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State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES

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Charles M. Arlinghaus
Commissioner

Catherine A. Keane
Deputy Commissioner

Sheri L. Rockburn
Assistant Commissioner

March 6, 2023

3B

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 Janet Stevens with regard to a certain project in participation with The Pinkerton Academy, Derry, NH.

EXPLANATION

This item is submitted pursuant to a request by the New Hampshire Health and Education Facilities Authority. Councilor Stevens has requested that this be placed on the agenda as a regular item for the Wednesday, March 22, 2023 meeting for ratification by the Governor and Council.

Sincerely,

Charles M. Arlinghaus
Commissioner

CMA/dph

Attachment

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March 2, 2023

Charles Arlinghaus, Commissioner
Department of Administrative Services
State of New Hampshire
State House Annex
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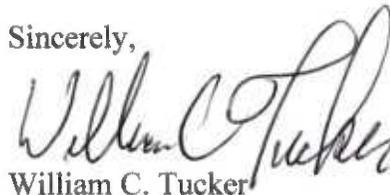
Re: New Hampshire Health and Education Facilities Authority –
The Pinkerton Academy of Derry, NH

Dear Commissioner Arlinghaus:

I enclose an original and ten copies of the report and findings of Councilor Janet Stevens with regard to a certain project in participation with The Pinkerton Academy, Derry, New Hampshire. Councilor Stevens 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, March 22, 2023.

Thank you for your assistance in this matter.

Sincerely,



William C. Tucker

WCT/tav
Enclosures

**REPORT
AND
FINDINGS
OF**

Janet Stevens, 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 **THE PINKERTON ACADEMY** of Derry, 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 Pinkerton Academy, a not-for-profit corporation formed under New Hampshire law and located in Derry, New Hampshire (hereafter referred to as “Pinkerton” 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 financing the demolition, construction, furnishing and equipping of certain facilities (hereafter referred to as 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 February 22, 2023, the hearing was held commencing at 12:30 p.m. on March 1, 2023 in the Head of School Office, Room 17, Pinkerton Hall, on the Academy’s

Campus located at 5 Pinkerton Street, Derry, New Hampshire 03038. All witnesses were duly sworn. A summary of testimony presented at the hearing follows.

Summary of Testimony

Dr. Timothy J. Powers, Head of School of the Academy, was the first witness. He stated that Pinkerton Academy is a coeducational secondary school located in Derry. Incorporated in 1814, the Academy is one of the largest independent academies in the eastern United States, and one of its oldest. Approximately 3,100 students in grades 9-12 attend the Academy. Located on 105 acres of land in southern New Hampshire, Pinkerton serves as the public high school for several communities as well as a traditional independent day school. Pinkerton's staff is comprised of a faculty of approximately 253 full-time equivalent members, 62 professional staff, and a support staff of approximately 141 employees. Since its founding, Pinkerton has evolved from a private college preparatory boarding school into a comprehensive high school that functions as both an independent day school, open to all New Hampshire residents, and as the public high school for six local school districts - Derry, Hampstead, Chester, Auburn, Hooksett, and Candia. Though it operates as a private, non-profit institution, Pinkerton's largest source of funding is tuition paid by these local school districts. In the current academic year, in addition to the students from these six districts, there are 37 students enrolled from the other New Hampshire towns or who are children of faculty or staff.

Dr. Powers testified that the proceeds from the Authority's Revenue Bonds, Pinkerton Academy Issue, Series 2023 (the "Bonds") will be used to finance the demolition of an existing academic building and construction and equipping of an approximately 31,000 square-foot academic building and parking lot located at 5 Pinkerton Street, Derry, New Hampshire 03038. Bond proceeds may also be used to fund routine capital expenditures and miscellaneous

construction, renovation, improvements and equipping of the Academy's facilities, pay capitalized interest, if any, and pay costs of issuance.

Margaret Dolan, Chief Financial Officer of the Academy, was the next witness. Ms. Dolan testified that the principal amount of the Bonds to be issued will not exceed \$7 million, and that the Bonds are anticipated to be issued by a private placement. She stated that the Bonds are anticipated to have a maturity of approximately 30 years and that under the Loan and Security Agreement with the Authority, the Academy will be required to continue to carry blanket, fire and extended coverage insurance as well as general liability insurance.

Ms. Dolan testified that, in her view, the Project would 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. Based upon her position as Chief Financial Officer, she stated her opinions that the Academy would be able to meet its financial obligations under the proposed bond issue and that the Academy is currently operating in a financially responsible manner.

Bonnie Payette was the final witness called. She stated that she is the Executive Director of the Authority and oversees 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 proposed to be issued. She stated that the Authority voted to issue its Bonds for the Project, 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 Bond Resolution on February 28, 2023, approving the issuance of the Bonds for the Academy.

Ms. Payette testified that certain documents are being prepared for execution in connection with the issuance of the Bonds and the financing of the Project. She stated that there will be a

provision in the bond documents under which the Academy is obligated to hold and use the Project for educational purposes so long as the Bonds are outstanding. She testified to the language in the bond documents which requires 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, 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 The Pinkerton Academy (herein called the "Academy"), a not-for-profit institution for secondary education located in Derry, New Hampshire, to provide education within the State of New Hampshire (herein called the "State"); and

(2) The Project will be 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 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, 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 education within the State and is of public use and benefit.

Dated: March 1, 2023



Janet Stevens
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 Janet Stevens, 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 by The Pinkerton Academy, a not-for-profit institution for secondary education located in Derry, New Hampshire. The hearing was held on March 1, 2023 at 12:30 p.m., following public notice, in the Head of School Office, Room 17, Pinkerton Hall, on the Pinkerton Academy Campus located at 5 Pinkerton Street, Derry, 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, as described in the Notice of Public Hearing published on February 22, 2023.

Dated: March 22, 2023

Governor: Christopher T. Sununu

Councilor: Theodore L. Gatsas

Councilor: Joseph D. Kenney

Councilor: Janet Stevens

Councilor: Cinde Warmington

Councilor: David K. Wheeler