

144-O-19

An Ordinance

Approving and Authorizing the Issuance and Sale of Not to Exceed \$3,925,000 Aggregate Principal Amount of Revenue Bonds, Series 2019A (Chiaravalle Montessori School) and \$3,735,000 Aggregate Principal Amount of Revenue Bonds, Series 2019B (Chiaravalle Montessori School) of the City of Evanston, Illinois, For the Benefit of Chiaravalle Montessori School; Authorizing the Execution and Delivery of a Bond and Loan Agreement and Other Documents Related Thereto; Authorizing the Sale of Said Bonds to Fifth Third Bank, N.A.; and Approving Related Matters Thereto

WHEREAS, pursuant to the provisions of Section 6(a) of Article VII of the 1970 Constitution of the State of Illinois, the City of Evanston, Cook County, Illinois (the "City"), a municipality and home rule unit of the State of Illinois (the "State"), is authorized and empowered to exercise any power or perform any function pertaining to its government or affairs, including the issuance of revenue bonds to finance projects within the territorial limits of the City or to refund bonds issued to finance said projects, and may authorize the issuance of such revenue bonds by ordinance adopted by the City Council of the City (the "City Council"); and

WHEREAS, Chiaravalle Montessori School, an Illinois not for profit corporation (the "Borrower"), has requested that the City Council approve the issuance by the City of qualified 501(c)(3) revenue bonds under Section 145 of the Internal Revenue Code of 1986, as amended (the "Code"), through the issuance of its Revenue Bonds, Series 2019 (Chiaravalle Montessori School) (the "Series 2019A Bonds") and its Revenue Bonds, Series 2019B (Chiaravalle Montessori School) (the "Series 2019B Bonds" and collectively with the Series 2019A Bonds, the "Bonds"); and

WHEREAS, the Borrower desires that the Series 2019A Bonds be issued in order to be used, together with other available funds to (i) refund the City of Evanston Revenue Refunding Bonds, Series 2014A (Chiaravalle Montessori School) (the “*Series 2014A Bonds*” and those Series 2014A Bonds being refunded, the “*Refunded Series 2014A Bonds*”), the proceeds of which were used to finance certain prior bonds of the City, which such prior bonds were used to finance the acquisition of land at 425 Dempster Street and an existing school facility then owned by the City and previously leased and operated by the Borrower (the “*School Facility*”) as well as renovations and improvements to the School Facility, and (ii) pay certain costs incurred in connection with the issuance of the Series 2019A Bonds and the refunding of the Refunded Series 2014A Bonds (collectively, the “*Series 2019A Financing Purposes*”); and

WHEREAS, the Borrower desires that the Series 2019B Bonds be issued in order to be used, together with other available funds to (i) refund the City of Evanston Revenue Bonds, Series 2014B (Chiaravalle Montessori School) (the “*Series 2014B Bonds*” and those Series 2014B Bonds being refunded, the “*Refunded Series 2014B Bonds*” and together with the Refunded Series 2014A Bonds, the “*Refunded Bonds*”), the proceeds of which were used to finance the costs of renovation, exterior and interior expansion, improvement and equipping of the School Facility (the “*Series 2014B Project*”), (ii) finance or refinance, or reimburse itself for, the cost of further renovation, exterior and interior expansion, improvement and equipping of the School Facility (the “*Series 2019B Project*”), (iii) fund certain working capital, and (iv) pay certain costs incurred in connection with the issuance of the Series 2019B Bonds and the refunding of the Refunded Series 2014B Bonds (collectively, the “*Series 2019B Financing*”); and

Purposes” and together with the Series 2019A Financing Purposes, the “*Financing Purposes*”); and

WHEREAS, in 2014 when the City approved the issuance of the Series 2014 Bonds, the City designated the Series 2014 Bonds as “qualified tax–exempt obligations” as defined in Section 265(b)(3)(B) of the Code; and

WHEREAS, the City wishes to provide financing to the Borrower for the Financing Purposes through the issuance and sale of the Bonds, which will be issued pursuant to a Bond and Loan Agreement (the “*Loan Agreement*”) by and among the City, the Borrower and Fifth Third Bank, N.A., as the purchaser of the Bonds (the “*Purchaser*”), and in accordance with this Ordinance authorizing the issuance of the Bonds; and

WHEREAS, in connection with the issuance of the Bonds, it is now necessary, desirable and in the best interests of the City to authorize the execution and delivery of the Loan Agreement, a Tax Compliance Agreement dated the date of issuance of the Series 2019A Bonds (the “*Series 2019A Tax Compliance Agreement*”), between the City and the Borrower, a Tax Compliance Agreement dated the date of issuance of the Series 2019B Bonds (the “*Series 2019B Tax Compliance Agreement*” and together with the Series 2019A Tax Compliance Agreement, the “*Tax Compliance Agreements*”), the Bond Purchase Agreement (the “*Series 2019A Purchase Contract*”) among the Issuer, the Borrower and the Purchaser and the Bond Purchase Agreement (the “*Series 2019B Purchase Contract*” and together with the Series 2019A Purchase Contract, the “*Purchase Contracts*”) among the Issuer, the Borrower and the Purchaser]; and

WHEREAS, the proposed form of the Loan Agreement, including the form of Bond attached thereto as Exhibit A, has been prepared and is on file with the City Treasurer; and

WHEREAS, the financing of the Financing Purposes and the issuance of the Bonds will be beneficial economically to the Borrower and will enable the Borrower to offer more of its services to the City's residents thereby promoting the well-being of the residents of the City and will enhance the quality of life of the residents of the City and therefore is for a proper public purpose; and

WHEREAS, the Bonds shall be special, limited obligations of the City, payable solely from the revenues and income pursuant to the Loan Agreement, and the Bonds shall not constitute an indebtedness or obligation of the City, the State or any political subdivision thereof or a loan of credit of any of them, within the meaning of any constitutional or statutory provision, or a charge against the general credit or taxing powers, if any of the City, the State or any political subdivision thereof; and no holder of any Bond shall have the right to compel any exercise of the taxing power of the City, the State or any political subdivision thereof, to pay the principal of the Bonds or the interest or premium, if any, thereon; and

WHEREAS, the Purchaser has agreed to buy the Bonds on a negotiated basis; and

WHEREAS, pursuant to the provisions of Section 147(f) of the Code, the City Council, being the elected legislative body of the City and the applicable elected representative required to approve the issuance of the Bonds within the meaning of Section 147(f) of the Code, held a public hearing on the proposed plan to refund the

Refunded Bonds and finance the 2019B Project and the issuance of the Bonds on October 28, 2019, pursuant to notice published at least seven (7) days prior to such public hearing in the *Chicago Sun-Times*, a newspaper of general circulation in the City, on October 18, 2019,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Evanston, Cook County, Illinois, as follows:

SECTION 1. All of the recitals contained in the preambles to this Ordinance are true, correct and complete and are hereby incorporated by reference thereto and are made a part hereof.

SECTION 2. The Financing Purposes are hereby authorized and determined to be in the public interest and in furtherance of the public purposes of the City.

In order to provide for the Financing Purposes, there shall be and there is hereby authorized to be issued by the City two series of bonds: (i) the Series 2019A Bonds to be dated the date of issuance, in the aggregate principal amount not to exceed \$3,925,000; and (ii), the Series 2019B Bonds to be dated the date of issuance, in the aggregate principal amount not to exceed \$3,735,000.

The Bonds shall initially bear interest at fixed interest rates as provided in the Loan Agreement; the Bonds shall be dated and executed in the manner set forth in the Loan Agreement; shall bear interest from their date on the unpaid principal thereof at rates not exceeding the maximum rate per annum permitted under Illinois law; shall mature no later than November 1, 2045; and shall be subject to redemption and tender prior to maturity at the times, under the circumstances, in the manner and at the redemption prices or purchase prices set forth in the Loan Agreement, as executed and delivered.

The Bonds are issued in the exercise of the City's powers as a home rule unit of government under the provisions of Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois and this Ordinance, and do not and shall never constitute an indebtedness or obligation of the City, the State or any political subdivision thereof or a loan of credit of any of them, within the meaning of any constitutional or statutory provision, or a charge against the general credit or taxing powers, if any, of the State, the City, or any other political subdivision thereof. The Bonds are special, limited obligations of the City, payable solely out of the revenues and income of the City derived pursuant to the Loan Agreement. No owner of the Bonds shall have the right to compel any exercise of the taxing power of the City, the State or any other political subdivision thereof, to pay the principal of the Bonds or the interest or premium, if any, thereon.

No recourse shall be had for the payment of the principal of, premium, if any, or the interest on the Bonds or for any claim based thereon or upon any obligation, covenant or agreement in the Loan Agreement against any past, present or future member, officer, alderman, agent, employee or official of the City. No covenant, stipulation, promise, agreement or obligation contained in the Bonds, the Loan Agreement or any other document executed in connection therewith shall be deemed to be the covenant, stipulation, promise, agreement or obligation of any present or future official, officer, alderman, agent or employee of the City in his or her individual capacity and neither any official of the City nor any officers executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance of the Bonds.

SECTION 3. The Bonds shall be executed on behalf of the City with the manual or facsimile signature of the Mayor and attested with the manual or facsimile signature of the City Clerk of the City and shall have printed thereon a facsimile of its official seal or impressed thereon manually its official seal. In case any officer who shall have signed (whether manually or in facsimile) any of the Bonds shall cease to be such officer of the City before the Bonds have been delivered, such Bonds with the signatures thereto affixed may nevertheless be delivered as though the person or persons who signed such Bonds had remained in office.

SECTION 4. The form, terms and provisions of the Loan Agreement and the Purchase Contracts, are hereby in all respects approved, and the Mayor is hereby authorized, empowered and directed to execute and deliver the Loan Agreement, the Purchase Contracts in the name and on behalf of the City. The Loan Agreement and the Purchase Contracts, as executed and delivered, shall be in substantially the form now on file with the City Treasurer and hereby approved, or with such changes therein as shall be approved by the officer of the City executing the same. Execution of the Loan Agreement, the Purchase Contracts shall constitute conclusive evidence of such officer's approval of any and all changes or revisions therein from the form of the Loan Agreement and the Purchase Contract now before this meeting; and from and after the execution and delivery of the Loan Agreement, the Purchase Contracts, the officers, agents and employees of the City are hereby authorized, empowered and directed to do all such acts and things and to execute and approve all such documents as may be necessary to carry out the intent and accomplish the purposes of this Ordinance and the Loan Agreement, including the approval of a mortgage or other security interests

granted by the Borrower to secure the Bonds, and to comply with and make effective the provisions of the Loan Agreement, the Purchase Contracts, as executed.

The City is hereby authorized to enter into the Tax Agreements with the Borrower in the form to be approved by bond counsel, by counsel for the City and by counsel for the Borrower; that the Mayor of the City be, and each of them hereby is, authorized, empowered and directed to execute and deliver the Tax Agreement in the form so approved; that when the Tax Agreement is executed and delivered on behalf of the City as hereinabove provided, such Tax Agreement will be binding on the City; and that from and after the execution and delivery of the Tax Agreement, the officers, employees and agents of the City are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of such Tax Agreement as executed.

SECTION 5. The sale of each series of the Bonds to the Purchaser at a price equal to no less than 98% of the principal amount thereof applicable to each series, is hereby authorized and approved.

SECTION 6. From and after the execution and delivery of the foregoing documents, the proper officials, agents and employees of the City are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents, including a Letter of Representations with The Depository Trust Company, as may be necessary to carry out and comply with the provisions of said documents as executed, and to further the purposes and intent of this Ordinance, including the preambles hereto.

SECTION 7. Pursuant to Section 265(b)(3)(D)(i) of the previously defined Code, the City may issue not more than \$10,000,000 of bonds it designates as “qualified tax-exempt obligations”. In addition to bonds designated as “qualified tax-exempt obligations” pursuant to Section 265(b)(3)(D)(i) of the Code, certain bonds may be “deemed” designated as “qualified tax-exempt obligations” if such bonds meet the requirements of Section 265(b)(3)(D)(ii) of the Code. For purposes of this Section, the term “tax-exempt obligations” includes “governmental use bonds” and “qualified 501(c)(3) bonds” (as defined in Section 145 of the Code) but does not include other “private activity bonds” (as defined in Section 141 of the Code). Since the proceeds of the Series 2019A Bonds are being used to currently refund the previously described Refunded Series 2014A Bonds and the Series 2019A Bonds meet the other requirements of Section 265(b)(3)(D)(ii) of the Code, the Series 2019A Bonds are deemed designated as “qualified tax-exempt obligations” pursuant to Section 265(b)(3)(D)(ii) of the Code.

SECTION 8. The publication of the notice of the public hearing and the conduct of such public hearing by the City Council on October 28, 2019 are hereby, in all respects, ratified, approved and confirmed. The City Council, as an “applicable elected representative” of the City pursuant to Section 147(f) of the Code, hereby approves the issuance of the Bonds to finance the Financing Purposes, and the plan of financing, under the terms and conditions set forth herein. This approval shall constitute the approval of the Bonds pursuant to Section 147(f) of the Code.

All acts and doings of the officials of the City that are in conformity with the purposes and intent of this Ordinance and in furtherance of the issuance of the Bonds be, and the same are hereby in all respects, approved and confirmed.

SECTION 9. The provisions of this Ordinance are hereby declared to be separable and if any section, phrase or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity or enforceability of the remainder of the sections, phrases and provisions hereof.

SECTION 10. All ordinances, orders and resolutions and parts thereof in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 11. A copy of this Ordinance shall be filed in the office of the City Clerk and shall be made available for public inspection in the manner required by law.

SECTION 12. This Ordinance shall become effective upon its passage and approval.

Alderman _____ moved, seconded by Alderman _____ that Ordinance No. _____ be adopted.

Introduced: October 23, 2019

Adopted: November 11, 2019

Approved:

December 16, 2019


Stephen H. Hagerty, Mayor

Attest:

Edwards Gomez
~~Devon Reid, City Clerk~~
Edwards Gomez, Deputy City Clerk

Approved as to form:

Michelle L. Masoncup
Michelle L. Masoncup, Corporation
Counsel

Published in pamphlet form by authority of the City Council on November 11, 2019.

ATTEST:

Deputy Edwards Gomez
City Clerk, City of Evanston
Cook County, Illinois