

## **BEDELL TERRACE APARTMENTS, L.P. - Consent Resolution**

A regular meeting of the Nassau County Industrial Development Agency (the "Agency") was convened in public session at the Theodore Roosevelt Executive & Legislative Building, Ceremonial Chambers, 1550 Franklin Avenue, Mineola, Nassau County, New York on July 18, 2019 at 6:30 p.m., local time.

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

### **PRESENT:**

Richard Kessel	Chairman
Lewis M. Warren	Vice Chairman
Anthony Simon	2nd Vice Chairman
Timothy Williams	Secretary
Amy Flores	Treasurer
John Coumatos	Asst. Treasurer
Chris Fusco	Asst. Secretary

### **THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:**

Harry Coghlan	Chief Executive Officer/Executive Director
Danielle Oglesby	Chief Operating Officer/Deputy Executive Director
Joseph Foarile	Chief Financial Officer
Colleen Pereira	Administrative Director
Thomas D. Glascock	Agency Counsel
Andrew Komaromi	Bond/Transaction Counsel

The attached resolution no. 2019-67 was offered by Anthony Simon, seconded by Lewis M. Warren:

RESOLUTION OF THE NASSAU COUNTY INDUSTRIAL DEVELOPMENT  
AGENCY AUTHORIZING CERTAIN MATTERS IN CONNECTION WITH ITS  
STRAIGHT-LEASE TRANSACTION WITH BEDELL TERRACE APARTMENTS,  
L.P.

WHEREAS, the Nassau County 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 674 of the 1975 Laws of New York, as amended, constituting Section 922 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, industrial 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, BEDELL TERRACE APARTMENTS, L.P., a limited partnership organized and existing under the laws of the State of New York (the "Applicant"), presented an application (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Project") consisting of the following: (A) (1) the acquisition of an interest in an approximately 2.31 acre parcel of land, located at 10-26 Bedell Street and 91-101 and 105-145 Terrace Avenue, Village of Hempstead, County of Nassau, New York (the "Land"), (2) the rehabilitation and renovation of 26 existing multifamily residential housing structures (comprised of approximately 245 affordable housing units) located on the Land, together with related improvements to the Land (collectively, the "Building"), and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (the "Equipment"), all of the foregoing to constitute an affordable housing complex comprised of approximately 245 affordable housing rental units (collectively, the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act with respect to the foregoing, including potential exemptions or partial exemptions from sales and use taxes, mortgage recording taxes and real property taxes (but not including special assessments and ad valorem levies) (the "Financial Assistance"); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility by the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, the Applicant received Financial Assistance with respect to the Project Facility from the Agency and in connection therewith the Company and the Agency entered into a "straight lease" pursuant to the terms and conditions of that certain Lease Agreement, dated as of September 1, 2009 by and between the Agency and the Company (the "Lease") and the other Transaction Documents, as such term is defined in the Lease; and

WHEREAS, in connection with the Project, the Company obtained financing from the New York State Housing Finance Agency (“HFA”) and the Company and the Agency granted a Fee and Leasehold Mortgage, Assignment of Leases and Rents and Security Agreement to HFA, dated as of September 20, 2009 and a Fee and Leasehold TCAP Mortgage, dated as of September 30, 2019 (the “HFA First Mortgage”, and the “HFA TCAP Mortgage”, respectively; and

WHEREAS, in connection with the Project, the Company has received additional assistance from the County of Nassau and entered into a Home Mortgage, an NSP Mortgage and a CDBG Mortgage, as each term is defined in the Lease and collectively referred to therein together with the TCAP Mortgage as the “Subordinate Mortgages”. Further, the Company and the Agency granted a Mortgage and Assignment of Leases and Rents, dated as of September 30, 2019 in favor of the County of Nassau that is subordinate to the HFA First Mortgage (“PILOT Mortgage”); and

WHEREAS, the Company proposes to refinance the loan secured by the HFA First Mortgage; and

WHEREAS, pursuant to a notification and consent request letter, dated July 11, 2019 (the “Consent Request”), the Company requested that the Agency (i) consent to the refinancing of the loan secured by the HFA First Mortgage, (ii) execute a mortgage securing the refinancing loan and any related documents (“New Mortgage”); (iii) authorize amending the Lease to make appropriate references to the New Mortgage (“Proposed Amendments”); and (iv) that Nassau County re-subordinates the NSP Mortgage, HOME Mortgage and CDBG Mortgage; and

WHEREAS, the Agency is willing to consent to the Proposed Amendments, subject to the terms of this Resolution;

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

1. Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Lease.
2. The Agency determines that the Company's request with respect to a previously approved and unchanged Project is a Type II Action pursuant to SEQRA involving “continuing agency administration” which does not involve “new programs or major reordering of priorities that may affect the environment” (6 NYCRR §617.5(c)(20)) and therefore no Findings or determination of significance are required under Article 8 of the New York Environmental Conservation Law.
3. No additional “financial assistance” is being requested by the Company with respect to the transactions contemplated by this Resolution.
4. The Agency hereby ratifies, confirms and approves all actions heretofore taken by the Chairman, the Vice Chairman, Chief Executive Officer/Executive Director, Chief

Operating Officer, and the staff of the Agency with respect to the matters contemplated by this Resolution, including, without limitation, those actions required to ensure full compliance with the requirements of the Act and all other Applicable Laws that relate thereto.

5. The Agency hereby consents to the Proposed Amendments, subject, however, to the delivery of evidence satisfactory to the Chairman, the Vice Chairman, Chief Executive Officer/Executive Director, Chief Operating Officer or Administrative Director that (i) the Company is in compliance with its reporting obligations under the Transaction Documents, (ii) the Company is not otherwise in default of any obligation under the Transaction Documents; and (iii) the New Mortgage conforms to the Agency's requirements; (iv) the lien of the PILOT Mortgage will be afforded a senior position with necessary concession made to federal mortgage insurers, if any, in connection with the New Mortgage but in no event will be subordinated below its current position. The execution and delivery of amendment documents and agreements required to effectuate the Proposed Amendments (collectively, the "Amendment Documents"), being substantially in the forms utilized by the Agency for prior transactions, are hereby authorized and approved. The Chairman, the Vice Chairman, Chief Executive Officer/Executive Director, Chief Operating Officer and Administrative Director of the Agency are each hereby authorized, acting individually or jointly, to execute, acknowledge and deliver the Amendment Documents. The execution and delivery of the Amendment Documents by any one of said officers shall be conclusive evidence of due authorization and approval. Although the Agency does not have the authority to consent to the re-subordination of the NSP Mortgage, HOME Mortgage and CDBG Mortgage, the Agency hereby instructs its staff to cooperate with the County of Nassau and the Company to achieve the requested re-subordination.

6. The Chairman, the Vice Chairman, the Chief Executive Officer/Executive Director, Chief Operating Officer and Administrative Director of the Agency are each hereby designated an Authorized Representative of the Agency and each of them is hereby authorized and directed, acting individually or jointly, to execute and deliver any and all consents, agreements, papers, instruments, opinions, certificates, affidavits and other documents required in connection with the Amendment Documents (collectively, the "Consent Documents"), and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, including, without limitation, taking any necessary action to obtain consent of any other person or party necessary with respect to execution, delivery and approval of the Consent Documents.

7. The authorizations set forth in this Resolution are subject to the condition that the Company shall reimburse the Agency for all costs and expenses incurred by the Agency in connection with the transactions contemplated herein, including, without limitation, the Agency's consent and amendment fee in the amount of \$1,000 and all reasonable attorneys' fees and disbursements incurred by the Agency, including without limitation, the fees and expenses of Special Counsel, Harris Beach PLLC.

8. All covenants, stipulations, obligations and agreements of the Agency contained in this Resolution, the Amendment Documents and the Consent Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Agency to the full

extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Agency and its successors from time to time; provided, however, that no covenants, stipulations, obligations or agreements of the Agency contained in this Resolution, any Amendment Document or any Consent Document shall give rise to any pecuniary liability of the Agency or a charge against its general credit or shall obligate the Agency in any way except to the extent that the same can be paid or recovered from the Project Facility or the sale or liquidation of the Project Facility or revenues therefrom.

9. No covenant, stipulation, obligation or agreement herein contained or contained in any Amendment Document or any Consent Document shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity and neither the members of the Agency nor any officer executing any Amendment Document or any Consent Document shall be liable personally on the Amendment Documents or the Consent Documents or be subject to any personal liability or accountability by reason of the issuance thereof.

10. The Chairman, the Vice Chairman, the Chief Executive Officer/Executive Director of the Agency are each hereby authorized to approve modifications to the terms approved herein which are not inconsistent with the intent and substance of this Resolution, such approval to be evidenced by the execution by any one of such officers of the Amendment Documents and/or the Consent Documents containing such modifications.

11. This Resolution shall take effect immediately.

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

Richard Kessel	VOTING Aye
Lewis M. Warren	VOTING Aye
Anthony Simon	VOTING Aye
Timothy Williams	VOTING Abstained
Chris Fusco	VOTING Aye
Amy Flores	VOTING Aye
John Coumatos	VOTING Aye

The foregoing Resolution was thereupon declared adopted.

STATE OF NEW YORK

) SS.:

COUNTY OF NASSAU

We, the undersigned [Vice] Chairman and [Assistant] Secretary of the Nassau County Industrial Development Agency (the "Agency"), do hereby certify that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on July 18, 2019 with the original thereof on file in our office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE 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.

WE 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, we have hereunto set our respective hands and affixed the seal of the Agency this 18th day of July, 2019.

  
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[Assistant] Secretary  
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[Vice] Chairman

(SEAL)