

Extract of Minutes of a Meeting of the
City Council of
City of Cologne, Minnesota

Pursuant to due call and notice thereof, a regular meeting of the City Council of City of Cologne, Minnesota (the "City"), was duly held at the City Hall in said City on Monday, the 6th day of May, 2024, at 7:00 o'clock P.M.

The following members were present:

and the following were absent:

Member Bruss introduced the following resolution and moved its adoption:

RESOLUTION NO. 24-18
RESOLUTION AUTHORIZING THE ISSUANCE OF
CHARTER SCHOOL LEASE REVENUE BONDS FOR A
PUBLIC (CHARTER) SCHOOL PROJECT PURSUANT TO
MINNESOTA LAW, AND AUTHORIZING THE EXECUTION OF VARIOUS
DOCUMENTS IN CONNECTION THEREWITH
(COLOGNE ACADEMY PROJECT)

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

Bruss, Szaroletta, Samuelson and Sein

and the following voted against the same:

none

Kells abstained

whereupon said resolution was declared duly passed and adopted.

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1. Authority. The City is, by the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Sections 469.152 to 469.165, as amended (the “Act”), authorized to issue and sell its revenue bonds for the purpose of financing industrial development within the boundaries of the City and to enter into agreements necessary or convenient in the exercise of the powers granted by the Act.

2. Authorization of Project; Documents Presented. Cologne Academy Building Company (the “Company”), a Minnesota nonprofit corporation and an organization described under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, has proposed to this Council that the City issue and sell its Charter School Lease Revenue Bonds (Cologne Academy Project) Series 2024 (the “Series 2024 Bonds” or the “Bonds”), in one or more series, tax-exempt and/or taxable, in an aggregate amount not to exceed \$11,000,000, in substantially the form set forth in the hereinafter-mentioned First Supplemental Indenture, pursuant to the Act, and loan the proceeds thereof to the Company, in order to (i) partially refund the City’s \$13,630,000 Charter School Lease Revenue Bonds (Cologne Academy Project), Series 2014A, the proceeds of which were used to finance the acquisition of the then-existing charter school facilities located at 1221 South Village Parkway in the City and the construction and equipping of an approximately 33,138 square-foot addition thereto, consisting of approximately 20,924 square feet of additional class room space and an approximately 12,214 square-foot gymnasium, including parking lot additions and restructuring (the “Series 2014 Project”); (ii) finance the acquisition of an existing approximately 16,174 square-foot facility, located on approximately 1.33 acres, which includes office and administrative space for the School (as defined below), as well as a kitchen that the School will use to prepare meals for its students, as well as separate premises leased and occupied for an early learning center and a coffee shop, located one block east of the Series 2014 Project at 1111 Village Parkway in the City, and assuming and refinancing taxable debt related thereto (the “Series 2024 Project” and with the Series 2014 Project, the “Project”), owned by the Company and leased primarily to the Cologne Academy, a Minnesota nonprofit corporation and an organization described under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, (the “School”); (ii) fund a debt service reserve fund; (iii) pay a portion of the interest on the Bonds, if necessary; and (iv) pay the costs of issuing the Bonds. Forms of the following documents relating to the Bonds have been submitted to the City:

(a) Loan Agreement as amended by a First Amendment to Loan Agreement (the “First Amendment to Loan Agreement”) between the City and the Company, whereby the City agrees to make a loan to the Company of the gross proceeds of the sale of the Bonds and the Company agrees to operate the Project and to pay amounts in repayment of the loan sufficient to

provide for the full and prompt payment of the principal of, premium, if any, and interest on the Bonds; and

(b) Indenture of Trust as supplemented by a First Supplemental Indenture of Trust (the "First Supplemental Indenture") between the City and U.S. Bank Trust Company, National Association, as trustee (the "Trustee"), authorizing the issuance of and pledging certain revenues, including those to be derived from the Loan Agreement, as security for the Bonds, and setting forth proposed recitals, covenants, and agreements relating thereto; and

(c) Amended and Restated Mortgage, Security Agreement and Assignment of Rents (the "Mortgage"), from the Company to the Trustee, by which the Company grants a mortgage lien on and security interest in certain mortgaged property, as described therein, as further security for the payment of the Bonds and assigns its interests in all rents with respect to the mortgaged property; and

(d) Amended and Restated Assignment of Leases (the "Lease Assignment") from the Company to the Trustee; and

(e) Bond Purchase Agreement (the "Bond Purchase Agreement"), by and between Raymond James & Associates, Inc. (the "Underwriter"), the Company, the School, and the City, providing for the purchase of the Bonds from the City by the Underwriter and setting the terms and conditions of purchase;

(f) Official Statement, which, including all Appendices thereto, is intended to constitute the form of the final Official Statement (the "Official Statement"), describing the offering of the Bonds, and certain terms and provisions of the foregoing documents; and

(g) Successor Trustee Agreement (the "Successor Trustee Agreement") by and between the City, the Trustee, and Computershare Trust Company, National Association, as successor-in-interest to Well Fargo Bank, National Association (the "Predecessor Trustee"), providing for the transition of the replacement of the Predecessor Trustee with the Trustee.

3. Findings. It is hereby found, determined and declared that:

(a) The Project constitutes a Project authorized by and described in the Act.

(b) 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 one or more revenue producing enterprises engaged in any business within the meaning of Subdivision 2(b) of Section 469.153 of the Act; that the Project furthers the purposes stated in Minnesota Statutes, Section 469.152; that the availability of the financing under the Act and willingness of the City to furnish such financing will be substantial inducement to the Company to undertake the Project, and that the effect of the Project, if undertaken, will be to encourage the development of economically sound industry and commerce, to assist in the prevention of the emergence of blighted and marginal land, to help prevent chronic unemployment, to help the City retain and improve the tax base and 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 be as effectively used, to promote more intensive development and use of land within the City and eventually to increase the tax base of the community.

(c) There is no litigation pending or, to the best of its knowledge, threatened against the City relating to the Bonds, the Loan Agreement, the Bond Purchase Agreement or the Indenture or questioning the due organization of the City, or the powers or authority of the City to issue the Bonds and undertake the transactions contemplated hereby.

(d) The execution, delivery and performance of the City's obligations under the Bonds, the First Supplemental Indenture, the Bond Purchase Agreement, and the First Amendment to Loan Agreement do not and will not violate any order of any court or other agency of government of which the City is aware or in which the City is a party, or any indenture, agreement or other instrument to which the City is a party or by which it or any of its property is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument.

(e) It is desirable that the Bonds be issued by the City upon the terms set forth in the Indenture, under the provisions of which the City's interest in the First Amendment to Loan Agreement will be pledged to the Trustee as security for the payment of principal of, premium, if any, and interest on the Bonds.

(f) The First Amendment to Loan Agreement provides for payments by the Company to the Trustee for the account of the City of such amounts as will be sufficient to pay the principal of, premium, if any, and interest on the Bonds when due. The First Amendment to Loan Agreement obligates the Company to pay for all costs of operation and maintenance of the Project facilities, including adequate insurance, taxes and special assessments. A reserve fund has been established under the provisions of the Indenture in connection with the issuance of the Bonds.

(g) Under the provisions of the Act, and as provided in the First Amendment to Loan Agreement and First Supplemental Indenture, the Bonds are not to be payable from nor charged upon any funds other than amounts payable pursuant to the First Amendment to Loan Agreement and moneys in the funds and accounts held by the Trustee which are pledged to the payment thereof; the City is not subject to any liability thereon; no owners of the Bonds shall ever have the right to compel the exercise of the taxing power of the City to pay any of the Bonds or the interest thereon, nor to enforce payment thereof against any property of the City; the Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City (other than the interest of the City in the Loan Repayments to be made by the Company under the First Amendment to Loan Agreement); and each Bond issued under the First Supplemental Indenture shall recite that such Bond, including interest thereon, shall not constitute or give rise to a charge against the general credit or taxing powers of the City.

(h) The City held a public hearing with respect to the Project on the date hereof in accordance with the Act and Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), and hereby directs that necessary application be made to the State of Minnesota Department of Employment and Economic Development ("DEED") and approval from DEED be obtained. The public hearing was held on this date, after notice was published

and materials made available for public inspection at the office of the Administrator, all as required by the Act and the Code, at which public hearing all those appearing who desired to speak were heard and written comments were accepted.

4. Approval and Execution of Documents. The forms of the documents referred to in paragraph 2, are approved. The First Amendment to Loan Agreement, First Supplemental Indenture, Bond Purchase Agreement, and Successor Trustee Agreement shall be executed in the name and on behalf of the City by the Mayor and the Administrator, or executed or attested by other officers of the City, in substantially the form on file, but with all such changes therein, not inconsistent with the Act or other law, as may be approved by the officers executing the same, which approval shall be conclusively evidenced by the execution thereof; and then shall be delivered to the Trustee. Modifications to the forms of documents to which the City is not a party may be made at the discretion of the parties thereto.

5. Approval, Execution and Delivery of Bonds. The City shall proceed forthwith to issue the Bonds, in an aggregate principal amount of not to exceed \$11,000,000 in the forms and upon the terms set forth in the Indenture, which terms are for this purpose incorporated in this resolution and made a part hereof; provided, however, that the initial aggregate principal amount of and the maturities of the Bonds, the interest rates thereon, and any provisions for the optional or mandatory redemption thereof shall all be as set forth in the final form of the Indenture to be approved, executed, and delivered by the officers of the City authorized to do so by the provisions of this Resolution, which approval shall be conclusively evidenced by such execution and delivery. The Underwriter has agreed pursuant to the provisions of the Bond Purchase Agreement, and subject to the conditions therein set forth, to purchase the Bonds at the purchase price set forth in the Bond Purchase Agreement, and said purchase price is hereby accepted. The Mayor, Administrator, and other City officers are authorized and directed to prepare and execute the Bonds as prescribed in the Indenture and to deliver them to the Trustee, together with a certified copy of this Resolution and the other documents required by the First Supplemental Indenture, for authentication, registration, and delivery to the Underwriter. As provided in the Indenture, each Bond shall contain a recital that it is issued pursuant to the Act, and such recital shall be conclusive evidence of the validity and regularity of the issuance thereof.

6. Official Statement. The City hereby approves the form of and consents to the circulation by the Underwriter of the Official Statement in offering the Bonds for sale; provided, however, that the City has not participated in the preparation of the Official Statement or independently verified the information in the Official Statement, except under the headings "THE ISSUER" or "ABSENCE OF LITIGATION" (insofar as it relates to the City) and takes no responsibility for, and makes no representations or warranties as to, the accuracy or completeness of such information.

7. Certificates, etc. The Mayor, Administrator, and other officers of the City are authorized and directed to prepare and furnish to bond counsel and the purchaser of the Bonds, when issued, certified copies of all proceedings and records of the City relating to the Bonds, and such other affidavits and certificates as may be required to show the facts appearing from the books and records in the officers custody and control or as otherwise known to them; and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the City as to the truth of all statements contained therein.

8. Issuer's Fee; Indemnification Against Costs. The Company has agreed and it is hereby determined that the Company will pay any and all fees of and costs incurred by the City in connection with the financing and refinancing of the Project. It is understood and agreed that the Company shall indemnify, defend, and hold harmless the City against all liabilities, losses, damages, costs, and expenses (including attorney's fees and expenses incurred by the City) arising with respect to the Project or the Bonds, as provided for and agreed to by and between the Company and the City in the Loan Agreement, dated November 1, 2014, as amended by the First Amendment to Loan Agreement.

9. Qualified Tax Exempt Obligation. In order to qualify those Bonds issued as tax-exempt obligations (the "Tax-Exempt Bonds") as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code, the City hereby makes the following factual statements and representations;

(a) the Tax-Exempt Bonds are not treated as "private activity bonds" under Section 265(b)(3) of the Code;

(b) the City hereby designates the Tax-Exempt Bonds 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 2024 will not exceed \$10,000,000;

(d) not more than \$10,000,000 of obligations issued by the City during the calendar year 2024 have been designated for purposes of Section 265(b)(3) of the Code; and


(e) the aggregate face amount of the Tax-Exempt Bonds does not exceed \$10,000,000.

Adopted by the City Council of City of Cologne, Minnesota this 6th day of May, 2024.



Matt Lein, Mayor


ATTEST:



Michelle Morrison, Administrator
COUNTY OF CARVER
CITY OF COLOGNE

I, the undersigned, being the duly qualified and acting Administrator of City of Cologne, Minnesota, 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 of said City, duly called and held on the date therein indicated, insofar as such minutes related to a resolution approving the Cologne Academy Project.

WITNESS my hand this 6th day of May, 2024.



Michelle Morrison, Administrator

