

## **RESOLUTION APPROVING MODIFICATION**

A regular meeting of the Onondaga County Industrial Development Agency (the “Agency”) was convened in public session on April 13, 2023, at 8:30 a.m. at 335 Montgomery Street, 2nd Floor, Syracuse, New York.

The meeting was called to order by (Vice) Chairman of the Agency and, upon the roll being duly called, the following members were:

**PRESENT:** Patrick Hogan  
Janice Herzog  
Susan Stanczyk  
Kevin Ryan  
Fanny Villarreal  
Cydney Johnson  
Elizabeth Dreyfuss

**ABSENT:**

**ALSO PRESENT:** Robert M. Petrovich, Executive Director  
Jeffrey W. Davis, Esq., Agency Counsel  
Amanda M. Fitzgerald, Esq., Agency Counsel

The following resolution was offered by Janice Herzog, seconded by Susan Stanczyk, to wit:

**RESOLUTION AUTHORIZING THE EXECUTION OF CERTAIN AMENDMENTS BY ONONDAGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE “ISSUER”) TO (A) THE ISSUER’S VARIABLE RATE CIVIC FACILITY REVENUE BONDS (YMCA OF GREATER SYRACUSE, INC. PROJECT), SERIES 2003A ISSUED BY THE ISSUER ON NOVEMBER 1, 2003, AS AMENDED AND RESTATED ON JULY 12, 2019 AND (B) CERTAIN DOCUMENTS RELATED THERETO.**

WHEREAS, the Issuer 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 435 of the Laws of 1970 of the State of New York and Chapter 676 of the Laws of 1975 of the State of New York, as amended, constituting Section 895 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, warehousing, research, commercial 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, reconstruct and install one or more “projects” (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, the Issuer issued its Variable Rate Civic Facility Revenue Bonds (YMCA of Greater Syracuse, Inc. Project), Series 2003A in the original maximum aggregate principal amount of \$8,000,000, as amended and restated on July 12, 2019 (collectively, the “Bonds”) pursuant to an Indenture of Trust dated as of November 1, 2003, as amended and supplemented by a Supplemental Trust Indenture dated as of July 1, 2006, a Second Supplemental Trust Indenture dated as of August 1, 2009, a Third Supplemental Trust Indenture dated as of December 1, 2009 and a Fourth Supplemental Trust Indenture dated as of July 1, 2019 (collectively, the “Original Indenture”) by and between the Issuer and The Huntington National Bank (the “Trustee”), to finance a project (the “Project”) for Young Men’s Christian Association of Central New York, Inc. f/k/a Greater Syracuse Young Men’s Christian Association, Inc. f/k/a YMCA of Greater Syracuse, Inc. (the “Company”) consisting of: (A)(1) the acquisition of an interest in approximately 21 acres of land located at 200 Towne Drive in the Town of Manlius, New York (the “East Land”) and the existing 24,000 square foot building located thereon formerly known as Hoyts Cinema (the “East Building”); (2) the renovation of the East Building and the construction of approximately 60,000 square foot additions to the East Building (the “East Additions”, and together with the East Building referred to as the “East Facility”); (3) the acquisition and installation in the East Facility of certain machinery and equipment (the “East Equipment”, and together with the East Land and the East Facility referred to as the “East Project Facility”) with (1) - (3) to be used as a new East Area Community Center to be operated by the YMCA; (4) the acquisition of an interest in certain land located at 4775 Wetzell Road in Liverpool, New York (the “North Land”) and the existing approximately 33,000 square foot building located thereon (the “North Building”); (5) the construction of approximately 9,675 square foot additions to the North Building (the “North Additions”, and together with the North Building referred to collectively as the “North Facility”), and related site work, including parking lot expansion, utility rerouting, sidewalks and landscaping; and (6) the acquisition and installation in the North Facility of certain machinery and equipment (the “North Equipment”, and together with the North Land and the North Facility referred to as the “North Project Facility”, and the East Project Facility and the North Project Facility being referred to collectively as the “Project Facility”) with (4) - (6) to constitute an expansion of the existing North Area YMCA, and (B) the payment of costs incidental to the financing thereof; and

WHEREAS, the Bonds were purchased by Manufacturers and Traders Trust Company (the “Holder”), according to the terms of a bond purchase dated as of December 1, 2009 (the “Bond Purchase Agreement”) by and among the Company, the Issuer and the Holder; and

WHEREAS, contemporaneously with the issuance of the Bonds, the Issuer, the Company, the Trustee and the Holder entered into various documents related to the Bonds (hereinafter sometimes collectively referred to as the “Bond Documents”), including but not limited to the following: (A) the Indenture; (B) the Bond Purchase Agreement; (C) a pledge and

assignment dated as of September 1, 2010 from the Issuer to the Trustee and the Holder (the “Pledge and Assignment”); (D) a general security agreement dated as of December 1, 2009 (the “Security Agreement”) from the Company and the Issuer to the Trustee; and (F) a mortgage and security agreement dated as of December 1, 2009 (the “Mortgage”) from the Company and the Issuer to the Trustee; and

WHEREAS, the Issuer received a request from the Company (the “Modification Request”) (A) indicating the intention of the Company to replace the current interest rate index used to calculate interest on the Bonds while bearing interest at the Bank Purchase Rate (as defined in the Indenture) from LIBOR (as defined in the Indenture) to the Secured Overnight Financing Rate (SOFR) as more specifically described in the Modification Request, and (B) requesting that the Issuer, the Trustee and the Holder modify the Bonds and the related Bond Documents necessary to implement the Modification Request (collectively, the “Modification Documents”); and

WHEREAS, the Issuer now desires to authorize the amendment of the Bond Documents and the Bonds (the “Transaction”); provided, that Barclay Damon LLP, bond counsel to the Issuer (“Bond Counsel”) issues an opinion substantially to the effect that the Transaction will not, in and of itself, adversely affect the tax-exempt status of interest paid and payable on the Bonds (the “Required Opinion”); and

WHEREAS, in connection therewith, the Issuer, the Company, the Trustee and the Holder desire to enter into (A) fifth supplemental indenture (the “Fifth Supplemental Indenture”) by and among the Issuer and the Trustee and (B) certain other documents modifying the terms of the Bond Documents (the Fifth Supplemental Indenture and such other documents are hereinafter referred to as the “Modification Documents”); 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 adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the Issuer must determine the potential environmental significance of the Transaction.

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

Section 1. Pursuant to SEQRA, the Issuer hereby finds and determines that:

(A) Pursuant to Section 617.5(c)(26) of the Regulations, the Transaction (including but not limited to the execution and delivery of the Modification Documents) is a “Type II action” (as said quoted term is defined in the Regulations).

(B) Accordingly, the Issuer hereby determines that no environmental impact statement or any other determination or procedure is required under SEQRA with respect to the Transaction.

Section 2. The Issuer hereby finds and determines that:

(A) By virtue of the Act, the Issuer has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act.

(B) It is desirable and in the public interest for the Issuer to enter into the Modification Documents.

Section 3. In consequence of the foregoing, the Issuer hereby determines to: (A) authorize the Transaction; (B) subject to approval of the form and substance of the Modification Documents by Bond Counsel, approve the form and substance of the Modification Documents; (C) subject to (i) the Company's certification that it is compliance with the terms and conditions contained in the Bond Documents (as defined in the Indenture), (ii) compliance with state and federal law applicable to the Transaction and (iii) the receipt of the Required Opinion, authorize the execution and delivery of the Modification Documents.

Section 4. Subject to the satisfaction of the conditions described in Section 3 hereof, the Chairman (or Vice Chairman) and/or the Executive Director are each hereby authorized, on behalf of the Issuer, to execute and deliver the Modification Documents and the other documents related thereto and, where appropriate, the (Assistant) Secretary of the Issuer is hereby authorized to affix the seal of the Issuer thereto and to attest the same, all in substantially the forms thereof approved by Bond Counsel, with such changes, variations, omissions and insertions as the Chairman (or Vice Chairman) and/or the Executive Director of the Issuer shall approve, the execution thereof by the Chairman (or Vice Chairman) and/or the Executive Director of the Issuer to constitute conclusive evidence of such approval.

Section 5. Subject to the execution and delivery of the other Modification Documents, the Issuer determines to execute and deliver the Bonds as modified in accordance with the Modification Request, provided that:

(A) The Bonds authorized to be issued, executed and delivered pursuant to this Section 5 shall (1) be issued, executed and delivered at such time as the Chairman (or Vice Chairman) and/or the Executive Director of the Issuer shall determine, and (2) bear interest at the rate or rates, be issued in such form, be subject to redemption prior to maturity and have such other terms and provisions and be issued in such manner and on such conditions as are set forth in the Bonds and the other Modification Documents or as are hereinafter approved by the Chairman (or Vice Chairman) and/or the Executive Director of the Issuer in accordance with Section 4 hereof, which terms are specifically incorporated herein by reference with the same force and effect as if fully set forth in this resolution.

(B) Neither the directors nor officers of the Issuer, nor any person executing the Bonds or any of the other Modification Documents on behalf of the Issuer, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution, issuance or delivery thereof. The Bonds and the interest thereon are not and shall never be a debt of the State of New York, the County of Onondaga, New York or any political subdivision thereof (other than the Issuer), and neither the State of New York, the County of Onondaga, New York nor any political subdivision thereof (other than the Issuer) shall be liable thereon.

(C) The Bonds, together with interest payable thereon, are and shall be special obligations of the Issuer payable solely from certain of the revenues and receipts derived from the operation, sale or other disposition of the Project Facility or from the enforcement of the security provided by the Bond Documents and the other security pledged to the payment thereof.

(D) Notwithstanding any other provision of this resolution, the Issuer covenants that it will make no use of the proceeds of the Bonds or of any other funds of the Issuer which, if said use had been reasonably expected on the date of issuance of the Bonds, would have caused the Bonds to be an “arbitrage bond” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended.

Section 6. The officers, employees and agents of the Issuer are hereby authorized and directed for and in the name and on behalf of the Issuer to do all acts and things required or provided for by the provisions of the Modification Documents, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of this resolution and to cause compliance by the Issuer with all of the terms, covenants and provisions of the Modification Documents binding upon the Issuer.

Section 7. This resolution shall take effect immediately.

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

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

	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Elizabeth Dreyfuss	X		
Patrick Hogan	X		
Janice Herzog	X		
Cydney Johnson	X		
Kevin Ryan	X		
Susan Stanczyk	X		
Fanny Villarreal	X		

The Resolution was thereupon declared duly adopted.

STATE OF NEW YORK                    )  
  ) ss.:  
COUNTY OF ONONDAGA                )


I, the undersigned Secretary of the Onondaga County Industrial Development Agency, DO HEREBY CERTIFY that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on April 13, 2023, with the original thereof on file in my office, and that the same is a true and correct copy of such proceedings of the Agency and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matter 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 duly 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.

IN WITNESS WHEREOF, I have hereunto set my hand this 17 day of April, 2023.

(SEAL)

  
Secretary