

**WHEREAS**, the City Council created and organized the Austin Housing Public Facility Corporation (Corporation) under the provisions of the Public Facility Corporation Act, Chapter 303 of the Texas Local Government Code, as amended, (Act), for the purpose of assisting the City in financing, refinancing, owning, or providing public facilities; and

**WHEREAS**, Escuela Nueva LLC is a limited liability company organized under the laws of the State of Texas; and

**WHEREAS**, the Borrower has advised the Issuer that it is considering proceeding with the acquisition, construction, and/or improvement of a multi-family development described in **Exhibit A** (Development) within the city of Austin, Texas, and within the jurisdiction of the Issuer; and

**WHEREAS**, the Borrower has proposed to the Issuer that the Borrower will be further induced to proceed with providing for the acquisition,

26 construction, and/or improvement of the Development if the Issuer will make  
27 such commitment and agreement and adopt this Resolution; and

28 **WHEREAS**, all or a portion of the expenditures relating to the  
29 Development (Expenditures) have been paid within 60 days prior to the passage  
30 of this Resolution or will be paid on or after the passage of this Resolution; and

31 **WHEREAS**, the Issuer reasonably expects, based upon information  
32 supplied by the Borrower, upon which it is reasonable and prudent for the  
33 Issuer to rely, to reimburse the Borrower or persons acting on its behalf for the  
34 Expenditures with the proceeds of the Bonds; and

35 **WHEREAS**, the Issuer declares that this Resolution, in accordance with  
36 its provisions, constitutes the agreement of the Issuer to issue the bonds in such  
37 aggregate principal amount, now estimated and not to exceed \$30,000,000, as is  
38 actually required to finance and pay for the acquisition, construction, and/or  
39 improvement of the Development; and

40 **WHEREAS**, the Issuer finds, considers, and declares that the issuance of  
41 the Bonds in the amount identified above and for the purpose identified above will  
42 be appropriate and consistent with the objectives of the Act, and that the adoption  
43 of this Resolution constitutes: (i) an inducement to the Borrower to proceed with  
44 providing for the acquisition, construction, and/or improvement of the  
45 Development, (ii) the taking of affirmative official action by the Issuer, acting by  
46 and through its Board of Directors, towards the issuance of the Bonds, and that  
47 such action is similar to the adoption of a bond resolution within the meaning of  
48 Section 1.103-8(a)(5) of the Federal Treasury Regulations, and (iii) the declaration  
49 of the intention of the Issuer, in accordance with the provisions of Section 1.150-2

of the Federal Treasury Regulations, to reimburse the Expenditures for the Development at such time as the Bonds are issued; **NOW, THEREFORE,**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE AUSTIN HOUSING PUBLIC FACILITY CORPORATION THAT:**

**Section 1.** The Issuer agrees as follows:

(a) To consider adopting a bond resolution or bond resolutions prepared by its Bond Counsel, McCall, Parkhurst & Horton L.L.P., Dallas, Texas, when requested by the Borrower, authorizing the issuance of Bonds pursuant to the Act, and to issue the Bonds, subject to the requirements of the Act and the Corporation's bylaws, the execution of the appropriate agreements or contracts described in (b), below, and the sale of the Bonds under terms and conditions satisfactory to the Issuer and the Borrower, to finance and pay for the acquisition, construction, and/or improvement of the Development, including amounts sufficient to pay the fees, expenses, and costs in connection with such issuance, including an amount adequate to reimburse the Issuer for its administrative and overhead expenses and costs with respect to the Bonds and the Development, with the Bonds to be payable from payments by the Borrower to the Issuer and/or to a corporate trustee in such sums as are necessary to pay the principal of, interest on, and redemption premium, if any, together with the paying agents' and trustee's fees on, the Bonds, as and when the same becomes due and payable.

(b) Prior to the issuance of the Bonds, when requested by the Borrower, to enter into such loan agreement, installment sale agreement, lease, and/or any other appropriate contracts or agreements between the Issuer and the Borrower as are mutually acceptable in all respects to the Issuer and the Borrower, under which the Borrower will be obligated to make payments to the

77 Issuer and/or to a corporate trustee in such sums as are necessary to pay the  
78 principal of, interest on, and redemption premium, if any, together with the  
79 paying agents' and trustee's fees on, the Bonds, as and when the same becomes  
80 due and payable, and with such payments also to be sufficient to defray the  
81 Issuer's administrative, overhead, and other expenses and costs with respect to  
82 the Bonds and the Development.

83 (c) To take, or cause to be taken, such other action, and to execute  
84 such additional contracts and agreements mutually agreeable to the parties in all  
85 respects, when requested by the Borrower as may be required in accordance  
86 with the Act and this Resolution to cause the issuance of the Bonds and to  
87 obtain an allocation of state volume cap for the Bonds.

88 **Section 2.** Subject to the provisions of Section 3 of this Resolution, by the  
89 acceptance of this Resolution and proceeding with the Development, the  
90 Borrower agrees that it will (i) fully indemnify and hold the Issuer harmless  
91 from any and all damages, losses, and reasonable expenses, including attorneys'  
92 fees, arising at any time from or with respect to the Bonds and the Development  
93 (except those resulting from gross negligence or willful misconduct of the  
94 Issuer), and (ii) pay or reimburse the Issuer for all reasonable and necessary  
95 out-of-pocket expenses, including attorneys' fees and expenses and the fees and  
96 expenses of other consultants, which the Issuer may incur at the request of the  
97 Borrower arising from the performance or attempted performance by the Issuer  
98 of its obligations hereunder.

99 **Section 3.** Nothing contained in this Resolution may be interpreted as to bind  
100 the Issuer to issue any bonds. The Issuer has the authority, without cause, not  
101 to issue bonds.

**Section 4.** Subject to the provisions of Section 3 of this Resolution, the adoption of this Resolution constitutes the acceptance of the Borrower's proposal that it be further induced to proceed with providing for the acquisition, construction, and/or improvement of the Development, and this proposal and acceptance constitutes an agreement between the Issuer and the Borrower in accordance with the provisions of this Resolution.

**Section 5.** The Issuer reasonably expects, based upon information supplied by the Borrower, upon which it is reasonable and prudent for the Issuer to rely, to reimburse the Expenditures with the proceeds of the Bonds.

**ADOPTED:** \_\_\_\_\_, 2023    **ATTEST:** \_\_\_\_\_  
Myrna Rios  
Secretary