

## CITY COUNCIL MEMO

### THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF SIERRA VISTA EDUCATION FACILITY REVENUE BONDS (EDKEY CHARTER SCHOOLS PROJECT), SERIES 2024

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The 2024 Bonds. . . . . The Authority will issue its Education Facility Revenue Bonds (Edkey Charter Schools Project), Series 2024 (the “2024 Bonds”), in one or more series or subseries and in an original principal amount not to exceed \$75,000,000 and a maturity date not to exceed 40 years. The 2024 Bonds will bear interest at a fixed rate.

Public Sale. . . . . The 2024 Bonds will be sold publicly by Stifel, Nicolaus & Company, Incorporated, pursuant to a Limited Offering Memorandum. The 2024 Bonds will be issued in either (a) without a rating, in authorized denominations of \$25,000 or any integral multiple of \$5,000 in excess thereof of principal, except that a 2024 Bond may be exchanged after mandatory redemption for a 2024 Bond in a denomination of less than \$25,000 but in \$5,000 integral multiples to the extent necessary to represent the unredeemed portion of the 2024 Bonds and sold only to (i) any “Accredited Investor” within the meaning of Rule 501 of Regulation D promulgated under the Securities Act of 1933 or “Qualified Institutional Buyer” (within the meaning of Rule 144A promulgated under the Securities Act of 1933), (ii) any bank, savings institution or insurance company (whether acting in trustee or custodial capacity for any Accredited Investor or Qualified Institutional Buyer or on its own behalf), or (iii) any trust or custodial arrangement of each of the beneficial owners of which is an Accredited Investor or Qualified Institutional Buyer, with an initial investor letter, or (b) upon and after receipt by UMB Bank, N.A., as trustee (the “Trustee”) of a rating letter by Fitch, S&P or Moody’s indicating that the 2024 Bonds are rated “BBB-” or “Baa3,” as applicable, or better, the authorized denominations shall be \$5,000 and any multiple in excess thereof. The 2024 Bonds will initially be registered in the name of Cede & Co., as registered owner and nominee of The Depository Trust Company.

The Borrowers . . . . . Edkey, Inc. (“Edkey”) is an Arizona nonprofit corporation and has received from the Internal Revenue Service a designation as an organization described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended (the “Code”) operating exclusively for charitable and educational purposes as a charter school under the Charter School Act, Arizona Revised Statutes Title 15, Chapter 1, Article 8, as amended. Edkey has created multiple limited liability companies (for which Edkey is the sole member), each created for the purpose of holding title to a separate property and facilitating the bond transactions (collectively, the “Borrowers”). The Borrowers will own the real property, equipment and improvements to be financed and/or refinanced with proceeds of the 2024 Bonds. Edkey has multiple charter school contracts with the Arizona State Board of Charter Schools, by which it operates one or more charter schools at its facilities, including the 2024 Facilities, as defined below.

The 2024 Project . . . . . The proceeds of the 2024 Bonds will be used for charter school purposes (together with other available moneys) for the purposes of (i) financing or refinancing the costs of acquisition, construction, improvement, renovation, operation and equipping of the charter school facilities identified as the 2024 Facilities below and additional improvements or equipment at the other facilities owned or operated by the Borrowers; (ii) funding working capital; (iii) funding of any required reserves; (iv) paying capitalized interest, if any, on the Series 2024 Bonds; and (v) paying certain issuance expenses (collectively, the “2024 Project”).

The 2024 Facilities . . . . . The 2024 Project will be located at multiple locations, including (i) 132 West General Crook Trail in Camp Verde, Arizona, (ii) 2906 N. Boulder Canyon in Mesa, Arizona, (iii) 4816 S. Eastmark Parkway in Mesa, Arizona, (iv) 20370 West Roosevelt Street in Buckeye, Arizona, (v) 19265 North Porter Road in Maricopa, Arizona; and (vi) 965 Full House Lane in Show Low, Arizona (collectively, the “2024 Facilities”).

Prior Bonds . . . . . The Industrial Development Authority of the County of Pima (the “Pima IDA”) has previously issued, for Edkey, its affiliates, or its predecessor entities, various outstanding charter school revenue bonds (collectively, the “Pima Bonds”): (i) the Pima IDA’s

Education Facility Revenue Bonds (Edkey Charter School Project), Series 2016 in the amount of \$31,315,000 (the “2016 Bonds”), (ii) the Pima IDA’s Education Facility Revenue Bonds (Edkey Charter Schools Project), Series 2019 in the amount of \$21,605,000 (the “2019 Bonds”), and (iii) the Pima IDA’s Education Facility Revenue and Refunding Bonds (Edkey Charter Schools Project), Series 2020 in the amount of \$87,035,000 (the “2020 Bonds”). The Arizona Industrial Development Authority has previously issued its Education Facility Revenue and Refunding Bonds (Caurus Academy Project), Series 2018A and 2018B in the amount of \$20,610,000 for a predecessor entity (which Edkey acquired in 2022) and a portion of which is still outstanding (collectively with the Pima Bonds, the “Prior Bonds”). Each of the projects for the Prior Bonds consisted of financing and refinancing the acquisition, construction, improvement, renovation and equipping of charter school facilities located at various charter school facilities owned by the Borrowers.

Parity Bonds . . . . . Through an Intercreditor Agreement, the Trustee for the 2024 Bonds will have a parity lien with the trustee for the 2016 Bonds, the 2019 Bonds and the 2020 Bonds as to the Borrowers’ revenues.

Documentation . . . . . Pursuant to multiple Loan Agreements between the Authority and the Borrowers (typically each Borrower entity for that location), the Borrowers have agreed to make payments to the Trustee (on behalf of the Authority) sufficient to pay the principal of, premium, if any, and interest on the 2024 Bonds when due. Each Borrower entity’s obligations under their respective Loan Agreement or supplement may be secured by one or more promissory notes and one or more deeds of trust (or modifications to an existing deed of trust), which will be recorded on the 2024 Facilities. The collective payments on all the 2024 promissory notes are intended to be sufficient to pay the principal of, premium, if any, and interest on the 2024 Bonds when due. Each borrower entity’s obligations will also be secured by one or more obligations issued under the Master Trust Indenture between Edkey and UMB Bank, N.A., as Master Trustee, as amended or supplemented (the “*Master Trust Indenture*”).

Security for the 2024 Bonds . . . . . The Trustee will receive, as security for the loan to a Borrower related entity, (i) one or more deeds of trust, security agreement, assignment of rents and leases and fixture filing (or modifications to existing deeds of trust) on the 2024 Facilities, (ii) a pledge of each borrower's right, title and interest in and to all amounts deposited into the Funds created in the Indenture (except the Cost of Issuance Fund and the Rebate Fund), and (iii) a promissory note from each borrowing entity. The Trustee will also receive a Master Indenture Obligation issued pursuant to the Master Trust Indenture, the security for which obligations includes certain state revenues due to the Borrowers.

The Authority has no taxing power. The 2024 Bonds and the interest thereon are not a general obligation of the Authority and are not an indebtedness of the Authority, the City of Sierra Vista, the State of Arizona, or any political subdivision thereof within the meaning of any Arizona constitutional or statutory provision whatsoever. Principal of, premium, if any, and interest on the 2024 Bonds are payable solely out of the revenues derived from each Loan Agreement (other than to the extent payable out of proceeds of the 2024 Bonds or income from the temporary investment thereof). Neither the faith and credit nor the taxing power, if any, of the Authority, the City of Sierra Vista, the State of Arizona, or any political subdivision thereof, is pledged to the payment of the principal of, premium, if any, or interest on the 2024 Bonds.

# SLANIA LAW, PLLC

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VIA EMAIL

April 4, 2024

Clea McCaa II, Mayor  
Carolyn Umphrey, Mayor Pro Tem  
William Benning, Council Member  
Gregory Johnson, Council Member  
Angelica Landry, Council Member  
Marta Messmer, Council Member  
Mark Rodriguez, Council Member  
**CITY OF SIERRA VISTA**  
1011 N. Coronado Drive  
Sierra Vista, Arizona 85635

Re: The Industrial Development Authority of the City of Sierra Vista – Request to Approve Resolution to Issue Bonds – Education Facility Revenue Bonds (Edkey Charter Schools Project), Series 2024 - In an Amount Not to Exceed \$75,000,000

Dear Mr. Mayor and Members of the City Council:

At its meeting on April 3, 2024, The Industrial Development Authority of the City of Sierra Vista (the “*Authority*”) granted its final approval to its resolution (the “*Authority Resolution*”) authorizing the issuance of its Education Facility Revenue Bonds (Edkey Charter Schools Project) (the “*Bonds*”), in one or more series and in an aggregate principal amount not to exceed \$75,000,000, the proceeds of which will be loaned to Edkey, Inc. and/or one or more existing and/or to-be-created Arizona limited liability companies (collectively, the “*Borrower*”), the sole member of each being or to be Edkey, Inc., a duly organized and validly existing Arizona non-profit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, operating exclusively for charitable and educational purposes as a charter school under the Charter School Act, Arizona Revised Statutes Title 15, Chapter 1, Article 8, as amended.

The proceeds of the Bonds will be loaned to the Borrower for the purposes of (i) financing or refinancing the costs of acquisition, construction, improvement, renovation, operation and equipping of the charter school facilities as follows: (a) the AHA Camp Verde Facilities located at 132 W. General Crook Trail in Camp Verde, Arizona, (b) the Pathfinder Facilities located at 2906 N. Boulder Canyon in Mesa, Arizona, (c) the Sequoia Pathfinder Facilities located at 4816 S. Eastmark Parkway in Mesa, Arizona, (d) the Sequoia Buckeye Facilities located at 20370 West Roosevelt Street in Buckeye, Arizona, (e) the Sequoia Pathway Facilities located at 19265 North Porter Road in Maricopa, Arizona, and (f) the Kelly Facilities located at 965 Full House Lane,

Show Low, Arizona, and additional improvements or equipment at the other facilities owned or operated by the Borrower or its affiliates (collectively, the "*Facilities*"); (ii) funding working capital; (iii) funding of any required reserves; (iv) paying capitalized interest, if any, on the Bonds; and (v) paying certain issuance expenses (collectively, the "*Project*").

As always, this issuance of the Bonds is subject to the approval of the Mayor and City Council of the City of Sierra Vista. Therefore, the Authority respectfully requests that this matter be placed on the Mayor and City Council Regular Meeting Agenda scheduled for April 11, 2024, for the purpose of having the Mayor and City Council approve the amending resolution regarding actions of the Authority. Enclosed herewith are (a) the Resolution of the Mayor and City Council of the City of Sierra Vista approving the proceedings of the Authority and (b) a Memo to the City Council on the Bonds. The Resolution adopted yesterday by the Authority will be forwarded directly to the City Clerk.

The Bonds are to be issued in accordance with Title 35, Chapter 5, of the Arizona Revised Statutes, as amended (the "*Act*"). The Authority believes that the payment of the fee to it by the Borrower in respect of the Bonds will provide a benefit to the City of Sierra Vista, as such fee will be used by the Authority for economic development purposes within the City, as well as its general administrative costs.

The Bonds will be issued as unrated, fully registered Bonds and will be publicly sold by Stifel, Nicolaus & Company, Incorporated (the "*Underwriter*"). The Bonds will be initially issued without a rating in denominations of \$25,000 and integral multiples of \$5,000 in excess thereof and sold only to "*Qualified Institutional Buyers*" pursuant to Securities Act of 1933, as amended, or "*Accredited Investors*" under the Securities Act of 1933, with an investor letter; provided, if an investment grade rating is received, the authorized denominations will be \$5,000 or any multiple thereof. The Bonds will initially be registered in the name of Cede & Co., as registered owner and nominee of The Depository Trust Company.

As always, the Bonds are special limited obligations of the Authority. The Bonds are payable solely from payments made by the Borrower pursuant to one or more loan agreements and secured by one or more deeds of trust (mortgages) on the Facilities owned by the Borrower as well as a Master Trust Indenture Obligation issued pursuant to the Master Trust Indenture between Edkey, Inc. and UMB Bank, N.A. Such payments are pledged to the Bondholders pursuant to the Indenture of Trust, as supplemented or amended, between the Authority and UMB Bank, N.A., as trustee. Neither the faith and credit, nor the taxing power of the Authority or the City of Sierra Vista or any other political subdivision thereof, are pledged to the payment of the Bonds. The Authority has no taxing power.

Mayor and City Council of Sierra Vista  
April 4, 2024  
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I will be available prior to the meeting to answer any questions you may have, or to meet with you at your convenience.

Thank you for your consideration of this matter.

Sincerely,

SLANIA LAW, PLLC.



Michael A. Slania  
Attorney for the Authority

MAS/ub  
Enclosures  
C: Jill Adams, City Clerk  
Nathan Williams, City Attorney

**RESOLUTION 2024-\_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA APPROVING THE PROCEEDINGS OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF SIERRA VISTA REGARDING THE ISSUANCE OF ITS EDUCATION FACILITY REVENUE BONDS (EDKEY CHARTER SCHOOLS PROJECT), SERIES 2024 IN AN AMOUNT NOT TO EXCEED \$75,000,000; AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY AND/OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION; AND DECLARING AN EMERGENCY**

WHEREAS, The Industrial Development Authority of the City of Sierra Vista (the "*Authority*") pursuant to the Industrial Development Financing Act, Title 35, Chapter 5, Arizona Revised Statutes, as amended (the "*Act*"), is authorized to issue and sell its Education Facility Revenue Bonds (Edkey Charter Schools Project), Series 2024 in one or more series or subseries (the "*Series 2024 Bonds*"), the proceeds of which are to be loaned to Edkey, Inc. and/or one or more existing and/or to-be-created Arizona limited liability companies, the sole member of each being or to be Edkey, Inc. (collectively, the "*Borrower*"), a duly organized and validly existing Arizona non-profit corporation as described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, operating exclusively for charitable and educational purposes as a charter school under the Charter School Act, Arizona Revised Statutes Title 15, Chapter 1, Article 8, as amended, for the purposes of (i) financing or refinancing the costs of acquisition, construction, improvement, renovation, operation and equipping of the charter school facilities (each as defined in the Indenture defined below) as follows: (a) the AHA Camp Verde Facilities located at 132 W. General Crook Trail in Camp Verde, Arizona, (b) the Pathfinder Facilities located at 2906 N. Boulder Canyon in Mesa, Arizona, (c) the Sequoia Pathfinder Facilities located at 4816 S. Eastmark Parkway in Mesa, Arizona, (d) the Sequoia Buckeye Facilities located at 20370 W. Roosevelt Street in Buckeye, Arizona, (e) the Sequoia Pathway Facilities located at 19265 North Porter Road in Maricopa, Arizona, and (f) the Kelly Facilities located at 965 Full House Lane in Show Low, Arizona, and additional improvements or equipment at the other facilities owned or operated by the Borrower or its affiliates; (ii) funding working capital; (iii) funding of any required reserves; (iv) paying capitalized interest, if any, on the Series 2024 Bonds; and (v) paying certain issuance expenses.

WHEREAS, on April 3, 2024, the Authority resolved to issue the Series 2024 Bonds in one or more series or subseries and in an aggregate amount not to exceed \$75,000,000 (the "*Authority's Resolution*"), such issuance being conditioned upon, among other things, the granting of approval to the issuance of the Series 2024 Bonds by the Mayor and City Council of the City of Sierra Vista; and



WHEREAS, the Authority's Resolution has been made available to the Mayor and City Council of the City of Sierra Vista, and the Authority's Resolution has been duly considered this date; and

WHEREAS, the Authority's Resolution authorizes, among other things, the issuance of the Series 2024 Bonds and the execution and delivery of (a) the Indenture of Trust (the "*Indenture*") between the Authority and UMB Bank, N.A., (b) one or more of the Loan Agreements (collectively, the "*Loan Agreement*") between the Authority and one or more of the Borrower entities, (c) the Bond Purchase Agreement (the "*Bond Purchase Agreement*"), among the Authority, the Borrower and Stifel, Nicolaus & Company, Incorporated, as underwriter and (d) such other documents as may be required for the issuance of the Series 2024 Bonds; and

WHEREAS, the terms, maturities, provisions for redemption, security and sources of payment for the Series 2024 Bonds are set forth in the Indenture, the Loan Agreement and the form of the Series 2024 Bonds themselves; and

WHEREAS, copies of said documents have been made available to the Mayor and City Council of the City of Sierra Vista, together with the Authority's Resolution; and

WHEREAS, the Mayor and City Council of the City of Sierra Vista have been informed that said documents have been reviewed by competent Bond Counsel, Kutak Rock LLP, and said Bond Counsel has determined that said documents adequately meet the requirements of the Act and the Internal Revenue Code of 1986, as amended (the "*Code*"); and

WHEREAS, in accordance with Section 35-721.B of the Act, the proceedings of the Authority under which the Series 2024 Bonds are to be issued, require the approval of the Mayor and City Council of the City of Sierra Vista of the issuance of the Series 2024 Bonds; and

WHEREAS, the Mayor and City Council of the City of Sierra Vista has had presented to it information regarding the Series 2024 Bonds and is further informed and advised with regard to the Series 2024 Bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA, as follows:

Section 1. The policy of the City Council to support the Authority and its economic development mission in coordination with the City, and to approve the issuance of bonds of the Authority that are in the public interest in accordance with Arizona law is hereby restated and readopted.

Section 2. Pursuant to Section 35-721.B of the Act, the Mayor and City Council of the City of Sierra Vista, as the governing body of the Authority, hereby approves

the Series 2024 Bonds and the proceedings under which the Series 2024 Bonds are to be issued by the Authority, including specifically the Authority's Resolution, the Indenture, the Loan Agreement, the Bond Purchase Agreement, and all other related or appropriate documents;

Section 3. This Resolution shall be in full force and effect from and after its passage as provided by law, and any provisions of any previous resolutions in conflict with the provisions herein are hereby superseded;

Section 4. The City Manager, the City Clerk, and the City Attorney or any appropriate officers of the Mayor and City Council of the City of Sierra Vista are hereby authorized and directed to do all such things and to execute and deliver all such documents on behalf of the City of Sierra Vista as may be necessary or desirable to effectuate the intent of this Resolution and the Authority's Resolution in connection with the issuance of the Series 2024 Bonds; and

Section 5. The immediate operation of the provisions of this resolution is necessary for the preservation of the public peace, health and safety, and therefore an emergency is hereby declared to exist. This resolution shall be in full force and effect from and after its passage, adoption and approval by the Mayor and City Council of the City of Sierra Vista, Arizona.

PASSED, ADOPTED AND APPROVED by the Mayor and City Council of the City of Sierra Vista, Arizona this 11th day of April, 2024.

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Clea McCaa II, Mayor  
CITY OF SIERRA VISTA, ARIZONA

ATTEST:

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Jill Adams, City Clerk  
CITY OF SIERRA VISTA, ARIZONA

APPROVED AS TO FORM:

KUTAK ROCK LLP,  
Bond Counsel

By:  \_\_\_\_\_

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Nathan Williams, City Attorney