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State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES
25 Capitol Street - Room 120
Concord, New Hampshire 03301

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Deputy Commissioner
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October 2, 2020

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 Michael J. Cryans with regard to a certain project in participation with Brewster Academy in Wolfeboro, NH.

EXPLANATION

This item is submitted pursuant to a request by the New Hampshire Health and Education Facilities Authority. Councilor Cryans has requested that this be placed on the agenda as a regular item for the Wednesday, October 21, 2020 meeting for ratification by the Governor and Council.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Arlinghaus".

Charles M. Arlinghaus
Commissioner

CMA/dph

Attachment

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September 30, 2020

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

RE: New Hampshire Health and Education Facilities Authority
Brewster Academy 2020 Bond Issue

Dear Commissioner Arlinghaus:

I enclose an original and ten copies of the Report and Findings of Councilor Michael J. Cryans with regard to a certain project in participation with Brewster Academy, Wolfeboro, New Hampshire. Councilor Cryans 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, October 21, 2020.

Thank you for your assistance in this matter.

Very truly yours,



William C. Tucker

/sos

enclosures

**REPORT
AND
FINDINGS
OF**

MICHAEL J. CRYANS, 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 **BREWSTER ACADEMY** of Wolfeboro, 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 Brewster Academy, a not-for-profit corporation formed under New Hampshire law and located in Wolfeboro, New Hampshire (hereafter referred to as “Brewster” 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 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 September 22, 2020, the hearing was held commencing at 9:00 a.m. on September 30, 2020 in the office of the Authority, One Capitol Street, Suite 200,

Concord, New Hampshire. In accordance with Governor Sununu's Emergency Order #12 issued pursuant to Executive Order #2020-04, the meeting was open to the public through telephonic means. All witnesses were duly sworn. A summary of testimony presented at the hearing follows.

Summary of Testimony

Susan Harrington, the Chief Financial Officer of the Academy, was the first witness. She stated that Brewster Academy is an independent private school providing a college preparatory curriculum for students in grades 9-12 and post-graduates with approximately 360 students, 80% are typically boarding students, and 20% are day students. Ms. Harrington explained that Brewster Academy aspires to be the school of choice for a community of diverse and talented young men and women seeking a college preparatory experience predicated upon traditional values within an innovative, student-centered academic program that focuses on mastery learning of course content encompassing the arts, language and humanities, math, and sciences, coupled with a positive boarding and day student experience emphasizing the intellectual, physical, and social development of self.

Ms. Harrington testified that the Project involves a number of elements. The first involves the expenditure of approximately \$3 million for capital projects at the Academy including the construction and equipping of a new student performing arts center and student commons facility. She testified that, in addition to the capital projects portion of the Project, the Academy intends to refinance certain of its existing indebtedness, represented by the Series 2011 Bonds issued on the Academy's behalf by the Authority, the proceeds of which were used for a variety of capital acquisitions and improvements as well as refinancing certain prior indebtedness.

Ms. Harrington explained that certain Series 2020 Bond proceeds will be used to pay the costs of issuing the Series 2020 Bonds and may be used to fund an interest rate termination

payment with respect to the Series 2011 Bonds. She testified that the principal amount of the Bonds to be issued is not expected to exceed \$19 million, that the Series 2020 Bonds are expected to be sold to a financial institution in a private placement with a final maturity of approximately 25 years.

Ms. Harrington confirmed that, under the Loan Agreement with the Authority, the Academy will be required to continue to carry blanket fire and extended coverage as well as general liability insurance.

Ms. Harrington testified that, in her view, the Project would be a 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. She concluded her testimony by explaining that the refinancing of existing indebtedness would assist the Academy in lowering the cost of providing education in the State and would be done in connection with the Project.

Bonnie Payette was the final witness called. She stated that she is the Executive Director of the New Hampshire Health and Education Facilities 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, having worked with the Academy's officers in developing 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 Resolution on August 20, 2020, approving issuance of 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, 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 Brewster Academy (herein called the "Academy"), a not-for-profit institution for secondary education located in Wolfeboro, New Hampshire, to provide education within the State of New Hampshire (herein called the "State"); and

(2) The Project, including the refinancing of existing indebtedness, 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 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: September 30, 2020



Michael J. Cryans
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 Michael J. Cryans, 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 Brewster Academy, a not- for-profit institution for secondary education located in Wolfeboro, New Hampshire. The hearing was held on September 30, 2020 at 9:00 a.m., following public notice, in the office of the Authority, 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 as described in the Notice of Public Hearing published on September 22, 2020.

Dated: October 21, 2020

Governor and Council:

