

**RESOLUTION AUTHORIZING THE AGENCY TO ENTER INTO A
SECOND SUPPLEMENTAL INDENTURE
IN CONNECTION WITH THE AGENCY'S
MULTIFAMILY HOUSING REVENUE BONDS
(THE CEDARS APARTMENTS PROJECT) SERIES 2015**

A regular meeting of the Town of Montgomery Industrial Development Agency (the "Agency") was convened by video conference in accordance with the State of Emergency declared by the Town's Supervisor and Governor Cuomo's Executive Order Nos. 202.1 and 202.15 on November 23, 2020 at 3:00 o'clock p.m., local time.

The meeting was called to order by the Chairperson of the Agency and, upon roll being called, the following members of the Agency were:

PRESENT:

Jeffrey D. Crist	Chairperson
John W. Dickson	Second Vice Chairperson
Matthew P. Stoddard	Treasurer
Robert Santo	Member
Randi Picarello	Member
Thomas Jones	Member

ABSENT:

Edwin Williams	First Vice Chairperson
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AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Conor Eckert	Executive Director
Suzanne Hadden	Secretary
Robert J. McLaughlin, Esq.	Agency Counsel

The following resolution was offered by John W Dickson, seconded by Matthew P. Stoddard, to wit:

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WHEREAS, Town of Montgomery Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 527 of the 1971 Laws of New York, as amended, constituting Section 911-c of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of commercial, manufacturing and industrial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct and install one or more "projects" (as defined in the Act) or to cause said projects to be acquired, constructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, the Enabling Act further authorizes each such agency to lease and sell any or all of its facilities on such terms and conditions as it deems advisable, to issue its bonds for the purpose of carrying out any of its corporate purposes and, as security for the payment of the principal and redemption price of, and interest on, any such bonds so issued and any agreements made in connection therewith, to mortgage any or all of its facilities and to pledge the revenues and receipts from its facilities or from the sale thereof to secure the payment of such bonds and interest thereon; and

WHEREAS, Walden Preservation, L.P. (the "Borrower") submitted an application (the "Application") to the Agency (the "Issuer"), a copy of which Application is on file at the office of the Issuer, which Application requested that the Issuer consider undertaking a project (the "Project") for the benefit of the Borrower, said Project consisting of the following: (A)(1) the acquisition of certain parcels of land containing approximately 5.33 acres located at 400 Cliff Street and 55 Main Street in the Village of Walden, Town of Montgomery, Orange County, New York (the "Land") together with the five existing housing buildings containing 89 apartments totaling approximately 80,000 square feet (the "Facility"), (2) the renovation of the Facility, and (3) the acquisition and installation therein and thereon of machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment hereinafter collectively referred to as the "Project Facility"); (B) the financing of all or a portion of the costs of the foregoing by the issuance of tax-exempt revenue bonds of the Issuer in one or more issues in an aggregate principal amount sufficient to pay the cost of undertaking the Project, together with necessary incidental costs in connection therewith presently estimated to be approximately \$7,600,000 and in no event to exceed \$8,500,000 (the "Obligations"); (C) the granting of certain other "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law, such law being referred to hereinafter as the "Act") with respect to the foregoing, including exemption from certain sales taxes, deed transfer taxes, mortgage recording taxes and real property taxes (collectively with the Obligations, the "Financial Assistance"); and (D) the lease (with an obligation to purchase) or sale of the Project Facility to the

Borrower or such other person as may be designated by the Borrower and agreed upon by the Issuer; and

WHEREAS, Pursuant to the authorization contained in the Preliminary Inducement Resolution, the Chief Executive Officer of the Issuer (A) established the time, date and place for a public hearing of the Issuer (the "Public Hearing") pursuant to Section 859-a of the Act and Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), to hear all persons interested in the nature and location of the Project Facility and the issuance of the Obligations, said Public Hearing to be held in a city, town or village where the Project Facility is or is to be located; (B) caused the Public Hearing Notice to be posted at offices of the Issuer, (C) caused the Public Hearing Notice to be published in the Wallkill Valley Times, a newspaper of general circulation available to the residents of the Town of Montgomery, New York, (D) caused the Public Hearing Notice to be mailed on February 26, 2015 to the chief executive officer of the county and of each city, town, village and school district in which the Project Facility is or is to be located; (E) conducted the Public Hearing on March 16, 2015 at 5:30 o'clock p.m., local time at the offices of the Issuer located at 110 Bracken Road in the Town of Montgomery, Orange County, New York; (G) caused a report of the Public Hearing fairly summarizing the views presented at such Public Hearing (the "Report") to be prepared; (H) caused a copy of the Report to be made available to the members of the Issuer and (I) caused a copy of the Report to be made available to the Town Board of the Town of Montgomery, New York (the "Town Board"); and

WHEREAS, Pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), by resolution adopted by the members of the Issuer on May 11, 2015 (the "SEQR Resolution"), the Issuer determined that the Project constituted a "Type II action" (as such quoted term is defined under SEQRA), and therefor that no further action with respect to the Project was required under SEQRA; and

WHEREAS, by resolution adopted by the members of the Issuer on May 11, 2015 (the "SEQR Resolution"), the Issuer determined that the Project constituted a "Type II action" (as such quoted term is defined under SEQRA), and therefor that no further action with respect to the Project was required under SEQRA; and

WHEREAS, by resolution of the members of the Town Board adopted on June 11, 2015 (the "Public Approval"), the Town Board approved the issuance of the Bonds for purposes of Section 147(f) of the Code; and

WHEREAS, the Issuer issued its Multifamily Housing Revenue Bonds (The Cedars Apartments Project), Series 2015 in the aggregate principal amount of \$7,600,000 (the "Bonds") on July 16, 2015 for the purpose of financing a portion of the costs of the Project; and

WHEREAS, the Bonds were issued under a resolution adopted by the members of the Issuer on May 11, 2015 (the "Bond Resolution") and a trust indenture dated as of July 1, 2015 by and between the Issuer and Wells Fargo Bank, National Association (the "Bond Owner Representative"); and

WHEREAS, prior to or simultaneously with the issuance of the Bonds, (A) the Company and the Issuer executed and delivered a certain lease agreement (the "Underlying Lease"), pursuant to which the Company agreed to lease the Land and the Facility to the Issuer for a term ending as set forth in the Installment Sale Agreement (as defined below), (B) the Company executed and delivered (1) a bill of sale dated as of July 1, 2015 (the "Bill of Sale to Issuer") from the Company to the Issuer, pursuant to which the Company conveyed to the Issuer the Company's interest in the portion of the Project Facility constituting fixtures and other personal property, and (C) the Issuer executed and delivered (1) an

installment sale agreement dated as of July 1, 2015 by and between the Issuer and the Company (the "Installment Sale Agreement") and (2) certain other documents related to the Project and to the Bonds (collectively with the Indenture and the Installment Sale Agreement, the "Financing Documents"); and

WHEREAS, pursuant to the terms of the Installment Sale Agreement, (A) the Company agreed (1) to cause the Project to be undertaken and completed, (2) as agent of the Issuer, to undertake and complete the Project, (3) to purchase the Project Facility from the Issuer, and (4) to make certain installment purchase payments to or upon the order of the Issuer as the purchase price for the Project Facility, which installment purchase payments include amounts sufficient to make the debt service payments due on the Bonds, and (B) the Issuer agreed to (1) undertake the Project, (2) appoint the Company as agent of the Issuer to undertake and complete the Project, and (3) sell the Project Facility to the Company; and

WHEREAS, pursuant to the terms of the Indenture, the net proceeds of the sale of the Bonds (the "Bond Proceeds") were deposited into various trust funds held by the Bond Owner Representative under the Indenture and were to be disbursed by the Bond Owner Representative from time to time to pay the costs of the Project; and

WHEREAS, as security for the Bonds, the Issuer executed and delivered to the Bond Owner Representative a pledge and assignment dated as of July 1, 2015 (the "Pledge and Assignment") from the Issuer to the Bond Owner Representative, which Pledge and Assignment assigned to the Bond Owner Representative, for the benefit of the Purchaser, certain of the Issuer's rights under the Installment Sale Agreement; and

WHEREAS, pursuant to the Pledge and Assignment, installment purchase payments made by the Company under the Installment Sale Agreement are paid directly to the Bond Owner Representative; and

WHEREAS, to further secure the Bonds, the Company and the Issuer executed and delivered to the Bond Owner Representative (A) an acquisition loan mortgage with absolute assignment of leases and rents, security agreement and fixture filing, dated as of July 1, 2015 (the "Acquisition Loan Mortgage"), (B) a building loan mortgage with absolute assignment of leases and rents, security agreement and fixture filing, dated as of July 1, 2015 (the "Building Loan Mortgage") and (C) a project loan mortgage with absolute assignment of leases and rents, security agreement and fixture filing, dated as of July 1, 2015 (the "Project Loan Mortgage", collectively with the Acquisition Loan Mortgage and the Building Loan Mortgage, the "Mortgage") which granted to the Bond Owner Representative a mortgage lien on and security interest in the Project Facility and which assigned to the Bond Owner Representative all leases affecting the Project Facility and the rents payable thereunder; and

WHEREAS, the Company's obligations under the Installment Sale Agreement are further secured by a guaranty (acquisition), a guaranty (building loan) and a guaranty (project loan), each dated as of July 1, 2015 (collectively, the "Company Guaranty") and each from the Company to the Bond Owner Representative; and

WHEREAS, the Bonds were initially purchased by Wells Fargo Municipal Capital Strategies, LLC (the "Purchaser") pursuant to a continuing covenants agreement dated as of July 1, 2015 (the "Continuing Covenants Agreement") by and between the Purchaser and the Company; and

WHEREAS, the Company agreed to certain covenants for the benefit of the Purchaser pursuant to the Continuing Covenants Agreement; and

WHEREAS, pursuant to a notification of allocation adjustment dated July 10, 2015 from

NYSDDED (the "Volume Cap Notice"), NYSDDED notified the Issuer that the Issuer has been allocated sufficient Volume Cap to permit issuance of the Bonds; and

WHEREAS, to demonstrate compliance with the provisions of the Code relating to the issuance of tax-exempt obligations, (A) the Issuer (1) executed an arbitrage certificate dated the date of delivery of the Bonds (the "Arbitrage Certificate") relating to certain requirements set forth in Section 148 of the Code relating to the Bonds, (2) executed a completed Internal Revenue Service Form 8038 (Information Return for Private Activity Bonds) relating to the Bonds (the "Information Return") pursuant to Section 149(e) of the Code, and (3), upon receipt from NYSDDED of the certification required by Section 149(e)(2)(F) of the Code (the "Volume Cap Certificate"), filed the Information Return with the Internal Revenue Service (the "IRS"), (B) the Company executed (1) a land use restriction agreement dated as of July 1, 2015 (the "Land Use Restriction Agreement") relating to the requirements in Section 142 of the Code, and (2) a tax regulatory agreement dated the Closing Date (the "Tax Regulatory Agreement") relating to the requirements in Sections 142, 146, 147, 148 and 149 of the Code, and (C) the Purchaser executed a letter (the "Issue Price Letter") confirming the issue price of the Bonds on the Closing Date for purposes of Section 148 of the Code; and

WHEREAS, simultaneously with the issuance of the Bonds, (A) the Issuer executed and delivered to the Company a sales tax exemption (the "Sales Tax Exemption Letter") to ensure the granting of the sales tax exemption which forms a part of the Financial Assistance and (B) the Issuer filed with the New York State Department of Taxation and Finance the form entitled "IDA Appointment of Project Operator or Agent for Sales Tax Purposes" (the form required to be filed pursuant to Section 874(9) of the Act) (the "Thirty-Day Sales Tax Form"); and

WHEREAS, in connection with a contemplated securitization of the Bonds, the Bond Owner Representative requested amendments to certain provisions of the Indenture; and

WHEREAS, the Purchaser of the Bonds consented to a Supplemental Indenture and the execution of a replacement Bond; and

WHEREAS, Bond Counsel to the Issuer reviewed the proposed Supplemental Indenture and advised the Issuer that the amendments to the Indenture proposed by the Bond Owner Representative in the Supplemental Indenture dated as of August 1, 2020 were permitted under Article VIII of the Indenture; and

WHEREAS, the Agency adopted a resolution dated August 11, 2020 authorizing the Chair, Vice Chair and/or Executive Director to execute the Supplemental Indenture and replacement Bond; and

WHEREAS, on or about September 15, 2020, the Chair executed the Supplemental Indenture and replacement Bond and provided the same to the Bond Owner Representative; and

WHEREAS, in connection with the contemplated securitization of the Bonds, the Bond Owner Representative requested additional amendments to certain provisions of the Indenture; and

WHEREAS, the Purchaser of the Bonds has consented to a Second Supplemental Indenture in the form placed before the Agency at this meeting; and

WHEREAS, Bond Counsel to the Issuer has reviewed the proposed Second Supplemental Indenture and advised the Issuer that the amendments to the Indenture proposed by the Bond Owner Representative in the Second Supplemental Indenture to be dated as of November 1, 2020 are permitted under Article VIII of the Indenture.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN OF MONTGOMERY INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. The Agency hereby (i) consents to the provisions of the Second Supplemental Indenture placed before the Agency at this meeting and (ii) authorizes the execution of the Second Supplemental Indenture and related documents in substantially the form attached to this Resolutions as **Exhibit A** and (iii) further authorizes the Chair, Vice Chair and/or the Executive Director of the Agency to execute and deliver for recording, as applicable, any and all documents necessary and incidental to the Second Supplemental Indenture.

Section 2. This Resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to vote on roll call, which resulted as follows:

Jeffrey D. Crist	VOTING	YES
Edwin Williams	VOTING	ABSENT
John W. Dickson	VOTING	YES
Matthew P. Stoddard	VOTING	YES
Robert Santo	VOTING	YES
Randi Picarello	VOTING	ABSTAIN
Thomas Jones	VOTING	YES

The foregoing resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

I, the undersigned Secretary of Town of Montgomery Industrial Development Agency (the "Agency"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency held on November 19, 2020 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed, or rescinded.

nd IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this
3 day of ~~November~~ 2020.
December

Suzanne Hadden
Secretary

(SEAL)