

RESOLUTION NO. R-2019-15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, APPROVING THE ISSUANCE OF A TAX EXEMPT FINANCING IN A MAXIMUM PRINCIPAL AMOUNT OF \$10,000,000 BY THE OGLESBY EDUCATION FACILITIES CORPORATION FOR THE BENEFIT OF CUMBERLAND ACADEMY, WITH NO FINANCIAL OBLIGATION TO THE CITY OF TYLER, TEXAS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Oglesby, Texas, pursuant to the provisions of Chapter 53 of the *Texas Education Code*, as amended (the "Act"), has approved and created the Oglesby Education Facilities Corporation (the "Oglesby Corporation") as a nonprofit corporation to exercise the powers enumerated and provided in the Act for and on behalf of the City of Oglesby; and

WHEREAS, pursuant to the provisions of the Act, the Oglesby Corporation may issue revenue bonds or other obligations to provide funds for any of its purposes including financing or refinancing costs to acquire, construct, enlarge, extend, repair, renovate, or otherwise improve "educational facilities" or "housing facilities" and "facilities incidental, subordinate or related thereto or appropriate in connection therewith" for educational institutions, including Cumberland Academy, a Texas nonprofit corporation and open enrollment charter school (the "School"), and regardless if such facilities are located within or without the city limits of the City of Oglesby; and

WHEREAS, the School is requesting the Oglesby Corporation to issue a tax exempt financing (the "Financing") for the benefit of the School; and

WHEREAS, the Financing shall be evidenced by a tax exempt note or other evidence of indebtedness; and

WHEREAS, the Financing shall be issued by the Oglesby Education Facilities Corporation in an amount not to exceed \$10,000,000, with the proceeds of the financing to be used for refinancing the cost of acquisition of the former Oak Hill Montessori School campus, located at 6720 Oak Hill Boulevard, Tyler, Texas 75703, and refinancing construction of a new building just completed on the same site (together, the "Project"); and

WHEREAS, the Project currently consists of parking areas, a playground, and four buildings. These buildings contain administrative offices, classrooms, a gymnasium, and a library. There are two separate activities in the Project, an open enrollment charter school for children in kindergarten up through the 7th grade, and an accredited private pay nonprofit Montessori school for pre-kindergarten children; and

WHEREAS, the Financing will be payable solely from revenues derived by the Oglesby Education Facilities Corporation from the School pursuant to provisions of a Loan Agreement between the Oglesby Corporation, BTH Bank, N.A., and the School and other applicable documents being entered into by the Oglesby Corporation in connection with the issuance of the Financing, **and the City of Tyler, Texas, will have no responsibility in any manner for the payment of the debt service requirements of the Financing;** and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), requires the City Council of the City of Tyler or the Mayor of the City (as the "applicable elected representative" of the "Government unit" where the Project is located) to

approve the issuance of the Financing after a public hearing has been held as provided in the next paragraph; and

WHEREAS, on March 27, 2019, a public hearing was held by this City Council, with respect to the Financing and the related Project, and notice of such public hearing having been published in a newspaper of general circulation in the City of Tyler at least 14 days prior to such public hearing; and

WHEREAS, the documents authorizing issuance of the Financing shall contain wording stating that the Financing imposes no liability on the City of Tyler, its officials, officers, or employees; and

WHEREAS, it is hereby deemed necessary and advisable that this Resolution be adopted;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: That all of the recitals and preambles hereinabove stated are found to be true and correct and are incorporated herein and made a part of this Resolution.

PART 2: That in order to satisfy the requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended, and the requirements of the Act, the City of Tyler hereby approves the issuance of the Financing described above in an aggregate maximum principal amount not to exceed \$10,000,000 in order to obtain funds for the School to refinance the acquisition and construction loans for the Project and to pay for certain further improvements of the Project. Proceeds of the Financing may also be used for paying certain expenses in connection with the issuance of the Financing, all pursuant to the requirements of the Act and other applicable laws.

PART 3: THAT THIS APPROVAL IN NO EVENT SHALL MAKE THE CITY OF TYLER LIABLE IN ANY MANNER WHATSOEVER WITH REGARD TO THE REFINANCING OR FINANCING OR WITH REGARD TO THE PROJECT TO BE REFINANCED OR FINANCED WITH THE PROCEEDS OF THE FINANCING.

PART 4: THAT THIS APPROVAL IS GIVEN FOR THE LIMITED PURPOSE OF SATISFYING ANY REQUIREMENTS OF THE ACT AND SECTION 147(F) OF THE CODE, AND THIS APPROVAL DOES NOT APPLY TO ANY OTHER LEGAL REQUIREMENTS APPLICABLE TO THE PROJECT, INCLUDING BUT NOT LIMITED TO BUILDING CODE LAWS OR ZONING LAWS.

PART 5: That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given as required by law.

PART 6: That this Resolution shall become effective immediately upon its adoption.

PASSED AND APPROVED on this the 27th day of March, 2019.


MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:


CASSANDRA BRAGER, CITY CLERK




STEVEN M. KEAN,
DEPUTY CITY ATTORNEY

CERTIFICATE FOR RESOLUTION

**THE STATE OF TEXAS
COUNTY OF SMITH
CITY OF TYLER, TEXAS**

I, the undersigned City Clerk of the CITY OF TYLER, TEXAS (the "City"), hereby certify as follows:

1. The City Council (the "City Council") of the City convened in REGULAR MEETING ON THE 27th DAY OF MARCH, 2019, at its regular meeting place in the Tyler City Hall (the "Meeting"). All members of the City Council were present, except the following: N/A, 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 City Council. It was then duly moved and seconded that the Resolution be adopted; and, after due discussion, such motion, carrying with it the adoption of the Resolution prevailed and carried by the following votes:

AYES: 7

NOES: 0

ABSTENTIONS: 0

2. A true, full, and correct copy of the Resolution adopted at the meeting described in the above and foregoing paragraph is attached to and follows this Certificate; the Resolution has been recorded in the City Council's minutes of the Meeting pertaining to the adoption of the Resolution; and the Meeting was open to the public, and public notice was given, all as required by Chapter 551, *Texas Government Code*.

SIGNED AND SEALED THIS 27th DAY OF MARCH, 2019.



Cassandra Brager

Cassandra Brager, City Clerk