



## Travis County Commissioners Court Agenda Request

**Meeting Date:** August 20, 2013

**Prepared By/Phone Number:** Andrea Shields, Manager/854-9116

**Elected/Appointed Official/Dept. Head:** Leslie Browder, County Executive, Planning and Budget/854-9106

**Commissioners Court Sponsor:** Samuel T. Biscoe, County Judge

### **AGENDA LANGUAGE:**

Consider and take appropriate action on request to consider and approve findings and resolutions for adoption by the Commissioners Court of Travis County, Texas related to issuance of the City of Newark, Texas Cultural Education Facilities Finance Corporation revenue bonds for the benefit of The Girls School of Austin.

**BACKGROUND/SUMMARY OF REQUEST AND ATTACHMENTS:** See attached backup.

**STAFF RECOMMENDATIONS:** Staff recommends approval.

**ISSUES AND OPPORTUNITIES:** None.

**FISCAL IMPACT AND SOURCE OF FUNDING:** None.

**REQUIRED AUTHORIZATIONS:** Andrea Shields, Manager/854-9116; Leslie Browder, County Executive, Planning and Budget/854-9106

AGENDA REQUEST DEADLINE: All agenda requests and supporting materials must be submitted as a pdf to the County Judge's office, [agenda@co.travis.tx.us](mailto:agenda@co.travis.tx.us) by **Tuesdays at 5:00 p.m.** for the next week's meeting.

## Andrea Shields

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**From:** Andrea Shields  
**Sent:** Tuesday, August 13, 2013 3:01 PM  
**To:** Sam Biscoe  
**Cc:** Cliff Blount  
**Subject:** FW: Approval of Travis County / The Girls School of Austin  
**Attachments:** Certificate of Public Hearing (Project) - Girls School.PDF; Publisher's Affidavit - Austin American Statesman - Girls School of Austin.PDF; Resolution of Travis County - Girls School of Austin.DOC

Judge Biscoe,

We received the below request from <sup>NEWARK</sup> Marilyn Herzog with Andrews Kurth LLP. The bonds referenced in the attached materials are being issued by an entity in X, Texas and because the facilities to be financed are located in Travis County, they have to obtain the approval of the highest elected official in Travis County. Under Federal Tax Law, you have the ability to sign the approval on your own; however, I know you prefer to have the full court approve these requests.

The TEFRA hearing for this issue was held today, August 13, at the offices of Andrews Kurth and it is indicated that no one appeared to give comments. Please note that this item is not being requested by the Travis County Corporations, nor are we involved in the bond issue. Andrews Kurth is merely requesting the approval I described above from the county.

We plan on having this on the agenda next week, August 20<sup>th</sup>. Please let me know if you have any questions or want to discuss further.

Thank you,  
Andrea

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**From:** Herzog, Marilyn [mailto:MarilynHerzog@andrewskurth.com]  
**Sent:** Tuesday, August 13, 2013 2:46 PM  
**To:** Andrea Shields  
**Cc:** Brewer, Todd  
**Subject:** RE: Approval of Travis County / The Girls School of Austin

As requested earlier today, attached are the Certificate of Hearing Officer, Affidavit of Publication, and the proposed resolution (in Word format). The Issuer is Newark Cultural Education Facilities Finance Corporation, and the Borrower is The Girls School of Austin, Inc. Please let us know if you need anything else or if you have any questions.

**Marilyn Herzog**  
Legal Secretary  
To Todd B. Brewer  
**Andrews Kurth LLP**  
600 Travis, Suite 4200  
Houston, Texas 77002  
713.220.4265 Phone  
[marilynherzog@andrewskurth.com](mailto:marilynherzog@andrewskurth.com)  
[andrewskurth.com](http://andrewskurth.com)

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**From:** Andrea Shields [<mailto:Andrea.Shields@co.travis.tx.us>]  
**Sent:** Tuesday, August 13, 2013 2:04 PM  
**To:** Herzog, Marilyn  
**Subject:** RE: Approval of Travis County / The Girls School of Austin

Thank you. Can you please let me know who the Issuer will be?

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**From:** Herzog, Marilyn [<mailto:MarilynHerzog@andrewskurth.com>]  
**Sent:** Tuesday, August 13, 2013 12:03 PM  
**To:** Andrea Shields  
**Cc:** Brewer, Todd  
**Subject:** RE: Approval of Travis County / The Girls School of Austin

Ms. Shields, I will email all of the requested information to you later today. If you need anything else, please let us know. Thank you for your help! Marilyn

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**From:** Andrea Shields [<mailto:Andrea.Shields@co.travis.tx.us>]  
**Sent:** Tuesday, August 13, 2013 11:59 AM  
**To:** Herzog, Marilyn  
**Subject:** RE: Approval of Travis County / The Girls School of Austin

Hi Marilyn,

We will have this item on the agenda for approval next Tuesday August 20. Can you please provide the following for inclusion in the backup?

1. Certificate of Hearing Officer.
2. Affidavit of publication in the Austin American-Statesman;
3. Draft Resolution of the County approving the deal.

I believe the public hearing is being held today, but if you could provide the requested information by noon on Thursday August 15, that would be much appreciated. Please let me know if you have any questions. Thank you.

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**From:** Herzog, Marilyn [<mailto:MarilynHerzog@andrewskurth.com>]  
**Sent:** Monday, July 29, 2013 11:37 AM  
**To:** Karen Thigpen; Andrea Shields  
**Cc:** Brewer, Todd  
**Subject:** Approval of Travis County / The Girls School of Austin

Ms. Thigpen and Ms. Shields, in May of this year, you helped Hoang Vu obtain the County's approval, for federal tax purposes, of a tax-exempt deal for St. Andrew's Episcopal School. We are working on a deal for The Girls School of Austin and are respectfully requesting your help in obtaining the County's approval for this deal. In the past we have provided you with the following documents and will be able to do so again for this deal:

1. Certificate of Hearing Officer certifying that the hearing to be held on August 13<sup>th</sup> was held in the County and no one appeared to give comments.
2. Affidavit of publication in the Austin American-Statesman;
3. Draft Resolution of the County approving the deal.

Under federal tax law, this is a new deal and requires that we go through the process of publishing notice of hearing, holding the hearing and obtaining the consent of the applicable governmental unit where the project is located. We would like to obtain the County's approval at the first Commissioner's Court meeting after the August 13th hearing, which I believe would be Tuesday, August 20<sup>th</sup>.

Please let me know if you have any questions or need anything else to start this process.

**Marilyn Herzog**

Legal Secretary

To Todd B. Brewer

**Andrews Kurth LLP**

600 Travis, Suite 4200

Houston, Texas 77002

713.220.4265 Phone

[marilynherzog@andrewskurth.com](mailto:marilynherzog@andrewskurth.com)

[andrewskurth.com](http://andrewskurth.com)

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## CERTIFICATE OF PUBLIC HEARING

I, the undersigned, hereby certify in connection with a proposed loan among Frost Bank (the "Bank"), Newark Cultural Education Facilities Finance Corporation (the "Corporation") and The Girls School of Austin, Inc. (the "Borrower") in a maximum principal amount of \$2,500,000 (the "Financing") for the benefit of Borrower, as follows:

1. I served as Hearing Officer for the Corporation for the purpose of conducting a public hearing on the Financing and the use of the proceeds thereof to provide for (A) refinancing and financing the cost of an approximate 14,500 square foot, two-story education facility located at 2007 McCall Road, Austin, Texas 78703 (the "Project"); and (B) paying certain expenses in connection with the Financing.

2. Such hearing was conducted commencing at 10:00 a.m. in the Colorado Conference Room at the offices of Andrews Kurth LLP, 111 Congress Avenue, Suite 1700, Austin, Texas 78701 on August 13, 2013, which building and office was open to the public for purposes of the hearing.

At the time for the commencement of the hearing, comments, either orally or in writing, were publicly requested on the Project to be financed with proceeds of the Loan and on the making of the Loans.

3. At the hearing,

no persons presented comments orally or in writing.

the comments summarized in Exhibit A-1 were made orally by the persons listed therein.

the written comments attached hereto were presented.

4. No time limitations were imposed on any public comments.

IN WITNESS WHEREOF, I have hereunto set my hand this August 13, 2013.

  
\_\_\_\_\_  
Hearing Officer

**EXHIBIT A-1**

None

ANDREWS KURTH LLP  
600 TRAVIS, SUITE 4200  
ATTN: MARILYN HERZOG  
HOUSTON, TX 77002

**AFFIDAVIT OF PUBLICATION**

THE STATE OF TEXAS  
COUNTY OF TRAVIS

Before me, the undersigned authority, a Notary Public in and for the County of Travis,  
State of Texas, on this day personally appeared:

Carolyn Kline

Advertising Agent of the Austin American-Statesman, a daily newspaper published in said  
County and State that is generally circulated in Bastrop, Bell, Blanco, Brazos, Burleson,  
Burnet, Caldwell, Colorado, Comal, Coryell, Fayette, Gillespie, Gonzales, Guadalupe, Hays,  
Kerr, Lampasas, Lee, Llano, Milam, Nueces, San Saba, Travis, Washington, and Williamson  
Counties, who being duly sworn by me, states that the attached advertisement was published  
at the lowest published rate for Classified advertising in said newspaper on the following  
date(s), to wit:

First Published: 7/26/2013

Last Published: 7/26/2013

Times Published: 1

Classification: Legal Notices (9980)

Lines: 45

Cost: \$494.30

and that the attached is a true copy of said advertisement.

[Signature]

SWORN AND SUBSCRIBED TO BEFORE ME, this the 26 day of July, 2013

[Signature]  
Notary Public in and for  
TRAVIS COUNTY, TEXAS



**NOTICE OF PUBLIC HEARING**

That the Board of Directors of the City of Denver, Colorado, has received from the Colorado State Board of Education a request for a public hearing on the proposed charter of the Denver Public Schools for the year 1922-23 commencing at 10:00 A.M. on the 15th day of August, 1922, at the Colorado Conference Room, at the Colorado State Board of Education, 111 Colorado Building, Denver, Colorado, on August 15, 1922, to provide an opportunity for all interested persons to be heard with respect to the proposed charter of the Denver Public Schools. The Corporation is authorized to borrow up to \$2,000,000 and a further sum from the Corporation to the City Board of Education, for the purpose of the construction of a high school building, the amount of the loan to be determined by a loan agreement with the Colorado State Board of Education. The funds are being made for the purpose of raising and financing the cost of an approximate 1,200 square foot new high school building to be built at 1250 North Broadway, Denver, Colorado. The funds are not available out of bond and are payable only from the tax proceeds of the property.

All interested persons are invited to attend the hearing and to present their views on the proposed charter. Any interested persons should be heard in person or by written statement, and they should bring to the President of the Board of Education of the Corporation of Denver, 111 Colorado Building, Denver, Colorado, 15 days prior to the date scheduled for the hearing.

WALTER J. HARRIS, President  
DENVER PUBLIC SCHOOLS



**CERTIFICATE FOR RESOLUTION**

**THE STATE OF TEXAS §**

**COUNTY OF TRAVIS §**

We, the undersigned officers of the Travis County, Texas (the "*County*"), hereby certify as follows:

1. The Commissioners Court of the County convened in a regular meeting on August 20, 2013 (the "*Meeting*"), at the designated meeting place, and the roll was called of the duly constituted officers and members of said Commissioners Court, to wit:

Samuel T. Biscoe	County Judge
Ron Davis	Commissioner, Precinct 1
Bruce Todd	Commissioner, Precinct 2
Gerald Daugherty	Commissioner, Precinct 3
Margaret Gómez	Commissioner, Precinct 4

and all of said persons were present, except the following: \_\_\_\_\_, thus constituting a quorum. Whereupon, among other business, the following was transacted at said Meeting: a written

**RESOLUTION APPROVING A FINANCING BY THE NEWARK CULTURAL EDUCATION FACILITIES FINANCE CORPORATION FOR THE BENEFIT OF THE GIRLS SCHOOL OF AUSTIN, INC. AND RELATED MATTERS.**

(the "*Resolution*") was duly introduced for the consideration of said Commissioners Court. It was then duly moved and seconded that said Resolution be adopted and, after due discussion, said motion, carrying with it the adoption of said Resolution, prevailed and carried by the following vote:

AYES: All members of the Commissioners Court shown present above voted "Aye," except as provided below:

NAYS:

ABSTENTIONS:

2. That a true, full and correct copy of the aforesaid Resolution adopted at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that said Resolution has been duly recorded in said Commissioners Court's minutes of said Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from said Commissioners Court's minutes of said Meeting pertaining to the adoption of said Resolution; that the persons named in the

above and foregoing paragraph are the duly chosen, qualified and acting officers and members of said Commissioners Court as indicated therein; that each of the officers and members of said Commissioners Court was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid Meeting, and that said Resolution would be introduced and considered for adoption at said Meeting, and each of said officers and members consented, in advance, to the holding of said Meeting for such purpose, and that said Meeting 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.

3. That the County Judge of the County has approved and hereby approves the aforesaid Resolution; that the County Judge and the County Clerk of the County have duly signed said Resolution; and that the County Judge and the County Clerk hereby declare that their signing of this Certificate shall constitute the signing of the attached and following copy of said Resolution for all purposes.

SIGNED AND SEALED August 20, 2013.

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County Clerk

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County Judge

(SEAL)

**RESOLUTION APPROVING A FINANCING BY THE NEWARK CULTURAL EDUCATION FACILITIES FINANCE CORPORATION FOR THE BENEFIT OF THE GIRLS SCHOOL OF AUSTIN, INC. AND RELATED MATTERS.**

**THE STATE OF TEXAS §  
COUNTY OF TRAVIS §**

WHEREAS, the NEWARK CULTURAL EDUCATION FACILITIES FINANCE CORPORATION ("*Corporation*") created by the City of Newark, Texas has adopted a resolution authorizing the proposed loans (the "*Loans*") in the maximum principal amount of \$2,500,000 among the Corporation, FROST BANK (the "*Bank*") and THE GIRLS SCHOOL OF AUSTIN, INC. (the "*Borrower*") as pursuant to Article 1528m, Vernon's Texas Civil Statutes, as amended (the "*Act*") for the purpose of (A) refinancing and financing the cost of an education facility located at 2007 McCall Road, Austin, Texas 78703 and (B) paying certain expenses in connection with the issuance of the Loans and paying certain expenses in connection with the issuance of the Loans;

WHEREAS, section 147(f) of the Internal Revenue Code of 1986, as amended (the "*Code*") requires that the issuance of any qualified 501(c)(3) obligations be approved by either the governing body of the County or the chief elected executive officer of the County after a public hearing following reasonable public notice;

WHEREAS, attached hereto as Exhibit A is a Notice of Public Hearing (the "*Public Notice*") which was published in a newspaper of general circulation in the County as required by section 147(f) of the Code which public hearing was conducted by the Corporation and no member of the public appeared at the hearing to express his or her views on the Project; and

**THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS COURT OF TRAVIS COUNTY, TEXAS THAT:**

**Section 1.** The County hereby specifically approves the Loans and the Project solely for the purpose of satisfying the requirements of section 147(f) of the Code and for no other purpose and is not to be construed as an undertaking by the County. The Loans shall not constitute a liability, an indebtedness or obligation of the County nor shall any of the assets of the County be pledged to the payment of the Loans.

**Section 2.** This Resolution shall become effective immediately upon its passage.

## **EXHIBIT A**

### **NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Newark Cultural Education Facilities Finance Corporation (the "Corporation"), a nonprofit corporation created by the City of Newark, Texas pursuant to Art. 1528m, Vernon's Civil Statutes, as amended, will hold a public hearing on August 13, 2013, commencing at 10:00 a.m., in the Colorado Conference Room at the offices of Andrews Kurth LLP, 111 Congress Avenue, Suite 1700, Austin, Texas 78701, to provide an opportunity for all interested persons to be heard with respect to a proposed loan from Frost Bank (the "Bank") to the Corporation in the maximum amount of up to \$2,500,000 and a proposed loan from the Corporation to The Girls School of Austin, Inc. (the "Borrower") in the same amount (collectively, the "Loans"); all pursuant to a Loan Agreement among the Corporation, the Bank and the Borrower.

The Loans are being made for the purpose of refinancing and financing the cost of an approximate 14,500 square foot, two-story education facility located at 2007 McCall Road, Austin, Texas 78703. The Loans are not payable out of taxes and are payable solely from funds provided by the Borrower.

All interested persons are invited to attend the hearing to express their views, both orally and in writing, with respect to the Loans and the Project. Any interested persons unable to attend the hearing may submit their views in writing to the President of the Board of Directors of the Corporation c/o Andrews Kurth LLP, Attn: Todd B. Brewer, 600 Travis Street, Suite 4200, Houston, Texas 77002, prior to the date scheduled for the hearing.

**NEWARK CULTURAL EDUCATION FACILITIES FINANCE CORPORATION**