

## **RESOLUTION NO. R-2018-16**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, APPROVING THE ISSUANCE OF A TAX EXEMPT FINANCING BY THE MILFORD HIGHER EDUCATION FACILITIES CORPORATION FOR THE BENEFIT OF CUMBERLAND ACADEMY, WITH NO FINANCIAL OBLIGATION TO THE CITY OF TYLER; AND PROVIDING AN EFFECTIVE DATE.**

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

**WHEREAS**, pursuant to the provisions of the Act, the Milford 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 Milford; and

**WHEREAS**, the School is requesting the Milford 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 Milford Higher Education Facilities Corporation in an amount not to exceed \$10,000,000, with the proceeds of the financing to refinance a previous loan made to the School to construct an academic building which includes classrooms, science facilities, a choir and orchestra facility, art studio, digital lab, administrative lab, administrative offices and a teachers' lounge, together with an adjoining gymnasium and related roads and parking facilities, all to be located at the School campus at 7200 Paluxy Drive, Tyler, Texas 75703. The obligation to repay this financing is that of the School, with the School to be the owner and user of these facilities (all such items being financed or refinanced referred to as the "Project"); and

**WHEREAS**, the Financing will be payable solely from revenues derived by the Milford Higher Education Facilities Corporation from the School pursuant to provisions of a Loan Agreement between the Milford Corporation, BTH Bank, N.A., and the School and other applicable documents being entered into by the Milford 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 May 23 2018, 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 construction loan for 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 FINANCING OR WITH REGARD TO THE PROJECT TO BE 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 27<sup>th</sup> day of June, 2018.


  
MARTIN HEINES, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

  
CASSANDRA BRAGER, CITY CLERK



  
DEBORAH G. PULLUM,  
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 JUNE, 2018, 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:

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 27<sup>th</sup> DAY OF JUNE, 2018.



Cassandra Brager, City Clerk