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Director of Council Services
David M. Raatz, Jr., Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

November 20, 2015

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OFFICE OF THE
COUNTY CLERK

The Honorable Mike White
Council Chair
County of Maui
Wailuku, Hawaii 96793

Dear Chair White:

SUBJECT: **APPROVING THE ISSUANCE BY THE PUBLIC FINANCE AUTHORITY OF REVENUE BONDS FOR SOUTH MAUI LEARNING OHANA FOR THE BENEFIT OF KIHEI CHARTER SCHOOL**

May I request the attached proposed resolution, entitled "APPROVING THE ISSUANCE BY THE PUBLIC FINANCE AUTHORITY OF REVENUE BONDS FOR SOUTH MAUI LEARNING OHANA FOR THE BENEFIT OF KIHEI CHARTER SCHOOL", be placed on the next Council meeting agenda.

Sincerely,

DON COUCH
Councilmember

Resolution

No. _____

APPROVING THE ISSUANCE BY THE
PUBLIC FINANCE AUTHORITY OF REVENUE BONDS FOR SOUTH
MAUI LEARNING OHANA FOR THE BENEFIT OF KIHEI CHARTER SCHOOL

WHEREAS, the Public Finance Authority (the "Authority") is authorized pursuant to the provisions of Sections 66.0301, 66.0303 and 66.0304 of the Wisconsin Statutes, commonly known as the "Joint Exercise of Powers Law" (the "Act"), and the terms of an Amended and Restated Joint Exercise of Powers Agreement Relating to the Public Finance Authority, dated as of September 28, 2010 (the "Joint Exercise Agreement"), to issue revenue bonds in accordance with the Act for the purpose of financing school facilities; and

WHEREAS, the Authority has adopted a plan of financing providing for the issuance of revenue bonds (the "Bonds") in one or more series, and at no time to exceed $19,000,000 in outstanding aggregate principal amount, to finance the acquisition and construction by South Maui Learning Ohana of school facilities located in the County of Maui (the "County") at or near 640 Lipoa Parkway, Maui Research and Technology Park, Kihei, Maui, Hawaii (the "Project") to be leased to Kihei Charter School; and

WHEREAS, the Bonds or a portion thereof will be "private activity bonds" for purposes of the Internal Revenue Code of 1986 (the "Code"); and

WHEREAS, pursuant to Section 147(f) of the Code, prior to their issuance, private activity bonds are required to be approved by the "applicable elected representative" of a governmental unit having jurisdiction over the entire area in which any facility financed by such bonds is to be located, after a public hearing held following reasonable public notice; and

WHEREAS, the members of this Council (this "Council") are the applicable elected representatives of the County; and

WHEREAS, there has been published, at least 14 days prior to the date hereof, in a newspaper of general circulation within the County, a notice that a public hearing regarding the Bonds would be held on a date specified in such notice; and

WHEREAS, such public hearing was conducted on such date, at which time an opportunity was provided to interested parties to present arguments both for and against the issuance of the Bonds; and

WHEREAS, it is intended that this Resolution shall constitute the approval of the issuance of the Bonds required by Section 147(f) of the Code; and

WHEREAS, pursuant to the Section 66.0304(11)(a) of the Act, prior to their issuance, bonds issued by the Authority must be approved by the governing body or highest ranking executive or administrator of the political jurisdiction within whose boundaries the project is to be located; and

WHEREAS, this Council has been requested to approve the financing of the Project and the issuance of the Bonds in order to satisfy the requirements of Section 66.0304(11)(a) of the Act; and

WHEREAS, neither approval for purposes of Section 147(f) of the Code nor approval for purposes of Section 66.0304(11)(a) of the Act constitutes an endorsement by the County of the Bonds or the Project, or a commitment by the County to provide any other approvals that may be required in connection with the Project or any further responsibility of any kind with respect to the Bonds; and

WHEREAS, the Revised Charter of the County of Maui (1983), as amended, authorizes the Council to act by Resolution; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. The above recitals are true and correct.

2. The Council hereby approves the issuance of the Bonds by the Authority for financing the Project. It is the purpose and intent of the Council that this Resolution constitute approval by the County, which is the governmental unit having jurisdiction over the area in which the Project is located, solely for the purposes of Section 147(f) of the Code and Section 66.0304(11)(a) of the Act. This approval shall not otherwise be referred to in connection with marketing and sale of the Bonds, and the County shall have no responsibility or liability of any kind, direct or indirect, with respect to the terms, sale, issuance, security or payment of the Bonds, which shall be the sole

responsibility of the Authority, South Maui Learning Ohana and Kihei Charter School.

3. The officers of the County are hereby authorized to do any and all things and to execute and deliver any and all documents that they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and the financing approved hereby.

4. The County Clerk shall forward a certified copy of this Resolution and a copy of the affidavit of publication of the hearing notice to:

Philip C. Morgan, Esq.
Orrick, Herrington & Sutcliffe LLP
405 Howard Street
San Francisco, California 94105

5. This Resolution shall take effect immediately upon its passage.

6. That certified copies of this resolution be transmitted to the Mayor and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:

JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui
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