

1 to be a tax-exempt organization under Section 501(c)(3) of the Internal Revenue
2 Code of 1986, as amended (the “Code”); and

3 WHEREAS, the Company has presented to the City of Albuquerque Council
4 (the “City Council”) a proposal whereby the City would issue, deliver and sell not-
5 to-exceed \$8,500,000 in aggregate principal amount of its Tax-Exempt Industrial
6 Revenue Bonds (Hope Christian Schools, Inc. Project), Series 2022 (the “Bonds”)
7 and make the proceeds thereof available to the Company for the purpose of (i)
8 acquiring, constructing, improving and equipping existing school facilities
9 located at 8001 and 8005 Louisiana Avenue NE, and 6721, 6731 and 6800 Palomas
10 Avenue NE in the City (collectively, the “Premises”), (ii) funding any required
11 reserves for the proposed bonds, and (iii) paying certain costs of issuing the
12 Bonds (collectively, the “Project”); and

13 WHEREAS, the Bonds will be issued in one or more series pursuant to this
14 ordinance (this “Bond Ordinance”) and a Financing Agreement, to be dated the
15 date of the initial issuance of the Bonds (the “Financing Agreement”), among the
16 City, the Company, and PNC Mortgage Corporation or an affiliate thereof (the
17 “Bank”); and

18 WHEREAS, the Bonds will be payable solely from revenues derived by the
19 City pursuant to the Financing Agreement and the Company will make payments
20 sufficient to pay the principal of and interest on the Bonds and to pay all other
21 obligations incurred pursuant to the provisions of this Bond Ordinance and the
22 Financing Agreement; and

23 WHEREAS, payment of the Bonds will be secured pursuant to the terms of
24 one or more mortgages, to be dated the date of the initial issuance of the Bonds,
25 from the Company to the Bank; and

26 WHEREAS, the Bonds in a principal amount not to exceed \$8,500,000 will
27 be issued, sold and delivered by the City in a private sale to the Bank pursuant to
28 the Financing Agreement; and

29 WHEREAS, the proceeds of the Bond shall be applied to pay the costs of
30 the Project; and

1 WHEREAS, in furtherance of the issuance of the Bonds, the City will enter
2 into a Tax Certificate and Agreement (the “Tax Agreement”) in customary form
3 with the Company; and

4 WHEREAS, the City Council has determined that it is in the best interest of
5 the City to issue the Bonds and to execute and deliver the following documents in
6 connection with the issuance of the Bonds and all other documents, certificates
7 related thereto (collectively, the “Bond Documents”):

- 8 1. Financing Agreement
- 9 2. Bonds
- 10 3. Tax Agreement

11 WHEREAS, the City is authorized to issue the Bonds under the Act and
12 after having considered the Company’s proposal, has concluded that it is
13 desirable at this time to authorize the issuance of the Bonds to refinance the
14 Project and that the City’s issuance of the Bonds will constitute and be a valid
15 public purpose; and

16 WHEREAS, the City Council has been advised by Bond Counsel that the
17 because the Bonds are being directly purchased by the Bank the disclosure
18 provisions of Rule 15c2-12 of the Securities and Exchange Commission are not
19 applicable to this transaction; and

20 WHEREAS, pursuant to Section 147(f) of the Code, the approval of the City
21 Council as the “applicable elected representative” is required prior to the
22 issuance of the Bonds; and

23 WHEREAS, there has been published in the *Albuquerque Journal*, a
24 newspaper of general circulation in the City, public notice of the City’s intention
25 to adopt this Bond Ordinance, which notice contained certain information
26 concerning the ownership, purpose, location and size of the Project and the
27 amount of the Bonds to be issued to finance and refinance the Project, which
28 notice was published at least fourteen (14) days prior to final action upon this
29 Bond Ordinance.

30 BE IT ORDAINED BY THE CITY OF ALBUQUERQUE CITY COUNCIL, THE
31 GOVERNING BODY OF THE CITY OF ALBUQUERQUE, NEW MEXICO:

1 Section 1. **RATIFICATION.** All actions not inconsistent with the
2 provisions of this Bond Ordinance previously taken by the City Council and the
3 officials of the City directed toward approval of the issuance and sale of the
4 Bonds be approved and the same hereby are ratified, approved and confirmed.

5 Section 2. **FINDINGS.**

6 A. **General.**

7 The City Council hereby declares that it has considered all relevant
8 information presented to it relating to the Bonds and the Project and hereby finds
9 and determines that the issuance of the Bonds pursuant to this Bond Ordinance
10 and the Financing Agreement to provide funds for the Project is necessary and
11 advisable and in the interest of and will promote public health, welfare, safety,
12 convenience and prosperity.

13 B. **Specific Findings.**

14 The City Council finds that:

15 (1) The Bonds will be issued for the purpose of refinancing
16 the Project.

17 (2) The face amount of the Bonds is not to exceed
18 \$8,500,000.

19 (3) The owner and operator of the Project and the Premises
20 is the Company.

21 (4) The Premises is located in Albuquerque, New Mexico.

22 Section 3. **BOND - APPROVAL, AUTHORIZATION AND DETAIL.**

23 A. **Approval and Sale.**

24 The issuance of the Bonds in a principal amount not to exceed \$8,500,000
25 and the use of the proceeds of the Bonds to finance or refinance the cost of the
26 Project including payment of transaction expenses related thereto are hereby
27 approved and confirmed. The sale of the Bonds to the Bank at a purchase price
28 not to exceed the par amount of the Bonds is approved.

29 B. **Form and Terms; Interest Rate.**

30 The Bonds are hereby authorized to be issued in one or more series, in
31 fully registered form without coupons in an aggregate principal amount of not to

1 exceed \$8,500,000 bearing interest at a variable rate of interest not to exceed ten
2 percent (10%) per annum (except in the event of default or taxability) and dated,
3 maturing, and in such form and denominations, payable as to interest and
4 principal on such dates, and having such other terms and conditions as may be
5 provided in the Financing Agreement, with such additions, deletions, and
6 modifications therein as may be consistent with this Ordinance.

7 C. Execution.

8 The Mayor is authorized to execute and deliver in the name and on behalf
9 of the City, and the City Clerk is authorized to attest, if necessary, the Bonds with
10 such changes therein as are not inconsistent with this Bond Ordinance.

11 Section 4. AUTHORIZATION OF OFFICERS; APPROVAL OF
12 DOCUMENTS; ACTIONS TO BE TAKEN. The Bond Documents in the substantial
13 form presented to the City Council are hereby approved, authorized and
14 confirmed with such additions, deletions, and modifications as shall be approved
15 by the Mayor, the execution and delivery or acceptance, as the case may be,
16 thereof being conclusive evidence of such approval. The Mayor is authorized to
17 execute and deliver in the name and on behalf of the City, and the City Clerk is
18 authorized to attest, as necessary, the Bond Documents with such changes
19 therein as are not inconsistent with this Bond Ordinance.

20 The City Chief Administrative Officer and City Clerk are further authorized
21 to execute, authenticate and deliver such certifications, instruments, documents,
22 letters and other agreements, including security agreements, and to do such
23 other acts and things, either prior to or after the date of delivery of the Bonds, as
24 are necessary or appropriate to consummate the transactions contemplated by
25 the Bond Documents.

26 The Mayor, Chief Administrative Officer, City Clerk, and other officers of
27 the City shall take such action as is necessary to effectuate the provisions of the
28 Financing Agreement and shall take such action as is necessary in conformity
29 with the Act to finance the costs of the Project and for carrying out other
30 transactions as contemplated by this Ordinance, and the Bond Documents,

1 including, without limitation, the execution and delivery of any closing
2 documents to be delivered in connection with the sale and delivery of the Bonds.

3 Section 5. **DELIVERY OF BONDS.** Upon the execution of the Bond
4 Documents, the satisfaction of the conditions set forth in the Bond Documents
5 and upon receipt of the purchase price for the Bonds, the Bonds shall be
6 executed and delivered to the Bank.

7 Section 6. **FUNDS AND ACCOUNTS.** There is established in the
8 Financing Agreement, and on and after the date on which the Bonds are issued
9 there shall be maintained, the funds and accounts as set forth in the Financing
10 Agreement. Other funds and accounts may be established as are necessary
11 under the Financing Agreement.

12 Section 7. **FINDINGS REGARDING PAYMENT OF PRINCIPAL AND OTHER**
13 **MATTERS.** The following determinations are made:

14 A. The Bonds will mature not more than ten years from the date
15 of the original issuance of the Bonds and will be amortized over a period not to
16 exceed 30 years from the date of issuance.

17 B. Principal and interest of the Bonds will be paid on a monthly
18 basis with all amounts due and payable upon maturity.

19 C. The Bonds will bear interest at a variable rate not to exceed
20 ten percent (10%) per annum (except in the event of default or taxability) but the
21 Company intends to pay a fixed rate of interest pursuant to an interest rate swap
22 agreement at a rate not to exceed ten percent (10%) per annum (except in the
23 event of default or taxability).

24 D. The Bonds may be redeemed at any time subject to the
25 payment of any swap termination payment.

26 E. The Bonds will be secured by one or more mortgages creating
27 a lien on the Premises.

28 F. It shall not be necessary to deposit any amount in a repair and
29 replacement reserve fund for the maintenance of the Premises.

1 G. The Financing Agreement requires the Company to make
2 payments in an amount sufficient to pay the principal of and interest on the
3 Bonds as principal and interest become due and to pay all related costs.

4 H. The Bond shall be issued on or before February 28, 2022.

5 Section 8. LIMITED OBLIGATIONS. The Bonds shall be special, limited
6 obligations of the City, payable solely from the payments paid by the Company to
7 the City as described in the Financing Agreement and as specifically pledged
8 under the Financing Agreement and shall never constitute a debt or indebtedness
9 of the City or the State or any political subdivision thereof within the meaning of
10 any provision or limitation of the State Constitution or statutes, and shall not
11 constitute or give rise to a pecuniary liability of the City or a charge against its
12 general credit or taxing power. Nothing contained in this Bond Ordinance or in
13 the Bond Documents or any other instrument shall be construed as obligating the
14 City (except with respect to the application of the revenues from the Financing
15 Agreement and the proceeds of the Bonds all as provided in the Bond
16 Documents), nor as incurring a pecuniary liability or a charge upon the general
17 credit of the City or against its taxing powers, nor shall the breach of any
18 agreement contained in this Bond Ordinance, the Bond Documents, the Bonds or
19 any other instrument be construed as obligating the City (except with respect to
20 the application of the revenues from the Financing Agreement and the proceeds
21 of the Bonds all as provided in the Bond Documents), nor as incurring a
22 pecuniary liability or a charge upon the general credit of the City or against its
23 taxing power, the City having no power to pay out of its general funds, or
24 otherwise contribute any part of the costs of the Project, nor power to operate the
25 Premises as a business.

26 Section 9. APPROVAL OF INDEMNIFICATION. The City Council
27 specifically requires that the Financing Agreement contain provisions relating to
28 indemnification which provide that the Company shall indemnify and hold
29 harmless the City and its City Council, officials, employees and agents against
30 liability to the Company, or to any third parties, that may be asserted against the
31 City or its City Council, officials, members, officers, employees or agents with

1 respect to the Premises or the issuance and sale of the Bonds, except to the
2 extent New Mexico Statutes Annotated Section 56-7-1, 1978 Compilation, would
3 preclude such indemnity, and except claims for any loss or damage arising out of
4 or resulting from the gross negligence or willful misconduct of the City or its City
5 council, or any official, employee or agent of the City.

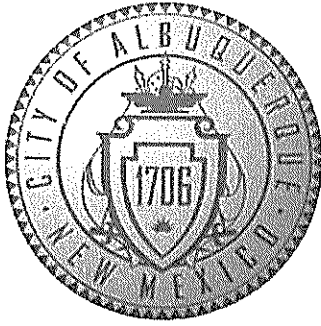
6 Section 10. BOND ORDINANCE IRREPEALABLE. After the Bonds are
7 issued, this Bond Ordinance shall be and remain irrepealable until the Bonds,
8 including interest, are fully paid, canceled and discharged or there has been
9 defeasance of the Bonds in accordance with the Financing Agreement.

10 Section 11. REPEALER. All bylaws, orders, resolutions and ordinances,
11 or parts thereof, inconsistent with this Bond Ordinance are repealed by this Bond
12 Ordinance but only to the extent of that inconsistency. This repealer shall not be
13 construed to revive any bylaw, order, resolution or ordinance, or part thereof,
14 previously repealed.

15 Section 12. SEVERABILITY. If any section, paragraph, clause or provision
16 of this Bond Ordinance shall for any reason be held to be invalid or
17 unenforceable, the invalidity or unenforceability of that section, paragraph,
18 clause or provision shall not affect any of the remaining provisions of this Bond
19 Ordinance.

20 Section 13. RECORDING; AUTHENTICATION; PUBLICATION; EFFECTIVE
21 DATE. This Ordinance, immediately upon its final passage and approval, shall be
22 authenticated by the signature of the Mayor, and by the signature of the City
23 Clerk, and shall be recorded in the Ordinance book of the City, kept for that
24 purpose, and shall be in full force and effect thereafter in accordance with the
25 laws of the State, and notice of adoption thereof shall be published once in a
26 newspaper which maintains an office in, and is of general circulation in the City.

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CITY OF ALBUQUERQUE
Albuquerque, New Mexico
Office of the Mayor

Mayor Tim Keller

INTER-OFFICE MEMORANDUM

November 29, 2021

TO: Cynthia Borrego, President - City Council

FROM: Tim Keller, Mayor 

SUBJECT: Bond Approval Ordinance: City of Albuquerque, New Mexico Tax Exempt Industrial Revenue Bonds (Hope Christian Schools, Inc. Project), Series 2022 - \$8,500,000.

The attached bond approval ordinance authorizes the issuance and sale of the City of Albuquerque, New Mexico Tax Exempt Industrial Revenue Bonds (Hope Christian Schools, Inc. Project), Series 2022 in the maximum amount of \$8,500,000. The Series 2022 Bonds will be issued for the purpose of (i) refinancing Hope Schools' existing taxable loans with BBVA USA which financed the costs of acquiring, constructing, improving and operating and/or equipping Hope Schools' existing educational facilities located at 8001 and 8005 Louisiana Avenue NE, and 6721, 6731 and 6800 Palomas Avenue NE in the City, (ii) funding any required reserves for the proposed bonds, and (iii) paying certain costs of issuing the Bonds. Hope Schools, a private Christian school, is a New Mexico nonprofit corporation and federally tax-exempt charitable organization under Section 501(c)(3) of the Internal Revenue Code. Hope Schools was founded in 1976, operates within the City of Albuquerque, and provides non-denominational educational services for preschool through 12th grade.

Hope Schools is requesting approval of the issuance and sale of tax-exempt industrial revenue bonds in an amount of \$8,500,000 to refinance existing debt that financed the construction of new educational facilities at Hope Schools' Albuquerque location. Hope Schools is requesting that the City serve as a conduit issuer of direct purchase bonds to be purchased by PNC Mortgage Corporation (as a successor in interest to BBVA) or an affiliate thereof so that interest on the bonds can be excluded from gross income under federal income tax laws pursuant to Section 103 of the Internal Revenue Code of 1986, as amended. Hope is not seeking the abatement of any other taxes imposed by state or local law. The refinancing will reduce Hope Schools' debt service obligations on its outstanding debt.

The attached proposed ordinance is hereby forwarded to the Council for its consideration and action.

Bond Approval Ordinance: City of Albuquerque, New Mexico Tax Exempt Industrial Revenue Bonds (Hope Christian Schools, Inc. Project), Series 2022 - \$8,500,000.

Approved:



11/30/21

Sarita Nair
Chief Administrative Officer

Date

Approved as to Legal Form:

DocuSigned by:

Esteban A. Aguilar, Jr.

11/29/2021 | 5:04 PM MST

Esteban A. Aguilar, Jr.
City Attorney

Date

Recommended:

DS



DocuSigned by:

Damian Lara

11/29/2021 | 3:07 PM MST

Damian Lara
Interim Economic Development Director

Date

Cover Analysis

1. What is it?

The attached bond approval ordinance authorizes the issuance and sale of the City of Albuquerque, New Mexico Tax Exempt Industrial Revenue Bonds (Hope Christian Schools, Inc. Project), Series 2022 (the "Bonds") in the maximum amount of \$8,500,000. The City will have no liability for repayment of the Bonds.

2. What will this piece of legislation do?

The ordinance authorizes the issuance and sale of City of Albuquerque, New Mexico Tax Exempt Industrial Revenue Bonds (Hope Christian Schools, Inc. Project), Series 2022 in the maximum amount of \$8,500,000. Hope Schools is requesting issuance of the Bonds so that interest on the Bonds can be excluded from gross income under federal income tax laws pursuant to Section 103 of the Internal Revenue Code of 1986, as amended. Hope Schools is requesting the City act as conduit issuer of the 501(c)(3) bonds as necessitated under the Internal Revenue Code.

3. Why is this project needed?

The Bonds will be issued for the purpose of (i) refinancing Hope Schools' existing taxable loans with BBVA USA which financed the costs of acquiring, constructing, improving and operating and/or equipping Hope Schools' existing educational facilities located at 8001 and 8005 Louisiana Avenue NE, and 6721, 6731 and 6800 Palomas Avenue NE in the City, (ii) funding any required reserves for the proposed bonds, and (iii) paying certain costs of issuing the Bonds.

4. How much will it cost and what is the funding source?

The Bonds will be issued in the maximum amount of \$8,500,000. The debt service on the Bonds will be paid by Hope Schools and the Bonds are not an obligation of the City and no City funds will be used to pay the debt service on the Bonds.

5. Is there a revenue source associated with this Plan? If so, what level of income is projected?

The debt service on the Series 2021 Bonds will be paid from Hope Schools revenues and Hope Schools is not seeking the abatement of other taxes imposed by state or local law.

6. What will happen if the project is not approved?

If the ordinance is not adopted, the Bonds will not be issued and Hope Schools' taxable debt will remain outstanding at a higher interest rate.

7. Is this service already provided by another entity? N/A