



# State of New Hampshire

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

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March 10, 2017

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 the Prospect-Woodward Home, in Keene, 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 5, 2017 meeting for ratification by the Governor and Council.

Sincerely,

Vicki V. Quiram  
Commissioner

VVQ/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 **THE PROSPECT-WOODWARD HOME**, of Keene, 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 The Prospect-Woodward Home (the “Borrower” or “Prospect-Woodward”), a private, not-for-profit and charitable corporation which is planning to construct a continuing care retirement community located in Keene, New Hampshire, and to operate a “nursing home” as that term is defined in the Act. Prospect-Woodward is a participating healthcare 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 of Prospect-Woodward’s 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 February 21, 2017, the hearing was held commencing at 10:30 a.m. on Tuesday, March 7, 2017, in the Hillside Village Marketing Office, 149 Emerald Street, Unit A1, Keene, New Hampshire. All witnesses were duly sworn. A summary of testimony presented at the hearing follows:

**Summary of Testimony**

Rand S. Burnett, Esquire, Secretary of the Board of Prospect-Woodward, was the first witness. He described Prospect-Woodward as a not-for-profit corporation organized under New Hampshire law exclusively for charitable purposes. Prospect-Woodward is the surviving entity resulting from the merger of two small assisted living facilities, the Prospect Hill Home, d/b/a Prospect Place, and The Woodward Home. He stated that the merger which was completed in 2016 resulted in the closing of Prospect Place and the transfer of its residents to the Woodward Home. He testified that the development of a new continuing care retirement community in Keene is being undertaken in response to a demonstrated need for more senior living facilities and services in the Keene area and the outdated nature of the existing assisted living facilities. The remaining residents of the Woodward Home will be transferred to the new retirement community upon its completion.

Atty. Burnett explained that the new facility will be known as Hillside Village and will consist of approximately 140 independent living units, consisting of 116 apartments and 24 villas, 42 assisted living units, 18 memory care assisted care living units, 20 nursing beds, and typical common amenities. Plans for the development of Hillside Village have been underway for several years. Prospect-Woodward has entered into a Consulting and Management Services Agreement with Life Care Services, as Facilities Manager. Life Care Services has over 45 years of experience and currently serves 62 non-profit continuing care retirement communities throughout the United States.

Atty. Burnett explained that the Project will be located on a 48-acre tract on Wyman Road in Keene. Prospect-Woodward will acquire the land and spend approximately \$72 million for the development and construction of the community and an additional \$23 million to fund a debt service reserve fund, pay capitalized interest, and other expenses associated with the financing.

Atty. Burnett testified that Prospect-Woodward is in the process of collecting deposits in the amount of 10% of the required entrance fee from prospective residents. He stated that Prospect-Woodward does not plan to sell bonds to finance the Project until it has received 10% deposits from at least 70% of the 140 independent living units. He stated that as of February 24, 2017, 10% deposits had been received on 98 independent living units.

Atty. Burnett testified that Prospect-Woodward has received a Certificate of Need for the proposed nursing beds from the New Hampshire Health Services Planning and Review Board for the Project's nursing care beds, but he noted that since receipt of the Certificate of Need, the New Hampshire statute requiring Certificates of Need has expired. Atty. Burnett confirmed that, under the regulations governing continuing care retirement communities, the residents of Hillside Village's 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 Hillside Village.

Atty. Burnett stated that in connection with the proposed bond issue, Prospect-Woodward will be granting the Authority a first mortgage on the Hillside Village property and the Borrower's other real estate as well as first liens on its equipment and the gross receipts it generates.

Prospect-Woodward's supported residential and nursing care facilities will be licensed by the New Hampshire Department of Health and Human Services. Prospect-Woodward 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.

Atty. Burnett testified that Prospect-Woodward expects to issue not more than \$97 million of bonds to finance the project. In addition to the development, real estate acquisition, and construction costs, Prospect-Woodward will be funding a debt service reserve fund, paying certain cost of issuance, funding capitalized interest, and repaying a local bank loan, the proceeds of which were used to pay preconstruction costs. Atty. Burnett testified that under the Loan Agreement and Mortgage with the Authority, Prospect-Woodward will be required to carry blanket fire and extended coverage insurance as well as general liability insurance.

Atty. Burnett stated that in his judgment, the Project is necessary to provide the community's residents with the quality of retirement living and related services and care to which Prospect-Woodward's Board is committed. Finally, and based upon his position as Secretary of the Board, he stated his opinions that Prospect-Woodward would be able to meet its financial obligations under the proposed bond issue and that Prospect-Woodward is currently operating in a financially responsible manner.

The next witness was Andrew P. Nesi, Executive Vice President of Herbert J. Sims & Co., Inc., Prospect-Woodward's investment banker. Mr. Nesi stated that Sims was pleased to be working on this financing and that Sims in the past has worked with other New Hampshire retirement homes and communities including The Huntington at Nashua, Hunt Community, New Hampshire Catholic Charities, RiverMead, and Havenwood-Heritage Heights.

Mr. Nesi testified that the plan of financing calls for the issuance of unrated fixed rate bonds with a final maturity of no more than 35 years. A portion of the bonds will be redeemed on a quarterly basis upon completion of construction with the entrance fee proceeds received from the initial residents.

Mr. Nesi stated that, as part of his work on behalf of Sims 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 Prospect-Woodward's management, he was of the view that Prospect-Woodward will be able to meet its financial obligations under the proposed bond issue. In concluding his testimony, Mr. Nesi stated that, based on such review, he was of the opinion that Prospect-Woodward is operating as a financially responsible healthcare institution.

David C. Bliss was the final witness called. He stated that he 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 his capacity as Executive Director, he 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. He 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. He testified that the Authority adopted a resolution on January 19, 2017, approving issuance of bonds for Prospect-Woodward. Mr. Bliss then explained the Authority's role as a conduit for the financing of projects through the issuance of its bonds.

Mr. Bliss 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 and Mortgage to be entered into among the Authority and the Borrower. He stated that there is a provision in the Loan Agreement and Mortgage under which the Borrower is obligated to hold and use the Project for healthcare purposes so long as the bonds are outstanding. He

testified to the language in the Loan Agreement which requires that each bond issued by the Authority for Prospect-Woodward 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.

Mr. Bliss 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.

Mr. Bliss concluded his testimony by stating that, based on his familiarity with the statute under which the Authority operates, on his 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 The Prospect-Woodward Home (the "Borrower"), a private not-for-profit and charitable corporation which will operate a continuing care retirement community in Keene, New Hampshire and which will be a nursing home and will be licensed by the Department of Health and Human Services, to provide healthcare 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 healthcare 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

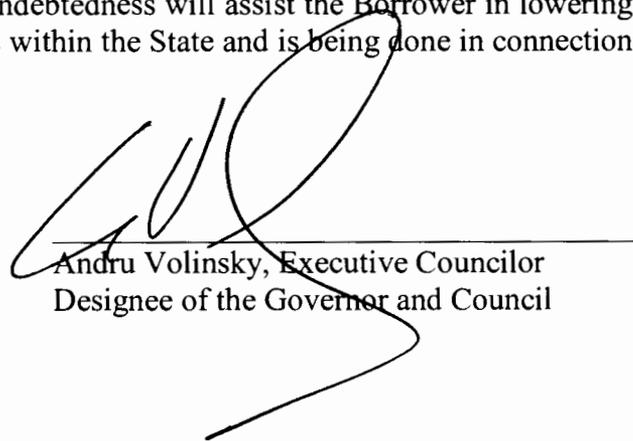
(5) Adequate provision has been made to obligate the Borrower to hold and use the Project for healthcare purposes so long as the principal of and interest on bonds or other obligations issued by the New Hampshire Health and Education Facilities Authority (the "Authority") to finance the cost of the Project, 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 healthcare 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 healthcare facilities within the State and is being done in connection with the Project.

Dated: March 7, 2017



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 The Prospect-Woodward Home, a private, not-for-profit and charitable corporation which will operate a continuing care retirement community located in Keene, 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 healthcare facilities within the State of New Hampshire. The Prospect-Woodward Home is a participating healthcare institution under RSA 195-D:3. The hearing was held on Tuesday, March 7, 2017, following public notice, in the Hillside Village Marketing Office, 149 Emerald Street, Unit A1, Keene, New Hampshire at 10:30 a.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 February 21, 2017.

Dated: April 5, 2017

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Governor and Council:

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