



Legislation Text

File #: RES 23-264, **Version:** 1

Resolution authorizing the issuance and sale of conduit charter school lease revenue bonds, under Minnesota Statutes, Sections 469.152 through 469.1655, for the Community School of Excellence Project, 270 Larpenteur Avenue West, and authorizing the execution of documents relating thereto; District 6, Ward 5
WHEREAS,

(a) 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;

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

(c) The CSE 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 Loan Agreement between the HRA and the Borrower (the "Loan Agreement") to finance the "Project," which consists of: (i) the construction of an approximately 65,000 square foot three-story high school addition on the existing charter school campus (the "Existing School Facilities") located at 270 Larpenteur Avenue West in the City of Saint Paul, Minnesota (the "City"), to serve students in grades 9 through 12; (ii) refund the Issuer's outstanding Charter School Lease Revenue Bonds (Community School of Excellence Project), Series 2016A (the "Series 2016 Bonds"); (iii) fund a debt service reserve fund for the Bonds; (iv) fund capitalized interest on the Bonds; and (v) pay the costs of issuance of the Bonds;

(d) The Project will be owned by the Borrower and leased to and operated by the Community School of Excellence (the "School"), a public charter school sponsored by Minnesota Guild of Public Charter Schools;

(e) The Bonds proposed to be issued by the HRA to finance the Project will constitute revenue obligations secured solely by: (i) the revenues derived from the Loan Agreement; (ii) a pledge and assignment of all School revenues, as more specifically set forth in the Financing Documents (defined below) including money due to the School from the State of Minnesota Lease Aid Payment Program (the "Program"); (iii) an agreement to pay the money due to the School from the Program to a dedicated account subject to a monthly transfer to Trustee-held accounts for the benefit of the holders of the Bonds, as more specifically set forth in the Financing Documents; (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 which may be funded by proceeds of the Bonds; (vi) a first mortgage and security agreement granted by the Borrower with respect to the Project; (vii) a capital improvement fund; (viii) other security provided or arranged by the Borrower or the School, and (ix) any other funds and accounts pledged under the Indenture.

(f) Based on representations of the Borrower, no public official of the HRA or the City has either a direct or indirect financial interest in the Project nor will any public official either directly or indirectly benefit financially from the Project;

(g) Under the terms of Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), the Bonds may not be issued on a tax-exempt basis unless the Board approves the Bonds after a public hearing following publication of a notice published in accordance with the requirements of the Code and the applicable Treasury Regulations;

(h) 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 published in the Pioneer Press, the official newspaper of the HRA on January 24, 2023;

(i) On February 8, 2023, following the publication of a notice of a public hearing as required by the Act and the Code, the Board conducted a public hearing at which a reasonable opportunity was provided for interested individuals to express their views on the proposed Project (the "Public Hearing"); and

(j) The Bonds will be purchased by Robert W. Baird & Co. Incorporated (the "Underwriter") pursuant to the Bond Purchase Agreement (the "Bond Purchase Agreement"), among the Underwriter, the HRA, the Borrower and the School.

NOW, THEREFORE, BE IT RESOLVED as follows:

SECTION 1. LEGAL AUTHORIZATION AND FINDINGS

1.1 Findings. The HRA hereby finds, determines and declares as follows:

(a) The HRA is a body corporate and politic and a political subdivision of the State of Minnesota and is hereby authorized to approve the issuance, sale, and delivery of the Bonds of the HRA in an original aggregate principal amount not to exceed \$59,000,000. If the Bonds are issued in more than one series, the separate series shall be separately designated in such manner as is deemed appropriate by the Chair of the HRA (or any Commissioner), the Executive Director of the HRA, and the Director of the Office of Financial Services or their proper designees (collectively, the "HRA Officials"), in their discretion. The Bonds shall be issued under the terms of an Indenture of Trust, dated on or after March 1, 2023 (the "Indenture"), between the HRA and U.S. Bank Trust Company, National Association or such other bond trustee named therein (the "Trustee"). The HRA will loan the proceeds of the Bonds (the "Loan") to the Borrower for purposes of financing the Project.

(b) Pursuant to the Loan Agreement, the Borrower has agreed to repay the Loan in specified amounts and at specified times sufficient to pay in full when due the principal of, premium, if any, and interest on the Bonds. In addition, the Loan Agreement contains provisions relating to the maintenance and operation of the Project, indemnification, insurance, and other agreements and covenants which are required or permitted by the Act and which the HRA and the Underwriter deem necessary or desirable.

(c) The Borrower shall pay to the HRA any and all costs incurred by the HRA in connection with the Bonds, whether or not the issuance of the Bonds is carried to completion, and whether or not the Bonds or operative instruments are executed and delivered. The Borrower shall also comply with the HRA's fee policies respecting revenue bond issues.

(d) The Bonds shall be special limited obligations of the HRA payable solely from the revenues provided by the Borrower pursuant to the Loan Agreement, and from the revenues and security pledged, assigned, and granted pursuant to the following documents, collectively with the Indenture and Loan Agreement referred to herein as the "Financing Documents": (i) the Mortgage, Security Agreement and Assignment of Rents, to be dated on or after March 1, 2023 (the "Mortgage"), from the Borrower, as mortgagor, to the Trustee, as mortgagee; (ii) the Assignment of Lease, dated on or after March 1, 2023 (the "Assignment"), from the Borrower, as assignor, to the Trustee, as assignee, and consented to by the School; and (iii) the Pledge and Covenant Agreement, dated on or after March 1, 2023 (the "Pledge Agreement"), from the School to the Trustee. The proceeds of the Bonds will be disbursed pursuant to a Disbursing Agreement, dated on or after March 1, 2023 (the "Disbursing Agreement"), among the Borrower, the Trustee, and a disbursing agent to be selected by the Borrower, and will be subject to the provisions of a Tax Certificate, dated on or after March 1, 2023 (the "Tax Certificate"), among the Borrower, the School and the Trustee and a Bond Compliance Agreement, dated on or after March 1, 2023 (the "Compliance Agreement") between the HRA and the Borrower. The Board hereby authorizes and directs the HRA Officials to execute and deliver the Indenture to the Trustee, and hereby authorizes and directs the execution of the

Bonds in accordance with the terms of the Indenture, and hereby provides that the Indenture shall provide the terms and conditions, covenants, rights, obligations, duties, and agreements of the owners of the Bonds, the HRA, and the Trustee as set forth therein.

All of the provisions of the Indenture, when executed as authorized herein, shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Indenture shall be substantially in the form on file with the Executive Director of the HRA, which is hereby approved, with such necessary and appropriate variations, omissions, and insertions as do not materially change the substance thereof, or as the HRA Officials, in their discretion, shall determine, and the execution thereof by the HRA Officials shall be conclusive evidence of such determination.

(e) The Bonds will be special, limited revenue obligations of the HRA. The Bonds shall not be payable from or a charge upon any funds other than the revenues pledged to the payment thereof, nor shall the HRA or the City be subject to any liability thereon. No holder of the Bonds shall ever have the right to compel any exercise of the taxing power of the HRA or the City to pay the Bonds or the interest thereon, nor to enforce payment thereof against any property of the HRA or the City. The Bonds shall not constitute a debt of the HRA or the City within the meaning of any constitutional, charter or statutory limitation.

SECTION 2. THE BONDS

2.1 Authorized Amount and Form of Bonds

SECTION 3. MISCELLANEOUS.

3.1 Severability. If any provision of this Resolution shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions of any constitution or statute or rule or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or paragraphs in this Resolution contained shall not affect the remaining portions of this Resolution or any part thereof.

3.2 Authentication of Transcript. The officers of the HRA are directed to furnish to Ballard Spahr LLP, as Bond Counsel to the HRA, certified copies of this Resolution and all documents referred to herein, and affidavits or certificates as to all other matters which are reasonably necessary to evidence the validity of the Bonds. All such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute recitals of the HRA as to the correctness of all statements contained therein.

3.3 Authorization to Execute Agreements. The forms of the proposed Financing Documents are hereby approved in substantially the form on file with the HRA, together with such additional details therein as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by Bond Counsel prior to the execution of the documents. The HRA Officials are authorized to execute the Financing Documents to which the HRA is a party and such other documents as Bond Counsel considers appropriate in connection with the issuance of the Bonds, in the name of and on behalf of the HRA. In the event of the absence or disability of any of the HRA Officials, such officer(s) of the HRA as, in the opinion of the City Attorney, may act on their behalf, shall without further act or authorization of the Board do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers. The execution of any instrument by the appropriate officer or officers of the HRA herein authorized shall be conclusive evidence of the approval of such documents in accordance with the terms hereof.

3.4 Future AmendmentsSECTION 1. ADOPTION.

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