

RESOLUTION NO. ____

RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING THE ISSUANCE OF TAX-EXEMPT REVENUE OBLIGATIONS BY THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$15,000,000 FOR THE PURPOSE OF FINANCING, REFINANCING OR REIMBURSING THE COST OF DESIGNING, DEVELOPING, CONSTRUCTING, INSTALLING, EQUIPPING AND FURNISHING OF FACILITIES FOR THE BENEFIT OF ALMADEN COUNTRY DAY SCHOOL AND OTHER MATTERS RELATING THERETO HEREIN SPECIFIED

WHEREAS, the Almaden Country Day School, a California nonprofit public benefit corporation (together with any affiliate thereof or successor thereto, the “School”), has requested that the California Enterprise Development Authority, a joint exercise of powers agency established pursuant to the laws of the State of California (the “Authority”) issue its tax-exempt revenue obligations, from time to time pursuant to a plan of finance (hereinafter referred to as, the “Obligations”), in an aggregate principal amount not expected to exceed \$15,000,000 for the benefit of the School, pursuant to Chapter 5 of Division 7 of Title 1 of the Government Code of the State (commencing with Section 6500) (the “Act”), for the purpose of (a) financing, refinancing or reimbursing the School for the costs of designing, developing, constructing, installing, improving, equipping and furnishing (i) an approximately 15,000 square foot integrated gymnasium for indoor sports and a modern stage that will serve as an indoor gathering space for school events located at 6835 Trinidad Drive, San José, California 95120 (the “Property”), (ii) parking lot improvements and related enhancements at the Property, and (iii) additional improvements to the Property and supporting infrastructure to further the School’s educational mission (collectively, the “Facilities”) and (b) paying certain financing costs and costs of issuance in connection with such financing; and

WHEREAS, the School is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), and will own and operate the Facilities in connection with its mission that the School has represented is to create a personalized learning environment that is warm and joyful, characterized by respect, courtesy, responsibility, cooperation, honesty, patriotism, good citizenship, and appreciation of diversity; and

WHEREAS, the City of San José (the “City”) is an associate member of the Authority; and

WHEREAS, the issuance of the Obligations shall be subject to the approval of and execution by the Authority of all financing documents relating thereto to which the Authority is a party; and

WHEREAS, the Facilities are located wholly within the City; and

WHEREAS, the interest on the Obligations may qualify for tax exemption under Section 103 of the Code, only if the Obligations are approved in accordance with Section 147(f) of the Code; and

WHEREAS, the City Council of the City (the “Council”) is the elected legislative body of the City and is the applicable elected representative required to approve the issue within the meaning of Section 147(f) of the Code; and

WHEREAS, the Authority has requested the Council to approve the issuance of the Obligations in order to satisfy the public approval requirements of Section 147(f) of the Code; and

WHEREAS, on April 7, 2020, the City caused a notice to appear in *The Mercury News*, which is a newspaper of general circulation in the city of San José, stating that a public hearing with respect to the issuance of the Obligations would be held by the Council on April 14, 2020; and

WHEREAS, the Council held the public hearing described above on April 14, 2020, and an opportunity was provided for persons to comment on the issuance of the Obligations and the financing and refinancing of the Facilities; and

WHEREAS, it is intended that this Resolution shall comply with the public approval requirements of Section 147(f) of the Code; *provided, however*, that this Resolution is neither intended to nor shall it constitute an approval by the Council for any other purpose, including, but not limited to, compliance with the California Environmental Quality Act (California Public Resources Code, Section 21100, *et seq.*) (“CEQA”);

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

SECTION 1. The City Council hereby finds and determines that all of the foregoing recitals are true and correct.

SECTION 2. The Council, as the “applicable elected representative” of the governmental unit on behalf of which the Obligations will be issued and having jurisdiction over the area in which the Facilities are located, hereby approves the issuance of the Obligations by the Authority, which Obligations may be tax-exempt and/or taxable as approved by the Authority in its resolution, in an amount not to exceed \$15,000,000 to finance and refinance the costs of the Facilities. This resolution shall constitute “issuer” approval and “host” approval of the issuance of the Obligations within the meaning of Section 147(f) of the Code and shall constitute the approval of the issuance of the Obligations within the

meaning of the Act; provided, however, that this Resolution shall not constitute an approval by the Council for any other purposes, including compliance thereof with CEQA, nor does it constitute an approval of the underlying credit or financial structure of the Obligations. The City shall not bear any responsibility or liability for the issuance of the Obligations, the tax-exempt status of the Obligations, the repayment of the Obligations or any other matter related to the Obligations.

SECTION 3. All actions heretofore taken by the officers, employees and agents of the City with respect to the approval of the issuance of the Obligations are hereby approved, confirmed and ratified, and the officers and employees of the City and their authorized deputies and agents are hereby authorized and directed to do any and all things and to execute and deliver any and all certificates and documents which they or special counsel may deem necessary or advisable in order to consummate the issuance of the Obligations and otherwise to effectuate the purposes of this Resolution.

SECTION 4. The adoption of this Resolution shall not obligate the City or any department thereof to (i) provide any financing for the Facilities; (ii) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the acquisition, construction, rehabilitation or operation of the Facilities; or (iii) make any contribution or advance any funds whatsoever to the Authority.

SECTION 5. This Resolution shall take effect immediately upon its adoption.

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ADOPTED this _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk