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Title: Resolution giving preliminary approval to the proposed issuance of conduit revenue bonds for the Higher Ground Academy Charter School Project, 1381 Marshall Avenue, under Minnesota Statutes, Sections 469.152 through 469.1655, District 13, Ward 1

Sponsors: Russel Balenger

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Attachments: 1. Board Report, 2. Map, 3. D13 Union Park Neighborhood Profile

Date	Ver.	Action By	Action	Result
11/9/2022	1	Housing & Redevelopment Authority	Adopted	Pass

Resolution giving preliminary approval to the proposed issuance of conduit revenue bonds for the Higher Ground Academy Charter School Project, 1381 Marshall Avenue, under Minnesota Statutes, Sections 469.152 through 469.1655, District 13, Ward 1

WHEREAS, the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota (the "HRA") is duly organized and existing under the Constitution and laws of the State of Minnesota; and

WHEREAS, under the Minnesota Municipal Industrial Development Act, Minnesota Statutes, Sections 469.152 -469.1655, as amended (the "Act"), each housing and redevelopment authority in the State of Minnesota, including the HRA, is authorized to issue revenue bonds to finance or refinance, in whole or in part, the costs of the acquisition, construction, improvement, or extension of revenue producing enterprises, whether or not operated for profit; and

WHEREAS, Higher Ground Building Company, a Minnesota nonprofit corporation (the "Borrower"), has requested that the HRA issue one or more series of revenue bonds (the "Bonds") and loan the proceeds derived from the sale of the Bonds to the Borrower, pursuant to the terms of a Loan Agreement between the HRA and the Borrower (the "Loan Agreement") to be used, to (i) refund the HRA's Lease Revenue Refunding Bonds (Higher Ground Academy Project), Series 2013A which previously (a) refunded the HRA's Lease Revenue Bonds (Higher Ground Academy Project), Series 2004 which previously financed the existing school facility at 1381 Marshall Avenue (the "School Facility") in the City of Saint Paul, Minnesota (the "City") operated by the Higher Ground Academy, a Minnesota nonprofit corporation and charter school (the "School"); (b) refunded the HRA's Lease Revenue Bonds (Higher Ground Academy Project), Series 2009 which previously financed the School Facility; and (c) financed the acquisition and installation in the School Facility of equipment for two Science, Technology, Engineering and Mathematics laboratories; (ii) finance capital improvements to the School Facility; (iii) fund a debt service reserve fund, if necessary; (iv) pay a portion of the interest on the Bonds, if necessary; and (v) pay a portion of the costs of issuing the Bonds, if necessary (the "Project"); and

WHEREAS, the Project will be owned by the Borrower and will be leased to and operated by the School; and

WHEREAS, the Bonds proposed to be issued by the HRA to finance the Project will constitute revenue bonds secured solely by: (i) the revenues derived from the Loan Agreement; (ii) a pledge and assignment of all revenues of the School, including money due to the School from the State of Minnesota Lease Aid Payment Program (the "Program"); (iii) an agreement to pay all money due to the School from the State to a dedicated account subject to a monthly sweep to the trustee accounts for the benefit of the holders of the Bonds; (iv) other revenues pledged to or otherwise received by the Borrower, except for those revenues necessary for ordinary operational expenses and required under Minnesota law; (v) a debt service reserve fund to be held by a trustee for the benefit of the holders of the Bonds; (vi) a mortgage and security agreement granted by the Borrower with respect to the Project; and (vii) other security provided or arranged by the Borrower or the School; and

WHEREAS, pursuant to Section 469.154, subdivision 4, of the Act, prior to submitting an application to the Minnesota Department of Employment and Economic Development ("DEED") for approval of the Project, the Board of Commissioners of the HRA must conduct a public hearing on the proposal to undertake and finance the Project; and

WHEREAS, a draft copy of the proposed application to DEED, together with all attachments and exhibits, was available for public inspection following the publication of the notice; and

WHEREAS, pursuant to the Act and Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), and regulations promulgated thereunder, a notice of public hearing in the required form was posted on the HRA's website at least 7 days in advance hereof and published in the *Pioneer Press*, the official newspaper of the HRA and a newspaper of general circulation in the City on October 26, 2022, which is not less than 14 days, nor more than 30 days, prior to the date hereof; and

WHEREAS, the Board of Commissioners conducted a public hearing this same date with respect to the proposal to undertake and finance the Project and the proposed issuance of the Bonds, as requested by the Borrower; and

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The HRA hereby grants preliminary approval for the issuance of the Bonds for the purposes referenced in this resolution and in an aggregate principal amount not to exceed $13,500,000, subject to the approval of the Project by DEED, as required by the Act, and subject to the mutual agreement of the HRA, the Borrower, the School, and the initial purchaser(s) of the Bonds as to the details of the Bonds and provisions for their payment. In all events, it is understood, however, that the Bonds shall not constitute a pecuniary liability or charge, lien or encumbrance, legal or equitable, upon any funds, assets, taxing powers, or any other property of the HRA or of the City except the HRA's interest in the Loan Agreement; and the Bonds, when, as, and if issued, shall recite in substance that the Bonds, including interest thereon, are payable solely from the revenues received from the Loan Agreement and other property pledged to the payment thereof, and shall not constitute general or moral obligations of the HRA or of the City. The Bonds shall not constitute a debt of the HRA or the City within the meaning of any constitutional or statutory limitation. The holder(s) of the Bonds shall never have the right to compel any exercise of the taxing power of the HRA or the City to pay the outstanding principal of the Bonds, or the interest thereon or to enforce payment thereof against any property of the HRA or the City.

2. It is hereby found and determined that the Project furthers the purposes set forth in the Act and the Project constitutes a "project" within the meaning of Section 469.153, subdivision 2(b) of the Act.

3. In accordance with Section 469.154 of the Act, the HRA may cooperate with the Borrower in submitting the proposal for the financing of the Project to DEED, including the execution of necessary documentation by HRA officials.

4. In accordance with Section 469.154, subdivision 7, of the Act, the officers, employees, and

agents of the City and the HRA are hereby authorized and directed to encourage the Borrower and the School to provide employment opportunities to economically disadvantaged or unemployed individuals. Such individuals may be identified by such mechanisms as are available to the Borrower and the School, such as a first source agreement in which the School agrees to use a designated State employment office as a first source for employment recruitment, referral, and placement.

5. The Borrower or the School shall pay to the HRA any and all costs incurred by the HRA in connection with the Bonds or the financing of the Project, whether or not the financing of the Project is approved by DEED, whether or not the financing is carried to completion, and whether or not the Bonds or operative instruments are executed and delivered. The Borrower and the School shall also comply with the HRA's fee policies respecting such revenue bond issues.

6. The adoption of this resolution does not constitute a guaranty or firm commitment that the HRA will issue the Bonds as requested by the Borrower. The HRA retains the right in its sole discretion to withdraw from participation and accordingly not to issue the Bonds, or issue the Bonds in an amount less that the amount referred to herein, should the HRA at any time prior to issuance thereof determine not to issue the Bonds, or to issue the Bonds in an amount less than the amount referred to in Section 1 hereof, or should the parties to the transaction be unable to reach agreement as to the terms and conditions of any of the documents required for the transaction.

7. (a) The United States Department of the Treasury has promulgated final regulations governing the use of the proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the HRA or a borrower from the HRA for project expenditures paid prior to the date of issuance of such bonds. Those regulations, Treasury Regulations, Section 1.150-2 (the "Regulations"), require that the HRA adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds occur within 18 months after the later of: (i) the date the expenditure is paid; or (ii) the date the project is placed in service or abandoned, but in no event more than 3 years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

(b) The HRA reasonably expects to reimburse the Borrower and the School for the expenditures made for costs of the Project from the proceeds of the Bonds in an estimated maximum aggregate principal amount not to exceed $13,500,000 after the date of payment of all or a portion of the costs of the Project. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds, or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations and also qualifying expenditures under the Act.

(c) Based on representations by the Borrower, no expenditures for the Project have been made by the Borrower or the School more than 60 days before the date of adoption of this resolution other than: (i) expenditures to be paid or reimbursed from sources other than the Bonds; (ii) expenditures permitted to be reimbursed under prior regulations pursuant to the transitional provision contained in Section 1.150-2(j)(2)(i)(B) of the Regulations; (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations; (iv) expenditures in a "de minimus" amount (as defined in Section 1.150-2(f)(1) of the Regulations); or (v) expenditures made pursuant to a declaration of official intent by the Borrower in accordance with Section 1.150-2 of the Regulations.

(d) Based on representations by the Borrower, as of the date hereof, there are no funds of the Borrower reserved, allocated on a long term-basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Project to be financed from proceeds of the Bonds, other than pursuant to the issuance of the Bonds. This resolution, therefore, is determined to be consistent with the budgetary and financial circumstances of the Borrower as they exist or are reasonably foreseeable on the date hereof.

(e) In anticipation of the issuance of the Bonds to finance all or a portion of the Project, and in order that completion of the Project will not be unduly delayed when approved, the Borrower is hereby authorized to make such expenditures and advances toward payment of that portion of the costs of the Project to be financed from the proceeds of the Bonds, as the Borrower considers necessary, including the use of interim, short-term financing, subject to reimbursement from the proceeds of the Bonds if and when delivered but otherwise without liability on the part of the City or the HRA.

8. This Resolution shall be in full force and effect from and after its passage.