



State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES
25 Capitol Street - Room 100
Concord, New Hampshire 03301
(603) 271-3201 | Office@das.nh.gov

3A MLL

Charles M. Arlinghaus
Commissioner

Catherine A. Keane
Deputy Commissioner

Sheri L. Rockburn
Assistant Commissioner

March 29, 2023

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 Wheeler with regard to a certain project in participation with MicroSociety Academy Charter School Foundation, 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, April 12, 2023 meeting for ratification by the Governor and Council.

Sincerely,

For

Charles M. Arlinghaus
Commissioner

CMA/dph

Attachment

**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 **MicroSociety Academy Charter School Foundation** 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 MicroSociety Academy Charter School Foundation, a not-for-profit corporation formed under New Hampshire law and located in Nashua, New Hampshire (hereafter referred to as 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 acquisition, construction, furnishing and equipping of certain facilities, as well as the refinancing of certain of the Academy’s existing indebtedness (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 March 22, 2023, the hearing was held commencing at 9:00 a.m.

on March 29, 2023 at the Academy's campus located at 591 West Hollis Street, Nashua, New Hampshire 03062. All witnesses were duly sworn. A summary of testimony presented at the hearing follows.

Summary of Testimony

Amy P. Bottomley, the Academy's Executive Director, was the first witness. She stated that the Academy is a coeducational chartered public school with a primary focus of educating elementary and middle school students. Established in 2015 with 90 students, the Academy has grown to over 300 students today. The Academy follows the MicroSociety model which has a 30-year track record and supports 120 educational sites across the United States and five countries. The Academy's mission seeks to actively engage grades K-8 students in a diverse, challenging learning environment that will prepare them for college, the work-force and citizenship in a 21st century global society.

Ms. Bottomley testified that the proceeds from the Authority's Revenue Bonds, MicroSociety Academy Issue, Series 2023 (the "Bond") will be used to finance the acquisition, construction, expansion, renovation, improvements and equipping of an approximately 20,000 square-foot building located at 589 West Hollis Street, Nashua, New Hampshire on the property adjacent to the Academy's existing educational facilities to be used as the Academy's Upper School. The acquisition of the new facility will expand the Academy's campus by 40% and will enable the Academy to grow its student population by 120 students. Ms. Bottomley testified that the Bond proceeds may also be used to refinance existing indebtedness of the Academy, the proceeds of which were used to fund capital projects and improvements of the Academy's existing educational facilities at 591 West Hollis Street, to finance and/or reimburse the Academy for costs of miscellaneous capital expenditures, equipment acquisition and installation, and construction and

renovations of the Academy's existing facilities, to fund capitalized interest of the Bonds, if any, and a debt service reserve fund, if any, and to pay certain costs of issuing the Bonds.

Ms. Bottomley testified that the principal amount of the Bonds will not exceed \$6 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. Bottomley 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 Executive Director, 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 MicroSociety Academy Charter School Foundation (herein called the "Academy"), a not-for-profit coeducational charter school located in Nashua, 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 the refinancing of existing indebtedness related thereto; 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 or to provide for the refinancing of existing indebtedness, or obligations to which such refinancing of existing indebtedness relates; 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 and the refinancing of existing indebtedness 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; and

(8) The refinancing of existing indebtedness will assist the Academy in lowering the cost of providing education within the State and will be in connection with a project being provided by the Academy.

Dated: March 29, 2023



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 by MicroSociety Academy Charter School Foundation, a not for-profit coeducational charter school located in Nashua, New Hampshire. The hearing was held on March 29, 2023 at 9:00 a.m., following public notice, at the Academy's campus located at 591 West Hollis Street, Nashua, 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 March 22, 2023.

Dated: April 12, 2023

Governor: Christopher T. Sununu

Councilor: Joseph D. Kenney

Councilor: Cinde Warmington

Councilor: Janet Stevens

Councilor: Theodore L. Gatsas

Councilor: David K. Wheeler