of the prior issue.

(h) Anti-abuse rules--(1) General rule. A reimbursement allocation is not an expenditure of proceeds of an issue under this section if the allocation employs an abusive arbitrage device under Sec. 1.148-10 to avoid the arbitrage restrictions or to avoid the restrictions under sections 142 through 147.

(2) One-year step transaction rule--(i) Creation of replacement proceeds. A purported reimbursement allocation is invalid and thus is not an expenditure of proceeds of an issue if, within 1 year after the allocation, funds corresponding to the proceeds of a reimbursement bond for which a reimbursement allocation was made are used in a manner that results in the creation of replacement proceeds (as defined in Sec. 1.148-1) of that issue or another issue. The preceding sentence does not apply to amounts deposited in a bona fide debt service fund (as defined in Sec. 1.148-1).

(ii) Example. The provisions of paragraph (h)(2)(i) of this section are illustrated by the following example.

Example. On January 1, 1994, County A issues an issue of 7 percent tax-exempt bonds (the 1994 issue) and makes a purported reimbursement allocation to reimburse an original expenditure for specified capital improvements. A immediately deposits funds corresponding to

the proceeds subject to the reimbursement allocation in an escrow fund to provide for payment of principal and interest on its outstanding 1991 issue of 9 percent tax-exempt bonds (the prior issue). The use of amounts corresponding to the proceeds of the reimbursement bonds to create a sinking fund for another issue within 1 year after the purported reimbursement allocation invalidates the reimbursement allocation. The proceeds retain their character as unspent proceeds of the 7 percent issue upon deposit in the escrow fund. Accordingly, the proceeds are subject to the 7 percent yield restriction of the 1994 issue instead of the 9 percent yield restriction of the prior issue.

(i) Authority of the Commissioner to prescribe rules. The Commissioner may by revenue ruling or revenue procedure (see Sec. 601.601(d)(2)(ii)(b) of this chapter) prescribe rules for the expenditure of proceeds of reimbursement bonds in circumstances that do not otherwise satisfy this section.

(j) Effective date--(1) In general. The provisions of this section apply to all allocations of proceeds of reimbursement bonds issued after June 30, 1993.

(2) Transitional rules--(i) Official intent. An official intent is treated as satisfying the official intent requirement of paragraph (d)(1) of this section if it--

(A) Satisfied the applicable provisions of Sec. 1.103-8(a)(5) as in effect prior to July 1, 1993, (as contained in 26 CFR part 1 revised as of April 1, 1993) and was made prior to that date, or

(B) Satisfied the applicable provisions of Sec. 1.103-18 as in effect between January 27, 1992, and June 30, 1993, (as contained in 26 CFR part 1 revised as of April 1, 1993) and was made during that period.

(ii) Certain expenditures of private activity bonds. For any expenditure that was originally paid prior to August 15, 1993, and that would have qualified for expenditure by reimbursement from the proceeds of a private activity bond under T.D. 7199, section 1.103-8(a)(5), 126872-2 C.B. 45 (see Sec. 601.601(d)(2)(ii)(b)) of this chapter, the requirements of that section may be applied in lieu of this section.

[T.D. 8476, 58 FR 33551, June 18, 1993; 58 FR 44453, Aug. 23, 1993]