

Extract of Minutes of a Meeting of the  
City Council of the City of Falcon Heights

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Falcon Heights was duly held in the City of Falcon Heights, Minnesota, on Wednesday, June 14, 2017, at 7:00 o'clock P.M.

The following members were present:

Mayor Pro-tem Tony Fischer

Council Member Pam Harris, Randy Gustafson, and Joe Brown Thunder

and the following were absent:

Mayor Peter Lindstrom

During said meeting Harris introduced the following resolution and Harris moved its adoption:

**CITY OF FALCON HEIGHTS  
COUNCIL RESOLUTION**

June 14, 2017

No. 17-22

**RESOLUTION APPROVING THE ISSUANCE AND SALE OF  
EDUCATIONAL FACILITIES REVENUE REFUNDING NOTES AND AUTHORIZING  
THE EXECUTION OF DOCUMENTS RELATING THERETO  
(SAINT PAUL ACADEMY AND SUMMIT SCHOOL PROJECT)**

WHEREAS,

(a) The purpose of Minnesota Statutes, Sections 469.152 to 469.165, as amended (the "Act"), as found and determined by the legislature, is to promote 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 obligated and marginal lands and areas of chronic unemployment;

(b) The City of Falcon Heights, Minnesota (the "City") desires to facilitate the selective development of the community, retain and improve the tax base and help to provide the range of services and employment opportunities required by the population, including educational services to its youth; and the Project, as defined below, will assist the City in achieving those objectives and will enhance the image and reputation of the community;

(c) Saint Paul Academy and Summit School, a Minnesota nonprofit corporation (the "Borrower"), and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), has proposed that the City undertake a program to finance the Project through the issuance of revenue notes or other obligations, in one or more series (the "Notes"), pursuant to the Act and in an aggregate principal amount not to exceed \$8,500,000;

(d) The "Project" consists of: (i) refinancing, in part, the acquisition, construction and improvements of certain of the Borrower's school facilities located at Dunlap and Goodrich Avenues and Randolph and Davern, on the campus of the Borrower in the City of St. Paul, Minnesota ("St. Paul") by refunding the outstanding principal amount, in part, of the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota's (the "Authority") Educational Facility Revenue Refunding Bonds (Saint Paul Academy and Summit School Project), Series 2007, (the "Prior Bonds"), and (ii) financing the costs of issuing the Notes. The Project is owned, operated, and managed by the Borrower;

(e) The City has been advised by representatives of the Borrower that conventional, commercial financing to pay the capital cost of the Project is available only on a limited basis and at such high costs of borrowing that the economic feasibility of operating the Project would be significantly reduced;

(f) Based on representations of the Borrower, no public official of the City has either a direct or indirect financial interest in the Project nor will any public official either directly or indirectly benefit financially from the Project;

(g) The Notes, as and when issued, will not constitute a charge, lien or encumbrance upon any property of the City or St. Paul and will not be a charge against the general credit or taxing powers of the City or St. Paul;

(h) As required by the Act and Section 147(f) of the Code, a notice of public hearing was published in the City's official newspaper and newspaper of general circulation, for a public hearing on the proposed issuance of the Notes by the City and the proposal of the Borrower to undertake and finance the Project;

(i) As required by the Act and Section 147(f) of the Code, the City Council has on this same date held a public hearing on the issuance of the Notes by the City and the proposal by the Borrower to undertake and refinance the Project, at which hearing all those appearing who desired to speak were heard and written comments were accepted; and

(j) The City has been advised by representatives of the Borrower that, in accordance with Section 147(f) of the Code, St. Paul held a public hearing on June 14, 2017 on the Project and has given its approval to the issuance of the Notes by the City.

BE IT RESOLVED by the City Council of the City of Falcon Heights, Minnesota (the "City"), as follows:

**SECTION 1. LEGAL AUTHORIZATION AND FINDINGS.**

1.1 Findings. The City hereby finds, determines and declares as follows:

(a) The City is a municipal corporation and a political subdivision of the State of Minnesota and is authorized under the Act to assist the project referred to herein, and to issue and sell the Notes, as hereinafter defined, for the purpose, in the manner, and upon the terms and conditions set forth in the Act and in this Resolution.

(b) The issuance and sale of the Notes by the City, pursuant to the Act, is in the best interest of the City, and the City hereby determines to issue the Notes and to sell the Notes to Bremer Bank, National Association, Minneapolis, Minnesota, or another bank in Minnesota (the "Lender"). The City will loan the proceeds of the Notes (the "Loan") to the Borrower in order to finance the Project.

(c) Pursuant to a Loan Agreement (the "Loan Agreement") to be entered into between the City and the Borrower, the Borrower has agreed to repay the Notes in specified amounts and at specified times sufficient to pay in full when due the principal of, premium, if any, and interest on the Notes. In addition, the Loan Agreement contains provisions relating to the maintenance and operation of the Project, indemnification, insurance, and other agreements and covenants which are required or permitted by the Act and which the City and the Borrower deem necessary or desirable for their financing of the Project. A draft of the Loan Agreement has been submitted to the City Council.

(d) Pursuant to a Pledge Agreement (the "Pledge Agreement") to be entered into between the City and the Lender, the City has pledged and granted a security interest in all of its rights, title, and interest in the Loan Agreement to the Lender (except for certain rights of indemnification and to reimbursement for certain costs and expenses). A draft of the Pledge Agreement has been submitted to the City Council.

(e) Payments due under the Loan Agreement and Notes shall also be secured pursuant to a Security Agreement (the "Security Agreement") given by the Borrower to the Lender by granting a security interest in the property described therein. A draft of the Security Agreement has been submitted to the City Council.

(f) As additional security, the Borrower will grant to the Lender a Declaration of Restrictive Covenants (the "Declaration"), agreeing to certain restrictions on the Project. A draft of the Declaration has been submitted to the City Council.

(g) The Notes will be purchased pursuant to an Agreement to Purchase (the "Purchase Agreement") between the City, the Lender, and the Borrower. A draft of the Purchase Agreement has been submitted to the City Council.

(h) The Notes will be a special, limited obligation of the City. The Notes shall not be payable from or charged upon any funds other than the revenues pledged to the payment thereof, nor shall the City be subject to any liability thereon. No holder of the Notes shall ever have the right to compel any exercise of the taxing power of the City to pay the Notes or the interest thereon, nor to enforce payment thereof against any property of the City. The Notes shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation.

(i) On the basis of information available to the City it appears, and the City hereby finds, that the Project constitutes properties, real and personal, used or useful in connection with a social services facility within the meaning of the Act; that the Project furthers the purposes stated in the Act; that the availability of the financing under the Act and the willingness of the City to furnish such refinancing will be a substantial inducement to the Borrower to undertake the Project, and that the effect of the Project, if undertaken, will be to assist in the prevention of the emergence of blighted and marginal land, to help prevent chronic unemployment, to help the surrounding area retain and eventually improve the tax base, to provide the range of service and employment opportunities required by the population, to help prevent the movement of talented and educated persons out of the state and to areas within the State where their services may not be as effectively used, and to promote more intensive development and use of land within the City and surrounding communities, and to provide available adequate educational services to residents of the State at a reasonable cost.

(j) It is desirable, feasible, and consistent with the objects and purposes of the Act to issue the Notes, for the purpose of refinancing the costs of the Project.

## **SECTION 2. THE NOTES.**

2.1 Authorized Amount and Form of Notes. The Notes are hereby approved and shall be issued pursuant to this Resolution in substantially the form submitted to the City Council with such appropriate variations, omissions and insertions as are necessary and appropriate and are permitted or required by this Resolution, and in accordance with the further provisions hereof; and the total aggregate principal amount of the Notes that may be outstanding hereunder is expressly limited to \$8,500,000, unless a duplicate Note is issued pursuant to Section 2.7. The Notes shall bear interest at a rate or rates as set forth therein.

2.2 The Notes. The Notes shall be dated as of the date of delivery to the Lender, shall be payable at the times and in the manner, shall bear interest at the rate, and shall be subject to such other terms and conditions as are set forth therein.

2.3 Execution. The Notes shall be executed on behalf of the City by the signatures of its Mayor and the City Administrator and shall be sealed with the seal of the City; provided that the seal may be intentionally omitted as provided by law. In case any officer whose signature

shall appear on the Notes shall cease to be such officer before the delivery of the Notes, such signature shall nevertheless be valid and sufficient for all purposes, the same as if had remained in office until delivery. In the event of the absence or disability of the Mayor or the City Administrator such officers of the City as, in the opinion of the City Attorney, may act in their behalf, shall without further act or authorization of the City Council execute and deliver the Notes.

2.4 Delivery of Initial Notes. Before delivery of the Notes there shall be filed with the Lender (except to the extent waived by the Lender) the following items:

- (1) an executed copy of each of the following documents:
  - (a) the Loan Agreement;
  - (b) the Pledge Agreement;
  - (c) the Security Agreement;
  - (d) the Declaration; and
  - (e) the Purchase Agreement.
- (2) an opinion of Counsel for the Borrower as prescribed by the Lender and Bond Counsel;
- (3) the opinion of Bond Counsel as to the validity and tax exempt status of the Notes;
- (4) evidence that the Borrower is an organization described in Section 501(c)(3) of the Code and is exempt from income taxation under Section 501(c)(3) of the Code; and
- (5) such other documents and opinions as Bond Counsel may reasonably require for purposes of rendering its opinion required in subsection (3) above or that the Lender may reasonably require for the closing.

2.5 Disposition of Proceeds of the Notes. Upon delivery of the Notes to Lender, the Lender shall, on behalf of the City, disburse the proceeds of the Notes for refinancing the Project in accordance with the terms of the Loan Agreement.

2.6 Registration of Transfer. The City will cause to be kept at the office of the City Administrator a Note Register in which, subject to such reasonable regulations as it may prescribe, the City shall provide for the registration of transfers of ownership of the Notes. The Notes shall be initially registered in the name of the Lender and shall be transferable upon the Notes Register by the Lender in person or by its agent duly authorized in writing, upon surrender of the Notes together with a written instrument of transfer satisfactory to the City Administrator, duly executed by the Lender or its duly authorized agent. The following form of assignment shall be sufficient for said purpose.

For value received \_\_\_\_\_ hereby sells, assigns and transfers unto \_\_\_\_\_ the within Note of the City of Falcon Heights, Minnesota, and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer said Note on the books of said City with full power of substitution in the premises. The undersigned certifies that the transfer is made in accordance with the provisions of Section 2.9 of the Resolution authorizing the issuance of the Notes.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Registered Owner

Upon such transfer the City Administrator shall note the date of registration and the name and address of the new Lender in the applicable Note Register and in the registration blank appearing on the Notes.

2.7 Mutilated, Lost or Destroyed Note. In case the Notes issued hereunder shall become mutilated or be destroyed or lost, the City shall, if not then prohibited by law, cause to be executed and delivered, a new Note of like outstanding principal amount, number and tenor in exchange and substitution for and upon cancellation of such mutilated Note, or in lieu of and in substitution for such Note destroyed or lost, upon the Lender's paying the reasonable expenses and charges of the City in connection therewith, and in the case of a Note destroyed or lost, the filing with the City of evidence satisfactory to the City with indemnity satisfactory to it. If the mutilated, destroyed or lost Note has already matured or been called for redemption in accordance with its terms it shall not be necessary to issue a new Note prior to payment.

2.8 Ownership of Note. The City may deem and treat the person in whose name the Notes is last registered in the Notes Register and by notation on the Notes whether or not such Note shall be overdue, as the absolute owner of such Note for the purpose of receiving payment of or on account of the principal balance, redemption price or interest and for all other purposes whatsoever, and the City shall not be affected by any notice to the contrary.

2.9 Limitation on Note Transfers. The Notes will be issued to an "accredited investor" and without registration under state or other securities laws, pursuant to an exemption for such issuance; and accordingly the Notes may not be assigned or transferred in whole or part, nor may a participation interest in the Notes be given pursuant to any participation agreement, except to another "accredited investor" or "financial institution" in accordance with an applicable exemption from such registration requirements and with full and accurate disclosure of all material facts to the prospective purchaser(s) or transferee(s).

2.10 Issuance of a New Note. Subject to the provisions of Section 2.9, the City shall, at the request and expense of the Lender, issue a new note, in aggregate outstanding principal amount equal to that of the Notes surrendered, and of like tenor except as to number, principal amount, and the amount of the periodic installments payable thereunder, and registered in the name of the Lender or such transferee as may be designated by the Lender.

### **SECTION 3. GENERAL COVENANTS.**

3.1 Payment of Principal and Interest. The City covenants that it will promptly pay or cause to be paid the principal of and interest on the Notes at the place, on the dates, solely from the source and in the manner provided herein and in the Notes. The principal and interest are payable solely from and secured by revenues and proceeds derived from the Loan Agreement and the Pledge Agreement, which revenues and proceeds are hereby specifically pledged to the payment thereof in the manner and to the extent specified in the Notes, the Loan Agreement, and the Pledge Agreement; and nothing in the Notes or in this Resolution shall be considered as assigning, pledging, or otherwise encumbering any other funds or assets of the City.

3.2 Performance of and Authority for Covenants. The City covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Resolution, in the Notes executed, authenticated and delivered hereunder and in all proceedings of the City Council pertaining thereto; that it is duly authorized under the Constitution and laws of the State of Minnesota including particularly and without limitation the Act, to issue the Notes authorized hereby, pledge the revenues and assign the Loan Agreement in the manner and to the extent set forth in this Resolution, the Notes, the Loan Agreement, and the Pledge Agreement that all action on its part for the issuance of the Notes and for the execution and delivery thereof has been duly and effectively taken; and that the Notes in the hands of the Lender is and will be a valid and enforceable special limited obligation of the City according to the terms thereof.

3.3 Enforcement and Performance of Covenants. The City agrees to enforce all covenants and obligations of the Borrower under the Loan Agreement, upon request of the Lender and being indemnified to the satisfaction of the City for all expenses and claims arising therefrom, and to perform all covenants and other provisions pertaining to the City contained in the Notes and the Loan Agreement and subject to Section 3.4.

3.4 Nature of Security. Notwithstanding anything contained in the Notes, the Loan Agreement, the Pledge Agreement, the Security Agreement, or any other document referred to in Section 2.4 to the contrary, under the provisions of the Act the Notes may not be payable from or be a charge upon any funds of the City other than the revenues and proceeds pledged to the payment thereof, nor shall the City be subject to any liability thereon, nor shall the Notes otherwise contribute or give rise to a pecuniary liability of the City or, to the extent permitted by law, any of the City's officers, employees and agents. No holder of the Notes shall ever have the right to compel any exercise of the taxing power of the City to pay the Notes or the interest thereon, or to enforce payment thereof against any property of the City other than the revenues pledged under the Pledge Agreement; and the Notes shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City; and the Notes shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation; but nothing in the Act impairs the rights of the Lender to enforce the covenants made for the security thereof as provided in this Resolution, the Loan Agreement, the Pledge Agreement, and the Security Agreement, and in the Act, and by authority of the Act the City has made the covenants and agreements herein for the benefit of the Lender; provided that in any event, the agreement of the City to perform or enforce the covenants and other provisions contained in the Notes, the Loan Agreement, the Pledge Agreement, and the Security Agreement, shall be subject at all times to

the availability of revenues under the Loan Agreement sufficient to pay all costs of such performance or the enforcement thereof, and the City shall not be subject to any personal or pecuniary liability thereon.

3.5 Qualified Tax Exempt Obligation. In order to qualify the Notes as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), the City hereby makes the following factual statements and representations;

(a) the Notes are not treated as a "private activity bond" under Section 265(b)(3) of the Code;

(b) the City hereby designates the Notes as qualified tax-exempt obligations for purposes of Section 265(b)(3) of the Code;

(c) 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 entities whose obligations will be aggregated with those of the City) during the calendar year 2017 will not exceed \$10,000,000;

(d) not more than \$10,000,000 of obligations issued by the City during the calendar year 2017 have been designated for purposes of Section 265(b)(3) of the Code; and

(e) the aggregate face amount of the Notes does not exceed \$10,000,000.

#### **SECTION 4. MISCELLANEOUS.**

4.1 Severability. If any provision of this Resolution shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions of any constitution or statute or rule or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or paragraphs in this Resolution contained shall not affect the remaining portions of this Resolution or any part thereof.

4.2 Authentication of Transcript. The officers of the City are directed to furnish to Bond Counsel certified copies of this Resolution and all documents referred to herein, and affidavits or certificates as to all other matters which are reasonably necessary to evidence the validity of the Notes. All such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute recitals of the City as to the correctness of all statements contained therein.

4.3 Authorization to Execute Agreements. The forms of the proposed Loan Agreement, the Pledge Agreement, and the Purchase Agreement are hereby approved in substantially the form presented to the City Council, together with such additional details therein



as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by Bond Counsel prior to the execution of the documents. The Mayor and the City Administrator of the City are authorized to execute the Loan Agreement, the Pledge Agreement, and the Purchase Agreement and such other documents as Bond Counsel consider appropriate in connection with the issuance of the Notes, in the name of and on behalf of the City. In the event of the absence or disability of the Mayor or the City Administrator such officers of the City as, in the opinion of the City Attorney, may act on their behalf, shall without further act or authorization of the City Council do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers. The execution of any instrument by the appropriate officer or officers of the City herein authorized shall be conclusive evidence of the approval of such documents in accordance with the terms hereof.

Adopted by the City Council of the City of Falcon Heights, Minnesota, this 14th day of June, 2017.

After full discussion thereof and upon vote being taken thereon, the following voted in favor thereof:

Mayor Pro-tem Tony Fischer

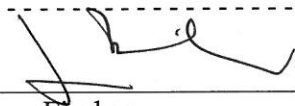
Council Member Randy Gustafson, Pam Harris and Joe Brown Thunder

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.


Moved by: Harris

Approved by: \_\_\_\_\_

  
Tony Fischer  
Mayor Pro-tem

LINDSTROM      4      In Favor  
BROWN THUNDER  
HARRIS            0      Against  
GUSTAFSON  
FISCHER

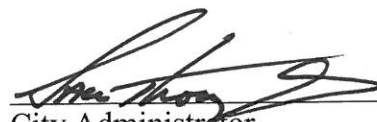
Attested by: \_\_\_\_\_

  
Sack Thongvanh  
City Administrator

STATE OF MINNESOTA  
COUNTY OF RAMSEY  
CITY OF FALCON HEIGHTS

I, the undersigned, being the duly qualified and acting City Administrator of the City of Falcon Heights, DO HEREBY CERTIFY that I have compared the attached and foregoing extract of minutes with the original thereof on file in my office, and that the same is a full, true and complete transcript of the minutes of a meeting of the City Council duly called and held on the date therein indicated, insofar as such minutes relate to a resolution authorizing the issuance of capital campaign bridge financing notes.

WITNESS my hand this 29 day of June, 2017.

  
\_\_\_\_\_  
City Administrator