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State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES

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Charles M. Arlinghaus
Commissioner

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Deputy Commissioner

Sheri L. Rockburn
Assistant Commissioner

June 27, 2024

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 L. Stevens with regard to a certain project in participation with The Birches Academy of Academics & Art: A Public Charter School of Salem, 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, July 24, 2024 meeting for ratification by the Governor and Council.

Sincerely,

Charles M. Arlinghaus
Commissioner

CMA/dph

Attachment



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June 27, 2024

Charles M. Arlinghaus, Commissioner
Department of Administrative Services
State of New Hampshire
State House Annex
25 Capitol Street
Concord, New Hampshire 03301

RE: New Hampshire Health and Education Facilities Authority –
The Birches Academy of Academics & Art: A Public Charter School

Dear Commissioner Arlinghaus:

I enclose an original and ten copies of the Report and Findings of Councilor Janet L. Stevens with regard to a certain project in participation with The Birches Academy of Academics & Art: A Public Charter School of Salem, 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, July 24, 2024.

Thank you for your assistance in this matter.

Very truly yours,

William C. Tucker

/ath

cc: Bonnie S. Payette, NHHEFA
Enclosures

REPORT
AND
FINDINGS
OF

Janet L. 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 Birches Academy of Academics & Art: A Public Charter School of Salem, 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 Birches Academy of Academics & Art: A Public Charter School, a not-for-profit corporation formed under New Hampshire law and located in Salem, New Hampshire (hereafter referred to as "the Birches" 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 and refinancing the acquisition, renovation, 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 Wednesday, June 19, 2024, the hearing was held commencing at 12:00 noon on June 27, 2024, in the first floor kindergarten room of the Academy located at 419

South Broadway, Salem, New Hampshire. All witnesses were duly sworn. A summary of testimony presented at the hearing follows.

Summary of Testimony

Jessica Wachsman, Dean of Operations, was the first witness. She stated that the Birches is a Public Charter School serving over 235 children in grades K-8 from over ten communities in Southern New Hampshire. The Academy offers single stream and mixed age classrooms with a student/teacher ratio of 12:1. The Birches offers an arts-integrated approach to educating its students while also exposing the students to STEAM. The mission of the Birches is to provide a learning community that supports excellence in core academics and the arts while cultivating each child's individual qualities and strengths. In 2022, the Birches was recognized by the U.S. Department of Education as a Blue Ribbon School of Excellence, one of only 297 schools across the Country so honored, of which only 15 were charter schools.

Ms. Wachsman testified that the proceeds from the Authority's Revenue Bonds, The Birches Academy Issue, Series 2024 (the "Bonds") will be used to finance and refinance the purchase of the land and building located at 419 South Broadway, Salem, New Hampshire, and the renovation, furnishing and equipping of approximately 12,000 square feet of space not currently used by the Academy and to pay cost of issuance. She stated that the building contains approximately 54,789 of rentable square feet of which the Academy will be occupying approximately 35,393 square feet with the balance occupied by for-profit tenants. She stated that this will require that the Bonds be issued in two series, one taxable and one tax-exempt. She testified that the Birches has been a tenant in the building since its founding in 2012 and that by purchasing the building and financing the purchase through the Authority's Bonds, she estimates that the annual savings to the Academy will be over \$100,000 per year.

Ms. Wachsman testified that the principal amount of the Bonds to be issued will not exceed \$8.1 million and that the Bonds are anticipated to be purchased by HarborOne Bank which has issued a commitment letter to the Birches.

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. Wachsman 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 Dean of Operations, 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 S. 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 May 28, 2024, 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 renovation, furnishing and equipping of the Project as the same is described in such testimony, will enable and assist The Birches Academy of Academics & Art: A Public Charter School (herein called the "Academy"), a not-for-profit institution for secondary education located in Salem, 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 renovation, furnishing and equipping 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 renovation, furnishing and equipping; 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

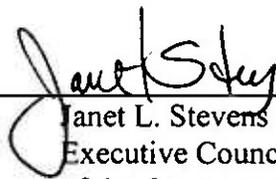
(5) Adequate provision has been made to obligate the Academy to hold and use the Project for educational purposes so long as the principal of and interest on bonds or other obligations issued by the New Hampshire Health and Education Facilities Authority (herein called the "Authority") to finance the 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 renovation, furnishing and equipping 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.

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

Dated: June 27, 2024



Janet L. 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 Birches Academy of Academics & Art: A Public Charter School, a not-for-profit institution for secondary education located in Salem, New Hampshire. The hearing was held on June 27, 2024, following public notice published in the New Hampshire Union Leader on June 19, 2024, in the first floor kindergarten room of the Academy, 419 South Broadway, Salem, New Hampshire at 12:00 noon.

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, as described in the Notice of Public Hearing published in the New Hampshire Union Leader on June 20, 2024.

Dated: July 24, 2024

Governor: Christopher T. Sununu

Councilor: Joseph D. Kenney

Councilor: Cinde Warmington

Councilor: Janet Stevens

Councilor: Theodore L. Gatsas

Councilor: David K. Wheeler