

# Agenda Report

**TO:** CITY COUNCIL **DATE:** November 16, 2009

**FROM:** CITY MANAGER

**SUBJECT:** APPROVAL OF ASSOCIATE MEMBERSHIP AGREEMENT WITH THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY, TAX EQUITY AND FISCAL RESPONSIBILITY ACT (TEFRA) HEARING AND ADOPTION OF A RESOLUTION APPROVING THE ISSUANCE OF \$9,800,000 OF CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY REVENUE OBLIGATIONS FOR THE BENEFIT OF THE CHANDLER SCHOOL

## **RECOMMENDATION:**

It is recommended that the City Council:

- 1- Adopt a resolution approving the execution and delivery of an Associate Membership Agreement with the California Enterprise Development Authority (the "Authority");
- 2- Conduct a Tax Equity and Fiscal Responsibility Act public hearing; and
- 3- Adopt a resolution approving the issuance by the California Enterprise Development Authority (the "Authority") of not to exceed \$9,800,000 of the Authority's Revenue Obligations (the "Obligations") for the benefit of the Chandler School (the "Corporation").

## **BACKGROUND:**

The Chandler School (the "School") is a nonprofit independent school which was founded in 1950 by Thomas and Catherine Chandler with a vision to provide young students with innovative, inspired academic programs taught by caring, dedicated faculty. The School's campus is located on a four and one-half acre property which extends from Armada Drive to Seco Street from Prospect Boulevard to Rosemont Avenue. The Lower School consists of kindergarten through fifth grade and the Middle School consists of grades six, seven and eight. The School currently enrolls 420 students with a faculty of 60.

The School is in the process of constructing, installing, rehabilitating, equipping and furnishing the School's educational facilities (the "Facilities") and has requested the California Enterprise Development Authority's assistance in financing the Facilities with tax-exempt and/or taxable revenue bonds. The Facilities include new classrooms, specialized classrooms for music, art, sciences and theater, a multipurpose auditorium, a library, multimedia and technology center, a parking structure and other ancillary school facilities. The School's Master Development Plan, which includes the construction of the facilities, was approved by City Council in 2008.

The financing of the Facilities for the School involves the issuance of tax-exempt and/or taxable bonds and may be completed through the Authority only if the City joins the Authority as an associate member and approves the financing. Once a member, other for-profit and nonprofit corporations with projects in the City of Pasadena may utilize the Authority's services as well. The City of Pasadena has previously taken action to join other joint powers authorities such as the California Statewide Communities Development Authority ("CSCDA") and has approved several bond issues through CSCDA. Once the City became a member of CSCDA, TEFRA approvals did not require any other actions other than then public hearing and the requisite approval. The California Enterprise Development Authority (CEDA) is simply another joint powers authority that was formed by the California Association for Local Economic Development (CALED), a statewide organization composed of economic development professionals at cities, counties, utilities and nonprofit organizations. CEDA was formed to further economic development efforts of CALED's members by assisting in the issuance of conduit revenue bonds.

Since the City is not yet a member of CEDA, the very first TEFRA approval requires the City to become an associate member of CEDA. Any further TEFRA approval of a CEDA bond issue would proceed in the same manner as the City's current practices with other joint powers authorities.

Joint powers authorities have served as issuers in conduit bond issues for many years. In each conduit bond issue, the local agency in which the project is located is required to be a member of the joint powers authority and approve the bond issue and the project for state and federal tax law purposes. The CEDA Joint Powers Agreement and the Associate Membership Agreement make very clear that the obligations of CEDA are not obligations of any of the members.

**FISCAL IMPACT:**

There is no fiscal impact to the City. The adoption of the Resolution approving the project and the issuance of the Obligations complies with the requirements of Section 147(f) of the Internal Revenue Code. The City of Pasadena does not bear any responsibility for the tax exempt status of the Obligations, the debt service on the Obligations nor any other matter related to the Obligations.

Respectfully submitted,

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Michael J. Beck  
City Manager

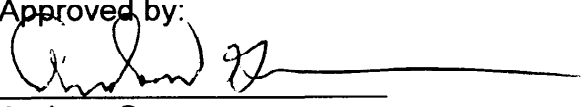
Prepared by:

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Vic Erganian  
Deputy Director of Finance/City Treasurer

Approved by:

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Andrew Green  
Director of Finance

**ASSOCIATE MEMBERSHIP AGREEMENT**

**by and between the**

**CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY**

**and the**

**CITY OF PASADENA, CALIFORNIA**

THIS ASSOCIATE MEMBERSHIP AGREEMENT (this "Associate Membership Agreement"), dated as of November 16, 2009, by and between CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY, a public entity of the State of California (the "Authority"), and the CITY OF PASADENA, CALIFORNIA, a municipal corporation, duly organized and existing under the laws of the State of California (the "City");

**WITNESSETH:**

**WHEREAS**, the Cities of Selma, Lancaster and Eureka (individually, a "Member" and collectively, the "Members"), have entered into a Joint Powers Agreement, dated as of June 1, 2006 (the "Agreement"), establishing the Authority and prescribing its purposes and powers; and

**WHEREAS**, the Agreement designates the Executive Committee of the Board of Directors and the President of the California Association for Local Economic Development as the initial Board of Directors of the Authority; and

**WHEREAS**, the Authority has been formed for the purpose, among others, to assist for profit and nonprofit corporations and other entities to obtain financing for projects and purposes serving the public interest; and

**WHEREAS**, the Agreement permits any other local agency in the State of California to join the Authority as an associate member (an "Associate Member"); and

**WHEREAS**, the City desires to become an Associate Member of the Authority;

**WHEREAS**, City Council of the City has adopted a resolution approving this Associate Membership Agreement and the execution and delivery hereof;

**WHEREAS**, the Board of Directors of the Authority has determined that the City should become an Associate Member of the Authority;

**NOW, THEREFORE**, in consideration of the above premises and of the mutual promises herein contained, the Authority and the City do hereby agree as follows:

***Section 1. Associate Member Status.*** The City is hereby made an Associate Member of the Authority for all purposes of the Agreement and the Bylaws of the Authority, the provisions of which are hereby incorporated herein by reference. From and after the date of execution and delivery of this Associate Membership Agreement by the City and the Authority, the City shall be and remain an Associate Member of the Authority.

***Section 2. Restrictions and Rights of Associate Members.*** The City shall not have the right, as an Associate Member of the Authority, to vote on any action taken by the Board of Directors or by the Voting Members of the Authority. In addition, no officer, employee or representative of the City shall have any right to become an officer or director of the Authority.

***Section 3. Effect of Prior Authority Actions.*** The City hereby agrees to be subject to and bound by all actions previously taken by the Members and the Board of Directors of the Authority to the same extent as the Members of the Authority are subject to and bound by such actions.

***Section 4. No Obligations of Associate Members.*** The debts, liabilities and obligations of the Authority shall not be the debts, liabilities and obligations of the City.

***Section 5. Execution of the Agreement.*** Execution of this Associate Membership Agreement and the Agreement shall satisfy the requirements of the Agreement and Article XII of the Bylaws of the Authority for participation by the City in all programs and other undertakings of the Authority.

**IN WITNESS WHEREOF**, the parties hereto have caused this Associate Membership Agreement to be executed and attested by their proper officers thereunto duly authorized, on the day and year first set forth above.

**CALIFORNIA ENTERPRISE  
DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_  
Wayne Schell, Chairman  
of the Board of Directors

Attest:

By: \_\_\_\_\_  
Bruce Kern, Secretary

**CITY OF PASADENA, CALIFORNIA**

By: \_\_\_\_\_  
Bill Bogaard, Mayor

Attest:

By: \_\_\_\_\_  
Mark Jomsky, City Clerk

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION APPROVING ASSOCIATE MEMBERSHIP BY THE CITY OF PASADENA IN THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY AND THE EXECUTION OF AN ASSOCIATE MEMBERSHIP AGREEMENT RELATING TO ASSOCIATE MEMBERSHIP OF THE CITY IN THE AUTHORITY**

**RESOLVED**, by the City Council (the “City Council”) of the City of Pasadena (the “City”), as follows:

**WHEREAS**, The Chandler School, a nonprofit public benefit corporation organized and existing under the laws of the State of California, has requested that the City assist in the financing of the construction, installation, rehabilitation, equipping and furnishing of various school facilities located at 1005 Armada Drive in the City of Pasadena, California;

**WHEREAS**, in furtherance thereof and to facilitate such request, the City desires to become an associate member of the California Enterprise Development Authority (the “Authority”); and

**WHEREAS**, the form of associate membership agreement (the “Associate Membership Agreement”) between the City and the Authority has been filed with the City, and the members of the City Council, with the aid of the City’s staff, have reviewed the Associate Membership Agreement;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Pasadena, hereby finds, determines and declares as follows:

**Section 1. Associate Membership in the Authority.** The City Council hereby approves associate membership by the City in the Authority.

**Section 2. Approval of Associate Membership Agreement.** The City Council hereby approves the form of, and authorizes the Mayor, the City Manager or any designee of such officers, to execute the Associate Membership Agreement and authorizes the City Clerk to attest to such signature, in substantially the form on file with the City Clerk, together with any changes therein deemed advisable by the official signing the Associate Membership Agreement.

**Section 3. Official Action.** The Mayor, the City Manger, the City Clerk and other officers and officials of the City, are hereby authorized and directed to take all actions and do all things necessary or desirable hereunder with respect to associate membership in the Authority including but not limited to the execution and delivery of any and all agreements, certificates instruments and other documents which they, or any of them, may deem necessary or desirable and not inconsistent with the purposes of this resolution.

**Section 4. Effective Date.** This Resolution shall take effect upon its adoption by the City Council.

**RESOLVED FURTHER,** the City Clerk of the City of Pasadena shall certify the adoption of this resolution, and thenceforth and thereafter the same shall be in full force and effect.

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**PASSED, APPROVED AND ADOPTED** this 16<sup>th</sup> day of November, 2009 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Bill Bogaard, Mayor

ATTEST:

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Mark Jomsky, City Clerk

APPROVED AS TO FORM: *11/17/09*

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*M* Michele Bagneris, City Attorney



**CERTIFICATE OF THE CITY CLERK**

I, Mark Jomsky, City Clerk of the City of Pasadena, hereby certify that the foregoing is a full, true and correct copy of a resolution duly adopted at the meeting of the City Council of the City of Pasadena duly and regularly held in Pasadena, California, on November 16, 2009, of which meeting all of the members of said Board had due notice.

I further certify that I have carefully compared the foregoing copy with the original minutes of said meeting on file and of record in my office; that said copy is a full, true and correct copy of the original resolution adopted at said meeting and entered in said minutes; and that said resolution has not been amended, modified, rescinded or revoked in any manner since the date of its adoption, and the same is now in full force and effect.

IN WITNESS WHEREOF, I have executed this certificate and affixed the seal of the City of Pasadena hereto this \_\_\_\_\_ day of November, 2009.

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Mark Jomsky, City Clerk

**RESOLUTION NO. \_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA APPROVING THE ISSUANCE BY CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY OF NOT TO EXCEED \$9,800,000 AGGREGATE PRINCIPAL AMOUNT OF THE AUTHORITY'S REVENUE OBLIGATIONS FOR THE PURPOSE OF FINANCING THE COST OF CONSTRUCTION, REHABILITATION, EQUIPPING AND FURNISHING OF SCHOOL FACILITIES FOR THE BENEFIT OF THE CHANDLER SCHOOL, PROVIDING THE TERMS AND CONDITIONS FOR SUCH OBLIGATIONS AND OTHER MATTERS RELATING THERETO HEREIN SPECIFIED**

**WHEREAS**, The Chandler School, a nonprofit public benefit corporation duly organized and existing under the laws of the State of California (the "Corporation"), has submitted and the California Enterprise Development Authority (the "Authority") has accepted, an application requesting the Authority to issue, from time to time, pursuant to a plan of finance, its tax-exempt and/or taxable revenue obligations in an aggregate principal amount not to exceed \$9,800,000 (the "Obligations") for the benefit of the Corporation pursuant to Chapter 5 of Division 7 of Title 1 of the Government Code of the State, (commencing with Section 6500) (the "Act") the proceeds of which will be used in part to finance or reimburse the Corporation for the cost of constructing, installing, rehabilitating, equipping and furnishing various school facilities located at 1005 Armada Drive, Pasadena, California, including new classrooms, specialized classrooms for music, art, sciences and theater, a multipurpose auditorium, a library, multimedia and technology center, a parking structure and other ancillary school facilities (collectively, the "Facilities") and the payment certain costs of issuance in connection with the Obligations; and

**WHEREAS**, the issuance of the Obligations must be approved by the governmental unit on behalf of which the Obligations are issued and a governmental unit having jurisdiction over the territorial limits in which the Facilities are located pursuant to the public approval requirement of Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code");

**WHEREAS**, the Facilities are located within the territorial limits of City of Pasadena (the "City") and the City Council of the City (the "City Council") is the elected legislative body of the City; and

**WHEREAS**, the Facilities are expected to provide significant benefits to the residents of the City through the services to be provided by the Corporation and the Facilities will also create employment opportunities for residents of the City over the long term; and

**WHEREAS**, the Authority and the Corporation have requested that the City Council approve the issuance of the Obligations by the Authority and the financing of the Facilities with the proceeds of the Obligations pursuant to Section 147(f) of the Code; and

**WHEREAS**, the Authority's issuance of the Obligations will result in a more economical and efficient issuance process because of the Authority's expertise in the issuance of conduit

revenue bonds; 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 City Council of the Facilities for any other purpose; and

**WHEREAS**, a public hearing was held by the City Council on this 16<sup>th</sup> day of November, 2009, at the meeting which commenced at the hour of 6:30 p.m., at the City of Pasadena, Council Chambers, located at 100 North Garfield Avenue, Room S249, Pasadena, California 91109, following duly published notice thereof in a newspaper of general circulation in the City of Pasadena, on November 2, 2009, and all persons desiring to be heard have been heard.

**NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED** by the City Council of the City as follows:

**Section 1.** The City Council hereby finds and determines that all of the recitals are true and correct. The City Council 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 \$9,800,000 to finance the costs of the Facilities. This resolution shall constitute “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 City Council of the Facilities for any other purpose. The City shall not bear any responsibility for the tax-exempt status of the Obligations, the repayment of the Obligations or any other matter related to the Obligations.

**Section 2.** All actions heretofore taken by the officers, employees and agents of the City with respect to the approval 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, jointly and severally, to do any and all things and to execute and deliver any and all certificates and documents which they or bond counsel may deem necessary or advisable in order to consummate the Obligations and otherwise to effectuate the purposes of this Resolution.

**Section 3.** This Resolution shall take effect from and after its adoption.

**RESOLVED FURTHER**, the City Clerk of the City of Pasadena shall certify the adoption of this resolution, and thenceforth and thereafter the same shall be in full force and effect.

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**PASSED, APPROVED AND ADOPTED** this 16<sup>th</sup> day of November, 2009 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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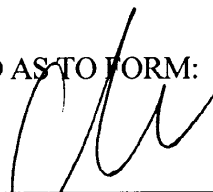
Bill Bogaard, Mayor

ATTEST:

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Mark Jomsky, City Clerk

APPROVED AS TO FORM:

 11/15/09  

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Michele Bagneris, City Attorney

**CERTIFICATE OF THE CITY CLERK**

I, Mark Jomsky, City Clerk of the City of Pasadena, hereby certify that the foregoing is a full, true and correct copy of a resolution duly adopted at the meeting of the City Council of the City of Pasadena duly and regularly held in Pasadena, California, on November 16, 2009, of which meeting all of the members of said Board had due notice.

I further certify that I have carefully compared the foregoing copy with the original minutes of said meeting on file and of record in my office; that said copy is a full, true and correct copy of the original resolution adopted at said meeting and entered in said minutes; and that said resolution has not been amended, modified, rescinded or revoked in any manner since the date of its adoption, and the same is now in full force and effect.

IN WITNESS WHEREOF, I have executed this certificate and affixed the seal of the City of Pasadena hereto this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

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Mark Jomsky, City Clerk