

CITY OF HIGH POINT

AGENDA ITEM



Title: Phoenix Academy – TEFRA (Tax Equity and Fiscal Responsibility Act of 1982) Hearing

From: JoAnne Carlyle, City Attorney

Meeting Date: Monday, May 1, 2017

Public Hearing: Yes

Advertising Date: April 17, 2017

Advertised By: Greensboro News & Record

Attachments: Resolution

PURPOSE/BACKGROUND:

Phoenix Academy is pursuing the issuance of tax exempt bonds. In order for them to do so, the IRS mandates that Phoenix Academy provides a reasonable opportunity for interested individuals to express their views on issuance of the bonds. The City Council meeting provides a venue that is acceptable to the IRS for such public hearings. A resolution is to be considered for adoption by City Council. **However there is no obligation, financial or otherwise, placed upon the City Council of High Point.**

BUDGET IMPACT:

There is no budget impact.

RECOMMENDATION / ACTION REQUESTED:

The City Attorney recommends adoption of the Resolution.

RESOLUTION NO. _____

RESOLUTION APPROVING THE ISSUANCE OF NOT TO EXCEED \$35,000,000 OF TAX-EXEMPT BONDS TO BE ISSUED BY THE PUBLIC FINANCE AUTHORITY TO FINANCE COSTS OF AN EDUCATIONAL FACILITIES PROJECT ON BEHALF OF PHOENIX ACADEMY FOUNDATION, INC. AND PHOENIX ACADEMY, INC.

BE IT RESOLVED BY THE CITY COUNCIL (THE “CITY COUNCIL”) FOR THE CITY OF HIGH POINT, NORTH CAROLINA (THE “CITY”) AS FOLLOWS:

Section 1. The City Council has found and determined as follows:

(a) The Public Finance Authority (the “Authority”), a unit of government and a body corporate and politic of the State of Wisconsin has been requested to issue its revenue bonds in one or more series (collectively, the “Bonds”), in an aggregate amount not to exceed \$35,000,000 and to lend the proceeds from the sale thereof to the Phoenix Academy Foundation, Inc., a North Carolina nonprofit corporation (the “Foundation”) and Phoenix Academy, Inc., a North Carolina nonprofit corporation (the “Academy” and together with the Foundation, “Borrowers”). The Borrowers will use such proceeds to, among other things, (1) pay a portion of the costs of acquiring, constructing, improving and equipping educational facilities located in High Point, North Carolina, including (i) an approximately 20,000 square foot Primary School building located at or near 4000 Meeting Way and 4020 Meeting Way, (ii) an approximately 45,000 square foot Elementary School building located at or near 4193 Mendenhall Oaks Parkway and 4191 Mendenhall Oaks Parkway and (iii) an approximately 65,000 square foot Middle School building located at or near 7847 Clinard Farms Road (collectively, the “Project”) and (2) pay certain expenses incurred in connection with the issuance of the Bonds. The Project will be initially owned by the Foundation and operated by the Academy. 7 Degrees of Change Foundation, a North Carolina nonprofit corporation, will serve as manager for the Project. The Bonds shall never constitute an indebtedness of the City within the meaning of any state constitutional provision or statutory limitation, and will not constitute or give rise to pecuniary liability of the City or a charge against its general credit or its taxing powers.

(b) The City Council held a public hearing on May 1, 2017 concerning the Project and the proposed issuance of the Bonds and the names, address and testimony of the persons who were present and who offered comments on the proposed issuance of the Bonds or who responded in writing to the notice of public hearing are as follows: **[None]**.

(c) On April 17, 2017 a notice of public hearing was published in the *Greensboro News & Record*, setting forth a general, functional description of the type and use of the facilities to be financed and refinanced, the maximum principal amount of the Bonds, the initial owner, operator or manager of the facilities and the location of the facilities, among other things.

Section 2. Pursuant to Section 66.0304(11)(a) of the Wisconsin Statutes, prior to their issuance, bonds issued by the Authority must be approved by the governing body or highest ranking executive or administrator of the political jurisdiction within whose boundaries the project is to be located.

Section 3. The Borrowers have requested that the Council approve the financing of the Project and the issuance of the Bonds in order to satisfy the requirements of Section 66.0304(11)(a) of the Wisconsin Statutes.

Section 4. For the purpose of qualifying the interest on the Bonds for exclusion from the gross income of the owners thereof for federal income tax purposes pursuant to Section 147(f) of the Internal Revenue Code (the "Code"), the Council hereby approves the issuance of the Bonds by the Authority for the purpose of providing funds to finance and refinance the Project; *provided*, in no event shall the City of High Point, the State of North Carolina or any political subdivision thereof be liable for such Bonds nor shall the Bonds constitute a debt of the City of High Point, the State of North Carolina or any political subdivision thereof. It is also the purpose and intent of the Council that this resolution constitute approval of the issuance of the Bonds by the applicable elected representative of the project jurisdiction for the Project, which is the governmental unit having jurisdiction over the area in which the Project is located, in accordance with Section 147(f) of the Code and Section 66.0304(11)(a) of the Wisconsin Statutes. Such approval shall not be construed as expressing any view as to the financial feasibility of the Project or the adequacy of any security provided for the Bonds.

Section 5. The Mayor, City Clerk and the members of the City Council are hereby separately authorized and directed to take any and all actions that they may deem advisable in order to give effect to the intent of this resolution, and in connection therewith to perform in the name of the City such actions and to execute, deliver, seal, attest, and accept such other ancillary documents and certificates as may be necessary or advisable, and all such actions taken are hereby ratified and confirmed as valid and binding on the City.

Section 6. This resolution shall take effect immediately upon its passage.

Mayor William S. Bencini, Jr.

ATTEST:

Lisa B. Vierling
City Clerk