



State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF THE COMMISSIONER
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Concord, New Hampshire 03301

3D Am

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March 27, 2018

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 Andru Volinsky with regard to a certain project in participation with RiverWoods Durham, Durham, New Hampshire.

EXPLANATION

This item is submitted pursuant to a request by the New Hampshire Health and Education Facilities Authority. Councilor Volinsky has requested that this be placed on the agenda as a regular item for the Wednesday, April 11, 2018 meeting for ratification by the Governor and Council.

Sincerely,

Charles M. Arlinghaus
Commissioner

CMA/rjk

Attachment

**REPORT
AND
FINDINGS
OF**

ANDRU VOLINSKY, 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 **RIVERWOODS DURHAM**, of Durham, 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 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 RiverWoods Durham (the “Borrower” or “RiverWoods”), a private, not-for-profit and charitable corporation which is planning to construct continuing care retirement community facilities in Durham, New Hampshire, and to operate a “nursing home” as that term is defined in the Act. RiverWoods is a participating health care institution under RSA 195-D:3. Such application seeks the participation of the Authority, under the Act, in the financing of the acquisition, construction, furnishing, and equipping of a continuing care retirement community and the refinancing of certain existing indebtedness used to pay certain preconstruction costs (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 7, 2018, the hearing was held commencing at 2:30 p.m. on Friday, March 23, 2018, in the Conference Room of the Authority, 54 South State Street, Concord, New Hampshire. All witnesses were duly sworn. A summary of testimony presented at the hearing follows:

Summary of Testimony

Kevin Goyette, Chief Financial Officer of RiverWoods and The RiverWoods Group, was the first witness. He described RiverWoods as a not-for-profit corporation organized under New Hampshire law exclusively for charitable purposes. The RiverWoods Group is the sole member of RiverWoods. The RiverWoods Group is also the sole member of The RiverWoods Company, at Exeter, New Hampshire (“RiverWoods Exeter”) which owns a continuing care retirement community located on three campuses in Exeter, New Hampshire, which contain 358 independent living apartments, 35 cottage homes, 71 assisted living units, and 78 skilled nursing beds. He testified that the development of a new continuing care retirement community in Durham is being undertaken in response to a demonstrated need for more senior living facilities and services in the Seacoast as RiverWoods Exeter has a substantial waiting list.

Mr. Goyette explained that the new facility will be known as RiverWoods Durham and will consist of approximately 150 independent living apartments, 24 assisted living units, 24 memory support assisted living suites, 24 skilled nursing beds and typical common area amenities. Plans for the development of RiverWoods have been underway for several years. The management of RiverWoods will be overseen by The RiverWoods Group which as noted above, oversees the operations of RiverWoods Exeter, as well as Birch Hill Terrace, a retirement community located in Manchester, New Hampshire of which The RiverWoods Group is also the sole member.

Mr. Goyette explained that the Project will be located on an 11-acre tract at the intersection of Dover Road and Stone Quarry Drive in Durham. RiverWoods will acquire the land and will spend approximately \$105 million for the development and construction of the community and an additional \$35 million to fund a debt service reserve fund, a working capital reserve fund and an operating reserve fund as well as pay capitalized interest and other expenses associated with the financing.

Mr. Goyette testified that RiverWoods is in the process of collecting deposits in the amount of 10% of the required entrance fee from prospective residents. He stated that RiverWoods does not plan to sell bonds to finance the Project until it has received 10% deposits from at least 70% of the 150 independent living units. He stated that as of February 22, 2018, 10% deposits had been received on all 150 independent living units.

Mr. Goyette confirmed that, under the regulations governing continuing care retirement communities, the residents of RiverWoods' nursing care beds will not be eligible to receive Medicaid assistance from the State of New Hampshire. The nursing beds will be open only to residents of RiverWoods. RiverWoods' supported residential and nursing care facilities will be licensed by the New Hampshire Department of Health and Human Services. RiverWoods has already received a Certificate of Authority to operate a continuing care retirement community from the New Hampshire Department of Insurance as well as all local zoning and planning approvals.

Mr. Goyette stated that in connection with the proposed bond issue, RiverWoods will be granting the Authority a first mortgage on the Durham property, as well as first liens on its equipment and the gross receipts it generates.

Mr. Goyette testified that RiverWoods expects to issue not more than \$140 million of bonds to finance the Project. In addition to the development, real estate acquisition, and

construction costs, RiverWoods may be funding a debt service reserve fund and other reserve funds, as well as paying certain cost of issuance, repaying certain indebtedness used to pay preconstruction costs, and funding capitalized interest with bond proceeds. Mr. Goyette testified that under the Loan Agreement and Mortgage with the Authority, RiverWoods will be required to carry blanket fire and extended coverage insurance as well as general liability insurance.

Mr. Goyette stated that in his judgment, the Project is necessary to provide the area's residents with the quality of retirement living and related services and care to which the RiverWoods Board is committed. Finally, and based upon his position as Chief Financial Officer, he stated his opinions that RiverWoods would be able to meet its financial obligations under the proposed bond issue and that RiverWoods is currently operating in a financially responsible manner.

The next witness was Keith Robertson, Managing Director of B.C. Ziegler & Company ("Ziegler"), RiverWoods' investment banker. Mr. Robertson stated that Ziegler was pleased to be working on this financing and that Ziegler in the past has worked with other New Hampshire retirement homes and communities including the RiverWoods Exeter and Birch Hill Terrace facilities which are part of the RiverWoods family and Kendal at Hanover.

Mr. Robertson testified that the plan of financing calls for the issuance of either non-rated bonds in a public offering, private placement bonds purchased by one or more financial institutions or a combination of the two. The bonds are expected to have a final maturity of approximately 35 years. A portion of the bonds will be redeemed upon completion of construction with the entrance fee proceeds received from the initial residents.

Mr. Robertson stated that, as part of his work on behalf of Ziegler in conjunction with the proposed bond issue, he reviewed various documents and materials in connection with the Project

as well as management's projections and the marketing materials relating to the Project. He testified that, on the basis of such a review, as well as based upon his discussions with members of the working group and RiverWoods' management, he was of the view that RiverWoods will be able to meet its financial obligations under the proposed bond issue. In concluding his testimony, Mr. Robertson stated that, based on such review, he was of the opinion that RiverWoods is, and will be, operating as a financially responsible health care institution.

Bonnie 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 February 15, 2018, approving issuance of bonds for RiverWoods. 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 Bond Indenture between the Authority and a Bond Trustee and a Loan Agreement or Loan Agreement and Mortgage to be entered into among the Authority and the Borrower. She stated that there will be a provision in the Loan Agreement under which the Borrower is obligated to hold and use the Project for health care 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 RiverWoods 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 of New Hampshire 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, and the refinancing of existing indebtedness, as the same is described in such testimony, will enable and assist RiverWoods (the "Borrower"), a private not-for-profit and charitable corporation which will operate a continuing care retirement community in Durham, New Hampshire and which will be a nursing home and will be licensed by the Department of Health and Human Services, to provide health care facilities within the State of New Hampshire (the "State"); and
- (2) The Project, and the project to which the refinancing of existing indebtedness relates, will be leased to, or owned by, the Borrower, which is a financially responsible participating health care 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 any 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

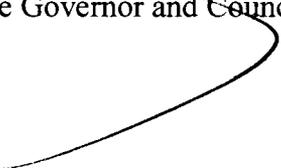
bonds or notes for the payment of all costs of operation, maintenance and upkeep of the Project by the Borrower so that under no circumstances will the State be obligated, directly or indirectly, for the payment of such costs; and

- (5) Adequate provision has been made to obligate the Borrower to hold and use the Project for health care 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 health care facilities within the State and is of public use and benefit; and
- (8) The refinancing of existing indebtedness will assist the Borrower in lowering the cost of providing health care facilities within the State and is being done in connection with the Project.

Dated: March 23, 2018



Andru Volinsky, 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 Andru Volinsky, 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 RiverWoods Durham, a private, not-for-profit and charitable corporation which will operate a continuing care retirement community located in Durham, New Hampshire, which constitutes a "nursing home" as that term is defined in the Act, and will be licensed by the Department of Health and Human Services and which will provide health care facilities within the State of New Hampshire. RiverWoods Durham is a participating health care institution under RSA 195-D:3. The hearing was held on Friday, March 23, 2018, following public notice, in the Conference Room of the Authority, 54 South State Street, Concord, New Hampshire, at 2:30 p.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 as described in the Notice of Public Hearing published on March 7, 2018.

Dated: April 11, 2018

Governor and Council:
