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State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES
25 Capitol Street – Room 100
Concord, New Hampshire 03301
603-271-3201

Charles M. Arlinghaus
Commissioner

Catherine A. Keane
Deputy Commissioner

Sheri L. Rockburn
Assistant Commissioner

August 25, 2022

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 David K. Wheeler with regard to a certain project in participation with the Academy for Science and Design Charter School, Nashua, NH.

EXPLANATION

This item is submitted pursuant to a request by the New Hampshire Health and Education Facilities Authority. Councilor Wheeler has requested that this be placed on the agenda as a regular item for the Wednesday, September 21, 2022 meeting for ratification by the Governor and Council.

Sincerely,

FOR

Charles M. Arlinghaus
Commissioner

CMA/dph

Attachment

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August 24, 2022

Charles Arlinghaus, Commissioner
Department of Administrative Services
State of New Hampshire
State House Annex
Concord, NH 03301

Re: New Hampshire Health and Education Facilities Authority –
Academy for Science and Design Charter School - Series 2022 Bonds

Dear Commissioner Arlinghaus:

I enclose an original and ten copies of the Report and Findings of Executive Councilor David K. Wheeler with regard to a certain project in participation with Academy for Science and Design Charter School, Nashua, New Hampshire. Executive Councilor Wheeler has requested that this be placed on the agenda as a regular item for ratification by the Governor and Council at their meeting scheduled for Wednesday, September 21, 2022.

Thank you for your assistance in this matter.

Sincerely,



William C. Tucker

WCT/kac
Enclôsurés

**REPORT
AND
FINDINGS
OF**

DAVID K. WHEELER, 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 **ACADEMY FOR SCIENCE AND DESIGN CHARTER SCHOOL** of Nashua, 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 (hereafter referred to as 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 the Academy for Science and Design Charter School, a not-for-profit educational and charitable corporation organized under New Hampshire law and operating an institution for middle and secondary school education known as Academy for Science and Design Charter School located in Nashua, New Hampshire (hereafter sometimes referred to as “ASD” or the “Academy”) which is a participating educational institution under RSA 195-D:3. Such application seeks the participation of the Authority, under the Act, in the financing of certain capital expenditures of the Academy (hereafter sometimes referred to as the “Project”).

Pursuant to RSA 195-D:21 above cited, 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 August 17, 2022, the hearing was held on Wednesday, August 24, 2022, commencing at 1:30 p.m., at the Authority’s Conference Room

located at One Capitol Street, Suite 200, Concord, New Hampshire. All witnesses were duly sworn. A summary of testimony presented at the hearing follows.

Summary of Testimony

Peter Bewley, a Trustee, former Chairman of the Board of Trustees and the Board Facility Advisor for the Academy was the first witness. He stated that the Academy was established in 2007 and is a private, voluntary nonprofit corporation which is a qualified 501c(3) corporation which has a primary focus of Science, Technology, Engineering and Math (“STEM”) education at the middle and high school levels. Admittance to the Academy is available to any student residing in New Hampshire regardless of their religion, race, gender, age or ability to pay.

Mr. Bewley testified that the Academy is recognized as New Hampshire’s top performing public school and largest STEM-specialty school. ASD was recognized by Newsweek in 2015 and 2016 as a Top 50 Best American High School, was recognized by U.S. News and World Report in 2018, 2019 and 2020 as the Number One High School in New Hampshire and is a National Blue Ribbon School of Excellence. ASD was also awarded the 2019 Secondary School of Excellence in New Hampshire.

Mr. Bewley testified that ASD’s programs are designed to focus on providing early exposure to opportunities in STEM in order that younger students may be aware of opportunities in STEM, and then encouraging and supporting those students as they pursue a highly personalized pathway to a specialized STEM field in high school. He further stated that the average number of students enrolled during the 2021-2022 school year was 532 and that the enrollment for fall 2022 is 560 with a waiting list of 75.

Mr. Bewley stated that the Project involves the acquisition of a one-story building located at 9 Townsend West in Nashua and the renovation and equipping of the building to provide a

permanent home for the Academy. The building contains 137,000 square feet and will provide ample room for future expansion. Bond proceeds may also be used to pay certain costs of issuing the Bonds. Mr. Bewley stated that the maximum amount of Bonds to be issued will not exceed \$11,000,000 and the Bonds are expected to have a maturity of approximately 30 years. Mr. Bewley testified that the Bonds are expected to be issued in a private placement and under the Loan and Security Agreement with the Authority, and possibly the purchaser of the Bonds, ASD will be required to continue to carry blanket fire and extended coverage insurance as well as general liability insurance.

Mr. Bewley explained that, in his view, the Project will be of public use and benefit and would permit the Academy to continue to render an appropriate level of service to its current and future students. Mr. Bewley also testified that the Project addresses the Academy's need to secure a permanent location and one which has adequate traffic access. Finally, and based upon his position as a Trustee, he stated his opinion that the Academy will be able to meet its financial obligations under the proposed bond issue and that the Academy is a financially responsible participating educational institution.

Bonnie Payette was the next witness called. She stated that she is the Executive Director 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, and the financial arrangements to be reflected in the bonds to be issued. She testified that the Authority adopted a resolution on July 26, 2022, approving issuance of bonds for the Academy for the Project, subject to compliance being had with all laws bearing upon such issue and the advice of counsel, including Bond Counsel.

Ms. Payette testified that certain documents are being prepared for execution in connection with the Project, including a Loan and Security Agreement intended for execution between the Academy and the Authority and the purchaser of the Bonds. She stated that there will be a provision in the Loan and Security Agreement under which the Academy is obligated to hold and use the Project for educational purposes so long as the Bonds are outstanding. She testified that there will be language in the Bond documents requiring that each Bond issued by the Authority for the Academy 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, on 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 Academy for Science and Design Charter School (herein called the "Academy"), a not-for-profit institution for higher education, to provide educational facilities within the State of New Hampshire (herein called the "State"); and

(2) The Project will be leased to, or owned by, the Academy, which is a financially responsible participating 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 Academy 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, or will be, made to obligate the Academy to hold and use the Project for educational purposes so long as the principal of and interest on bonds or other obligations issued by the New Hampshire Health and Education Facilities Authority (herein called the "Authority") to finance the cost of the Project, 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 educational facilities within the State and is of public use and benefit.

Dated: August 24, 2022



David K. Wheeler,
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 David K. Wheeler, 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 Academy for Science and Design Charter School, a not-for-profit institution for higher education located in Nashua, New Hampshire. The hearing was held on August 24, 2022, following public notice published in the New Hampshire Union Leader on August 17, 2022, at the Authority’s Conference Room located at One Capitol Street, Suite 200, Concord, New Hampshire.

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 August 24, 2022, as described in the Notice of Public Hearing published on August 17, 2022 in the New Hampshire Union Leader.

Dated: September 21, 2022

Governor: Christopher T. Sununu

Councilor: Theodore L. Gatsas

Councilor: Joseph D. Kenney

Councilor: Janet Stevens

Councilor: Cinde Warmington

Councilor: David K. Wheeler