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State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES

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Charles M. Arlinghaus
Commissioner

Catherine A. Keane
Deputy Commissioner

Sheri L. Rockburn
Assistant Commissioner

December 26, 2023

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 Cinde Warmington with regard to a certain project in participation with Kimball Union Academy of Plainfield, NH.

EXPLANATION

This item is submitted pursuant to a request by the New Hampshire Health and Education Facilities Authority. Councilor Warmington has requested that this be placed on the agenda as a regular item for the Wednesday, January 10, 2024 meeting for ratification by the Governor and Council.

Sincerely,

For Charles M. Arlinghaus
Commissioner

CMA/dph

Attachment

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December 19, 2023

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 –
Kimball Union Academy

Dear Commissioner Arlinghaus:

I enclose an original and ten copies of the Report and Findings of Councilor Cinde Warmington with regard to a certain project in participation with Kimball Union Academy of Plainfield, New Hampshire. Councilor Warmington 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, January 10, 2024.

Thank you for your assistance in this matter.

Very truly yours,



William C. Tucker

/tav

cc: Bonnie S. Payette, NHHEFA
Enclosures

**REPORT
AND
FINDINGS
OF**

CINDE WARMINGTON, 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 **KIMBALL UNION ACADEMY** of Plainfield, 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 Kimball Union Academy, a not-for-profit, voluntary corporation formed under New Hampshire law and located in Meriden Village, Plainfield, New Hampshire (hereafter referred to as 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 the financing of the construction, renovation, equipping and furnishing of buildings on the Academy’s campus in Plainfield, New Hampshire (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 December 12, 2023, the hearing was held commencing at 10:00 a.m. on Tuesday, December 19, 2023 in the Conference Room of the offices of the

New Hampshire Health and Education Facilities Authority, One Capitol Street, Suite 200, Concord, New Hampshire 03301.

All witnesses were duly sworn. A summary of testimony presented at the hearing follows:

Summary of Testimony

Gerard Murphy, the Chief Financial Officer of the Academy, was the first witness. He stated that Kimball Union Academy is an independent private school providing a college preparatory curriculum for students in grades 9-post graduate. Mr. Murphy explained that Kimball Union Academy has a current enrollment of 340 students. Approximately two-thirds of the students are boarding students and one-third are day students. The Academy's students came from 23 states and 24 foreign countries.

Mr. Murphy testified that the Project which the Academy is undertaking consists of the renovation of two existing faculty residences and an existing student residence hall together with the construction of two new attached student residence halls and three new faculty residences. The two existing faculty residences and the existing dormitory which are being renovated total approximately 7,628 square feet and the two new dormitories and three new faculty residences total approximately 33,884 square feet. It is anticipated that the new dormitory space will provide housing for approximately 46 students.

Mr. Murphy stated that the cost of the Project is expected to be \$16,600,000 with \$8,100,000 coming from capital gifts and the Academy's reserves. The balance of the cost of the Project, \$8,500,000, will be financed through the issuance of the Authority's Series 2024 Bonds. Bond proceeds may also be used to fund miscellaneous capital expenditures and pay the costs of issuance of the Bonds. The Bonds are planned to be issued in a private placement with a financial institution which is expected to be M&T Bank or an affiliate. The bonds are expected to mature in no more than 30 years and carry either a fixed or rate of interest or, if market conditions dictate, a variable rate. He explained that if the Bonds have a variable rate of interest, the Academy may enter into an interest rate swap agreement for all or a portion of the Bonds. The proceeds of the

Bonds may be loaned to the Academy in one or more installments pursuant to a Loan Agreement with the Authority and the purchaser of the Bonds. Mr. Murphy 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.

Mr. Murphy testified that, in his view, the Project will be of public use and benefit and will permit the Academy to continue to render an appropriate level of service to its current and future students. Based upon his position at the Academy, he stated his opinion that the Academy will 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 next witness called. She stated that she is the Executive Director 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, the proposed financing, and the financial arrangements to be reflected in the bonds to be issued. She testified that the Authority adopted a resolution on November 28, 2023, approving issuance of bonds for the Academy for the Project, subject to compliance being had with all laws bearing upon such issue and the advice of counsel, including Bond Counsel.

Ms. Payette testified that certain documents will be prepared for execution in connection with the Project, including a Loan and Security Agreement intended for execution between the Academy and the Authority and possibly the purchaser of the Bonds. She stated that there will be a provision in the Loan and Security Agreement under which the Academy is obligated to hold and use the Project for educational purposes so long as the Bonds are outstanding. She testified that there will be language in the Bond documents requiring 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 issuance of the Bonds for 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, as the same is described in such testimony, will enable and assist the Kimball Union Academy (herein called the "Academy"), a corporate sole and a nonprofit institution providing education, to provide educational facilities within the State of New Hampshire (herein called the "State"); and

(2) The Project 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 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; 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, or will be, 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, 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 issuance of the Bonds for 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 educational facilities within the State and is of public use and benefit.

Dated: December 19, 2023


Cinde Warmington,
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 Cinde Warmington, 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 Kimball Union Academy, a nonprofit institution providing education located in Plainfield, New Hampshire. The hearing was held on November 19, 2023, following public notice published in the New Hampshire Union Leader on December 12, 2023, at the offices 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 in the hearing held by the Authority on December 19, 2023, as described in the Notice of Public Hearing published on December 12, 2023 in the New Hampshire Union Leader.

Dated: January 10, 2024

Governor: Christopher T. Sununu

Councilor: Joseph D. Kenney

Councilor: Cinde Warmington

Councilor: Janet Stevens

Councilor: Theodore L. Gatsas

Councilor: David K. Wheeler