

**Spartan Innovation Building Corporation**  
**Board Meeting Minutes**  
**November 17, 2015**  
**3:45 PM**  
**Conference Room at Athlos Leadership Academy**

**CALL TO ORDER**

Johan Gjenvick, SIBC Board President, called the meeting to order at 4:34 PM following the school board meeting of Athlos Leadership Academy at which all SIBC board members were present to hear legal counsel, Ellen McVeigh, present on the bond financing process, timeline and documents.

**ROLL CALL**

Board Members Present: Johan Gjenvick, Ann DeGroot, Jennifer Geraghty

Board Clerk Present: Julie Brown

Legal Counsel Present: Ellen McVeigh

Athlos Leadership Academy Board Members Present: Virginia Anderson, Jan Ficken, Kit Murley-Henspeter.

**DECLARATION OF CONFLICTS OF INTEREST**

No conflicts of interest declared.

**APPROVAL OF MINUTES**

Johan Gjenvick presented a motion to accept the SIBC board minutes of 6-4-15 and 9-22-15 as written. Motion was seconded by Ann DeGroot. Motion passed unanimously.

**OLD BUSINESS**

Ann DeGroot presented a motion to ratify the following decisions made by the SIBC board on October 22, 2015

1. Delegating Ann DeGroot as the Secretary/Treasurer of the Spartan Innovation Building Corporation.
2. Accepting Beltz, Kes, Darling & Associate's recommendation to go with U.S. Bank as trustee for the building bond.

Motion was seconded by Johan Gjenvick. Motion passed unanimously.

## **NEW BUSINESS**

### **Bond resolutions adopted by the Spartan Innovation Building Corporation Board of Directors:**

Ann DeGroot presented a motion to approve the following resolutions in their entirety as written. Motion was seconded by Johan Gjenvick and approved unanimously.

**1. Declaration of Official Intent with Respect to Reimbursement of Temporary Advances Made for Capital Expenditures to be Made from Subsequent Borrowings**

WHEREAS, Treasury Regulation §1.150-2 (the "Reimbursement Regulations"), issued pursuant to Section 150 of the Internal Revenue Code of 1986, as amended, (the "Code") prescribes certain requirements by which proceeds of tax-exempt bonds, notes, certificates or other obligations included in the meaning of "bonds" under Section 150 of the Code ("Obligations") used to reimburse advances made for Capital Expenditures (as hereinafter defined) paid before the issuance of such Obligations may be deemed "spent" for purposes of Sections 103 and 141 to 150 of the Code and therefore, not further subject to any other requirements or restrictions under those sections of the Code; and

WHEREAS, such Reimbursement Regulations require that the Issuer (as hereinafter defined) or its conduit borrower make a Declaration of Official Intent (as hereinafter defined) to reimburse any Capital Expenditure paid prior to the issuance of the Obligations intended to fund such Capital Expenditure and require that such Declaration of Official Intent be made no later than sixty (60) days after payment of the Capital Expenditure and further require that any Reimbursement Allocation (as hereinafter defined) of the proceeds of such Obligations to reimburse such Capital Expenditures occur no later than eighteen (18) months after the later of the date the Capital Expenditure was paid or the date the property acquired with the Capital Expenditure was placed in service, except that any such Reimbursement Allocation must be made no later than three years after such Capital Expenditure was paid; and

WHEREAS, the conduit borrower (the "Borrower") of the Issuer (as hereinafter defined), Spartan Innovation Building Corporation, is a Minnesota nonprofit corporation which is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, as a supporting organization to Athlos Leadership Academy, a Minnesota nonprofit corporation which is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

WHEREAS, the purpose of the Borrower is to acquire and operate real estate for lease to Athlos Leadership Academy (the "School") for use as a public charter school in Minnesota; and

WHEREAS, the Issuer proposes to issue its Charter School Lease Revenue Bonds (Athlos Leadership Academy Project), Series 2015 A, and its Taxable Charter School Lease

Revenue Bonds (Athlos Leadership Academy Project), Series 2015B (together the “Series 2015 Bonds”) for purposes set out below; and

WHEREAS, the Board of Directors of the Borrower wishes to ensure compliance with the Reimbursement Regulations and hereby resolves as follows:

**Section 1. Definitions.** The following definitions apply to the terms used herein:

"Allocation" means written evidence that proceeds of Obligations issued subsequent to the payment of a Capital Expenditure are to be used to reimburse the School for advances of payments to pay said Capital Expenditures. "To allocate" means to make such an allocation.

"Capital Expenditure" means any expense for an item that is properly depreciable or amortizable or is otherwise treated as a capital expenditure for purposes of the Code, as well as any costs of issuing Reimbursement Bonds.

"Declaration of Official Intent" means a written declaration that the Borrower intends to fund Capital Expenditures with an issue of Reimbursement Bonds and reasonably expects to be reimbursed from the proceeds of such an issue.

"Issuer" means either a governmental unit that is reasonably expected to issue Obligations, or any governmental entity or 501(c)(3) organization that is the Borrower of the Obligations.

"Reimbursement" means the restoration to the School of money temporarily advanced from other funds, including moneys borrowed from other sources, of the School to pay for Capital Expenditures before the issuance of Obligations intended to fund such Capital Expenditures. "To reimburse" means to make such a restoration.

"Reimbursement Bonds" means Obligations, the proceeds of which will be used in part to reimburse the School for Capital Expenditures, and for certain other expenses permitted by the Reimbursement Regulations, previously paid by or for the School.

"Reimbursement Regulations" means Treasury Regulation §1.150-2 and any amendments thereto or superseding regulations, as applicable, prescribing conditions under which the proceeds of Obligations may be allocated to reimburse the School for Capital Expenditures and certain other expenses paid prior to the issuance of the Obligations such that the proceeds of such Obligations will be treated as "spent" for purposes of Sections 103 and 141 to 150 of the Code.

**Section 2. Declaration of Official Intent.**

(a) The Borrower declares that it reasonably expects that the Capital Expenditures described in Section (b), which were paid no earlier than sixty (60) days prior to the date hereof, or which will be paid prior to the issuance of any Obligations intended to fund such Capital

Expenditures, will be reimbursed with the proceeds of Obligations, representing a borrowing by Issuer, in a maximum principal amount to be determined.

(b) The Capital Expenditures to be reimbursed are to be used to finance the costs of acquisition of an existing charter school facility located at 10100 Noble Parkway North in Brooklyn Park Minnesota, to be leased by the Borrower to the School as a public schoolhouse; to fund a deposit to the reserve fund for the Series 2015 Bonds; and to pay the costs of issuance of the Series 2015 Bonds.

**Section 3. Reasonable Expectations.** The Issuer does not expect any other funds (including the money advanced to make the Capital Expenditures that are to be reimbursed), to be reserved, allocated on a long-term basis, or otherwise set aside by the Issuer or any other entity, with respect to the Capital Expenditures for the purposes described in Section 2(b).

2. **Approval of Certain Bond Documents**

WHEREAS, it is desirable and in the best interests of the Company to authorize its officers to enter into certain agreements in order to facilitate the issuance of the Series 2015 Bonds.

NOW, THEREFORE, it is

RESOLVED, that the Chairperson of the Board of Directors of the Company, or such other officer or member of the Board of Directors of the Company as may be appointed by the Chairperson, is hereby authorized and directed to execute on behalf of the Company all documents and agreements which on the advice of counsel are necessary or advisable to complete the above-described series of transactions including but not limited to:

1. Bond Purchase Agreement, dated on or after December 1, 2015 (the "Bond Purchase Agreement"), among Piper Jaffray & Co. (the "Underwriter"), the Issuer, the Company, and the School;
2. Continuing Disclosure Agreement, dated as of December 1, 2015, between the Company, the School and U.S. Bank, National Association as Trustee (the "Trustee");
3. Tax Regulatory Agreement, dated as of December 1, 2015 (the "Tax Regulatory Agreement"), between the Company, the School, and the Trustee;
4. Subordination, Non-Disturbance, and Attornment Agreement, dated as of December 1, 2015 between Trustee, the Company and the School;
5. a Mortgage, Security Agreement and Assignment of Rents, dated as of December 1, 2015 (the "Mortgage"), executed by the Company in favor of Trustee;
6. a Lease Agreement, dated as of December 1, 2015 ( the "Lease") between the Company and the School;

7. an Assignment of Lease, dated as of December 1, 2015 (the "Assignment of Lease") between the Company and the Trustee;
8. Loan Agreement, dated as of December 1, 2015 between the Issuer and the Company (the "Loan Agreement");
9. An Intercreditor Agreement dated as of December 1, 2015, among Trustee, the Company, the School, Bremer Bank, National Association, and Nonprofits Assistance Fund, as Line of Credit provider (the "Intercreditor Agreement");
10. such other instruments, certificates, and other documents as counsel advises the Company as necessary or appropriate to consummate the Series 2015 Bonds transaction.

**RESOLVED FURTHER**, that the Board of Directors of the Company hereby declares on behalf of the Company that the information contained in the Preliminary Official Statement and in the Official Statement prepared and distributed in connection with the offer and sale of the 2015 Bonds: (i) is true, complete, and correct to the knowledge of such members of the Board of Directors; and (ii) does not contain an untrue statement of a material fact and does not omit to state a material fact necessary to make the statements made therein, in light of the circumstances under which they are made, not misleading. The Executive Director of the School is authorized to make and approve such changes on behalf of the Board of Directors as she shall deem necessary to amend the Preliminary Official Statement and the Official Statement to ensure compliance with the above declaration.

**RESOLVED FURTHER**, That the terms of the following documents, insofar as they pertain to the Company, are approved:

1. an Indenture of Trust, dated as of December 1, 2015 between the Issuer and Trustee (the "Indenture"), insofar as they pertain to the Company, are approved.
2. a Pledge and Covenant Agreement, dated as of December 1, 2015, by the School for the benefit of the Trustee;
3. an Account Control Agreement, dated as of December 1, 2015 between the Trustee, the School, and Bremer Bank, N.A. (the "Bank").

**RESOLVED FURTHER**, that any and all actions taken by or on behalf of the Company to facilitate and complete the above-described series of transactions prior to the adoption of these resolutions be and are in all respects ratified, approved, and confirmed.

**RESOLVED FURTHER**, That the Board of Directors of the Company hereby authorizes the Company to comply with IRS Post-Closing Procedures as set out on the attached Exhibit A, which procedures are incorporated here by reference.

## Exhibit A

### WRITTEN PROCEDURES Related to Tax-Exempt Obligations

The Internal Revenue Code of 1986, as amended (the "Code") and the regulations promulgated thereunder (the "Regulations") impose certain requirements on tax-exempt obligations, including but not limited to, restrictions on the use of bond proceeds and bond-financed property, arbitrage yield restrictions, and the arbitrage rebate requirement. These requirements are generally applicable throughout the period that the bonds remain outstanding.

The Form 8038, Information Return for Private Activity Bond Issues ("Form 8038") requires the issuer to represent whether it has established written procedures to (a) monitor the requirements of Section 148 of the Code, including, but not limited to, the arbitrage rebate and arbitrage yield restriction requirements; and (b) ensure that any nonqualified bonds (within the meaning of Section 1.148-120(j) of the Regulations) are remediated in accordance with the Code and the Regulations.

In addition to the above-described Form 8038 representations, the Company has been advised that additional procedures are recommended in order for the Company to document compliance with the applicable federal tax requirements. Actions pursuant to these procedures (collectively referred to as post-issuance tax compliance) are intended to assist the Company to document compliance with the applicable federal tax requirements. Post-issuance tax compliance begins with the debt issuance process itself and includes a continuing focus on investments of bond proceeds and use of bond-financed property. Post-issuance tax compliance requires identifying the responsible people and the applicable procedures.

#### Procedures

The Chair and the Treasurer/CFO (hereinafter referred to as the "Representatives") are designated as being responsible for post-issuance tax compliance. The Representatives may delegate to their staff or contract with independent contractors (such as financial advisors, auditors, arbitrage/rebate consultant or others having necessary and appropriate skills and experience) responsibility for different aspects of post-issuance tax compliance. For example, coordinating and documenting the expenditure of bond proceeds on projects may be delegated to the consulting engineer. However, the Representatives will be ultimately responsible for implementing the procedures described herein.

The Representatives will (in addition to assuring adequate training of responsible officers and staff of the Company and of any persons to whom is delegated responsibility for compliance with any post-issuance procedures):

(a) Confirm the filing of the Form 8038 (or applicable successor form) with Internal Revenue Service ("IRS"): Filing of Form 8038 is usually overseen by bond counsel at or soon after the closing of a bond issue;

(b) Obtain and store the Transcript of Proceedings prepared by bond counsel (which typically includes the applicable Form 8038 and the Federal Tax Certificate and Tax Regulatory Agreement containing the Company's expectations as of the date of issuance of the bond issue);

(c) Establish a plan for keeping relevant books and records as to the investment and the expenditure of bond proceeds;

(d) Keep accurate records including:

- Basic records relating to the bond transactions (including the bond ordinances, loan agreements, and bond counsel opinion; see Transcript of Proceeding, above);
- Documentation evidencing the expenditure of bond proceeds;
- Documentation evidencing use of bond-financed property by public and private sources (i.e., copies of management contracts);
- Documentation evidencing all sources of payment or security for the

bonds; and

- Documentation pertaining to any investment of bond proceeds (including the purchase and sale of securities, SLGS subscriptions, yield calculations for each class of investments, actual investment income received from the investment of proceeds, guaranteed investment contracts, and rebate calculations);

(e) Keep all records in a manner that ensures their complete access to the IRS so long as they are material. While this is typically accomplished through the maintenance of hard copies, records may be kept in an electronic format if certain requirements are satisfied, in accordance with the guidelines in Revenue Procedure 97-22, 1997-1 C.B.652;

(f) Keep the relevant records for each issue of bonds for as long as such issue of bonds is outstanding (including any bonds issued to refund such issue of bonds) plus three years after the final redemption date of the bonds;

(g) As and when necessary under the terms of the Bond Documents or required by the Trustee engage the services of an arbitrage/rebate consultant for assistance in compliance with arbitrage related issues;

(h) Work with bond counsel, financial advisor and/or arbitrage/rebate consultant to monitor compliance with "temporary period exceptions" for expenditure of bond proceeds, typically three years for new money bonds, and provide for yield restriction of investments or "yield reduction payments" if exceptions are not satisfied;

(i) Work with bond counsel and financial advisor to ensure investments acquired with bond proceeds are purchased at fair market value. This may include use of bidding procedures under the regulatory safe harbor (Section 1.148-S(d) of the Regulations);

(j) Consult with bond counsel prior to the creation of funds which would reasonably be expected to be used to pay debt service on tax-exempt bonds to determine in advance whether such funds must be invested at a restricted yield (i.e., yield restricted);

(k) Consult with bond counsel and financial advisor before engaging in post-issuance credit enhancement transactions (e.g., bond insurance, letter of credit) or hedging transactions (e.g., interest rate swap, cap);

(l) Consult with bond counsel, financial advisor, and/or arbitrage/rebate consultant to identify situations in which compliance with applicable yield restrictions depends upon subsequent investments (e.g., purchase of 0% SLGS from U.S. Treasury) and monitor implementation.

(m) Work with the Company's arbitrage/rebate consultant to arrange for timely computation of rebate/yield reduction payment liability and, if an amount is payable, for timely filing of Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate (or applicable successor form), and payment of such liability. Rebate/Yield Reduction payments are ordinarily due at 5-year intervals.

(n) Create and maintain records of which proceeds of bond issues were used to finance which facilities. These records shall incorporate the refunding or partial refunding of any bond issues;

(o) Record the allocation of bond proceeds to expenditures, including reimbursements. These records will be consistent with the expenditures used for arbitrage purposes.

(p) Record the allocation of bond proceeds and funds from other sources in connection with any bond funded project. Review expenditure of bond proceeds with bond counsel and/or consulting engineer to ensure bond proceeds are used for qualifying costs;

(q) Review with bond counsel prior to the sale or lease of a bond-financed facility, or the granting of a license or management contract, or any other arrangement allowing private use of a bond financed facility, the terms of such arrangement;

(r) Keep records of private use, if any, of bond financed facilities to monitor the amount of private use of bond financed facilities. Private use of bond-financed facilities shall



be reviewed once a year (in connection with the preparation of the annual financial statements). If a change in private use occurs, bond counsel will be consulted to determine if remedial action is necessary.

(s) Consult with bond counsel to identify any post-issuance modification to the terms of bonds which could be treated as a current refunding of "old" bonds by "new" bonds, often referred to as a "reissuance."

(t) Consult with bond counsel to determine whether any "remedial action" (see item (r) above) in connection with private use must be treated as a "reissuance."

## **ADJOURNMENT**

Meeting adjourned at 4:39PM