

**CITY OF FALCON HEIGHTS
COUNCIL RESOLUTION**

July 22, 2015

No. 15-19

RESOLUTION APPROVING THE ISSUANCE OF A REVENUE BOND
(DE LA SALLE HIGH SCHOOL PROJECT) SERIES 2015 AND AUTHORIZING
THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS

WHEREAS, Minnesota Statutes, Sections 469.152 through 469.1655, as amended, relating to municipal industrial development (the “Act”), gives municipalities the power to issue revenue obligations for the purpose of promoting the welfare of the state by the active attraction and encouragement and development of economically sound industry and commerce to prevent so far as possible the emergence of blighted and marginal lands and areas of chronic unemployment; and

WHEREAS, the City of Falcon Heights, Minnesota (the “City”), has received from De La Salle High School, a Minnesota nonprofit corporation (the “Borrower”), a proposal that the City assist in financing a portion of the costs of a Project hereinafter defined, through the issuance of the Bond as hereinafter defined pursuant to the Act; and

WHEREAS, prior to the consideration of this Resolution, the City Council held a public hearing on the proposal:

NOW, THEREFORE, BE IT RESOLVED by the City Council of Falcon Heights, Minnesota, as follows:

Section 1. Definitions.

1.01. In this Resolution the following terms have the following respective meanings unless the context hereof or use herein clearly requires otherwise:

“Agreement” means the Loan Agreement to be entered into between the City and the Borrower relating to the Bond;

“Bond” means the Revenue Bond (De La Salle High School Project) Series 2015 to be issued by the City pursuant to this Resolution in the principal amount of up to \$2,380,000;

“Bond Documents” means the Agreement, the Pledge Agreement and the Bond;

“Borrower” means De La Salle High School, a Minnesota nonprofit corporation, its successors and assigns;

“Holder” means Northeast Bank or other registered holder of the Bond;

“Pledge Agreement” means the Pledge Agreement to be entered into between the City and the Holder relating to the Agreement and the Bond;

“Project” means various building improvements, including entrance and facade improvements, as well as improvements to learning, library and technology center spaces, for the Borrower’s educational facilities located at One De La Salle Drive in the City;

“Resolution” means this resolution of the City.

Section 2. Findings.

2.01. It is hereby found and declared that:

(a) based upon representations made to the City by representatives of the Borrower as to the nature of the Project as described in the Agreement, the Project constitutes a project authorized by the Act;

(b) the purpose of the Project is and the effect thereof is to promote the provision of nonprofit educational facilities;

(c) it is desirable that the Bond be issued by the City upon the terms set forth herein and that the City pledge its interest in the Agreement and grant a security interest therein to the Holder as security for the payment of the principal of, premium, if any, and interest on the Bond;

(d) the loan payments contained in the Agreement are fixed and are required to be revised from time to time as necessary, so as to produce income and revenue sufficient to provide for prompt payment of the principal of, premium, if any, and interest on the Bond when due, and the Agreement also provides that the Borrower is required to pay all expenses of the operation and maintenance of its facilities, including, but not limited to, adequate insurance thereon and all taxes and special assessments levied upon or with respect to its facilities and payable during the term of the Agreement;

(e) under the provisions of the Act, the Bond is not to be payable from nor charged upon any funds of the City other than the revenue pledged to the payment thereof; the City is not subject to any liability thereon; no Holder of the Bond shall ever have the right to compel any exercise of the taxing power of the City to pay the Bond or the interest thereon nor to enforce payment thereof against any property of the City; the Bond, premium, if any, and interest thereon shall not constitute an indebtedness of the City within the meaning of any constitutional, charter or statutory limitation and shall not constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers and shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City;

(f) the execution and delivery of the Bond Documents shall not conflict with or constitute, on the part of the City, a breach of or a default under any existing agreement, indenture, mortgage, lease or other instrument to which the City is subject or is a party or by which it is bound; provided that this finding is made solely for the purpose of estopping the City from denying the validity of the Bond Documents by reason of the existence of any facts contrary to this finding;

(g) no litigation is pending or, to the actual knowledge of the members of this City Council, threatened against the City questioning the organization of the City or the right of any officer of the City to hold his or her office or in any manner questioning the right and power of the City to execute and deliver the Bond or otherwise questioning the validity of the Bond or the execution, delivery or validity of the Bond Documents or questioning the pledge of revenues to payment of the Bond or the right of the City to loan the proceeds of the Bond to the Borrower; and

(h) all acts and things required under the Constitution and the laws of the State of Minnesota to make the Bond Documents the valid and binding limited obligations of the City in accordance with their terms shall have been done upon adoption of this Resolution and execution of the Bond Documents; provided that this finding is made solely for the purpose of estopping the City from denying the validity of the Bond Documents by reason of the existence of any facts contrary to this finding.

Section 3. Authorization and Approval of Documents.

3.01. Authorization. The City is authorized by the Act to issue revenue bonds and loan the proceeds thereof to finance the acquisition, construction, installation and equipping of facilities constituting a “project” as defined in the Act, and to make all contracts, execute all instruments and do all things necessary or convenient in the exercise of such authority.

3.02. Approval of Documents. Pursuant to the foregoing, there have been prepared copies of the following documents, all of which are now or shall be placed on file in the office of the City:

- (a) the Agreement;
- (b) the Pledge Agreement; and
- (c) the Bond.

The forms of the documents listed above are approved, with such variations, insertions and additions as are deemed appropriate by the parties and approved by the City.

Section 4. Execution of Bond Documents.

4.01. Upon the completion of the Bond Documents approved in Section 3.02 hereof and the execution thereof by the other parties thereto, the Mayor and the City Administrator shall execute the same on behalf of the City, and the foregoing persons and other officers of the City shall execute such other certifications, documents or instruments as bond counsel shall require, subject to the approval of the City, and all certifications, recitals and representations therein shall constitute the certificates, recitals and representations of the City. Execution of any instrument or document by one or more appropriate officers of the City shall constitute and shall be deemed the conclusive evidence of the approval and authorization by the City and the City Council of the instrument or document so executed.

Section 5. The Bond.

5.01. Form and Authorized Amount. The Bond shall be issued substantially in the form on file with the City on the date hereof with such appropriate variations, omissions and insertions as are permitted or required by this Resolution. The terms of the Bond are set forth therein, and such terms, including, but not limited to, provisions as to interest rate, dates and amount of payment of principal and interest and prepayment privileges, are incorporated by reference herein. The Bond shall bear an interest rate that is expected to not exceed 4.00% per annum. The Bond shall mature on or before December 1, 2030.

5.02. Execution. The Bond shall be executed on behalf of the City by the persons described in Section 4.01 hereof. In case any officer whose signature shall appear on the Bond shall cease to be such officer before the delivery thereof, such signature shall, nevertheless, be valid and sufficient for all purposes.

5.03. Delivery and Use of Proceeds. Prior to delivery of the Bond, the documents referred to in Section 3.02 hereof shall be completed and executed in form and substance as approved by the City. The City shall thereupon deliver to the Holder the Bond together with a certified copy of this Resolution and such closing certificates as are required by bond counsel.

Section 6. Limitations of the City's Obligations.

6.01. Notwithstanding anything contained in the Bond Documents, the Bond and any premium and interest thereon shall not constitute an indebtedness of the City within the meaning of any constitutional, charter or statutory limitation and shall not constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers and shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the City, and no Holder of the Bond shall ever have the right to compel any exercise of the taxing power of the City to pay the Bond or the interest thereon or to enforce payment thereof against any property of the City. The agreement of the City to perform the covenants and other provisions contained in this Resolution or the Bond Documents shall be subject at all times to the availability of revenues furnished by the Borrower sufficient to pay all costs of such performance or the enforcement thereof, and neither the City nor any of its officers, employees or agents shall be subject to any personal or pecuniary liability thereon.

Section 7. Bank Qualification.

7.01. In order to qualify the Bond as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), the City makes the following representations:

(a) The City hereby designates the Bond as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code;

(b) The reasonably anticipated amount of tax-exempt obligations (other than obligations described in clause (ii) of Section 265(b)(3)(C) of the Code) which will be issued by the City (and all subordinate entities whose obligations will be aggregated with those of the City) during this calendar year 2015 will not exceed \$10,000,000; and

(c) Not more than \$10,000,000 of tax-exempt obligations issued by the City during this calendar year 2015 have been designated as qualified tax-exempt obligations for purposes of Section 265(b)(3) of the Code.

The motion for the adoption of the foregoing resolution was duly seconded by member Brown Thunder, and after full discussion thereof and upon vote being taken thereon, the following voted in favor thereof:

Lindstrom
Brown Thunder
Mercer - Taylor

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

Moved by: Mercer - Taylor

Approved by: Pete Lindstrom
Peter Lindstrom, Mayor

LINDSTROM 3 In Favor
BROWN THUNDER
HARRIS 0 Against
LONG
MERCER-TAYLOR

Attested by: Sack Thongvanh
Sack Thongvanh, City Administrator