

**Application for Approval of Local Bond Financing -  
Pursuant to Minn. Stat. 469.152 – 469.1655**

*Please submit two copies of this form but only one copy of supporting documents requested on page 2.*

Name of Issuer (Municipality or Redevelopment agency): Duluth Economic Development Authority

Contracting Party (Non-Profit or Business Name): Affiliates of Benedictine Health System, d/b/a Benedictine

Industry and Service/Product: Senior Health Care and Housing

Project Location (street address, city/township, county – if outside city/township): See attached Exhibit A

Current Full-time and Part-time Jobs at Location: \_\_\_\_\_ FT Jobs \_\_\_\_\_ PT Jobs

New (not currently in Minnesota) Permanent Jobs Created by Project: 0 FT Jobs 0 PT Jobs

Expected Annual Wages of New Full-Time Jobs: N/A

Project Type (check one): \_\_\_\_\_ Education  Health Care \_\_\_\_\_ Waste/Green  
\_\_\_\_\_ Other (please describe) \_\_\_\_\_

Description of Project Financed by Bond Proceeds:

See attached Exhibit A

Dates of Construction (if applicable): 9/1/2023 to

Date Project Expected to be Operational: \_\_\_\_\_

Dollar Amount of Bonds Expected to be Issued: up to \$16,000,000

Expected Term: 18 years

Expected Interest Rate: \_\_\_\_\_ %

Bond Counsel: Mia E. Thibodeau of Fryberger, Buchanan, Smith & Frederick, P.A. Phone: 218-725-6873

E-mail: [mthibodeau@fryberger.com](mailto:mthibodeau@fryberger.com)

**Application for Approval of Local Bond Financing**  
**Pursuant to Minn. Stat. 469.152 – 469.1655**

The following exhibits must be furnished with this application:

- \_\_\_\_\_ An opinion of bond counsel that the proposal constitutes a project under Minn. Stat. 469.153, Subd. 2.
- \_\_\_\_\_ A copy of the resolution by the governing body of the Issuer giving preliminary or final approval for the issuance of its revenue bonds and stating that the project, except for a project under Minn. Stat. 469.153, Subd. 2(g) or (j), furthers the purposes of Minn. Stat. 469.152 – 469.165.
- \_\_\_\_\_ A letter of intent to purchase the bond issue or a letter confirming the feasibility of the project from a financial standpoint.
- \_\_\_\_\_ A comprehensive statement by the municipality indicating how the project satisfies the purposes of Minn. Stat. 469.152 - 469.165.
- \_\_\_\_\_ A statement signed by a representative of the Issuer that the project does not include any property to be sold or affixed to or consumed in the production of property for sale, and does not include any housing facility to be rented or used as a permanent residence.
- \_\_\_\_\_ A statement signed by a representative of the Issuer that a public hearing was conducted pursuant to Minn. Stat. 469.154, Subd. 4. The statement shall include the date, time and place of the meeting and certify that a draft copy of this application with all attachments was available for public inspection and that all interested parties were afforded an opportunity to express their views.
- \_\_\_\_\_ A statement signed by the principal representative of the issuing authority to the effect that upon entering into the revenue agreement, the information required by Minn. Stat. 469.154, Subd. 5 will be submitted to the Department (not applicable to projects under Minn. Stat. 469.153, Subd. 2(g) or (j)).
- \_\_\_\_\_ A plan for encouraging the targeting of employment opportunities to economically disadvantaged or unemployed individuals. (See Minn. Stat. 469.154, Subd. 7.) **The plan must indicate one or more specific steps that may include using employment offices (e.g., Minnesota Workforce Centers) for recruitment and placement, among other actions.**
- \_\_\_\_\_ Affidavit(s) of publication or copies of notice(s) as published which indicate the date(s) of publication and the newspaper(s) in which the notice(s) were published.

**Application for Approval of Local Bond Financing  
Pursuant to Minn. Stat. 469.152 – 469.1655**

We, the undersigned, are principal officer(s) or representative(s) of the Issuer  
and solicit DEED's approval of this project.

Signature	ChaQuana McEntyre, President
411 West First Street, Room 402	Duluth, MN 55802
Street Address	City, State and Zip
<a href="mailto:cmentyre@familyrisetogether.org">cmentyre@familyrisetogether.org</a>	September 27, 2023
E-Mail	Date
Signature	Ellie Just, Secretary
411 West First Street, Room 402	Duluth, MN 55802
Street Address	City, State and Zip
<a href="mailto:elliejust@gmail.com">elliejust@gmail.com</a>	September 27, 2023
E-Mail	Date

E-mail for the chief administrator or operating office of the issuer (municipality or redevelopment agency): [cronchetti@duluthmn.gov](mailto:cronchetti@duluthmn.gov) (Chad Ronchetti)

**DEED Approval**

Authorized Signature	Approval Date
<i>(Approval shall not be deemed to be an approval on the feasibility of the project or the terms of the revenue agreement to be executed or the bonds to be issued thereof.)</i>	

Send two copies of form and one copy of supporting documents noted on page 2 to:

Minnesota Department of Employment and Economic Development  
Jason Burak, Office of Business Finance  
1<sup>st</sup> National Bank Building  
332 Minnesota Street, Suite E200  
St. Paul, Minnesota 55101

E-mail: [jason.burak@state.mn.us](mailto:jason.burak@state.mn.us)

## EXHIBIT A

The Projects will finance the costs for the constructing, improving, renovating, furnishing and equipping of health care facilities at the locations indicated below:

Benedictine Living Community – New Brighton located at 1101 Black Oak Drive, New Brighton, Minnesota;

Benedictine Living Community – Regina located at 1175 Nininger Road, Hastings, Minnesota; and

Benedictine Living Community Winona located at 1347 West Broadway, Winona, Minnesota.

DRAFT

RESOLUTION NO. \_\_\_\_\_

RESOLUTION APPROVING THE ISSUANCE AND SALE OF HEALTH FACILITIES REVENUE BOND, SERIES 2023 (BENEDICTINE HEALTH SYSTEM)

BE IT RESOLVED, by the Board of Commissioners of the Duluth Economic Development Authority, as follows:

- Section 1. Definitions. The terms used in this resolution (1) have the meanings assigned below or (2) the meanings assigned to them in the Loan Agreement, unless the context, use, or the rules of grammar indicate another or differing meaning or intent:
- a. Act: Minnesota Statutes, Sections 469.152 through 469.165, as amended.
  - b. Assignment: the integral assignment to the Obligated Group Note to be endorsed by DEDA in favor of the Purchaser.
  - c. Authorized Officers: the President and Secretary of DEDA, or the deputy or acting designee of either of them.
  - d. Benedictine: Benedictine Health System, d/b/a Benedictine.
  - e. Board: the Board of Commissioners of DEDA, DEDA's governing body.
  - f. Bond Counsel: the law firm of Fryberger, Buchanan, Smith & Frederick, P.A.
  - g. Bond: DEDA's not to exceed \$16,000,000 Health Care Facilities Revenue Bond (Benedictine Health System), Series 2023A, whether one or more series.
  - h. City: the City of Duluth, Minnesota.
  - i. Code: the Internal Revenue Code of 1986, as amended.
  - j. DEDA: the Duluth Economic Development Authority.
  - k. DEDA Documents: the DEED Application, Loan Agreement and the Assignment.
  - l. DEED: the Minnesota Department of Employment and Economic Development.
  - m. DEED Application: the application submitted to DEED on behalf of DEDA, requesting approval of the proposal for the Projects and the issuance of the Bond financing the Projects.

- n. Documents: the DEDA Documents, the Obligor Documents and other documents required for the issuance of the Bond.
- o. Executive Director: the Executive Director of DEDA.
- p. Financing Purposes: making a loan to the Obligors for the purposes of financing the Projects, financing issuance costs of the Bond and funding debt service reserves for the Bond.
- q. Host Cities: together the Cities of Hastings, Winona and New Brighton, Minnesota.
- r. Loan Agreement: the Loan Agreement to be entered into between DEDA and the Obligated Group Agent.
- s. Master Indenture: the Master Trust Indenture dated July 1, 2021 among the Obligated Group Agent, the Obligated Group and the Master Trustee, as including supplemented and amended, by the Supplements.
- t. Master Trustee: U.S. Bank Trust Company, National Association, as master trustee under the Master Indenture.
- u. Obligated Group: affiliates of Benedictine, including without limitation, Benedictine Care Centers; Benedictine Health Center; Bridges Care Center; City of Lakes Care Center; Koda Living Community; Madonna Meadows of Rochester; Madonna Summit of Byron, LLC; Madonna Towers of Rochester, Inc.; Regina Senior Living; Saint Anne of Winona; St. Gertrude's Health Center; Steeple Pointe Senior Living Community; and Villa St. Vincent, and their successors and assigns.
- v. Obligated Group Agent: Benedictine, as obligated group agent under the Master Indenture.
- w. Obligated Group Note: the promissory note or notes issued by the Obligated Group Agent under the Master Indenture and the Supplemental Master Indenture to DEDA.
- x. Obligor Documents: the Loan Agreement, the Master Indenture, the Supplemental Master Indenture and the Obligated Group Note.
- y. Obligors: affiliates of Benedictine, including without limitation, Benedictine Care Centers; Benedictine Health Center; Bridges Care Center; City of Lakes Care Center; Koda Living Community; Madonna Meadows of Rochester; Madonna Summit of Byron, LLC; Madonna Towers of Rochester, Inc.; Regina Senior Living; Saint Anne of Winona; St. Gertrude's Health Center; Steeple Pointe Senior Living Community; and Villa St. Vincent, and their successors and assigns.

- z. Projects: the constructing, improving, renovating, furnishing and equipping of health care facilities located at: 1101 Black Oak Drive, New Brighton, Minnesota 55112, 1175 Nininger Road, Hastings, Minnesota 55033, and 1347 W. Broadway Street, Winona, Minnesota 55987.
- aa. Purchaser: Bremer Bank, National Association.
- bb. Registrar: bond registrar, paying agent, authenticating agent and transfer agent for the Bond.
- cc. Supplemental Master Indenture: Supplemental Master Indenture No. 6 to the Master Indenture to be entered into among the Obligated Group, the Obligated Group Agent, and the Master Trustee.
- dd. Supplements: the Supplemental Master Trust Indenture No. 1 dated July 1, 2021, Supplemental Master Trust Indenture No. 2 dated July 1, 2021, Supplemental Master Trust Indenture No. 3 dated July 1, 2021, Supplemental Master Trust Indenture No. 4 dated July 1, 2021, Supplemental Master Trust Indenture No. 5 dated July 1, 2021, and the Supplemental Master Indenture.
- ee. Tax Certificate: the certificate of the Obligors, in customary form prepared by Special Tax Counsel and approved as to form by Bond Counsel to demonstrate compliance with the conditions of the Code which allow for interest on the Bond to be excludable from the gross income of the owners of the Bond for federal income tax purposes (including any other bonds making up a single issue for federal income tax purposes).

Section 2. Summary of the Documents. Bond Counsel has provided the following information relating to the Documents:

- a. In the *Loan Agreement*, DEDA loans the proceeds of the Bond to the Obligors and the Obligors agree to repay the loan in the amounts and at the times required to pay the principal of, premium, if any, and interest on the Bond in full when due. In addition, the Loan Agreement contains provisions requiring the Obligors to pay the administrative and legal costs incurred by DEDA in connection with issuing the Bond and DEDA's administrative fee required for DEDA to issue the Bond. In addition, the Obligors agree and are obligated to indemnify, provide reports, and permit enforcement by DEDA of its rights under the Loan Agreement.
- b. The *Master Indenture* contains the terms and conditions precedent to the issuance of obligated group notes, including requirements that must be met for the Obligated Group to incur additional indebtedness.

- c. The *Supplemental Master Indenture* is authorized under the Master Indenture and is necessary to authorize issuance of the Obligated Group Note and to describe the terms of the Obligated Group Note.
- d. The Bond is proposed to be secured by the *Obligated Group Note* issued under the Master Indenture. The Obligated Group is jointly and severally liable for payment of all notes issued under the Master Indenture. The Obligated Group Note will be issued in a stated principal amount equal to the stated principal amount of the Bond and will bear interest at the rate or rates payable from time to time on the Bond.
- e. DEDA will execute an endorsement to the *Tax Certificate*, in customary form prepared by Bond Counsel to demonstrate compliance with the conditions required under the Code which allow interest on the Bond to be excludable from the gross income of the owners of the Bond for federal income tax purposes.

Section 3. Reliance. The Board has relied without independent investigation on written representations and opinions of the Obligor, its consultants and Bond Counsel that the Projects qualify as a “project” as defined in Sections 469.153, subdivision 2(d) and 469.155, subdivision 4 of the Act.

Section 4. Recitals Regarding Proceedings. The Board makes the following recitals of fact:

- a. Bond Counsel has informed the Board that:
  - i. a notice of public hearing by DEDA on the proposed issuance of the Bond and the proposal of the Obligors to undertake and finance the Projects was published in the *Duluth News Tribune*, DEDA’s official newspaper and a newspaper of general circulation; and
  - ii. a notice of public hearing on the proposed issuance of the Bond and the proposal of the Obligors to undertake and finance the Projects was published in the official newspaper of and newspaper of general circulation in each of the Host Cities; and
  - iii. each of the Host Cities, through its designated hearing officer, held or will hold a public hearing on the Projects and issuance of the Bond by DEDA, on the following dates: (i) New Brighton on September 26, 2023; (ii) Winona on October 2, 2023; and (iii) Hastings on October 2, 2023, and all persons in attendance wishing to speak on the proposed issuance of the Bond and the proposal of the Obligors to undertake and finance the Projects, if any, were or will be given an opportunity to do so.



- b. DEDA held a public hearing on the Projects and the financing thereof on September 27, 2023, and all persons in attendance wishing to speak on the proposed issuance of the Bond and the proposal of the Obligors to undertake and finance the Projects, if any, were given an opportunity to do so.
- c. Each of the Host Cities must consent to the issuance of the Bond by DEDA to finance the portion of the Projects located within its jurisdiction.
- d. Drafts of the forms of the Documents have been made available to this Board and are on file in the office of the Executive Director.

Section 5. Recitals Regarding the Obligors and the Projects. The Board makes the following recitals of fact:

- a. Bond Counsel has advised DEDA that:
  - i. the purpose of the Municipal Industrial Development Act, as found and determined by the legislature, is to promote the welfare of the State by the active promotion, attraction, encouragement and development of economically sound industry and commerce through governmental action to prevent, so far as possible, the emergence of blighted and marginal lands and areas of chronic unemployment;
  - ii. under the Act, DEDA is authorized and empowered to issue revenue obligations such as the Bond for the Financing Purposes.
- b. Factors necessitating the active promotion and development of economically sound industry and commerce are the increasing concentration of population in the metropolitan areas and the rapidly rising increase in the amount and cost of governmental services required to meet the needs of the increased population and the need for development of land uses which will provide an adequate tax base to finance these increased costs and access to employment opportunities for the area population.
- c. DEDA has been advised by representatives of the Obligors that: (i) each Obligor is a Minnesota nonprofit corporation or Delaware Limited Liability Company; (ii) each Obligor and each other member of the Obligated Group is an organization described in Section 501(c)(3) of the Code or treated as such under applicable federal law; (iii) each Obligor and its affiliates benefitted by the Bond are each engaged in Qualified Services and Activities; (iv) financing the capital cost of the Projects on a tax exempt basis will benefit their operations; (v) on the basis of information submitted to the Obligors and their discussions with representatives of area financial institutions and potential buyers of tax-exempt bonds, the

Bond could be issued and sold upon favorable rates and terms to finance and refinance the Projects; (vi) the Projects would not be undertaken, or refinanced, as applicable, in their present form but for the availability of financing under the Act; and (vii) no public official of DEDA has either a direct or indirect financial interest in the Projects nor will any public official either directly or indirectly benefit financially from the Projects.

- d. The Obligors have agreed to pay any and all costs incurred by DEDA in connection with the issuance of the Bond, whether or not the issuance is carried to completion.
- e. The Board has relied without independent investigation on written representations and opinions of the Obligors, its consultants, and Bond Counsel that each of the Projects qualify as a "project" as defined in Section 469.153, subdivision 2(d) of the Act.

Section 6. Findings. The Board finds, determines and declares as follows:

- a. The welfare of the State requires the provision of necessary health care and senior housing facilities so that adequate health care and senior housing services are available to residents of the State at reasonable cost.
- b. DEDA desires to facilitate the selective development of the State, retain and improve the tax base and help provide the range of services and employment opportunities required by the population. The Projects will assist DEDA in achieving those objectives; and enhance the image and reputation of the State.
- c. On the basis of information made available to DEDA by the Obligors, it appears, and DEDA finds, that: (i) the Projects constitute properties, used or useful in connection with a revenue producing enterprise providing health care or housing services; (ii) the Projects further the purposes stated in the Act; (iii) the Projects would not be undertaken but for the availability of financing and refinancing under the Act and the willingness of DEDA to furnish financing and refinancing; and (iv) the effect of the Projects, if undertaken, will be to: (A) encourage the development of economically sound industry and commerce, (B) assist in the prevention of the emergence of blighted and marginal land, (C) help prevent chronic unemployment, (D) provide the range of service and employment opportunities required by the population, (E) help prevent the movement of talented and educated persons out of the State where their services may not be as effectively used, (F) promote more intensive development and appropriate use of land within the State, eventually to increase the tax base of the State; and (G) provide adequate health care services to residents of the State at a reasonable cost.

Section 7. Approval of the Projects and the Bond. The Projects are approved. Issuance of the Bond for the Financing Purposes in an aggregate principal amount of not to exceed \$16,000,000 is approved and authorized, subject to the following:

- a. The Bond shall be sold to Purchaser, subject to satisfaction by the Obligors of the terms and conditions imposed by Purchaser as conditions precedent to the purchase of the Bond, the payment of the purchase price of the Bond by Purchaser to be conclusive proof of such satisfaction.
- b. The Bond is to be issued pursuant to the Act and the Loan Agreement. The Obligors are authorized to approve the final interest rate or rates on the Bond, subject to such adjustment as may be provided for in the Loan Agreement and the Bond, and upon the terms and conditions specified in this resolution, the Loan Agreement and the Bond. The Obligors are further authorized to approve the issue and delivery dates of the Bond. The Bond shall contain a recital that they are issued pursuant to the Act as conclusive evidence of their validity and of the regularity of their issuance. Subject to clause e., below, the Bond (i) is to be designated (which designation or designations shall supersede any designation or designations contained in Section 1), be dated, be in substantially the form, be signed, be in the denominations, have maturities and be subject to redemption as provided in the Loan Agreement and (ii) will bear interest at rates approved by the Obligors and be described and have such other details and provisions as specified in the Loan Agreement. The Bond will bear the designations set forth in the Loan Agreement.
- c. The purchase price of the Bond shall be par value. The maturity date of any of the Bond cannot exceed 40 years from the date of closing and delivery of the Bond.
- d. The Bond must be in substantially the form on file with DEDA, with appropriate variations, omissions and insertions permitted or required by this resolution, and as may be necessary and appropriate and approved by Bond Counsel and the Obligors. The Bond is incorporated by reference.
- e. The Authorized Officers, with advice of Bond Counsel, are authorized and directed to execute, acknowledge and deliver the Bond. The seal of DEDA may be omitted as allowed by law. The execution of the Bond by the Authorized Officers is conclusive evidence of approval of the Bond in accordance with the terms of this resolution.

Section 8. Approval and Execution of Documents and Certificates.

- a. The DEDA Documents, the endorsement to the Tax Certificate, and the Bond are made a part of this resolution and are approved in substantially the forms on file with DEDA.
- b. The Authorized Officers (individually or with one or more other officers and members of DEDA) are authorized and directed:
  - i. to execute, acknowledge and deliver the DEDA Documents, the endorsement to the Tax Certificate, and the Bond on behalf of DEDA with such changes, insertions and omissions therein as DEDA's attorney or Bond Counsel may hereafter approve; provided that the seal of DEDA may be omitted as allowed by law;
  - ii. to execute and deliver all other documents which may be required under the terms of the DEDA Documents or the Bond or by Bond Counsel;
  - iii. to take any other action required or deemed appropriate on the advice of Bond Counsel for the performance of DEDA's duties necessary to carry out the purposes of the Bond and the DEDA Documents;
  - iv. furnish certified copies of this resolution, all proceedings and records of DEDA relating to the Bond, and any other affidavits and certificates required, in the opinion of Bond Counsel, to show the facts relating to DEDA respecting the Bond, as the facts appear from the books and records in DEDA's custody and control or as otherwise known to them; and
  - v. upon the advice of Bond Counsel, to take such further action, including without limitation holding any additional hearings and coordinating additional approvals, and to execute such additional instruments, as may be required or deemed appropriate at any time in the future in connection with the Bond and the Projects, including further actions in connection with any refinancing or reissuance in whole or in part thereof, and in connection with any federal tax law remedial actions related to sales, leases or other dispositions or uses of all or any part of the Projects and related changes to uses and allocations of proceeds of tax-exempt obligations.
- c. The execution by the Authorized Officers of the DEDA Documents is conclusive evidence of their approval in accordance with the terms of this resolution.

- d. The Obligors' Documents are accepted in substantially the forms on file with DEDA.

Section 9. Bond Registrar and Paying Agent. DEDA appoints its Secretary, as registrar and paying agent for the Bond.

Section 10. Offering and Disclosure Materials. DEDA has not participated in the preparation of any offering materials relating to the Bond and has made no independent investigation with respect to any matters which may be disclosed in such offering materials.

Section 11. Future Amendments.

- a. After the adoption of this resolution, but prior to the issuance and delivery of the Bond, the original aggregate principal amount of the Bond, the maturity date of the Bond, the principal amount of the Bond due on each payment date, the date of the documents referenced in this resolution and the Bond, and the terms of redemption of the Bond may be established or modified by the Obligors with the approval of the Authorized Officers; provided that the aggregate principal amount of the Bond may not be increased from the amounts set forth in this resolution.
- b. The authority to approve, execute and deliver, on behalf of DEDA, future amendments to the Loan Agreement are delegated to the Authorized Officers, subject to the conditions established in the Loan Agreement; provided that the Board must approve any changes which, in the opinion of Bond Counsel affect the Unassigned Issuer Rights, as defined in the Loan Agreement.
- c. The authorization given above is an authorization for the execution and delivery of any certificates and related items required to demonstrate compliance with the agreements being amended and the terms of this resolution. The execution of any instrument by one or more of the Authorized Officers is conclusive evidence of the approval in accordance with the terms of this resolution.

Section 11. Limitations.

- a. *Limitation on Payment and Nature of Security.* The revenues and proceeds derived from the DEDA Documents are specifically pledged to the payment of the principal of and interest on the Bond in the manner and to the extent specified in this resolution, the Bond and the Documents; and nothing in this resolution, the Bond and the Documents assigns, pledges or otherwise encumbers any other funds or assets of DEDA. The Bond does not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of DEDA, except the portion of the Projects mortgaged or otherwise encumbered under the provisions and for the purposes of the

Act. Notwithstanding anything contained in the resolution, the Bond or the Documents or any other document referred to in the resolution, the Bond or the Documents to the contrary, under the provisions of the Act, the Bond may not be payable from nor charged upon any funds other than the revenue pledged to its payment under the DEDA Documents. No holder of the Bond will ever have the right to compel any exercise of the taxing power of DEDA to pay the Bond or the interest thereon, or to enforce payment of the Bond against any property of DEDA except the portion of the Projects mortgaged or otherwise encumbered under the provisions and for the purpose of the Act. The Bond is not a debt of DEDA within the meaning of any constitutional or statutory limitation. However, nothing impairs the rights of the holder of the Bond to enforce covenants made for the security of the Bond.

- b. *Limitation of Liability.* DEDA is not subject to any liability on the Bond. No agreement, covenant or obligation contained in this resolution or in the Documents is an agreement, covenant or obligation of any member of the Board, or of any officer, employee or agent of DEDA in that person's individual capacity. Neither the members of the Board, nor any officer executing the Bond or the Documents, is liable personally on the Bond or subject to any personal liability or accountability by reason of the issuance of the Bond or execution of the Documents.
- c. *Limitation on Rights Conferred.* Nothing in this resolution or in the Documents will or is intended to be construed to confer upon any person (other than as provided in the Bond, the DEDA Documents, and the other agreements, instruments and documents by approved in this resolution) any right, remedy or claim, legal or equitable, under and by reason of this resolution or any provision of this resolution.

Section 12. Conditions Precedent. The Bond shall not be delivered until the following conditions have been satisfied:

- a. each of the Host Cities has consented to the issuance by DEDA of the portions of Bond issued to finance the portion of the Projects located in its jurisdiction; and
- b. the Obligor has agreed in writing to pay DEDA its administrative fee in the amount of  $\frac{1}{4}$  of 1% of the stated principal amount of the Bond.
- c. the Projects and the issuance of a portion of the Bond therefor are approved by DEED; and
- d. the Projects and the issuance of the Bond is approved by the Mayor of the City, in a separate writing.

Section 13. 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.

Section 14. Effective Date. This resolution shall take effect immediately.

Approved by the Duluth Economic Development Authority this 27<sup>th</sup> day of September, 2023.

ATTEST:

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Executive Director

STATEMENT OF PURPOSE: This resolution authorizes the issuance of tax-exempt bonds by DEDA (the "Bonds") to finance improvements to health care facilities owned and operated by Benedictine Health System, d/b/a Benedictine or one or more of its affiliates located in the Cities of Hastings, New Brighton and Winona, Minnesota.

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# FRYBERGER

— LAW FIRM —

September \_\_\_, 2023

Commissioner  
Minnesota Department of Employment and  
Economic Development  
332 Minnesota Street, Suite E200  
St. Paul, MN 55101-1351

**Re: *Duluth Economic Development Authority  
Revenue Bond (Benedictine Health System), Series 2023***

We have reviewed a resolution adopted by the governing body of the Duluth Economic Development Authority (the "Issuer"), on September 27, 2023, entitled "Resolution Approving the Issuance of a Revenue Bond (Benedictine Health System), Series 2023" (the "Resolution"), relating to a proposal that the Issuer issue its revenue bonds or revenue note under Minnesota Statutes, Sections 469.152 through 469.165, as amended (the "Act"), to finance capital projects (the "Projects") on behalf of affiliates of Benedictine Health System, d/b/a Benedictine, a Minnesota nonprofit corporation, that comprise an obligated group (the "Obligors").

On the basis of our review of the Resolution and preliminary discussions with representatives of the Obligors as to the nature of the Projects and its proposed financing by the Issuer, as of the date of this letter, it is our opinion that the Projects constitute "projects" within the meaning of Section 469.153, Subd. 2 of the Act, and that the Issuer is authorized, assuming further proceedings are taken in accordance with the provisions of the Act and any other applicable state and federal law, to issue its revenue note as proposed in the Resolution.

It is further our opinion, based on our review and preliminary discussions described above, that the revenue obligations to be issued by the Issuer would constitute "qualified 501(c)(3) bonds" pursuant to Section 145 of the Internal Revenue Code of 1986, as amended (the "Code"), which are not subject to the volume cap imposed by Section 146 of the Code. Therefore, an allocation is not required under Minnesota Statutes, Chapter 474A.

Respectfully submitted,

Fryberger, Buchanan, Smith & Frederick, P.A.

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FRYBERGER, BUCHANAN, SMITH & FREDERICK, P.A.

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CLOQUET  
813 Cloquet Ave.  
Cloquet, MN 55720  
p: (218) 879-6830

DULUTH  
302 West Superior St.  
Ste 700  
Duluth, MN 55802  
p: (218) 722-0861

SUPERIOR  
1409 Hammond Ave., Suite 330  
Superior, WI 54880  
p: (715)392-7405

ST. PAUL  
c/o 302 West Superior St.  
Ste 700  
Duluth, MN 55802  
p: (651)221-1044

fryberger.com



**STATEMENT CONCERNING A PROPOSED PROJECT  
UNDER MINNESOTA STATUTES, SECTIONS 469.152 THROUGH 469.1655**

The undersigned, being the duly qualified and acting President of the Duluth Economic Development Authority, St. Louis County, Minnesota (the "Issuer"), certifies that the governing body of the Issuer has been provided by Benedictine Health System, d/b/a Benedictine, a Minnesota nonprofit corporation, that has caused certain of its affiliates to form an obligated group (the "Obligors"), or its representatives, with certain information concerning a proposed Projects under the Minnesota Municipal Industrial Development Act, Minnesota Statutes, Sections 469.152 through 469.165, as amended (the "Act"). On the basis of such information the Issuer, by resolution adopted September 27, 2023, has given approval to the proposed projects and their financing by the issuance of a revenue obligation or obligations of the Issuer. The following are factors considered by the governing body of the Issuer in determining to give preliminary approval to said projects:

1. The projects (the "Projects") are described in Exhibit A to the *Minnesota Department of Employment and Economic Development, Application for Approval of Local Bond Financing – Pursuant to Minn. Stat. 469.152 – 469.1655*, dated September 27, 2023, submitted for the projects by the Issuer (the "Application"). The Obligors intend to finance the Projects through the use of tax-exempt obligations issued by the Issuer.

2. Fryberger, Buchanan, Smith & Frederick, P.A., bond counsel for the Projects, is of the opinion that the Projects constitute "projects" within the meaning of Minnesota Statutes, Section 469.153, Subd. 2.

3. Based on the representations of the Obligors, it is the opinion of the governing body of the Issuer that the Projects, when completed, will provide necessary facilities so that adequate health care services are available to area residents at a reasonable cost.

4. The number of current full-time and part-time jobs at the Projects locations and new (not currently in Minnesota) permanent jobs created by the Projects are indicated in the Application. The governing body of the Issuer believes that the existence of the Projects within the jurisdiction of the Issuer will help prevent chronic unemployment and the movement of talented and educated persons out of the state, or to areas within the state where these services may not be as effectively used and provide services needed by the residents of the Issuer.

5. The Issuer will, upon entering into a revenue agreement, comply with the requirements of Minnesota Statutes, Section 469.154, Subd. 5.

6. Based on representations of the Obligors as to the nature of the Projects, the Projects do not include any property to be sold or affixed to or consumed in the production of property for sale, and does not include any housing facility to be rented or used as a permanent residence.

7. On September 27, 2023, at 5:15 p.m., the Board of Commissioners of the Issuer conducted a public hearing pursuant to Minnesota Statutes, Section 469.154, Subd.

4, to consider the proposal that the Issuer undertake and finance the Projects. A draft copy of the Application with all attachments was available on the Issuer's website and otherwise made available for public inspection. All interested parties were afforded an opportunity to express their views.

Dated: September 27, 2023.

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President

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**[Bremer Bank Stationery]**

\_\_\_\_\_, 2023

Commissioner  
Minnesota Department of Employment and  
Economic Development  
332 Minnesota Street, Suite E200  
St. Paul, MN 55101-1351

Duluth Economic Development Authority  
411 West First Street, Room 402  
Duluth, MN 55802

Fryberger, Buchanan, Smith & Frederick, P.A.  
302 West Superior Street, Suite 700  
Duluth, MN 55802

At the request of Benedictine Health System, d/b/a Benedictine, a Minnesota nonprofit corporation, that has caused certain of its affiliates to form an obligated group (the "Obligors"), we have undertaken a study of the financing required to facilitate the Obligors' financing the cost of the projects described in Exhibit A to the Minnesota Department of Employment and Economic Development, Application for Approval of Local Bond Financing – Pursuant to Minn. Stat. 469.152 – 469.1655, dated September 27, 2023, submitted for the projects on behalf of the Duluth Economic Development Authority. This financing will be referred to as the Duluth Economic Development Authority Revenue Bond (Benedictine Health System), Series 2023.

On the basis of our review and the Obligor's current financial information, we have agreed to purchase the revenue obligations of the Duluth Economic Development Authority, subject to Obligor's compliance with certain conditions precedent.

Sincerely,

BREMER BANK, NATIONAL ASSOCIATION

By \_\_\_\_\_  
Its \_\_\_\_\_

**[Bremer Bank Stationery]**

\_\_\_\_\_, 2023

Commissioner  
Minnesota Department of Employment and  
Economic Development  
332 Minnesota Street, Suite E200  
St. Paul, MN 55101-1351

Duluth Economic Development Authority  
411 West First Street, Room 402  
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Sincerely,

BREMER BANK, NATIONAL ASSOCIATION

By \_\_\_\_\_  
Its \_\_\_\_\_

**[Benedictine Health System, d/b/a Benedictine Stationery]**

\_\_\_\_\_, 2023

President and Board of Commissioners  
Duluth Economic Development Authority  
411 West First Street, Room 402  
Duluth, MN 55802

**Re: *Duluth Economic Development Authority  
Revenue Bond (Benedictine Health System), Series 2023***

Dear President and Board of Commissioners:

Benedictine Health System, d/b/a Benedictine, is a Minnesota nonprofit corporation that has caused certain of its affiliates to form an obligated group (the "Obligors") that will be obligated to repay the above-referenced obligations (the "Obligations"). Benedictine, in the exercise of its reserved powers with respect to each of its affiliates, is authorized to provide the representations in this letter on behalf of the Obligors. The undersigned has been informed that Minnesota Statutes, Section 469.154, subdivision 7 (the "Act"), encourages beneficiaries of financing mechanisms such as the Obligations to target employment opportunities to qualified individuals who are unemployed or economically disadvantaged as defined in the federal Job Training Partnership Act of 1982, Statutes at Large, volume 96, page 1322.

The Obligors plan to implement one or more of the following specific steps to meet the requirements of the Act:

- utilize a Minnesota Workforce Centers to recruit and place disadvantaged individuals;
- utilize, where possible, vendors identified by the Office of State Procurement as a Targeted Group/Economically Disadvantaged/Veteran Owned (TG/ED/VO); and
- work to identify and establish relationships with local service agencies to promote hiring of economically disadvantaged or unemployed individuals.

The Obligors understand that indication of its plan for targeting employment opportunities to qualified individuals who are unemployed or economically disadvantaged as described above is a condition to approval by the Department of Employment and Economic Development ("DEED") of financing the proposed projects. We have been informed that the approval of DEED is required by Minnesota Statutes, Section 469.154, subdivision 3.

It further is the plan of the Obligors to provide the reports to DEED required by the Act or other laws of the State of Minnesota.

BENEDICTINE HEALTH SYSTEM

By \_\_\_\_\_