

RESOLUTION NO. 20230921-AHPFC002

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

WHEREAS, Issuer, and/or an entity legally acting for and, on its behalf, is or are authorized to provide for the acquisition and construction of multifamily housing developments and to provide for the issuance of revenue bonds (the Bonds) for this purpose; and

WHEREAS, Escuela Nueva LLC is a Texas limited liability company and it or one of its subsidiaries, affiliates, or related entities is considering proceeding with the acquisition, construction, and improvement of a multifamily development described in **Exhibit A** (Development) within the City of Austin, Texas and within Issuer's jurisdiction; and

WHEREAS, Borrower has advised Issuer that a contributing factor which would further induce Borrower to proceed with providing for the acquisition, construction, and improvement of the Development would be a commitment and agreement by Issuer to consider issuing the Bonds; and

WHEREAS, Borrower has proposed to Issuer that Borrower will be further induced to proceed with providing for the acquisition, construction, and improvement of the Development if Issuer will make such commitment and agreement and adopt this Resolution; and

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

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

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

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

Section 1. 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., located in Dallas, Texas, when requested by Borrower, authorizing the issuance of the Bonds pursuant to the Act, and to issue the Bonds, subject to the requirements of the Act and Issuer'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 Issuer and Borrower to finance and pay for the acquisition, construction, and 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 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 Borrower to 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 Borrower, to enter into such loan agreement, installment sale agreement, lease, and any other appropriate contracts or agreements between Issuer and Borrower as are mutually acceptable in all respects to Issuer and Borrower under which Borrower will be obligated to make

payments to 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, and with such payments also to be sufficient to defray Issuer's administrative, overhead, and other expenses and costs with respect to the Bonds and the Development.

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

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

Section 3. Nothing contained in this Resolution binds Issuer to issue any bonds. Issuer has the authority, without cause, not to issue bonds.

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

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

ADOPTED: September 21, 2023

ATTEST:

Stephanie Hall for
Myrna Rios
Secretary

EXHIBIT A

DESCRIPTION OF THE DEVELOPMENT

The development will be approximately 114 affordable housing units located at or near 2013 Montopolis Drive, Austin, Texas 78741.