

CLOSING ITEM NO.: A-1

WALDEN PRESERVATION, L.P.,
AS LANDLORD

AND

TOWN OF MONTGOMERY
INDUSTRIAL DEVELOPMENT AGENCY,
AS TENANT

UNDERLYING LEASE

DATED AS OF JULY 1, 2015

RELATING TO A LEASEHOLD INTEREST IN CERTAIN PARCELS
OF LAND (THE "LAND") LEASED BY THE LANDLORD AND
LOCATED AT 400 CLIFF STREET AND 55 MAIN STREET IN THE
VILLAGE OF WALDEN, TOWN OF MONTGOMERY, NEW YORK.

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and is for convenience of reference only.)

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UNDERLYING LEASE

THIS UNDERLYING LEASE dated as of July 1, 2015 (the “**Underlying Lease**”) by and between WALDEN PRESERVATION, L.P. (the “**Company**”), a limited partnership organized and existing under the laws of the State of New York having an office for the transaction of business located at 60 Columbus Circle, Floor 20, New York, New York, as landlord, and TOWN OF MONTGOMERY INDUSTRIAL DEVELOPMENT AGENCY (the “**Issuer**”), a public benefit corporation of the State of New York (the “State”) having an office for the transaction of business located at 110 Bracken Road, Montgomery, New York, as tenant;

WITNESSETH:

WHEREAS, the Issuer is authorized and empowered by the provisions of Chapter 1030 of 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 524 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 manufacturing and commercial 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 Issuer is authorized and empowered under the Act to issue its revenue bonds to finance the cost of the acquisition, reconstruction and installation of one or more “projects” (as defined in the Act), to acquire, construct and install said projects or to cause said projects to be acquired, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, the Company submitted an application (the “**Application**”) to 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 Company, 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**” or the “**Mortgaged Property**”); (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 “**Bonds**”); (C) the granting of certain other “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including exemption from certain sales taxes, deed transfer taxes, and mortgage recording taxes (collectively with the Bonds, the “**Financial Assistance**”); and (D) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person or entity as may be designated by the Company and agreed upon by the Issuer; and

WHEREAS, pursuant to the authorization contained in a resolution of the Issuer adopted by the members of the Issuer on February 19, 2015 (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, 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 will now issue its Multifamily Housing Revenue Bonds (The Cedars Apartments Project), Series 2015 in the aggregate principal amount of \$7,600,000 (the “**Bonds**”) for the purpose of financing a portion of the costs of the Project; and

WHEREAS, the Bonds are to be 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, as Bond Owner Representative (the “**Bond Owner Representative**”); and

WHEREAS, prior to or simultaneously with the issuance of the Bonds, (A) the Company and the Issuer will execute and deliver this Underlying Lease, pursuant to which the Company has agreed to lease the Land and the Facility to the Issuer for a term ending on the completion of the Project, (B) the Company will execute and deliver (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 will convey to the Issuer the Company’s interest in the portion of the Project Facility constituting fixtures and other personal property, and (C) the Issuer will execute and deliver (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 will agree (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 shall include amounts equal to the debt service payments due on the Bonds, and (B) the Issuer will agree 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”) will be deposited into various trust funds held by the Bond Owner Representative under the Indenture and will be disbursed by the Bond Owner Representative from time to time to pay the costs of the Project, but only upon satisfaction of the requirements for making such disbursements set forth the Indenture and in the Installment Sale Agreement; and

WHEREAS, as security for the Bonds, the Issuer will execute and deliver 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 will assign 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 this Installment Sale Agreement are to be paid directly to the Bond Owner Representative; and

WHEREAS, to further secure the Bonds, the Company and the Issuer will execute and deliver 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 grant to the Bond Owner Representative a mortgage lien on and security interest in the Project Facility and which assign 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 will be 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 will be initially purchased by Wells Fargo Municipal Capital Strategies Group, 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 consented to by the Issuer; and

WHEREAS, the Bonds will be issued as “book-entry-only” obligations to be held by The Depository Trust Company, as depository (the “**Depository**”) for the Bonds, and, to comply with the requirements of the Depository, the Issuer and the Bond Owner Representative will execute and deliver to the Depository a letter of representations (the “**Depository Letter**”) relating to the Bonds; and

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

WHEREAS, pursuant to Section 146 of the Code, the Issuer has previously applied to the New York Department of Economic Development (“**NYSDDED**”) for an allocation of private activity bond volume cap (“**Volume Cap**”) for the Bonds; and

WHEREAS, pursuant to a notification of allocation adjustment dated July 10, 2015 from NYSDDED (the “**Volume Cap Notice**”), NYSDDED has 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 will (1) execute 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) execute 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**”), file the Information Return with the Internal Revenue Service (the “**IRS**”), (B) the Company will execute (1) a land use restriction agreement dated as of July 1, 2015 (the “**Land Use Restriction Agreement**”) relating to the requirements in Sections 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 will execute 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 will execute and deliver 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 will file 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, all things necessary to constitute this Underlying Lease a valid and binding agreement; by and between the parties hereto in accordance with the terms hereof have been done and performed, and the creation, execution and delivery of this Underlying Lease have in all respects been duly authorized by the Issuer and the Company;

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE LEASED PREMISES AND THE MUTUAL COVENANTS HEREINAFTER CONTAINED, THE PARTIES HERETO HEREBY FORMALLY COVENANT, AGREE AND BIND THEMSELVES AS FOLLOWS TO WIT:

ARTICLE I

DEFINITIONS

SECTION 1.1 DEFINITIONS. All of the capitalized terms used in this Underlying Lease and the preambles hereto not otherwise defined shall have the meanings assigned thereto in the Schedule of Definitions attached hereto as Appendix A and made a part hereof.

SECTION 1.2. INTERPRETATION. In this Underlying Lease, unless the context otherwise requires:

(A) The terms “hereby”, “hereof”, “herein”, “hereunder”, and any similar terms as used in this Underlying Lease, refer to this Underlying Lease, and the term “heretofore” shall mean before, and the term “hereafter” shall mean after, the date of this Underlying Lease.

(B) Words of masculine gender shall mean and include correlative words of feminine and neuter genders.

(C) Words importing the singular number shall mean and include the plural number, and vice versa.

(D) Any headings preceding the text of the several Articles and Sections of this Underlying Lease, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall neither constitute a part of this Underlying Lease nor affect its meaning, construction or effect.

(E) Any certificates, letters or opinions required to be given pursuant to this Underlying Lease shall mean a signed document attesting to or acknowledging the circumstances, representations, opinions of law or other matters therein stated or set forth or setting forth matters to be determined pursuant to this Underlying Lease.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

SECTION 2.1. REPRESENTATIONS AND WARRANTIES OF THE ISSUER. The Issuer makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(A) The Issuer is duly established under the provisions of the Act and has the power to enter into this Underlying Lease and to carry out its obligations hereunder.

(B) Neither the execution and delivery of this Underlying Lease nor the consummation of the transactions contemplated hereby will conflict with or result in a breach by the Issuer of any of the terms, conditions or provisions of the Act, the by-laws of the Issuer or any other, judgment, agreement or instrument to which the Issuer is a party or by which it is bound, or will constitute a default by the Issuer under any of the foregoing.

SECTION 2.2. REPRESENTATIONS AND WARRANTIES OF THE COMPANY. The Company makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(A) The Company is a limited partnership organized and existing under the laws of the State of New York, is duly authorized to do business in the State of New York, has the power to enter into this Underlying Lease and carry out its obligations hereunder and has been duly authorized to execute this Underlying Lease. This Underlying Lease and the transactions contemplated hereby, have been duly authorized by all necessary action on the part of the Company.

(B) Neither the execution and delivery of this Underlying Lease, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Underlying Lease will (1) conflict with or result in a breach of any of the terms, conditions or provisions of the Company's organizational or governance documents or any order, judgment, agreement or instrument to which the Company is a party or by which the Company is bound, or constitute a default under any of the foregoing, or (2) result in the creation or imposition of any Lien of any nature upon any Property of the Company other than pursuant to the Financing Documents, or (3) require consent (which has not been heretofore received) under any corporate restriction, agreement or instrument to which the Company is a party or by which the Company or any of its Property may be bound or affected, or (4) require consent (which has not been heretofore received) under, conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction or decree of any government, governmental instrumentality or court (domestic or foreign) having jurisdiction over the Company or any of the Property of the Company.

ARTICLE III

LEASE TERMS

SECTION 3.1. LEASE. (A) The Company hereby demises and leases to the Issuer, and the Issuer hereby hires and leases from the Company, a leasehold interest in certain parcels of land (the “Leased Land”) located at 400 Cliff Street and 55 Main Street in the Village of Walden, Town of Montgomery, Orange County, New York, said Leased Land being more particularly described on Exhibit A attached hereto, together with the improvements now and hereafter located thereon, including any portion of the Project Facility located or to be located on the Leased Land (the Leased Land and all such improvements being sometimes collectively referred to as the “Leased Premises”) for the term set forth in Section 3.2 hereof. The Leased Premises are intended to include (1) all buildings and improvements located on the Leased Land, (2) any strips or gores of land adjoining the Leased Land, (3) any land lying in the bed of any street or avenue abutting the Leased Land, to the centerline thereof, and (4) a non-exclusive right to use any easements or other rights in adjoining property inuring to the Company by reason of the Company’s ownership of a fee interest in the Leased Land.

(B) It is the intention of the Company and the Issuer that the Issuer shall hold a leasehold interest in the entire Leased Premises. Accordingly, leasehold title to the Project Facility and any other improvements hereinafter constructed by the Issuer and/or the Company on the Leased Land shall vest in the Issuer or its successors and assigns as and when the same are constructed thereon.

SECTION 3.2. TERM. (A) The term of this Underlying Lease (the “Lease Term”) shall commence as of the dated date hereof and shall expire on the earliest to occur of (1) the date requested by the Company or (2) the date that the Installment Sale Agreement is executed.

(B) So long as neither the Installment Sale Agreement nor the Company’s right of possession thereunder shall have been terminated by the Issuer pursuant to Article X thereof, upon any termination of this Underlying Lease, the Company shall prepare and the Issuer will execute and deliver to the Company such instruments as the Company shall deem appropriate to evidence the release and discharge of this Underlying Lease.

SECTION 3.3. RENT. The rent payable by the Issuer under this Underlying Lease shall be one dollar (\$1.00) for the Lease Term and other good and valuable consideration, receipt of which is hereby acknowledged by the Company.

SECTION 3.4. USE; INSTALLMENT SALE AGREEMENT; NON-MERGER. (A) So long as neither the Installment Sale Agreement nor the Company’s right of possession as purchaser thereunder have been terminated by the Issuer pursuant to Article X thereof, the Issuer shall (1) hold and use the Leased Premises only for sale to the Company under the Installment Sale Agreement and (2) shall not sell or assign its rights hereunder nor the leasehold estate hereby created, except as provided in the Installment Sale Agreement.

(B) Contemporaneously with the execution and delivery of this Underlying Lease, the Issuer is entering into the Installment Sale Agreement, pursuant to which the Company as agent of the Issuer agrees to undertake and complete the Project and the Issuer agrees, upon completion of the Project, to sell the Project Facility on an installment basis to the Company. Pursuant to the Installment Sale Agreement, the Company, as purchaser of the Project Facility under the Installment Sale Agreement, is required to perform all of the Issuer’s obligations under this Underlying Lease. Accordingly, and notwithstanding anything to the contrary contained in this Underlying Lease, the Company shall not be entitled to declare a default hereunder or exercise any rights or remedies hereunder if any asserted default by the Issuer

hereunder relates to a failure by the Company, as purchaser of the Project Facility under the Installment Sale Agreement, to perform its corresponding obligations under the Installment Sale Agreement.

(C) Notwithstanding the sale of the Project Facility by the Issuer to the Company pursuant to the Installment Sale Agreement, during the Lease Term of this Underlying Lease, there shall be no merger of this Underlying Lease nor of the leasehold estate created by this Underlying Lease with the fee estate or any other interest in the Leased Premises by reason of the fact that the same person, firm, corporation or other entity may acquire or own or hold, directly or indirectly, (1) this Underlying Lease or the leasehold interest created by this Underlying Lease or any interest in this Underlying Lease or in any such leasehold interest and (2) the fee estate or any other interest in the Leased Premises or any part thereof or any interest in such fee estate or any other interest in the Leased Premises, and no such merger shall occur unless and until all corporations, firms and other entities, including any mortgagee having any interest in (a) this Underlying Lease or the leasehold estate created by this Underlying Lease and (b) the fee estate or such other interest in the Leased Premises or any part thereof or any interest in such fee estate or such other interest in the Leased Premises, shall join in a written instrument effecting such merger and shall duly record the same.

(D) Upon any termination of the Installment Sale Agreement or the Company's rights of possession as purchaser thereunder pursuant to Article X thereof, the Issuer may use the Leased Premises for any lawful purpose, may sell or assign its rights hereunder or the leasehold estate hereby created to any Person or Persons without the consent of the Company, and may enter upon the Leased Premises for purpose of taking possession thereof.

SECTION 3.5. ADDITIONS, ALTERATIONS AND IMPROVEMENTS. Subject to the provisions of the Installment Sale Agreement, the Company, as agent of the Issuer pursuant to the Installment Sale Agreement, shall have the right, from time to time, to make such changes, additions, improvements and alterations, demolition or new construction, structural or otherwise, to the Leased Premises as the Company shall deem necessary or desirable. A leasehold interest in the improvements now located or hereafter constructed upon the Leased Premises, and any modifications, additions, restrictions, repairs and replacements thereof, shall be in the Issuer during the term of this Underlying Lease, except as otherwise provided in the Installment Sale Agreement.

SECTION 3.6. ASSIGNMENT. (A) Except as otherwise provided in the Financing Documents, so long as neither the Installment Sale Agreement nor the Company's right of possession as purchaser thereunder shall have been terminated by the Issuer pursuant to Article X thereof, neither the Issuer nor the Company shall assign or transfer this Underlying Lease, nor sublease the whole or any part of the Property leased hereby, except that the Issuer may sell the leasehold interest created hereunder to the Company pursuant to the Installment Sale Agreement. The Issuer may enter into the Installment Sale Agreement on the terms provided therein.

(B) Upon the occurrence and continuance of an Event of Default under the Installment Sale Agreement, the Issuer shall have the unrestricted right to assign and sublet, from time to time, all or any part of this Underlying Lease and the leasehold estate hereby created, to any one or more Persons. Upon such assignment, the assignee shall thereupon be subrogated to all the rights of the former lessee under this Underlying Lease, whereupon (1) the former lessee shall have no further rights or obligations hereunder and (2) such assignee shall forthwith be obligated to assume and perform each and all of the former lessee's obligations and covenants hereunder.

SECTION 3.7. POSSESSION; QUIET ENJOYMENT. (A) Pursuant to the terms of the Installment Sale Agreement, except as otherwise provided therein after the occurrence of an Event of Default thereunder,

the Company has the exclusive right to possess, control and make improvements to the Leased Premises leased hereby.

(B) The Issuer, upon paying the rent and observing and keeping all covenants, warranties, agreements and conditions of this Underlying Lease on the Issuer's part to be kept, shall quietly have, hold and enjoy the Leased Premises during the Lease Term.

SECTION 3.8. LIENS. Except as otherwise provided in the Financing Documents, so long as neither the Installment Sale Agreement nor the Company's right of possession as purchaser thereunder shall have been terminated by the Issuer pursuant to Article X thereof, the Issuer shall not, directly, or indirectly, create or permit to be created, any mortgage, lien, encumbrance or other charge upon, or pledge of, the Leased Premises or the Issuer's interest therein (except for Permitted Encumbrances) without the Company's prior written consent.

SECTION 3.9 TAXES. It is recognized that, under the provisions of the Act, the Issuer is required to pay no taxes or assessments upon any property acquired by it or under its jurisdiction or control or supervision. Pursuant to the Installment Sale Agreement, the Company has agreed to pay all taxes levied against the Project Facility.

SECTION 3.10. MAINTENANCE. Pursuant to the Installment Sale Agreement and in accordance with the Plans and Specifications, during the term of this Underlying Lease, the Company has agreed, at the Company's sole cost and expense, to keep and maintain or cause to be kept and maintained the Project Facility (including the Leased Premises and all improvements now or hereafter located thereon) in good order and condition and make or cause to be made all repairs thereto, interior and exterior, structural and non-structural, ordinary and extraordinary, and foreseen and unforeseen. The Issuer will have no responsibility with respect to the foregoing.

SECTION 3.11. CONDEMNATION. Subject to the provisions of the Installment Sale Agreement and the other Financing Documents, in the event of a total, substantial or partial taking by eminent domain or for any public or quasi public use under any statute (or voluntary transfer or conveyance to the condemning agency under threat of condemnation), the Issuer shall be entitled to its costs and expenses incurred with respect to the Leased Premises (including any unpaid amounts due pursuant to the Financing Documents and the costs of participating in such condemnation proceeding or transfer), and thereafter the Issuer shall not participate further in any condemnation award.

ARTICLE IV

EVENTS OF DEFAULT AND REMEDIES

SECTION 4.1 DEFAULT. (A) Any one or more of the following events shall constitute an “Event of Default” under this Underlying Lease:

(1) The failure of the Issuer (or the Company on behalf of the Issuer) to pay the rent due pursuant to this Underlying Lease within fifteen (15) days after written notice to the Issuer specifying the nature of such default; or

(2) The failure of the Issuer (or the Company on behalf of the Issuer) to observe and perform any covenant, condition or agreement on its part to be performed (other than as referred to in paragraph (1) above) and continuance of such failure for a period of thirty (30) days after notice to the Issuer specifying the nature of such default; provided that if by reason of the nature of such default the same cannot be remedied within thirty (30) days, failure of the Issuer (or the Company on behalf of the Issuer) to proceed promptly to cure the same and thereafter prosecute the curing of such default with due diligence.

(B) Notwithstanding the provisions of Section 4.1(A) hereof, if by reason of force majeure (as hereinafter defined) either party hereto shall be unable, in whole or in part, to carry out its obligations under this Underlying Lease and if such party shall give notice and full particulars of such force majeure in writing to the other party within a reasonable time after the occurrence of the event or cause relied upon, the obligations under this Underlying Lease of the party giving such notice so far as they are affected by such force majeure, shall be suspended during the continuance of the inability, which shall include a reasonable time for the removal of the effect thereof. The suspension of such obligations for such period pursuant to this subsection (B) shall not be deemed an event of default under this Section. The term “force majeure” as used herein shall include, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of public, enemies, orders of any kind of government authority or any civil or military authority, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accident to machinery, transmission pipes or canals, partial or entire failure of utilities. It is agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the party having difficulty and the party having difficulty shall not be required to settle any strike, lockout or other industrial disturbances by acceding to the demands of the opposing party or parties.

SECTION 4.2 REMEDIES ON DEFAULT. Whenever any Event of Default hereunder by one party hereto shall have occurred and be continuing for more than fifteen (15) days after written notice of default by the other party, the other party may enforce the provisions of this Underlying Lease and may enforce and protect its right by a suit or suits in equity or at law for (1) the specific performance of any covenant or agreement contained herein or (2) any other appropriate legal or equitable remedy.

SECTION 4.3. REMEDIES CUMULATIVE. No remedy herein conferred upon or reserved to the Issuer is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Underlying Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer to exercise any remedy reserved to it in this Article IV, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

SECTION 4.4. AGREEMENT TO PAY ATTORNEYS' FEES AND EXPENSES. In the event either party should default under any of the provisions of this Underlying Lease and the other party should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the defaulting party herein contained, the defaulting party shall, on demand therefor, pay to the other party the reasonable fees of such attorneys and such other expenses so incurred, whether an action is commenced or not.

SECTION 4.5. NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER. In the event any agreement contained herein should be breached by either party and thereafter such breach be waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE V

MISCELLANEOUS

SECTION 5.1. SURRENDER. (A) The Issuer shall, on the last day of the Lease Term or on the last day of any earlier termination of the Lease Term, surrender and deliver the Leased Premises and all buildings, improvements, alterations, equipment and fixtures located thereon to the possession and use of the Company without delay and in good order, condition and repair, except for reasonable wear and tear.

(B) On the last day of the Lease Term or on the last day of any earlier termination of the Lease Term, title to all buildings, improvements, alterations, equipment located on the Leased Premises shall automatically, and without the need of any further or additional instrument, vest in the Company. Notwithstanding the foregoing, upon the reasonable request of the Company, the Issuer shall execute and deliver to the Company the Termination of Underlying Lease to be recorded to confirm this vesting of title.

SECTION 5.2. NOTICES. (A) All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when (1) sent to the applicable address stated below by registered or certified mail, return receipt requested, or by such other means as shall provide the sender with documentary evidence of such delivery, or (2) delivery is refused by the addressee, as evidenced by an affidavit of the Person who attempted to effect such delivery.

(B) The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

IF TO THE ISSUER:

Town of Montgomery Industrial Development Agency
110 Bracken Road
Montgomery, New York 12549
Attention: Chairman

WITH A COPY TO:

Hodgson Russ LLP
60 Railroad Place, Suite 300
Saratoga Springs, New York 12866
Attention: Christopher M. Martell, Esq.

IF TO THE COMPANY:

Walden Preservation, L.P.
c/o The Related Companies
60 Columbus Circle, Floor 20
New York, New York 10023
Attention: Allison Kunis

WITH A COPY TO:

Levitt & Boccio, LLP
60 Columbus Circle, Floor 20
New York, New York 10023
Attention: David S. Boccio, Esq.

IF TO THE BOND OWNER REPRESENTATIVE:

Wells Fargo Bank, National Association
150 East 42nd Street, 36th Floor
New York, New York 10017
Attention: David Kaplan
Loan No. _____

IF TO THE SERVICER:

Wells Fargo Bank, National Association
150 East 42nd Street, 36th Floor
New York, New York 10017
Attention: David Kaplan
Loan No. _____

WITH A COPY TO:

Arent Fox LLP
New York, New York 10019
Attention: Richard J. Krainin, Esq.

and:

Eichner, Norris & Neumann, PLLC
1225 19th St NW #750
Washington, DC 20036
Attention: Kent Neumann, Esq.

IF TO THE PURCHASER:

Wells Fargo Municipal Capital Strategies, LLC
375 Park Avenue, 2nd Floor
New York, New York 10152
Attention: Kristina Eng
Loan No. _____

and:

Wells Fargo Municipal Capital Strategies, LLC
375 Park Avenue, 2nd Floor
Attention: Adam Joseph
Loan No. _____

IF TO THE INVESTOR:

PNC Real Estate Tax Credit Capital Institutional
Fund 58, LLC
c/o PNC Real Estate
121 S.W. Morrison Street, Suite 1300
Portland, Oregon 97204-3143
Attention: Asset Management

WITH COPIES TO:

Columbia Housing SLP Corporation
121 S.W. Morrison Street, Suite 1300
Portland, Oregon 97204-3143
Attention: Fund Manager

AND

Kutak Rock LLP
1650 Farnam Street
Omaha, Nebraska 68102
Attention: Shane Deaver, Esq.

(C) A duplicate copy of each notice, certificate and other communication given hereunder by the Issuer or the Company shall be given to the Bond Owner Representative, the Servicer and the Purchaser.

(D) The Issuer, the Company, the Bond Owner Representative, the Servicer and the Purchaser may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

SECTION 5.3. APPLICABLE LAW. This Underlying Lease shall be governed exclusively by the applicable laws of the State.

SECTION 5.4. BINDING EFFECT. This Underlying Lease shall inure to the benefit of, and shall be binding upon the Issuer and the Company and their respective successors and assigns; provided, that, except as provided elsewhere herein or in the other Financing Documents, the interest of the Issuer in this Underlying Lease may not be assigned, sublet or otherwise transferred without the prior written consent of the Company.

SECTION 5.5. SEVERABILITY. If any one or more of the covenants or agreements provided herein on the part of the Issuer or the Company to be performed shall, for any reason, be held or shall, in fact, be inoperative, unenforceable or contrary to law in any particular case, such circumstance shall not render the provision in question inoperative or unenforceable in any other case or circumstance. Further, if any one or more of the phrases, sentences, clauses, paragraphs or sections herein shall be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed separable from the remaining provisions hereof and shall in no way affect the validity of the other provisions of this Underlying Lease.

SECTION 5.6. AMENDMENTS, CHANGES AND MODIFICATIONS. This Underlying Lease may not be amended, changed, modified, altered or terminated, except by an instrument in writing signed by the parties hereto.

SECTION 5.7. EXECUTION OF COUNTERPARTS. This Underlying Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 5.8. TABLE OF CONTENTS AND SECTION HEADINGS NOT CONTROLLING. The Table of Contents and the headings of the several Sections in this Underlying Lease have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Underlying Lease.

SECTION 5.9. NO RECOURSE; SPECIAL OBLIGATION. (A) The obligations and agreements of the Issuer contained herein and in the other Financing Documents shall be deemed the obligations and agreements of the Issuer, and not of any member, officer, agent (other than the Company) or employee of the Issuer in his individual capacity, and the members, officers, agents (other than the Company) and employees of the Issuer shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

(B) The obligations and agreements of the Issuer contained herein and in the other Financing Documents shall not constitute or give rise to an obligation of the State of New York or Town of Montgomery, New York, and neither the State of New York nor Town of Montgomery, New York shall be liable hereon or thereon and, further, such obligations and agreements shall not constitute or give rise to a general obligation of the Issuer, but rather shall constitute limited obligations of the Issuer payable solely from the revenues of the Issuer derived and to be derived from the lease, sale or other disposition of the Project Facility.

(C) No order or decree of specific performance with respect to any of the obligations of the Issuer hereunder or under the other Financing Documents shall be sought or enforced against the Issuer unless (1) the party seeking such order or decree shall first have requested the Issuer in writing to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the Issuer shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten [10] days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period, (2) if the Issuer refuses to comply with such request and the Issuer's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Issuer an amount or undertaking sufficient to cover such reasonable fees and expenses, and (3) if the Issuer refuses to comply with such request and the Issuer's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents (other than the Company) or employees shall be subject to potential liability, the party seeking such order or decree shall (a) agree to indemnify and hold harmless the Issuer and its members, officers, agents (other than the Company) and employees against any liability incurred as a result of its compliance with such demand, and (b) if requested by the Issuer, furnish to the Issuer satisfactory security to protect the Issuer and its members, officers, agents (other than the Company) and employees against all liability expected to be incurred as a result of compliance with such request.

SECTION 5.10. RECORDING. The Issuer and the Company agree that this Underlying Lease (or a memorandum thereof) shall be recorded by the Issuer in the appropriate office of the County Clerk of Orange County, New York.

IN WITNESS WHEREOF, the Issuer and the Company have caused this Underlying Lease to be executed in their respective names by their respective duly authorized officers and to be dated as of the day and year first above written.

TOWN OF MONTGOMERY INDUSTRIAL
DEVELOPMENT AGENCY

BY: _____
Authorized Officer

WALDEN PRESERVATION, L.P.

By: Walden Preservation, GP, LLC,
its Managing General Partner

By: Allison H. Kunis
Name: Allison H. Kunis
Title: Vice President

IN WITNESS WHEREOF, the Issuer and the Company have caused this Underlying Lease to be executed in their respective names by their respective duly authorized officers and to be dated as of the day and year first above written.

TOWN OF MONTGOMERY INDUSTRIAL
DEVELOPMENT AGENCY

BY: Michael R. Hayes
Authorized Officer

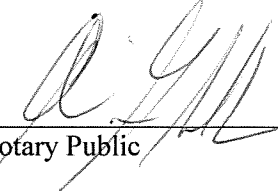
WALDEN PRESERVATION, L.P.,
a New York limited partnership

By: Walden Preservation, G.P., LLC,
its Managing General Partner

BY: _____
Name: _____
Title: _____

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

On the 15 day of July, in the year 2015, before me, the undersigned, a notary public in and for said state, personally appeared Allison H. Kunis, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

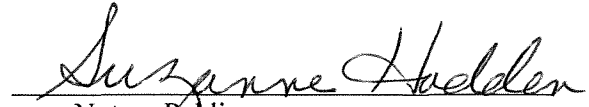


Notary Public

ANNMARIE GANNON SMITH
Notary Public, State of New York
No. 01SM4808148
Qualified in Nassau County
Commission Expires July 31 2018

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

On the 14th day of July, in the year 2015, before me, the undersigned, a notary public in and for said state, personally appeared Mike Hayes, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

SUZANNE HADDEN
Notary Public, State of New York
Qualified in Orange County
Registration No. 01HA6117399
Commission Expires October 25, 2016

APPENDIX A

SCHEDULE OF DEFINITIONS

The capitalized terms used, but not defined in the Underlying Lease shall have the respective meanings set forth in the Indenture.