



State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES
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October 21, 2021

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Approval of the Report and Findings of Councilor Theodore L. Gatsas with regard to a certain project in participation with Birch Hill Terrace in Manchester, NH.

EXPLANATION

This item is submitted pursuant to a request by the New Hampshire Health and Education Facilities Authority. Councilor Gatsas has requested that this be placed on the agenda as a regular item for the Wednesday, November 10, 2021 meeting for ratification by the Governor and Council.

Sincerely,

Charles M. Arlinghaus
Commissioner

CMA/dph

Attachment

**REPORT
AND
FINDINGS
OF**

THEODORE L. GATSAS, designee of the Governor and Council of The State of New Hampshire, under the provisions of the New Hampshire Health and Education Facilities Authority Act, Chapter 195-D of the New Hampshire Revised Statutes Annotated, on the undertaking by the Authority of a certain project in participation with **BIRCH HILL TERRACE d/b/a RIVERWOODS MANCHESTER**, of Manchester, New Hampshire, pursuant to said Act.

Introductory

The New Hampshire Health and Education Facilities Authority (hereafter referred to as the “Authority”), requested of Governor Christopher T. Sununu and the Executive Council that a hearing be held pursuant to the New Hampshire Health and Education Facilities Authority Act, Chapter 195-D of the New Hampshire Revised Statutes Annotated (the “Act”), and particularly as prescribed in Section 21 of the Act. The hearing is required as the result of an application submitted to the Authority by Birch Hill Terrace d/b/a RiverWoods Manchester (“Birch Hill” or the “Borrower”), a private, not-for-profit and charitable corporation which operates a continuing care retirement community located in Manchester, New Hampshire, and constitutes a “nursing home” as that term is defined in the Act. Birch Hill is a participating healthcare institution under RSA 195-D:3. Such application seeks the participation of the Authority, under the Act, in the financing of certain capital improvements for the Borrower, including the renovation of and improvements to certain of Birch Hill’s facilities (the “Project”).

Pursuant to RSA 195-D:21, the Governor and Council designated me to hold a hearing and make findings in connection with the application. Following Public Notice given in accordance with Chapter 91-A of the New Hampshire Revised Statutes Annotated, by notice published in the New Hampshire Union Leader on October 15, 2021, the hearing was held commencing at 11:00 a.m. on Thursday, October 21, 2021, in the Tuttle Conference Room, First floor of the offices of Wadleigh, Starr & Peters, P.L.L.C., 95 Market Street, Manchester, New Hampshire 03101. All witnesses were duly sworn. A summary of testimony presented at the hearing follows:

Summary of Testimony

Kevin Goyette, the Chief Financial Officer of The RiverWoods Group, which is the sole member of Birch Hill, was the first witness. He described Birch Hill, which is the surviving corporation of a merger with Hillcrest Terrace and is currently operating under the tradename of RiverWoods Manchester, as a not-for-profit corporation which owns and operates a continuing care retirement community in Manchester. Birch Hill consists of 138 independent living units, 44 assisted living units, 12 memory care units, and 9 intermediate care nursing beds.

Mr. Goyette testified that when Birch Hill became affiliated with The RiverWoods Group in 2016, the facility was experiencing significant deferred maintenance. Since the time of the affiliation with The RiverWoods Group, over \$18 million in capital improvements have been made to the facility. He stated that the proceeds of the Series 2021 Bonds (the "Bonds") will be used to address the remaining capital improvements in order to have a crisp and contemporary campus which will drive all levels of occupancy positively. These improvements include a new roof, new siding, a new kitchen, health center renovations, as well as other capital improvements. He further testified that the total cost of the Project is expected to be approximately \$11 million and that the excess over the \$8 million provided by the Bonds would be funded from internal sources. He advised that Bond proceeds may also be used to pay certain costs of issuing the Bonds and incidental costs related to the Bonds.

Mr. Goyette testified that the Bonds are expected to be issued in a direct placement to People's United Muni Finance Corp., an affiliate of People's United Bank. The Bonds are expected to be issued as variable rate bonds based upon LIBOR or its successor and may have the rate fixed by a forward swap agreement. The Bonds are expected to mature in approximately 25 years.

Mr. Goyette confirmed that, under the Loan Agreement with the Authority, the Borrower will be required to continue to carry blanket fire and extended coverage as well as general liability insurance and that the proceeds of the Bonds may be loaned to the Borrower in one or more installments pursuant to the Loan Agreement.

Mr. Goyette testified that, in his opinion, the Borrower will be able to meet its financial obligations under the proposed bond issue and that the Borrower currently is operating in a financially responsible manner. Mr. Goyette stated that, in his judgment, the Project is necessary to provide the community's residents with the quality of retirement living and care to which the Borrower's Board is committed.

Bonnie S. Payette was the final witness called. She stated that she is the Executive Director and Secretary of the New Hampshire Health and Education Facilities Authority, charged with the administration of the Authority's day-to-day affairs. In her capacity as Executive Director, she has become acquainted with the Project and the details of its financing, having worked closely with the Borrower's officers in developing the financial arrangements to be reflected in the Bonds proposed to be issued. She stated that the Authority's resolution to issue its bonds for the Project is subject to compliance being had with all laws bearing upon such issue and the advice of counsel, including Bond Counsel. She testified that the Authority adopted a resolution on September 28, 2021, approving issuance of bonds for Birch Hill Terrace. Ms. Payette then explained the Authority's role as a conduit for the financing of projects through the issuance of its bonds.

Ms. Payette testified that certain documents are being prepared for execution in connection with the Project, including a Loan Agreement to be entered into among the Authority, the purchaser of the Bonds and the Borrower. She stated that the proceeds for the Bonds may be loaned to the Borrower in one or more installments pursuant to the provisions of the Loan Agreement and that there is a provision in the Loan Agreement under which the Borrower is obligated to hold and use the Project for healthcare purposes so long as the Bonds are outstanding. She testified to the language in the Loan Agreement which requires that each bond issued by the Authority for Birch Hill Terrace bear on its face the following provision:

Neither the State of New Hampshire nor any political subdivision thereof shall be obligated to pay the principal of or interest on this bond, other than from Pledged Revenues, and neither the faith and credit nor the taxing power of the State of New Hampshire or of any political subdivision thereof is pledged to the payment of the principal of or interest on this bond.

Ms. Payette testified that the bond documents will make adequate provision for the payment of principal and interest on the Bonds, as well as the costs of the Project, so that the State will not be obligated in any way for their repayment.

Ms. Payette concluded her testimony by stating that, based on her familiarity with the statute under which the Authority operates, in her experience as Executive Director of the Authority, and on the advice of counsel, including Bond Counsel, the Project is within the powers conferred by law upon the Authority.

Findings

Upon the testimony submitted at the hearing, and upon consideration, I find as follows:

(1) The construction and acquisition of the Project, as the same is described in such testimony, will enable and assist Birch Hill Terrace d/b/a RiverWoods Manchester (“Birch Hill” or the “Borrower”), a private not-for-profit and charitable corporation which operates a continuing care retirement community in Manchester, New Hampshire, to provide healthcare facilities within the State of New Hampshire (the “State”); and

(2) The Project will be leased to, or owned by, the Borrower, which is a financially responsible participating healthcare institution within the State; and

(3) Adequate provision has been, or will be, made for the payment of the cost of the construction and acquisition of the Project; and under no circumstances will the State be obligated, directly or indirectly, for the payment of the principal of, or interest on, any obligations issued to finance such construction and acquisition; and

(4) Adequate provision has been, or will be, made in any lease or mortgage of the Project to be undertaken or any property leased or mortgaged in connection with the issuance of bonds or notes for the payment of all costs of operation, maintenance and upkeep of the Project by the Borrower so that under no circumstances will the State be obligated, directly or indirectly, for the payment of such costs; and

(5) Adequate provision has been made to obligate the Borrower to hold and use the Project for healthcare purposes so long as the principal of and interest on bonds or other obligations issued by the New Hampshire Health and Education Facilities Authority (the “Authority”) to finance the cost of the Project, including any refunding bonds issued to refund and refinance such bonds, have not been fully paid and retired and all other conditions of the resolution or trust agreement authorizing and securing the same have not been satisfied and the lien of such resolution or trust agreement has not been released in accordance with the provisions thereof; and

(6) The construction and acquisition of the Project will be within the authority conferred by Chapter 195-D of the New Hampshire Revised Statutes Annotated upon the Authority; and

(7) The construction and acquisition of the Project serves a need presently not fulfilled in providing healthcare facilities within the State and is of public use and benefit; and

Dated: October 21, 2021



Theodore L. Gatsas
Executive Councilor
Designee of the Governor
and Council

RATIFICATION AND GOVERNOR'S APPROVAL

The Governor and Council hereby ratify, confirm, approve and adopt the findings set forth in the Report and Findings attached hereto made by Theodore L. Gatsas, the Designee of the Governor and Council to hold a hearing and make findings pursuant to Section 21 of the New Hampshire Health and Education Facilities Authority Act, Chapter 195-D of the New Hampshire Revised Statutes Annotated. The hearing was required and held as a result of an application submitted to the New Hampshire Health and Education Facilities Authority (the "Authority") by Birch Hill Terrace d/b/a RiverWoods Manchester, a private, not-for-profit and charitable corporation which operates a continuing care retirement community located in Manchester, New Hampshire, and constitutes a "nursing home" as that term is defined in the Act, and is licensed by the Department of Health and Human Services and provides healthcare facilities within the State of New Hampshire. Birch Hill Terrace is a participating healthcare institutions under RSA 195-D:3. The hearing was held on Thursday, October 21, 2021, in the Tuttle Conference Room, First floor of the offices of Wadleigh, Starr & Peters, P.L.L.C., 95 Market Street, Manchester, New Hampshire 03101, at 11:00 a.m.

The Governor's signature constitutes his approval under Section 147(f) of the Internal Revenue Code of 1986, as amended, of the issuance of the bonds described herein, and in the hearing held by the Authority on October 25, 2021 as described in the Notices of Public Hearing published on October 15, 2021 and on October 18, 2021 in the New Hampshire Union Leader.

Dated: November 10, 2021

Governor and Council:

