LOH
3/12/15
ITEM #6B

RESOLUTION NO. 2015-03-12-0019R

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO, TEXAS REGARDING APPROVAL, FOR PURPOSES OF SECTION 147(f) OF THE INTERNAL REVENUE CODE, OF A TAX-EXEMPT LOAN AGREEMENT BY AND AMONG THE CITY OF SAN ANTONIO, TEXAS EDUCATION FACILITIES CORPORATION, THE UNIVERSITY OF THE INCARNATE WORD, AND DNT ASSET TRUST, A DELAWARE BUSINESS TRUST AND WHOLLY OWNED SUBSIDIARY OF JPMORGAN CHASE BANK, N.A.

WHEREAS, the **CITY OF SAN ANTONIO, TEXAS** (the "***City***"), pursuant to Section 53.35(b), Texas Education Code (now amended and recodified as Section 53A.35(b), Texas Education Code, as amended), approved and created the **CITY OF SAN ANTONIO, TEXAS EDUCATION FACILITIES CORPORATION** (the "***Issuer***") as a nonprofit corporation to exercise the powers enumerated and provided in Chapter 53, Texas Education Code (now amended and recodified as Chapter 53A, Texas Education Code, as amended - the "***Act***"), for and on behalf of the City; and

WHEREAS, the **UNIVERSITY OF THE INCARNATE WORD** (the "***University***") is a Texas non-profit corporation and operates as an "institution of higher education" (within the meaning of the Act) within the corporate limits of the City; and

WHEREAS, Section 53A.34 of the Act authorizes the Issuer to issue and execute revenue bonds or other obligations to loan or otherwise provide funds to an institution of higher education, such as the University, to enable the University to acquire, construct, enlarge, extend, repair, renovate, or otherwise improve an "educational facility" or "housing facility" (as such terms are defined in the Act) or any facility incidental, subordinate, or related to or appropriate in connection with an educational facility or housing facility, or for acquiring land to be used for those purposes, or to create operating and debt service reserves for and to pay issuance costs related to the bonds or other obligations; and

WHEREAS, Section 53A.331 of the Act further authorizes the Issuer to refinance any educational facility or housing facility acquired, constructed, or improved; and

WHEREAS, at the request of the University, on July 13, 1999, the *City of Alamo Heights, Texas Higher Education Facilities Corporation* issued and delivered *$15,075,000* in principal amount of its *City of Alamo Heights, Texas Higher Education Facilities Corporation Adjustable Rate Demand Tax-Exempt Revenue and Refunding Bonds (University of the Incarnate Word Project), Series 1999-A* (the "***Series 1999-A Bonds***"), and *$5,475,000* in principal amount of its *City of Alamo Heights, Texas Higher Education Facilities Corporation Adjustable Rate Demand Taxable Refunding Bonds (University of the Incarnate Word Project), Series 1999-B* (the "***Series 1999-B***

Bonds"), the proceeds of which were loaned to and used by the University to refund two series of bonds issued in 1993 and 1996 by the City of Terrell Hills, Texas Higher Education Facilities Corporation (which were issued to finance certain educational facilities and housing facilities for the University), and to acquire, construct, renovate, furnish and equip new administrative offices, a new residence hall, a new natatorium, and education and business facility, various athletic improvements, and various telephone, energy and technology improvements (collectively, the "***1999 Projects***"); and

WHEREAS, at the request of the University, on August 2, 2001, the Issuer issued and delivered *$9,000,000* in principal amount of its *City of San Antonio, Texas Education Facilities Corporation Adjustable Rate Demand Revenue Bonds (University of the Incarnate Word Project), Series 2001* (the "***Series 2001 Bonds***"), the proceeds of which were loaned to and used by the University for (i) the construction and equipping of a five-story building at the site of the parking lot on the east side of the University's International Center (which contains a parking garage on the lower three levels with approximately 210 parking spaces, and conference, bookstore and student residential housing facilities on the upper two levels), (ii) the construction and equipping of an eight-unit apartment building as part of the Avoca apartment complex which is used for student housing, (iii) completing the construction and equipping of a new business and education building, and (iv) completing the acquisition and installation of energy management improvements (collectively, the "***2001 Projects***"); and

WHEREAS, at the request of the University and **ST. ANTHONY CATHOLIC HIGH SCHOOL, INC.**, a Texas nonprofit corporation in which the University is the sole member ("***St. Anthony Catholic High School***"), on November 12, 2003, the Issuer issued and delivered *$4,115,000* in principal amount of its *City of San Antonio, Texas Education Facilities Corporation Adjustable Rate Demand Revenue Bonds (St. Anthony Catholic High School Project), Series 2003A* (the "***Series 2003A Bonds***"), and *$1,070,000* in principal amount of its *City of San Antonio, Texas Education Facilities Corporation Adjustable Rate Demand Revenue Bonds (St. Anthony Catholic High School Project), Taxable Series 2003B* (the "***Series 2003B Bonds***"), the proceeds of which were loaned to and used by St. Anthony Catholic High School for the acquisition of land and improvements that were associated with and used as a private secondary school known as "*St. Anthony Catholic High School*," located at 3200 McCullough Avenue, San Antonio, Texas, and making improvements thereto, all of which are described more specifically as follows: (i) the acquisition of approximately 11.76 acres of land located at the southeast corner of the intersection of McCullough Avenue and East King's Highway in the City of San Antonio, Texas and all buildings and improvements located thereon (exclusive of the Chapel, funds for the acquisition of which were provided from another source); such buildings and improvements included the main education building (approximately 78,101 square feet), the gymnasium and locker/shower building (approximately 12,500 square feet), soccer field, football field, water tower, roadways and parking areas; and (ii) the renovation, repair, improvement and equipping of such buildings and improvements, including but not limited to classroom renovations, fire alarm system, new boilers, asbestos removal, air conditioning in gymnasium and other areas, bleachers in

gymnasium, elevator repairs, demolition of pool and re-routing water and irrigation lines, resurface streets and add additional parking, ADA ramp, roof repairs, upgrade electrical service and panels, and install data hubs and switches (collectively, the "***2003 Projects***"); and

WHEREAS, the 1999 Projects, the 2001 Projects, and the 2003 Projects have been completed by the University and are collectively referred to herein as the "***Projects***"; and

WHEREAS, the Series 1999-A Bonds and the Series 1999-B Bonds were issued pursuant to a Trust Indenture, dated as of June 15, 1999 (the "***1999 Indenture***"), between the *City of Alamo Heights, Texas Higher Education Facilities Corporation* and *Norwest Bank Minnesota, N.A.* (now known as *Wells Fargo Bank, National Association*), the Series 1999-A Bonds currently are outstanding in the aggregate principal amount of *$7,505,000* and have a final stated maturity of April 1, 2019, and the Series 1999-B Bonds were paid at final maturity on April 1, 2007 and are no longer outstanding; and

WHEREAS, the Series 2001 Bonds were issued pursuant to a Trust Indenture, dated as of July 1, 2001 (the "***2001 Indenture***"), between the Issuer and *Wells Fargo Bank Minnesota, N.A.* (now known as *Wells Fargo Bank, National Association*), currently are outstanding in the aggregate principal amount of *$3,865,000*, and have a final stated maturity of December 1, 2021; and

WHEREAS, the Series 2003A Bonds and the Series 2003B Bonds were issued pursuant to a Trust Indenture, dated as of November 1, 2001, between the Issuer and *Wells Fargo Bank, National Association* (the "***2003 Indenture***"), the Series 2003A Bonds currently are outstanding in the aggregate principal amount of *$2,940,000* and have a final stated maturity of December 1, 2023, and the Series 2003B Bonds have been paid and are no longer outstanding; and

WHEREAS, the 1999 Indenture, the 2001 Indenture and the 2003 Indenture are collectively referred to herein as the "***Indentures***", and as noted in the three preceding recitals, *Wells Fargo Bank, National Association* serves as the trustee under the Indentures and is referred to herein as the "***Trustee***"; and

WHEREAS, the Series 1999-A Bonds, the Series 2001 Bonds and the Series 2003A Bonds are collectively referred to herein as the "***Outstanding Variable Rate Bonds***"; and

WHEREAS, at the request of the University and in connection with the Outstanding Variable Rate Bonds, **JPMORGAN CHASE BANK, N.A.** (the "***Bank***") has provided to the Trustee (i) a direct-pay letter of credit related to the Series 1999-A Bonds, (ii) a separate direct-pay letter of credit related to the Series 2001 Bonds, and (iii) a separate direct-pay letter of credit related to the Series 2003A Bonds, all of which permit the Trustee to draw thereunder for the payment of principal of and interest on the related Outstanding Variable Rate Bonds and provide liquidity for certain optional and mandatory tenders described and permitted under the Indentures, and all of which have an expiration date of May 1, 2015 (the "***Letters of Credit***"); and

WHEREAS, the University has determined (and is prepared to provide the requisite notice to the Trustee) not to request the Bank to extend the expiration date of the Letters of Credit; accordingly, under the terms of the Indentures, particularly Section 3.07(a)(iii) and Section 3.01(e) thereof, all Outstanding Variable Rate Bonds are subject to mandatory tender for purchase and mandatory redemption, respectively, on April 1, 2015; and

WHEREAS, the University has applied to the Issuer for a loan to be used to refinance the Projects; and

WHEREAS, the University has asked **DNT ASSET TRUST**, a Delaware business trust and wholly owned subsidiary of the Bank (the "***Lender***"), to make a loan to the Issuer for the purpose of providing funds to enable the Issuer to make a loan to the University to refinance the costs of the Projects by providing funds, together with other funds provided by the University, to be used to reimburse the Bank for a draw on each of the Letters of Credit to effectuate the mandatory purchase and redemption of the Outstanding Variable Rate Bonds; and

WHEREAS, the Lender is willing to make such loan to the Issuer for the benefit of the University, on the terms and conditions as set forth in a loan agreement by and among the University, the Issuer and the Lender, a substantially final form of which is attached hereto as Exhibit A (the "***Loan Agreement***"); and

WHEREAS, as provided in the Loan Agreement, the University will agree and acknowledge that it shall be unconditionally obligated to the Issuer and the Lender to make or pay, or cause to be made or paid, without set-off, recoupment, or counterclaim, to the Lender the "Borrower Loan Payments" required by the Loan Agreement in amounts sufficient to pay the principal of and interest on the Borrower Loan, when due, and all other amounts required to be paid by the Loan Agreement; and

WHEREAS, the limited obligations of the Issuer under the Loan Agreement, including its obligation to assign to the Lender its right to receive the Borrower Loan Payments from the University, which assignment is provided for in the Loan Agreement, are not the obligations of the City or its officers or employees, shall never constitute a pledge of the City's faith and credit, and shall never impose any liability on the City in respect thereof; and

WHEREAS, the University is a "501(c)(3) organization," within the meaning of Section 145 of the Internal Revenue Code of 1986, as amended (the "***Code***"); and

WHEREAS, Section 147(f) of the Code requires that the issuance of any "qualified 501(c)(3) bonds" be approved by the governing body of the City, or a designee of the City, after a public hearing following reasonable public notice, and the Issuer Loan is considered a "qualified 501(c)(3) bond" for purposes of Section 147(f) of the Code; and

WHEREAS, on February 24, 2015, the Issuer published notice of a public hearing on the refinancing of the Projects (the "***Public Notice***") in a newspaper of general circulation in the jurisdiction of the City as required by Section 147(f) of the Code, and such public hearing held on March 11, 2015, by the representative of the Issuer ratified and approved by this Resolution; and

WHEREAS, the University has represented to the Issuer and the City that it is reasonably expected that the loan being provided by the Lender through the Issuer will be beneficial to the University by reducing the University's interest and transaction costs related to the refinancing of the Projects; and

WHEREAS, on March 12, 2015, the Board of Directors of the Issuer adopted a resolution approving and authorizing the Loan Agreement and all other documents related to providing the loan being requested by the University; and

WHEREAS, as provided in the Loan Agreement, the University will agree and acknowledge that it shall be unconditionally obligated to the Issuer and the Lender to make or pay, or cause to be made or paid, without set-off, recoupment, or counterclaim, to the Lender the "Borrower Loan Payments" required by the Loan Agreement in amounts sufficient to pay the principal of and interest on the Borrower Loan, when due, and all other amounts required to be paid by the Loan Agreement; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Resolution was adopted was open to the public and public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code; and

WHEREAS, it is hereby deemed necessary and advisable that this Resolution be adopted; *NOW THEREFORE:*

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. DEFINITIONS. Terms not otherwise defined herein shall have the meanings assigned to them in the Loan Agreement.

SECTION 2. SECTION 147(f) APPROVAL. The City hereby approves, solely for the purposes of satisfying Section 147(f) of the Code, the Issuer Loan in the principal amount of *$12,325,000*, the Loan Agreement and the refinancing of the Projects, all as described in the Public Notice. This approval shall take effect immediately. The City shall have no liability in connection with the refinancing of the Projects and shall not be required to take any further action with respect thereto.

SECTION 3. INCORPORATION OF RECITALS. The City hereby finds that the statements set forth in the recitals of this Resolution are true and correct, and the City hereby incorporates such recitals as a part of this Resolution.

SECTION 4. **SEVERABILITY**. If any provision of this Resolution or the application thereof to any circumstance shall be held to be invalid, the remainder of this Resolution and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 5. **EFFECTIVE DATE**. This Resolution shall become effective immediately upon passage by eight (8) affirmative votes. If passed by less than eight (8) affirmative votes, then this Resolution shall become effective on the tenth (10^{th}) day following passage thereof.

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PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO, TEXAS ON THE 12TH DAY OF MARCH, 2015.

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

Martha Sepeda, Acting City Attorney

(City Seal)

** ** ** ** **

Agenda Item:	**6B**
Date:	03/12/2015
Time:	10:02:18 AM
Vote Type:	Motion to Approve
Description:	A Resolution by the City Council of the City of San Antonio, Texas regarding approval for purposes of Section 147(f) of the Internal Revenue Code, of a tax exempt loan agreement by and among the City of San Antonio, Texas Education Facilities Corporation, the University of the Incarnate Word, and DNT Asset Trust, a Delaware business trust and wholly-owned subsidiary of JPMorgan Chase Bank, N.A.
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Trevino	District 1		x				x
Alan Warrick	District 2		x				
Rebecca Viagran	District 3		x			x	
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6	x					
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10		x				

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EXHIBIT A

LOAN AGREEMENT

The Loan Agreement is omitted at this point as it appears in executed form elsewhere in this Transcript of Proceedings.

CERTIFICATE FOR RESOLUTION

THE STATE OF TEXAS §
COUNTIES OF BEXAR AND COMAL §
CITY OF SAN ANTONIO §

I, the undersigned City Clerk of the **CITY OF SAN ANTONIO, TEXAS** (the "***City***"), hereby certify as follows:

1. The City Council of the City (the "***City Council***") convened in Regular Meeting on March 12, 2015 (the "***Meeting***"), at the City Hall, and the roll was called of the duly constituted officers and members of the City Council, to wit:

Ivy R. Taylor	Mayor
Roberto C. Treviño	Councilmember, District 1
Alan E. Warrick, II	Councilmember, District 2
Rebecca J. Viagran	Councilmember, District 3
Rey Saldana	Councilmember, District 4
Shirley Gonzales	Councilmember, District 5
Ray Lopez	Councilmember, District 6
Cris Medina	Councilmember, District 7
Ron Nirenberg	Councilmember, District 8
Joe Krier	Councilmember, District 9
Mike Gallagher	Councilmember, District 10

and all of said officers and members of the City Council were present, except the following absentees: Ray Lopez, thus constituting a quorum. Whereupon, among other business, the following was transacted at the Meeting: a written Resolution No. **2015-03-12-0019R** (the "***Resolution***") entitled

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO, TEXAS REGARDING APPROVAL, FOR PURPOSES OF SECTION 147(f) OF THE INTERNAL REVENUE CODE, OF A TAX-EXEMPT LOAN AGREEMENT BY AND AMONG THE CITY OF SAN ANTONIO, TEXAS EDUCATION FACILITIES CORPORATION, THE UNIVERSITY OF THE INCARNATE WORD, AND DNT ASSET TRUST, A DELAWARE BUSINESS TRUST AND WHOLLY OWNED SUBSIDIARY OF JPMORGAN CHASE BANK, N.A.

was duly introduced for the consideration of the City Council. It was then duly moved and seconded that the Resolution be adopted; and, after due discussion, said motion carrying with it the adoption of the Resolution, prevailed and carried by the following vote:

AYES: 10 NOES: 0 ABSTENTIONS: 0

2. A true, full and correct copy of the Resolution adopted at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; the Resolution has been duly recorded in the City Council's minutes of the Meeting; the above and foregoing paragraph is a true, full and correct excerpt from the City Council's minutes of the Meeting pertaining to the passage of the Resolution; the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the City Council as indicated therein; each of the officers and members of the City Council was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the Meeting, and that the Resolution would be introduced and considered for passage at the Meeting, and each of said officers and members consented, in advance, to the holding of the Meeting for such purpose; and the Meeting was open to the public and public notice of the time, place and purpose of the Meeting was given, all as required by Chapter 551, Texas Government Code.

SIGNED AND SEALED the 12th day of March, 2015.

(SEAL)

City Clerk
City of San Antonio, Texas