



State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF THE COMMISSIONER
25 Capitol Street – Room 120
Concord, New Hampshire 03301

3C [Signature]

Charles M. Arlinghaus
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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 Penacook Assisted Living, Inc. for the John H. Whitaker Place Issue, located at the Village of Penacook, in the City of Concord, 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 **PENACOOK ASSISTED LIVING FACILITY, INC.** d/b/a John H. Whitaker Place, of Penacook, 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 (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 Penacook Assisted Living Facility, Inc. d/b/a John H. Whitaker Place, a private, not-for-profit and charitable corporation (hereafter sometimes referred to as the “Institution” or “Whitaker Place”) which operates an assisted care facility located in the Village of Penacook, in the City of Concord, New Hampshire. Whitaker Place is a participating health care institution under RSA 195-D:3. Such application seeks the participation of the Authority, under the Act, in the refinancing of certain existing indebtedness, and in the financing of the construction, equipping, and furnishing of an addition to its existing facility, and miscellaneous construction, renovation and equipping of the Institution’s health care facilities in Concord (hereafter sometimes referred to as the “Project”).

Pursuant to RSA 195-D:21 above cited, 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 2:15 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

Allan M. Moses, the President of the Institution, was the first witness. He described the Institution, known as John H. Whitaker Place, as a not-for-profit corporation which owns and operates an assisted care facility in Penacook. The Institution offers assisted care in 54 independent living apartments (which currently includes 2-two bedroom units, 46 one bedroom units, and 6 studios). The Institution's facilities are currently 100% occupied.

Mr. Moses stated that the Project consists of the refinancing of the Authority's Revenue Bonds, John H. Whitaker Place Issue, Series 2011 (the "Prior Bonds"), currently outstanding in the approximate amount of \$4,649,000, the proceeds of which were primarily used to refinance then outstanding debt consisting of (1) the Institution's New Hampshire Housing Finance Authority's ("NHHFA") Multi-Family Housing Revenue Bonds (Whitaker Place Assisted Living Facility Project 1999 Series); (2) the Institution's U.S. Department of Housing and Urban Development loan issued through NHHFA; and (3) a bank loan, then outstanding in the principal amount of \$100,000. Proceeds of the Prior Bonds were also used to pay the costs of miscellaneous construction, renovation and equipping of the Institution's facilities and the costs of issuance and other costs related to the Prior Bonds.

Mr. Moses stated that the balance of the Bond proceeds will be used to finance the construction, equipping and furnishing of an addition to its existing building containing

approximately 13,200 square feet, as well as finance routine capital expenditures for the construction, renovation, equipping and furnishing of the Institution's existing facilities. The new addition will create 18 new assisted care units. Bond proceeds will also be used to pay costs of issuance and other costs related to the Bonds.

Mr. Moses stated that the Institution expects to issue up to \$7,400,000 of Bonds which will be purchased in a direct placement with a bank which is anticipated to be Northway Bank. Mr. Moses explained that the bond issue is expected to be secured by a mortgage on Whitaker Place's facilities as well as a security interest in its furniture, fixture, and equipment.

Mr. Moses stated that, in his opinion, Whitaker Place will be able to meet its financial obligations under the proposed bond issue and that Whitaker Place currently is operating in a financially responsible manner. Mr. Moses explained that the refinancing, which is being done in connection with the Project, will assist Whitaker Place in lowering the cost of providing assisted care facilities by lowering its debt service obligations. In concluding his testimony, Mr. Moses stated that, in his judgment, the Project is necessary to provide the community's residents with the quality of assisted care living and care to which the Institution's Board is committed.

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 Whitaker Place's officers in developing the financial arrangements to be reflected in the bonds proposed to be issued.

She stated that the Authority has 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 March 15, 2018, approving issuance of bonds for Penacook Assisted Living Facility, Inc. d/b/a John H. Whitaker Place.

Ms. Payette testified that certain documents are being prepared for execution in connection with the Project. She stated that there is a provision in the bond documents under which the Institution is obligated to hold and use the Project for assisted care 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 Penacook Assisted Living Facility, Inc. 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 revenues provided by the Institution, 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, in her experience as the Executive Director and Secretary of the Authority, and on the advice of counsel, including Bond Counsel, the Project is within the powers conferred by law upon the Authority.

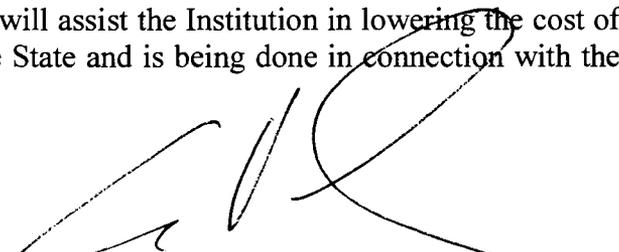
Findings

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 Penacook Assisted Living Facility, Inc. d/b/a John H. Whitaker Place (herein called the "Institution"), a not-for-profit corporation which is located in the Village of Penacook, City of Concord, New Hampshire, to provide health care facilities within the State of New Hampshire (herein called 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 Institution, 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 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 Institution 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 Institution 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 (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 health care facilities within the State and is of public use and benefit; and
- (8) The refinancing of existing indebtedness will assist the Institution 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 by Penacook Assisted Living Facility, Inc. d/b/a John H. Whitaker Place, a not-for-profit corporation which is located in the Village of Penacook, City of Concord, New Hampshire and provides assisted care facilities within the State of New Hampshire. 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 2:15 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:

