



## UNITED INDEPENDENT SCHOOL DISTRICT AGENDA ACTION ITEM

**TOPIC** Consideration and Approval of a Resolution by the Board of Trustees of the United Independent School District establishing the District's intention to reimburse itself for the prior lawful expenditure of funds from the proceeds of obligations to be issued by District for authorized purposes, and other matters in connection therewith

**SUBMITTED BY:** Juan Cruz **OF:** School Attorney

**APPROVED FOR TRANSMITTAL TO SCHOOL BOARD:** \_\_\_\_\_

**DATE ASSIGNED FOR BOARD CONSIDERATION:** January 26, 2012

### RECOMMENDATION:

It is recommended that the United ISD Board of Trustees Consider and Approve a Resolution by the Board of Trustees of the United Independent School District establishing the District's intention to reimburse itself for the prior lawful expenditure of funds from the proceeds of obligations to be issued by District for authorized purposes, and other matters in connection therewith.

### RATIONALE:

### BUDGETARY INFORMATION

### BOARD POLICY REFERENCE AND COMPLIANCE

**A RESOLUTION BY THE BOARD OF TRUSTEES OF THE UNITED INDEPENDENT SCHOOL DISTRICT ESTABLISHING THE DISTRICT'S INTENTION TO REIMBURSE ITSELF FOR THE PRIOR LAWFUL EXPENDITURE OF FUNDS FROM THE PROCEEDS OF OBLIGATIONS TO BE ISSUED BY DISTRICT FOR AUTHORIZED PURPOSES, AND OTHER MATTERS IN CONNECTION THEREWITH**

WHEREAS, the Board of Trustees (the *Governing Body*) of the UNITED INDEPENDENT SCHOOL DISTRICT (the *Issuer*) has entered into or will enter into various contracts pertaining to the expenditure of lawfully available funds of the Issuer to finance the costs associated with: (i) renovating, equipping, or otherwise improving certain school facilities; (ii) the payment of various engineering costs, including design testing, design engineering, and construction inspection related to the Construction Costs (the *Engineering Costs*); (iii) the payment of various architectural costs, including preparation of plans and specifications and various other plans and drawings related to the Construction Costs (the *Architectural Costs*); and (iv) the payment of various administrative costs, including the fees of legal counsel, financial advisor, and bond printer [the *Administrative Costs*, the Construction Costs, Engineering Costs, the Architectural Costs, and Administrative Costs collectively constitute costs of the project (the *Project*)]; and

WHEREAS, the provisions of Government Code Section 1201.42(c), as amended, provide that the proceeds from the sale of obligations issued to finance the acquisition, construction, equipping, or funding of any project or facilities, such as the Project, may be used to reimburse the Issuer, for costs attributable to such project or facilities paid or incurred before the date of issuance of such obligations; and

WHEREAS, the United States Department of Treasury (the *Department*) released Regulation Section 1.150-2 (the *Regulations*) which establishes when the proceeds of obligations are spent and therefore are no longer subject to various federal income tax restrictions contained in the Internal Revenue Code of 1986, as amended (the *Code*); and

WHEREAS, the Issuer intends to reimburse itself, within eighteen months from the later of the date of expenditure or the date the property financed is placed in service (but in no event more than three years after the original expenditures is paid), for the prior lawful capital expenditure of funds from the proceeds of one or more series of obligations (the *Obligations*) that the Issuer currently contemplates issuing an amount not to exceed \$5,000,000 to finance a portion of the costs of the Project; and

WHEREAS, under the Regulations, to fund such reimbursement with proceeds of the Obligations, the Issuer must declare its expectation ultimately to make such reimbursement before making the expenditures; and

WHEREAS, the Issuer hereby finds and determines that the reimbursement for the prior expenditure of funds of the Issuer is not inconsistent with the Issuer's budgetary and financial circumstances; and



WHEREAS, the Governing Body hereby finds and determines that the adoption of this Resolution is in the best interests of the Issuer; now, therefore,

BE IT ORDERED BY THE BOARD OF TRUSTEES OF THE UNITED INDEPENDENT SCHOOL DISTRICT THAT:

Section 1. This Resolution is a declaration of intent to establish the Issuer's reasonable, official intent under section 1.150-2 of the Regulations to reimburse itself from the proceeds of the Obligations for any capital expenditures previous incurred with respect to the Project from lawfully available general funds or other funds of the Issuer.

Section 2. The Issuer intends to issue the Obligations and allocate within 30 days after the date of issue of the Obligations the proceeds therefrom to reimburse the Issuer for prior lawful expenditures with respect to the Project in a manner to comply with the Regulations.

Section 3. The reimbursement expenditure will be a type properly chargeable to a capital account (or would be so chargeable with a proper election) under general Federal income tax principles.

Section 4. The Issuer intends to otherwise comply with all the requirements contained in the Regulations.

Section 5. This Resolution may be relied upon by the appropriate officials at the Office of the Attorney General for the State of Texas, and establishes compliance by the Issuer with the requirements of Texas law and the Regulations.

Section 6. With respect to the proceeds of the Obligations allocated to reimburse the Issuer for prior expenditures, the Issuer shall not employ an abusive device under Treasury Regulation Section 1.148-10, including using within one year of the reimbursement allocation, the funds corresponding to the proceeds of the Obligations in a manner that results in the creation of replacement proceeds, as defined in Treasury Regulation Section 1.148-1, of the Obligations or another issuer of obligations.

Section 7. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Governing Body.

Section 8. All Resolutions and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters Ordered herein.

Section 9. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 10. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Governing Body hereby declares that this Resolution would have been enacted without such invalid provision.

Section 11. This Resolution shall be in force and effect from and after its final passage, and it is so Ordered.

*[The remainder of this page intentionally left blank]*

**PASSED, ADOPTED AND APPROVED** on this the \_\_\_\_\_, 2012.

**UNITED INDEPENDENT SCHOOL  
DISTRICT**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: President

ATTEST:

\_\_\_\_\_  
Secretary

(DISTRICT SEAL)



## CERTIFICATE FOR RESOLUTION

STATE OF TEXAS

208

COUNTY OF WEBB

ss

UNITED

ss

INDEPENDENT SCHOOL DISTRICT

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We, the undersigned officers of the Board of Trustees of the United Independent School District (the "District"), hereby certify as follows:

1. The Board of Trustees of the District (the "Board") convened in REGULAR/SPECIAL MEETING ON THE \_\_\_\_\_ day of \_\_\_\_\_, 2012, at the regular designated meeting place (the "Meeting"), and the roll was called on the duly constituted officers and members of the Board, to-wit:

Judd Gilpin, President  
 Juan Roberto Ramirez, Vice President  
 Ricardo Rodriguez, Secretary  
 Ricardo Molina, Sr., Parliamentarian  
 Pat Campos, Member  
 Javier Montemayor, Jr., Member  
 Juan A. Molina, Jr., Member

and all of said persons were present, except the following absentees:

Trustee(s), thus constituting a quorum. Whereupon, among other business the following was transacted at the Meeting: a written

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(the "Resolution") was duly introduced for the consideration of the Board. It was then duly moved and seconded that the Resolution be passed; and, after due discussion, said motion, carrying with it the passage of the Resolution, prevailed and carried by the following votes:

**AYES: \_\_\_\_ NOES: \_\_\_\_ ABSTENTIONS: \_\_\_\_**

2. A true, full, and correct copy of the Resolution passed at the Meeting is attached to and follows this Certificate; the Resolution has been duly recorded in the Board's minutes of the Meeting; the above and foregoing paragraph is a true, full, and correct excerpt from the Board's minutes of the Meeting pertaining to the passage of the Resolution; the persons named in

the above and foregoing paragraph are the duly chosen, qualified, and acting officers and members of the Board as indicated therein; each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of the Meeting, and each of the officers and members consented, in advance, to the holding of the Meeting for such purpose; and the Meeting was open to the public, and public notice of the time, place, and purpose of the Meeting was given all as required by Chapter 551, Texas Government Code.

3. The President and Secretary of the Board of Trustees of the District hereby declare that their signing of this Certificate shall constitute the signing of the attached and following copy of the Resolution for all purposes.

*[The remainder of page intentionally left blank.]*

SIGNED AND SEALED on this the \_\_\_\_\_, 2012.

\_\_\_\_\_  
Secretary, Board of Trustees

\_\_\_\_\_  
President, Board of Trustees

(DISTRICT SEAL)