

CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT:

AGENDA DATE:

PUBLIC HEARING DATE:

CONTACT PERSON NAME  
AND PHONE NUMBR:  *SMC*

DISTRICT(S) AFFECTED:

STRATEGIC GOAL:

SUBGOAL:

**SUBJECT:**

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

Discussion and action on a Resolution to authorize the Mayor to sign a Certificate of Approval of the Highest Elected Official in conjunction with the proposed issuance by the Industrial Development Authority of La Paz County, Arizona (the "Issuer"), a political subdivision of the State of Arizona of Arizona Education Facilities Lease Revenue Bonds in an amount not to exceed \$85,000,000. The proceeds will be issued as part of the plan of finance and loaned to the Charter School Solutions, a Texas Nonprofit solution.

**BACKGROUND / DISCUSSION:**

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

Section 147(f) of the Internal Revenue Code of 1986 requires that before the bonds are issued, the issuance of such tax exempt bonds must be approved by the highest elected official of the local government unit having jurisdiction over the area in which such facility is located after a public hearing following reasonable notice to the public.

The Industrial Development Authority of La Paz County, Arizona published Notice of Public Hearing in the El Paso Times as required by Section 147(f) of the Internal Revenue Code on May 24, 2018 and held a public hearing on Monday, June 11, 2018.

**PRIOR COUNCIL ACTION:**

Has the Council previously considered this item or a closely related one?

Yes, a similar item was approved by Council on February 20, 2018 for proposed bonds to be issued by the Alamito Public Facilities Corporation.

**AMOUNT AND SOURCE OF FUNDING:**

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

N/A

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

DEPARTMENT HEAD:

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(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

## **RESOLUTION**

**WHEREAS**, the Industrial Development Authority of La Paz County, Arizona (“Issuer”), an Arizona nonprofit corporation incorporated with the approval of the County of La Paz, Arizona and designated as a political subdivision of the State of Arizona pursuant to the provisions of the Industrial Development Financing Act, Title 35, Chapter 5, Articles 1 through 5, Arizona Revised Statutes, as amended (Sections 35-701 through 35-761, inclusive), is in the process of issuing a plan of finance, including the following Bonds:

**The Industrial Development Corporation of La Paz County, Arizona Education Facilities Lease Revenue Bonds (Charter School Solutions), Series 2018. The plan of finance will be in an amount not to exceed \$85,000,000. The proceeds of the Bonds will be issued as part of the plan of finance and loaned to Charter School Solutions, a Texas Nonprofit Corporation.**

**WHEREAS**, Section 147(f) of the Internal Revenue Code of 1986 requires that before the bonds are issued, the issuance of such tax exempt bonds must be approved by the highest elected official of the local governmental unit having jurisdiction over the area in which such facility is located after a public hearing following reasonable notice to the public;

**WHEREAS**, Issuer published a Notice of Public Hearing in the El Paso Times as required by Section 147(f) of the Internal Revenue Code on May 24, 2018, and held a public hearing on Monday, June 11, 2018; and

**WHEREAS**, Issuer now requests that the Mayor sign a Certificate of Approval of the Highest Elected Official.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the Mayor be authorized to sign the Certificate of Approval of the Highest Elected Official attached to this Resolution as for the sole purpose of compliance with Section 147(f) of the Internal Revenue Code of 1986.

*(Signatures appear on the following page)*

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2018.

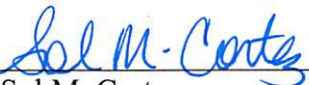
**CITY OF EL PASO:**

\_\_\_\_\_  
Dee Margo  
Mayor

**ATTEST:**

\_\_\_\_\_  
Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Sol M. Cortez  
Senior Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Clayton T. Holland  
Hunton Andrews Kurth LLP

**APPROVAL OF THE HIGHEST ELECTED OFFICIAL OF THE  
ISSUANCE BY THE INDUSTRIAL DEVELOPMENT AUTHORITY OF  
LA PAZ COUNTY, ARIZONA EDUCATION FACILITIES LEASE  
REVENUE BONDS (CHARTER SCHOOL SOLUTIONS) SERIES 2018  
FOR PURPOSES OF SECTION 147(f) OF THE INTERNAL REVENUE  
CODE**

**WHEREAS**, the Industrial Development Authority of the County of La Paz, Arizona (the "Issuer") is a public not-for-profit corporation created pursuant to the provisions of Title 35, Chapter 5, of the Arizona Revised Statutes, as amended (the "Act"), and the Issuer is empowered under the Act to issue bonds to finance educational and housing facilities for open-enrollment charter schools as described in the Act, including facilities owned or operated by a nonprofit organization described in Section 501(c) of the United States Internal Revenue Code of 1986, as amended, and the Proposed Regulations thereunder (the "Code"); and

**WHEREAS**, in furtherance of the purposes of the Act, the Corporation has authorized the issuance of its revenue bonds designated as the "The Industrial Development Corporation of La Paz County, Arizona Education Facilities Lease Revenue Bonds (Charter School Solutions), Series 2018" (the "**Bonds**"), the proceeds of which will be loaned to Charter School Solutions (the "**Borrower**") to be used to finance and refinance the cost of certain educational facilities of the Borrower located in El Paso, Texas;

**WHEREAS**, Section 147(f) of the Code requires that the issuance of any qualified 501(c)(3) obligations be approved by the "applicable elected representative" (the "**AER**") of the governmental unit in which the Project, as defined in Exhibit A, is located after a public hearing following reasonable public notice;

**WHEREAS**, the Bonds are qualified Section 501(c)(3) obligations under the Code;

**WHEREAS**, the Project is located in the City of El Paso, Texas (the "**City**"), and the City Council ("**City Council**") is an AER for the City;

**WHEREAS**, attached hereto as Exhibit A is the Certificate of Public Hearing Officer; and

**WHEREAS**, attached hereto and included in the Certificate of Public Hearing Officer is the Notice of Public Hearing which was published in a newspaper of general circulation in the City, as required by Section 147(f) of the Code which public hearing was conducted by the Corporation on June 11, 2018; and

**WHEREAS**, attached hereto and included in the Certificate of Public Hearing Officer is the Affidavit of Publication of the Notice of Public Hearing; and

**WHEREAS**, the City Council desires to approve the Project and the Bonds solely for purposes of satisfying the requirements of Section 147(f) of the Code; and

**WHEREAS**, the actions of the City Council with respect to the Project and the Bonds and to the matters described herein will create no liability for the City and is in the best interest of the City, and the City Council desires to approve this Resolution;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO THAT:**

The City Council hereby specifically approves the Bonds and the Project solely for the purpose of satisfying the requirements of Section 147(f) of the Code and such approval is not to be construed as an undertaking by the City. The Bonds shall not constitute a liability, an indebtedness or an obligation of the City nor shall any of the assets of the City be pledged to the payment of the Bonds. This Resolution shall become effective immediately upon the execution hereof.

*[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK;  
SIGNATURE PAGE FOLLOWS]*

APPROVED this \_\_\_\_ day of \_\_\_\_, 2018.

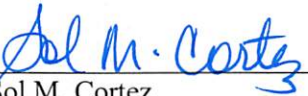
**CITY OF EL PASO, TEXAS**

\_\_\_\_\_  
Dee Margo, Mayor

ATTEST:

\_\_\_\_\_  
Laura D. Prine  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Sol M. Cortez  
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Clayton T. Holland  
Hunton Andrews Kurth LLP

**EXHIBIT A**  
**CERTIFICATE OF PUBLIC HEARING OFFICER**



**CERTIFICATE OF PUBLIC HEARING OFFICER**  
**REGARDING PUBLIC HEARING (INTERNAL REVENUE CODE § 147(f))**


INDUSTRIAL DEVELOPMENT AUTHORITY OF LA PAZ COUNTY,  
ARIZONA  
EDUCATION FACILITIES LEASE REVENUE BONDS  
(CHARTER SCHOOL SOLUTIONS)  
SERIES 2018

I, the undersigned, do hereby make and execute this certificate for the benefit of all persons interested in the issuance of the above-referenced bonds (the "Bonds").

I hereby certify as follows:

1. I am the duly appointed hearing officer for the public hearing which was held in connection with the issuance of the Bonds at the time and place indicated in the Notice of Public Hearing included in **Exhibit A** attached hereto.
2. Notice of the public hearing was published no less than 14 days before the date of the public hearing in the *El Paso Times*, as evidenced by the Affidavit of Publication of the Notice of Public Hearing attached hereto as **Exhibit A**.
3. All persons appearing at the public hearing were given an opportunity to comment on the proposed issuance of the Bonds and the project to be financed with proceeds of the Bonds. No such persons appeared or made comments except as is set forth on **Exhibit B** attached hereto.
4. After giving all interested persons an opportunity to appear and comment, the public hearing was declared closed.

WITNESS MY HAND this 11th day of June, 2018.

A handwritten signature in black ink, appearing to read "Clay Holland", is written over a horizontal line.

Clay Holland  
Hearing Officer

Exhibit A - Affidavit of Publication of the Notice of Public Hearing

Exhibit B - Names and Comments of Persons Attending Public Hearing

**EXHIBIT A**

**AFFIDAVIT OF PUBLICATION OF THE NOTICE OF PUBLIC HEARING**

**ATTACHED**

## AFFIDAVIT OF PUBLICATION

Ad No.  
0001247379

HUNTON ANDREWS KURTH LLP  
600 TRAVIS STREET, SUITE 4200

HOUSTON TX 77002

I, being duly sworn say: EL PASO TIMES, a daily newspaper of general circulation published in the City and County El Paso, State of Texas, which is a newspaper of general circulation and which has been continuously and regularly published for the period of not less than one year in the said County of El Paso, and that he/she was upon the dates herein mentioned in the EL PASO TIMES.

That the LEGAL copy was published in the EL PASO TIMES for the date(s) of such follows 1 DAY(s) to wit

05/24/18

*[Signature]*  
Legal Clerk

Subscribed and sworn before me this  
24th of May 2018.

*[Signature]*  
State of WI, County of Brown  
NOTARY PUBLIC

*9-19-21*  
My Commission Expires

Ad#:0001247379  
P O : EDUCATION FACILITIES LEASE  
REVENUE BONDS

## NOTICE OF PUBLIC HEARING (El Paso)

INDUSTRIAL DEVELOPMENT  
AUTHORITY OF LA  
PAZ COUNTY, ARIZONA  
EDUCATION FACILITIES  
LEASE REVENUE BONDS  
(CHARTER SCHOOL SOLUTIONS)  
SERIES 2018

Notice is hereby given of a public hearing to be held on behalf of the Industrial Development Authority of the County of

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#### NOTICE OF PUBLIC HEARING (El Paso)

INDUSTRIAL DEVELOPMENT  
AUTHORITY OF LA  
PAZ COUNTY, ARIZONA  
EDUCATION FACILITIES  
LEASE REVENUE BONDS  
(CHARTER SCHOOL SOLUTIONS)  
SERIES 2018

Notice is hereby given of a public hearing to be held on behalf of the Industrial Development Authority of the County of La Paz, Arizona on June 11, 2018 at 10:30 a.m., at 9405 Betel Drive, El Paso, Texas 79907, with respect to the captioned Bonds to be issued in an aggregate principal amount not to exceed \$85,000,000 by the Industrial Development Authority of the County of La Paz, Arizona. The proceeds of the Bonds will be issued as part of a plan of finance and loaned to Charter School Solutions, a Texas nonprofit corporation (the "Borrower"), for the following purposes:

- (1) financing the costs of acquiring, constructing, improving, furnishing, and equipping educational facilities for pre-K, primary, and secondary school students of the Borrower's campuses, including:  
(a) 9405 Betel Drive, El Paso, Texas 79907 ("Harmony Science Academy - El Paso");  
(b) Approximately 23 acres at the intersection of Saul Kleinfeld Drive and Rufus Brijalba Drive, El Paso, El Paso County, Texas 79936; and  
(2) paying the costs of issuing the Bonds.
- All of the campuses will be owned and operated by the Borrower. The Bonds are not payable out of taxes and are secured by and payable solely from funds provided by the Borrower. The Bonds are not payable out of taxes and are secured by and payable solely from funds provided by the Borrower.

The public hearing will be conducted by Clay Holland, or his designee (the "Hearing Officer"). Questions or requests for additional information may be directed to the Hearing Officer (telephone: 713.220.3829). Any inter-

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ested persons unable to attend the hearing may submit their views in writing to the Hearing Officer prior to the date scheduled for the hearing at fax number 713.220.4285. This notice is published and the hearing is to be held in satisfaction of the requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended, and the Proposed Regulations thereunder. 5/24, 2018 (1247379)



land, or his designee (the "Hearing Officer"). Questions or requests for additional information may be directed to the Hearing Officer (telephone: 713.220.3829). Any interested persons unable to attend the hearing may submit their views in writing to the Hearing Officer prior to the date scheduled for the hearing at fax number 713.220.4285. This notice is published and the hearing is to be held in satisfaction of the requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended, and the Proposed Regulations thereunder.  
5/24, 2018 (1247379)

**EXHIBIT B**

**NAMES AND COMMENTS OF PERSONS ATTENDING PUBLIC HEARING**

NONE

Name of Attendee

Comment

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2. \_\_\_\_\_

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3. \_\_\_\_\_

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June 15, 2018

The Honorable Dee Margo  
300 N. Campbell  
El Paso, Texas 79901

Re: The Industrial Development Corporation of La Paz County, Arizona Education  
Facilities Lease Revenue Bonds (Charter School Solutions), Series 2018

Dear Mayor Margo:

Charter School Solutions is requesting your approval of a proposed tax-exempt bond issue, as required by the Internal Revenue Code of 1986, as amended (the "Code"). The bonds will not be a debt or liability of the City of El Paso, Texas (the "City"). The consent being requested herein is only for the purposes of complying with federal tax law regarding tax-exempt financing.

Charter School Solutions is a qualified 501(c)(3) charitable organization, and therefore is eligible to participate in tax-exempt financings. However, unlike a governmental issuer (e.g., a city, county, or school district), a 501(c)(3) organization must issue bonds through a state-approved conduit and must conduct a public hearing on the financing. Code §147(f) requires that the "highest elected official" of the City approve the transaction after the public hearing is held because two of the campuses will be located in the City. The public hearing was held on June 11, 2018, at 9405 Betel Dr., El Paso, Texas 79907.

Charter School Solutions is financing the construction and equipment of its schools across the State of Texas. The City campuses that will be financed are located at: (i) 9435 Betel Dr., El Paso, Texas 79907 ("Harmony School of Excellence - El Paso") and (ii) the intersection of Saul Kleinfeld Drive and Rufus Brijalba Drive, El Paso, El Paso County, Texas 79936. Charter School Solutions is financing at tax-exempt interest rates through a bond issue facilitated by Industrial Development Authority of the County of La Paz, Arizona. Hunton Andrews Kurth LLP serves as bond counsel for the transaction.

As such, we respectfully request your consent to the transaction. Attached is a copy of the Approval Resolution and the completed Certificate of Hearing Officer.

June 15, 2018

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Please note that this transaction is scheduled to close on August 1, 2018. We greatly appreciate your assistance in this matter. Please call me at (713) 220-3829 if we can provide any further information or can assist you in connection with this request for consent..

Very truly yours,

  
Samantha Raglin