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5 Tax Compliance Policy

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7 Tax Compliance Policy and Procedures for Tax-Exempt Bonds (TEP), Qualified Zone Academy  
8 Bonds (QZAB), and Qualified School Construction Bonds (QSCB)

9  
10 I. Purpose

11 To ensure (1) that interest on tax-exempt bonds of the Issuer (or "TEBs") remains excludable from  
12 gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code");  
13 and (2) that bonds, the interest on which would otherwise be excludable from gross income under  
14 Section 103 of Code, intended to be issued as Qualified Zone Academy Bonds under Section 54E  
15 of the Code (or "QZABs") or Qualified School Construction Bonds under Section 54F of the Code  
16 (or "QSCBs"), will be qualified, and will continue to be qualified, as such, with the result that  
17 either: (i) the Issuer shall be entitled to a credit, as provided in Section 6431 of the Code, or (ii)  
18 the purchaser of the bonds is entitled to a federal income tax credit at a rate determined pursuant  
19 to Section 54A of the Code.

20  
21 These written procedures are intended to memorialize certain policies and practices of the Issuer  
22 previously adopted or followed by the Issuer in connection with its issuance of TEBs, QZABs and  
23 QSCBs (collectively, "Bonds").

24  
25 The Issuer's policy for compliance is as follows:

26  
27 II. QZAB/QSCB Designations and Elections

- 28 A. A QZAB Bond Resolution, or a certificate of an authorized officer of the Issuer dated and  
29 executed not later than the date of issue of the QZABs, shall, within the bond limitation  
30 allocated to the Issuer under Section 54E(c) of the Code, (a) irrevocably designate the  
31 QZABs as such and irrevocably elect to have Section 54E of the Code apply to the QZABs,  
32 and (b) represent or find that it has written assurances that the private business contribution  
33 requirement of Section 54E(b) will be met, that it is an eligible local education agency, that  
34 the school facilities at which the Project will be undertaken constitute a qualified zone  
35 academy, that a comprehensive education plan has been designed, and, unless a project is  
36 located in a federally-designated empowerment zone or renewal community as of the date  
37 of enactment of the American Recovery and Reinvestment Act of 2009 (the "Act"), that  
38 for the required period at least 35% of the students attending the financed facilities will be  
39 eligible for free or reduced-cost lunches under the National School Lunch Act. In the Bond  
40 Resolution, the Issuer shall irrevocably elect whether to receive federal payments under  
41 Section 6431 of the Code, or whether the Bonds shall provide individual federal income  
42 tax credits for bondholders under Section 54A of the Code.

- 1 B. A QSCB Bond Resolution, or a certificate of an authorized officer of the Issuer dated and  
2 executed not later than the date of issue of the QSCBs, shall, within the bond limitation  
3 allocated to the Issuer under Section 54F(d) of the Code, irrevocably designate the QSCBs  
4 as such, and irrevocably elect to have Section 54F of the Code apply to the QSCBs. In the  
5 Bond Resolution, the Issuer shall irrevocably elect whether to receive federal payments  
6 under Section 6431 of the Code, or whether the Bonds shall provide individual federal  
7 income tax credits for bondholders under Section 54A of the Code.  
8
- 9 C. Where the federal tax credit is pledged to pay principal of and interest on QZABs or  
10 QSCBs, the Issuer shall, by the Bond Resolution, covenant and agree with the registered  
11 owners from time to time of the QZABs/QSCBs that it will not take or permit to be taken  
12 by any of its officers, employees or agents, any action which would cause the  
13 QZABs/QSCBs to lose their status as such under the Code and applicable Treasury  
14 Regulations, and shall covenant to take any and all actions within the Issuer's powers to  
15 ensure that the QZABs/QSCBs will remain such under the Code and Treasury Regulations.  
16
- 17 D. In an Official Statement for QZABs/QSCBs, as applicable, the Issuer shall state that (a)  
18 interest on the QZABs/QSCBs is includible in gross income for federal income tax  
19 purposes (or they are "taxable"), (b) in the event that federal direct payments to the Issuer  
20 are elected, the QZABs/QSCBs are "direct payment," and (c) in the event that federal direct  
21 payments to the Issuer are elected, holders of the QZABs/QSCBs are not entitled to a tax  
22 credit as a result of ownership of such bonds.  
23

### 24 III. QZABs/QSCBs De Minimis Premium and Bond Yield Calculation

- 25 A. In the event that federal direct payments to the Issuer are elected, each Notice/Terms of  
26 Sale distributed for QZABs/QSCBs shall clearly state that (i) the expected reoffering price  
27 of such QZABs/QSCBs must be specified for each maturity, (ii) each such reoffering price  
28 cannot exceed the par amount of the maturity by more than 0.25% multiplied by the number  
29 of complete years to the earlier of the maturity date or the first optional redemption date  
30 for the maturity of such QZABs/QSCBs, and (iii) in the initial offering, no such  
31 QZABs/QSCBs may be sold for a price in excess of such limit unless the Internal Revenue  
32 Service provides authoritative guidance to the contrary.  
33
- 34 B. In the event that federal direct payments to the Issuer are elected, each Notice/Terms of  
35 Sale distributed for QZABs/QSCBs shall include a table listing the maximum permitted  
36 reoffering price for each maturity of such QZABs/QSCBs.  
37
- 38 C. In the event that federal direct payments to the Issuer are elected, prior to acceptance of a  
39 proposal for the purchase of QZABs/QSCBs, the District Clerk/Business Manager or the  
40 Issuer's financial advisor shall be responsible for computations to verify that the expected  
41 reoffering price, as certified by the purchaser, does not exceed the par amount of the  
42 maturity by more than 0.25% multiplied by the number of complete years to the earlier of

1 the maturity date or the first optional redemption date for the maturity of such  
2 QZABs/QSCBs, which computation shall be confirmed by the Issuer's financial advisor.  
3

- 4 D. The Certificate of Purchaser shall include certifications that: (a) the Bonds of each maturity  
5 were initially reoffered to the public at the prices shown therein or in the final Official  
6 Statement and (b) as of the date of sale of the Bonds, the purchaser reasonably expected  
7 that at least 10% of each maturity of the Bonds would be sold to members of the public  
8 (other than bond houses and brokers, or similar persons or organizations acting in the  
9 capacity of underwriters or wholesalers) at said public offering prices.
- 10 E. The Certificate of Purchaser shall provide a certification that, as of the date of issue of the  
11 Bonds, the purchaser has actually sold at least 10% of each maturity of the Bonds to  
12 members of the public at the public offering prices expected as of the date of sale; provided,  
13 however, that if the purchaser cannot provide this certification, the Issuer's financial  
14 advisor or bond counsel shall inquire as to the circumstances preventing sales at such prices  
15 and, for negotiated sales, the purchaser may be required to put an explanation in writing.  
16
- 17 F. The Issuer's Tax Certificate for QZABs/QSCBs shall certify that the "issue price" of the  
18 QZABs/QSCBs is the initial reoffering price of the QZABs/QSCBs to the public, and as  
19 shown in the Certificate of Purchaser, in the event that federal direct payments to the Issuer  
20 are elected, the issue price of the QZABs/QSCBs does not include more than a de minimis  
21 amount of premium.  
22
- 23 G. The District Clerk/Business Manager shall take reasonable steps as necessary to enable  
24 records of secondary market trading activity for Issuer Bonds to be available through the  
25 Municipal Securities Rulemaking Board's Electronic Municipal Market Access System  
26 ("EMMA").  
27
- 28 H. The District Clerk/Business Manager or the Issuer's financial advisor shall review records  
29 available through EMMA (or through other readily accessible and available sources) of the  
30 secondary market trading activity for Bonds between the sale date and the date of issue of  
31 the Bonds to determine if there is reason to question the reasonableness of the expectations  
32 of the purchaser as of the date of sale of the Bonds.  
33
- 34 I. In the event that federal direct payments to the Issuer are elected, financial advisors shall  
35 be advised that the yield on QZABs/QSCBs is to be computed in accordance with Section  
36 148 of the Code and reduced as required by Section 6431(c) of the Code to reflect the  
37 federal credit allowed to the Issuer.  
38
- 39 J. Financial advisors shall certify to the Issuer that the offer accepted by the Issuer for the  
40 purchase of Bonds is a reasonable offer under customary standards applicable in the  
41 municipal bond market for similar bonds and that, based upon their review of publicly  
42 available information relating to secondary market trades of the Bonds between the date of  
43 sale and the date of pre-closing and their knowledge of the conditions generally prevailing

1 in the municipal bond market between such dates, nothing has come to their attention that  
2 would lead them to question the representations of the purchaser contained in the  
3 Certificate of Purchaser.  
4

5 IV. Expenditure/Use of Bond Proceeds

6 A. Expenditure of Bond proceeds will be reviewed by the Superintendent.  
7

8 B. All requisitions of Bond proceeds shall be submitted to the District Clerk/Business  
9 Manager and such requisitions must identify the financed property in conformity with the  
10 Issuer's Tax Certificate executed at closing of the Bonds, including certifications as to the  
11 character and average economic life of the Bond-financed property.  
12

13 C. None of the proceeds of the Bonds will be used to reimburse the Issuer for costs of a capital  
14 project paid prior to the date of issuance of the QZABs/QSCBs unless the Issuer shall have  
15 fully complied with the provisions the Act with respect to such reimbursed amounts.

16 D. "Available Project Proceeds" for a QZABs/QSCBs issue shall be calculated as (a) the  
17 excess of the proceeds from the sale of the issue, over the issuance costs financed by the  
18 issue (to the extent that such costs do not exceed 2 percent of such proceeds), and (b) the  
19 proceeds from any investment of the excess described in (a).  
20

21 E. The amount of sale proceeds applied to finance issuance costs of the QZABs/QSCBs shall  
22 not in any case exceed 2% of the sale proceeds of the QZABs/QSCBs.  
23

24 F. 100% of the Available Project Proceeds for a QSCB issue will be used for the construction,  
25 rehabilitation, or repair of a public school facility or for the acquisition of land on which  
26 such a facility is to be constructed with part of the proceeds of such issue.  
27

28 G. 100% of the Available Project Proceeds for a QZAB issue will be used for rehabilitating  
29 or repairing the public school facility in which the academy is established. No portion of  
30 any proceeds will be used for new construction or land acquisition.  
31

32 H. The Issuer shall acknowledge in its Tax Certificate that a failure to use proceeds of the  
33 QZABs/QSCBs for purposes specified in such certificate may result in the retroactive loss  
34 of the federal tax credit that the Issuer or bondholder, as applicable, otherwise would be  
35 entitled to receive.  
36

37 I. Requisitions will be summarized in a "final allocation" of Bond proceeds to uses not later  
38 than 18 months after the in-service date of the Bond-financed property (and in any event  
39 not later than 5 years and 60 days after the issuance of the Bonds or not later than 60 days  
40 after earlier retirement of issue) in a manner consistent with allocations made to determine  
41 compliance with arbitrage yield restriction and rebate requirements.  
42

1 J. Expenditure of proceeds of the TEBs will be measured against the Issuer's Tax Certificate  
2 expectation to spend or commit 5% of net sale proceeds within 6 months, to spend 85% of  
3 net sale proceeds within 3 years, and to proceed with due diligence to complete the capital  
4 project and fully spend the net sale and investment proceeds. In the case of QZABs/QSCBs,  
5 100% of the Available Project Proceeds must be spent within three years from the date of  
6 issuance and the Issuer must also enter into a binding commitment with a third party to  
7 spend at least 10% of the available project proceeds within six months of the date of  
8 issuance.

9  
10 K. If there are any TEB proceeds remaining in the Construction Account established pursuant  
11 to the Bond Resolution after completion of the project, such proceeds shall be transferred  
12 to the Debt Service Account securing the TEBs.

13  
14 L. If there are any QZAB/QSCB proceeds remaining in the Construction Account established  
15 pursuant to the Bond Resolution after completion of the project that has not been applied  
16 to capital expenditures, the Superintendent shall consult with bond counsel.

17  
18 M. In the event that federal direct payments to the Issuer are elected, the Issuer's Tax  
19 Certificate for QZABs/QSCBs shall provide, and the District Clerk/Business Manager  
20 shall ensure, if the credit is deposited in the Debt Service Account created by the Bond  
21 Resolution, that such QZABs/QSCBs proceeds deposited in the Debt Service Account shall  
22 be applied to the payment of the portion of the interest due on such QZABs/QSCBs that is  
23 not paid by the IRS on the first interest payment date.

24  
25 V. Use of Bond-Financed Property

26 A. Use of Bond-financed property when completed and placed in service will be reviewed by  
27 the District Clerk/Business Manager. Appropriate department/facility managers shall be  
28 advised in writing concerning restrictions on the use of the proceeds and the facilities  
29 financed thereby and instructed to consult with bond counsel regarding any third-party  
30 contract concerning use of the facilities, including without limitation leases, use,  
31 management or service contracts, and research contracts.

32  
33 B. Upon issuance of Bonds, there shall be no expectation that the Bond-financed property will  
34 be sold or otherwise disposed of by the Issuer during the term of the Bonds.

35  
36 C. Agreements with business users for lease, use, management, or any other service with  
37 respect to, or non-governmental use of, Bond-financed property will be reviewed prior to  
38 execution for compliance with the Code. Such agreement will be approved by bond  
39 counsel, who will be responsible for determining whether the proposed agreement (1)  
40 results in private business use of the facilities, and (2) if applicable, meets the  
41 compensation, term and other requirements under Revenue Procedures 97-13 and 2007-  
42 47; all upon advice of bond counsel, as necessary.

43

1 D. No item of Bond-financed property will be sold or transferred by the Issuer without  
2 approval of the Superintendent upon advice of bond counsel or advance arrangement of a  
3 "remedial action" under the applicable Treasury Regulations.  
4

5 VI. Investments

6 A. Investment of Bond proceeds in compliance with the arbitrage and rebate requirements of  
7 the Code and applicable Treasury Regulations will be supervised by the District  
8 Clerk/Business Manager or the District's investment advisor.  
9

10 B. At closing, the Issuer will consult with the purchaser or financial advisor to the Issuer as to  
11 an estimate of the reasonably expected investment earnings on the sale proceeds of the  
12 QZABs/QSCBs, and such estimate shall be included in the Issuer's Tax Certificate.  
13

14 C. Investment of the gross proceeds of QZABs/QSCBs prior to expenditure thereof and of  
15 moneys from time to time on hand in a sinking fund for the payment of QZABs/QSCBs  
16 will be made only as permitted by the Bond Resolution and Tax Certificate (and, if  
17 applicable, a custodial agreement for the sinking fund for the payment of QZABs/QSCBs),  
18 and all investments will be purchased only at fair market value, as determined under  
19 applicable Treasury Regulations. Deposits to the sinking fund for the payment of  
20 QZABs/QSCBs in each year will be reviewed by the District Clerk/Business Manager to  
21 assure that the funding of the sinking fund complies with the requirements of the Bond  
22 Resolution, Tax Certificate and any custodial agreement.  
23

24 D. Guaranteed investment contracts ("GICs") will be purchased only according to the fair  
25 market value provisions of applicable Treasury Regulations, including bid requirements  
26 and fee limitations. Certificates of deposit ("CDs") will be purchased only according to the  
27 fair market value provisions of applicable Treasury Regulations.  
28

29 E. Calculations of rebate liability will be performed by outside consultants and reviewed by  
30 the District Clerk/Business Manager of the Issuer. Such calculations shall be made annually  
31 on or before the anniversary of the date of issue of the Bonds and prior to each 5 year  
32 anniversary of the date of issue of the Bonds.  
33

34 F. Upon final expenditure of the gross proceeds of Bonds, and in any event promptly  
35 following the fifth anniversary of the date of issuance of the Bonds or earlier retirement of  
36 the Bonds, the District Clerk/Business Manager will consult a qualified professional to  
37 prepare a spending exception report or an arbitrage rebate computation (as applicable) for  
38 the issue of Bonds.  
39

40 G. Rebate payments, as required based upon the advice of a qualified professional, will be  
41 made with Form 8038-T no later than 60 days after (a) each fifth anniversary of the date of  
42 issuance of the Bonds and (b) the final retirement of the Bond issue.  
43

1 VII. Requests for Credit for QZABs/QSCBs

- 2 A. Requests for the refundable credit for QZABs/QSCBs, including the calculation of the  
3 credit payable and timely filing of requests for payment pursuant to Form 8038-CP and in  
4 accordance with the closing letter of bond counsel, shall be the responsibility of the District  
5 Clerk/Business Manager, who shall verify eligibility for the credit.  
6
- 7 B. For fixed rate QZABs/QSCBs, interest payments calculated by the purchaser shall be  
8 verified by the District Clerk/Business Manager or the Issuer's financial advisor.  
9
- 10 C. For variable rate QZABs/QSCBs, interest payments shall be as calculated pursuant to the  
11 Bond Resolution and shall be verified by the District Clerk/Business Manager or the  
12 Issuer's financial advisor.  
13
- 14 D. For QZABs/QSCBs where the Issuer elects to forego direct pay federal credit and instead  
15 provide bondholders with an individual federal income tax credit, the Issuer is not entitled  
16 to a refundable credit.  
17
- 18 E. Payment of the credit shall be directed to the Issuer or to such other party as provided in  
19 the Bond Resolution.  
20

21 VIII. Record Management and Retention

- 22 A. Management and retention of records related to Bond issues will be supervised by the  
23 District Clerk/Business Manager.  
24
- 25 B. Records for Bonds will be retained for the life of the Bonds, plus any refunding bonds, plus  
26 three years. Such records may be in the form of documents or electronic copies of  
27 documents, appropriately indexed to specific Bond issues and compliance functions.  
28
- 29 C. Retainable records pertaining to Bond issuance shall include a transcript of documents  
30 executed in connection with the issuance of the Bonds and any amendments; copies of  
31 requests for refundable credits for QZABs/QSCBs; and copies of rebate calculations and  
32 records of payments, including Forms 8038-T.  
33
- 34 D. Retainable records pertaining to expenditures of Bond proceeds include requisitions;  
35 trustee statements, if applicable; and final allocation of proceeds.  
36
- 37 E. Retainable records pertaining to use of Bond-financed property include all third-party  
38 contracts concerning use of the facilities, including (without limitation) leases, use,  
39 management or service contracts, and research contracts.  
40
- 41 F. Retainable records pertaining to investments include GIC documents under the Treasury  
42 Regulations, records of purchase and sale of other investments, and records of investment

1 activity sufficient to permit calculation of arbitrage rebate or demonstration that no rebate  
2 is due.

3  
4 IX. Overall Responsibility

5 A. Overall administration and coordination of this policy and the procedures set forth herein  
6 are the responsibility of the Superintendent.

7  
8 B. Review of compliance with this policy and the procedures set forth herein shall be  
9 undertaken periodically, and in any event, not less than annually.

10  
11 C. The Issuer understands that failure to comply with these policies and procedures could  
12 result in the retroactive loss of (1) the exclusion of interest on TEBs from federal gross  
13 income, and (2) the federal tax credit with respect to QZABs/QSCBs in the event that  
14 federal direct payments to the Issuer are elected, and (3) the loss of the individual federal  
15 tax credit for bondholders for QZABs/QSCBs where such individual income tax credit was  
16 elected; and, thus, it would be advisable to consult with bond counsel in advance regarding  
17 deviations from the facts and expectations as set forth in the closing certifications relating  
18 to any issue of Bonds.

19  
20 D. The Superintendent will promptly engage qualified consultants and bond counsel to  
21 investigate any potential violations of federal tax requirements or undertake appropriate  
22 remedial actions, which actions shall be approved by the governing body of the Issuer.

23  
24 Cross Reference:

25 20-9-367 MCA Eligibility to Receive Guaranteed Tax Base Aid or State Debt Service Assistance  
26 for School Facilities

27  
28 Policy History:

29 Adopted on: February 14, 2011

30 Reviewed on: January 31, 2019