



DASNY

ANDREW M. CUOMO
Governor

ALFONSO L. CARNEY, JR.
Chair

GERRARD P. BUSHELL
President & CEO

Memorandum

TO: Robert S. Derico, R.A., Acting Director, Office of Environmental Affairs

FROM: Sara E. Stein, AICP, Senior Environmental Manager 

DATE: February 28, 2019

RE: *State Environmental Quality Review (SEQR) Type II Determination for the New York State School Districts Revenue Bond Financing Program 2019 New Money, Refinancing and Refunding (Public School Districts Program)*

The Dormitory Authority of the State of New York (“DASNY”) has received a funding request pursuant to the New York State School Districts Revenue Bond Financing Program (the “School Districts”) for its *2019 New Money, Refinancing and Refunding* (the “Proposed Project”). Based on a review of the attached *Single Approval Transaction Summary* dated February 25, 2019, it has been determined that the proceeds of the bond issuance would be used to refinance the Bond Anticipation Notes (“BANs”) of various New York State School Districts, the proceeds of which were used to finance capital projects in anticipation of permanent financing. The proceeds of the bond issuance would also be used to refund bonds issued by DASNY through the School Districts and to finance capital projects on behalf of various New York State School Districts.

For purposes of the New York *State Environmental Quality Review Act* (“SEQRA”), the Proposed Action for which this determination is issued would involve DASNY’s authorization of the issuance of up to \$750,000,000 in multiple series of taxable and tax-exempt bonds for terms of varying maturities not to exceed the terms of the bonds, to be sold through multiple negotiated offerings pursuant to DASNY’s Public School Districts Program on behalf of various New York State School Districts.

The Public School Districts Program is funded on a cash-flow basis. Therefore, some of the capital projects to be funded with the proceeds of the Series 2019 Bonds have commenced and are in various stages of completion. The *State Environmental Quality Reviews* (“SEQRs”) for projects where construction has commenced have been undertaken previously. Other proposed projects are still in the conceptual or planning phase, and the details are not definitive enough to undertake a meaningful review at this time. The *SEQR* determination for each capital project would be undertaken once sufficient details for each project are known, but prior to the expenditure of the bond proceeds.¹

¹ The capital projects are functionally independent of one another and are geographically separated from one another. Therefore, each project would be the subject of a separate *SEQR* determination before the expenditure of bond proceeds.

DASNY completed this environmental review in accordance with the *SEQRA*, codified at Article 8 of the New York *Environmental Conservation Law* (“*ECL*”), and its implementing regulations, promulgated at Part 617 of Title 6 of the *New York Codes, Rules and Regulations* (“*N.Y.C.R.R.*”), which collectively contain the requirements for the *State Environmental Quality Review* (“*SEQR*”) process. The DASNY bonds would be used, in part, to refinance the BANs of various New York State School Districts and to refund bonds issued by DASNY through the School Districts. The refinancing of existing debt is a Type II action as specifically designated by 6 *N.Y.C.R.R.* § 617.5(c)(29) of *SEQR*.

Furthermore, the authorization of the issuance of DASNY Bonds to finance eligible capital projects under the Public School Districts Program is a matter of DASNY’s routine agency administration and management, and, as such, is a Type II action pursuant to 6 *N.Y.C.R.R.* 617.5(c)(26). In this program, DASNY typically issues bonds to finance a variety of projects on a cash-flow basis. Prior to the expenditure of bond proceeds, the *SEQR* process is completed. DASNY is not committed to any particular project that has not undergone the appropriate reviews, including *SEQR*. The bond proceeds would only be utilized to fund projects that have been reviewed pursuant to *SEQR*, once project details are known, at the earliest possible point in the planning process. Type II “actions have been determined not to have significant impact on the environment or are otherwise precluded from environmental review under *ECL*, Article 8 (6 *N.Y.C.R.R.* § 617.5[a]).” Therefore, no further *SEQR* determination or procedure is required for any component of the Proposed Project identified as Type II at this time.

The Proposed Project was also reviewed in conformance with the *New York State Historic Preservation Act of 1980* (“*SHPA*”), especially the implementing regulations of Section 14.09 of the *Parks, Recreation and Historic Preservation Law* (“*PRHPL*”), as well as with the requirements of the Memorandum of Understanding (“*MOU*”), dated March 18, 1998, between DASNY and the New York State Office of Parks, Recreation and Historic Preservation (“*OPRHP*”). In compliance with Article III, Section 3.0 of the *MOU*, *OPRHP* would be notified of the Proposed Project being funded with bond proceeds. The required consultation with *OPRHP* will be undertaken for any of the new capital projects once they are sufficiently identified. It is the opinion of DASNY that the Proposed Project would have no impact on historical or cultural resources in or eligible for inclusion in the State and National Registers of Historic Places (“*S/NR*”).

Attachments

cc: Dena T. Amodio, Esq.
David P. Ostrander
SEQR File
OPRHP Letter

Single Approval Transaction Summary

New York State School Districts Revenue Bond Financing Program

February 25, 2019

Program: Public School Districts

Purpose: New Money / Refinancing / Refunding

New Issue Details

Multiple series of tax-exempt and/or taxable bonds for terms of varying maturities not to exceed 31 years in an aggregate amount not to exceed \$750,000,000 are to be sold through multiple negotiated offerings on behalf of various New York State School Districts.

- Co-Lead Managers – Roosevelt & Cross, RBC Capital Markets and Raymond James*
- Co-Bond Counsel – Barclay Damon, LLP and Burgher Gray LLP*
- Underwriters' Counsel – Katten Muchin Rosenman LLP and Law Offices of Joseph C. Reid, P.A.*

*June 2019 Pool

Purpose

- Refinancing the Bond Anticipation Notes ("BANs") of various New York State School Districts, the proceeds of which were used to finance capital projects in anticipation of permanent financing.
- Financing of new money projects on behalf of various New York State School Districts.
- Refunding of bonds issued by DASNY through the School Districts Revenue Bond Financing Program.

Security

- Semi-annual payments to be made pursuant to Financing Agreements backed by the full faith and credit general obligation bonds of the participating School Districts.
- Statutory intercept, through the State Comptroller, of any State aid due to participating School Districts for debt service on DASNY Bonds.
- Bond insurance if available and economically advantageous.

Expected Rating: Aa3/A+/AA- (Programmatic)

Overview

On October 29, 2001, Chapter 383 of the Laws of 2001 ("Chapter 383") was enacted, Part F of which changed the methodology for computing Building Aid payable to School Districts. Pursuant to Chapter 383, Building Aid for a particular project is now paid over the useful life of that project, based upon an assumed amortization schedule. A School District financing a capital project can either (i) finance that project through the issuance of its own obligations, in which case the assumed amortization schedule used to compute Building Aid will be based on an assumed interest rate computed by the Commissioner of Education using historical data (the "Assumed Interest Rate"), or (ii) finance that project through DASNY, in which case the assumed amortization schedule used to compute Building Aid will be based on the "DASNY Rate", which is the

interest rate associated with DASNY bonds issued for the project adjusted to take into account the lower interest rates on any BANs previously issued by the School District in connection with the project. For projects approved by the Commissioner of Education during the 2017-18 school year, the Assumed Interest Rate has been established at 2.500% (with the exception of projects of the "Big Five" City School Districts of New York City, Buffalo, Rochester, Syracuse and Yonkers, for which rates are calculated separately).

Description of the Bonds

- The Bonds are special obligations of DASNY.
- Each Financing Agreement is backed by the applicable School District's full faith and credit general obligation bonds.
- The Bonds are payable from payments made under the Financing Agreements and all funds and accounts established under the resolutions.

Approvals

- PACB Approval – March 20, 2019*
- SEQR Filing – Ongoing

*Anticipated date.

Recent Information

The most recent School Districts authorization occurred on April 11, 2018 when the Board adopted the necessary documents for the refinancing of BANs, the financing of new money projects, and the refunding of DASNY Bonds in an amount not to exceed \$750.0 million. Since that time, there has been approximately \$585.2 million issued under this approval, leaving approximately \$164.8 million of remaining authorization. Staff has begun to structure a financing pool for School Districts with new money projects or with BANs maturing during, or subsequent to, June 2019. The proposed June 2019 issuance is expected to exceed the remaining authorization of \$164.8 million.

Recommendation

To ensure that DASNY has sufficient authorization to meet expected demand for new money projects, BAN refinancing, and refunding bonds, staff recommends the Board adopt the necessary documents to authorize the issuance of DASNY bonds in an aggregate amount not to exceed \$750,000,000.

New York State School Districts Revenue Bonds Program

INTRODUCTION: On October 29, 2001, Chapter 383 of the Laws of 2001 ("Chapter 383") was enacted, Part F of which changed the methodology for computing Building Aid payable to School Districts. Pursuant to Chapter 383, Building Aid for a particular project is now paid over the useful life of that project, based upon an assumed amortization schedule. A School District financing a capital project can either (i) finance that project through the issuance of its own obligations, in which case the assumed amortization schedule used to compute Building Aid will be based on an assumed interest rate computed by the Commissioner of Education using historical data (the "Assumed Interest Rate"), or (ii) finance that project through DASNY, in which case the assumed amortization schedule used to compute Building Aid will be based on the "DASNY Rate", which is the interest rate associated with DASNY bonds issued for the project adjusted to take into account the lower interest rates on any BANs previously issued by the School District in connection with the project. For projects approved by the Commissioner of Education during the 2017-18 school year, the Assumed Interest Rate has been established at 2.500% (with the exception of projects of the "Big Five" City School Districts of New York City, Buffalo, Rochester, Syracuse and Yonkers, for which rates are calculated separately).

SCHOOL DISTRICT FINANCING: School Districts historically issued their own obligations to finance Projects approved by the Commissioner of Education subject to voter approval. School District bonds are typically issued as general obligations backed by the full faith and credit of the taxing District. DASNY's program incorporates the full faith and credit bonds typically issued by School Districts, while enabling a participating School District to mitigate the risk that its interest cost on bonds issued to finance a project will exceed the Assumed Interest Rate used to compute Building Aid for that project.

ASSUMED AMORTIZATION: Chapter 383 established a new method of apportioning aid for debt service on capital projects based on the concept of assumed amortization. For new Projects approved by the Commissioner of Education, the statute applies an assumed amortization to determine the amount of Building Aid payable to a School District. Terms based on periods of probable usefulness ("PPUs") of 15, 20 or 30 years are used for renovations, additions and new buildings, respectively. A statewide average interest rate is used for Projects not financed

through DASNY based on the average of the interest rates for bonds issued by School Districts in the year prior to the year in which the Project receives the Commissioner's approval. This statewide average interest rate does not vary by the term of the amortization and serves as the basis upon which Building Aid is to be computed for the Project for ten years after its establishment.

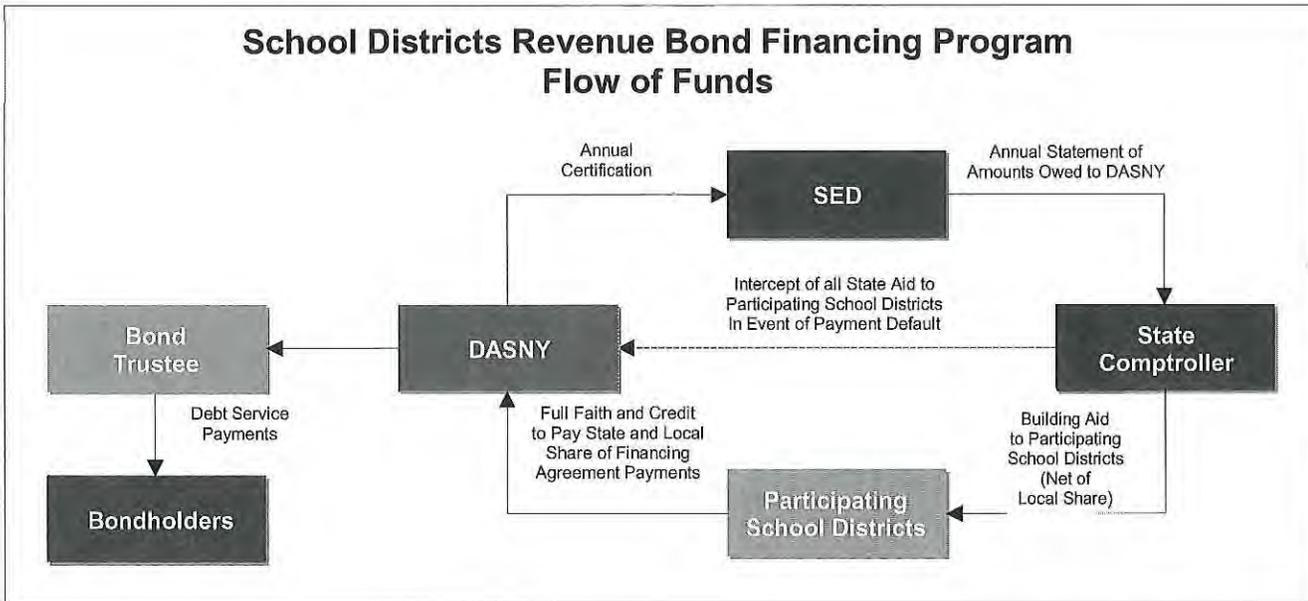
In contrast, for School Districts financing their Projects through DASNY, the assumed amortization used to calculate Building Aid is computed using the DASNY Rate, which more accurately reflects the School District's actual cost of borrowing.

DASNY Financing History: On May 29, 2002, the Board adopted the original Master School Districts Revenue Bond Financing Program Revenue Bond Resolution authorizing the issuance from time to time of multiple series of bonds in an unlimited principal amount to finance and refinance projects for School Districts. From July 2002 through May 2003, DASNY issued 10 series of bonds totaling approximately \$1.03 billion to refund outstanding School District bonds in cases where School Districts would be adversely affected by the retroactive application of Chapter 383.

Beginning in March 2004, DASNY began to issue bonds for the purpose of refinancing BANs and financing projects of School Districts in the first instance. Since March 2004, DASNY has issued 64 series of bonds totaling over \$3.5 billion for this purpose.

DASNY has also issued bonds for the purpose of refunding outstanding bonds issued under the School Districts Revenue Bond Financing Program. Since 2012, DASNY has issued 21 series of bonds totaling \$1.1 billion to refund outstanding DASNY Bonds.

The most recent School Districts authorization occurred on April 11, 2018 when the Board adopted the necessary documents for the refinancing of BANs, the financing of new money projects, and the refunding of DASNY Bonds in an amount not to exceed \$750.0 million. Since that time, there has been approximately \$585.2 million issued under this approval, leaving approximately \$164.8 million of remaining authorization. The proposed June 2019 issuance is expected to exceed this amount.



SECURITY PROVISIONS: Each School District participating in DASNY's program executes an agreement providing for payments by the School District to DASNY (the "Financing Agreement"). In essence, the payments due from the School District to DASNY under the Financing Agreement will include an amount sufficient to cover any debt service payable on the bonds issued by DASNY on behalf of the School District. These payments will also include certain costs and expenses incurred by DASNY in connection with the issuance of the bonds. The provisions of the Financing Agreement will continue in force and effect until the bonds are no longer outstanding and all other amounts due to DASNY from the School District have been paid. DASNY is also permitted to pledge any payments to be made by the District under the Financing Agreement as security for the bonds. In addition to, and as required by, the Financing Agreement, the School District also delivers its full faith and credit general obligation bonds to DASNY.

State Aid Intercept: As further security for payment of the bonds issued by DASNY, the School District assigns and pledges to DASNY a portion of the State aid otherwise payable to the School District. The amounts of State aid so pledged will be the amounts due by the School District under the Financing Agreement. The pledge of State aid by the School District is irrevocable and continues until the School District has fulfilled its obligations under the Financing Agreement.

Chapter 383 authorizes an intercept mechanism under which the public funds assigned by the School District to DASNY are to be paid to DASNY by the State Comptroller in the event payments by the School

District are deficient for any reason. As illustrated in the chart above, DASNY is required to certify annually to the Commissioner of Education a statement of all amounts due from the School Districts to DASNY. The Commissioner, in turn, is required to include in a certificate filed with the State Comptroller, a statement showing the amount owed to DASNY by the School Districts. The Comptroller is required to deduct the amount certified by the Commissioner as due to DASNY from the State funds otherwise payable to the School Districts in the event such payments are not made by the School Districts. The State aid subject to intercept pursuant to this provision is not limited to Building Aid but rather includes all aid to become due to the School Districts from the State. In the event that the amount of aid payable to the School District by the State is insufficient to cover the District's liabilities to DASNY under the Financing Agreement, the District remains obligated to pay the amount still due and owing directly to DASNY.

FINANCING STRUCTURE: The Master Resolution (the "Master Resolution") authorizes the issuance of one or more series of bonds ("Series") pursuant to supplemental resolutions for the purpose of financing or refinancing the cost of capital facilities and capital equipment for one or more School Districts. Each Series issued under the Master Resolution is to be principally secured by: (i) a pledge and assignment of the payments to be made by each School District under its respective Financing Agreement on account of its allocable share of the debt service payable on the bonds of the Series; and (ii) a pledge and assignment of all of DASNY's right, title and interest in and to the State aid payments which are assigned by each School District to DASNY and which are payable to DASNY by the State Comptroller pursuant to the Act

(the "Revenues"). The School District Projects that are financed or refinanced with the proceeds of the bonds will not be offered as security for the bonds or for the payments due under the Financing Agreement.

Each Series of bonds issued under the Master Resolution will be separately secured. The Master Resolution and Financing Agreement, however, will further provide that, to the extent that DASNY has issued more than one Series of bonds for the benefit of a particular School District and DASNY receives insufficient payments from, or on account of, such School District to meet such District's payment obligations with respect to all the bonds, the payments received will be applied pro-rata to the debt service then due and payable by the School District on each such Series of bonds. The Master Resolution will not provide for acceleration in the event of a default thereunder and the Financing Agreement will not provide for acceleration in the event of a default under that Agreement. No School District will be responsible for the payment obligations of any other School District.

THE PROJECT: Proceeds from the proposed June 2019 issuance, as well as potential future series of Bonds issued under this authorization, will be used to finance new money projects and/or to refinance the Bond Anticipation Notes ("BANs") of various New York State School Districts, the proceeds of which were used to finance capital projects in anticipation of permanent financing. In anticipation of continued demand, staff has begun to structure a financing pool for School Districts with new money projects or with BANs maturing during, or subsequent to, June 2019.

THE REFUNDING PLAN: Proceeds from future series of Bonds issued under this authorization may also be used to refund outstanding Bonds issued by DASNY on behalf of various New York State school districts. There are approximately \$38.8 million in DASNY School District Bonds outstanding that will be eligible for a current refunding during 2019.

NYS Education law requires the Commissioner of Education to revise the assumed amortization schedule for remaining debt service payments at the end of each 10-year segment of an assumed amortization if the current interest rate is at least one quarter percent lower than the original interest rate for the assumed amortization. In order to realign their debt service obligations with the Commissioner's reset of assumed amortization, School Districts will need to refund their existing outstanding obligations that are linked to the current calculation of Building Aid support. The methodology used to determine how a School District's assumed amortization rate will be

reset will differ depending on the School District's refunding option. For those School Districts that financed on their own, the rate on all amortizations will be reset to the new statewide average rate. For those School Districts that originally financed through DASNY and plan to refund through DASNY, the Commissioner will reset the assumed amortization rate using the DASNY Rate achieved in the refunding of DASNY's Bonds. For those School Districts that originally financed through DASNY and do not take any action to refund or refinance on their own, the rate will be reset at the statewide average.

Given the options above, it is likely that School Districts who originally financed through DASNY may continue to choose to refund their bonds through DASNY to realign their debt service obligations with the Commissioner's reset of assumed amortization. The resulting reset of the DASNY Rate based on the interest rates accomplished through the refunding of these bonds is expected to result in savings to the State with the corresponding adjustment of Building Aid.

Conditions for Closing: The Master Resolution requires that a Series of bonds may only be delivered upon receipt of, in addition to the usual items, the following:

1. A Financing Agreement executed by each School District for whose benefit the bonds are being issued, including an assignment to DASNY of the School District's right to receive State aid to the full extent permitted by Chapter 383;
2. An agreement between DASNY, the State Education Department and the Office of the State Comptroller implementing the statutory intercept provisions contained in Chapter 383;
3. The full faith and credit bonds of each School District;
4. Certificates or other documents demonstrating compliance with the applicable provisions of the Education Law if the bond proceeds are being used to finance new projects; and
5. The Commissioner of Education's approval of the Financing Agreement.

SUMMARY: It is difficult to estimate the actual dollar amount of DASNY bonds that may be issued over time under the School District Revenue Bond Financing Program. Volume is often largely determined from year to year by the Assumed Interest Rate reset



annually by the Commissioner of Education and the fluctuations of the bond market above and below this rate.

Based on the expected demand, staff recommends the Board adopt the necessary documents to authorize the issuance of bonds of varying maturities not exceeding 31 years in an aggregate amount not to exceed \$750,000,000.

SCHOOL DISTRICTS REVENUE BOND FINANCING PROGRAM

The Letter from Bond Counsel will be transmitted to the Members under separate cover.