

**RESOLUTION AUTHORIZING WAIVER OF BOND PAYMENTS - 2020
POUGHKEEPSIE DAY SCHOOL, INC. PROJECT**

A regular meeting of Dutchess County Local Development Corporation (the "Issuer") was convened in public session at its offices at 3 Neptune Road, Suite A21, Poughkeepsie, New York on May 13, 2020, at 8:00 a.m. local time.

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

PRESENT: Timothy Dean, Chairman
Mark Doyle, Vice Chairman
Kathleen M. Bauer, Secretary/ Treasurer
Alfred D. Torreggiani
Stacey M. Langenthal
Donald R. Sagliano
Ronald J. Piccone, II

ABSENT:

ALSO PRESENT: Sarah Lee, Executive Director
Marilyn Yerks, Chief Financial Officer
Donald Cappillino, Counsel
Elizabeth A. Cappillino, Counsel

The following resolution was offered by Mark Doyle, seconded by Ronald J. Piccone, II, to wit: Resolution No. _____

**RESOLUTION AUTHORIZING THE EXECUTION BY THE DUTCHESS
COUNTY LOCAL DEVELOPMENT CORPORATION OF CERTAIN
WAIVER DOCUMENTS IN CONNECTION WITH THE POUGHKEEPSIE
DAY SCHOOL, INC. PROJECT.**

WHEREAS, Dutchess County Local Development Corporation (the "Issuer") was created pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York, as amended (the "Enabling Act"); and pursuant to the provisions of the Enabling Act and Revenue Ruling 57-187 and Private Letter Ruling 200936012, the County Legislature of Dutchess County, New York (the "County") adopted a resolution on April 12, 2010 (the "Sponsor Resolution"), which was approved by the County Executive of Dutchess County, New York (the "County Executive") on April 16, 2010 (A) authorizing the incorporation of Dutchess County Local Development Corporation (the "Issuer") under the Enabling Act and (B) appointing the initial members of the board of directors of the Issuer; and on April 30, 2010, a certificate of incorporation was filed with the New York Secretary of State's Office (the "Certificate of Incorporation") creating the Issuer as a public instrumentality of the County; and

WHEREAS, the Issuer is authorized and empowered by the provisions of the Enabling Act to relieve and reduce unemployment, promote and provide for additional and maximum employment, better and maintain job opportunities, and lessen the burdens of government and act in the public interest, and in carrying out the aforesaid purposes and in exercising the powers

conferred in the Enabling Act, the Enabling Act declares that the Issuer will be performing essential governmental functions; and

WHEREAS, to accomplish its stated purposes, the Issuer is authorized and empowered under the Enabling Act to acquire real and personal property; to borrow money and issue negotiable bonds, notes and other obligations therefore; to lease, sell, mortgage or otherwise dispose of or encumber any of its real or personal property upon such terms as it may determine; and otherwise to carry out its corporate purposes in the territory in which the operations of the Issuer are principally to be conducted; and

WHEREAS, on December 29, 2010 (the "Closing Date"), the Issuer issued its Tax-Exempt Revenue Bond (Poughkeepsie Day School, Inc. Project), Series 2010A in the original principal amount of not to exceed \$3,105,000 (the "Series 2010A Bond"), under and pursuant to a bond resolution adopted by the Issuer on November 23, 2010 and a bond purchase agreement dated as of December 1, 2010 (the "Bond Purchase Agreement") by and among (1) the Issuer, (2) Poughkeepsie Day School, Inc., a New York education corporation (the "Institution"), and (3) Manufacturers and Traders Trust Company, as holder of the Series 2010A Bond (the "Holder") in connection with a project (the "Project") for the benefit of the Institution to be undertaken by the Issuer consisting of the following: (A) the refinancing and/or refunding of the Issuer's Variable Rate Demand Civic Facility Revenue Bonds, Series 1997 (Poughkeepsie Day School, Inc. Civic Facility), in the principal amount of \$3,275,000 (the "1997 Bonds"), issued for the purpose of (1) the acquisition, construction, renovation, expansion and equipping of campus facilities and classrooms (collectively, the "Project Facility") on premises located at Boardman Road in the Town of Poughkeepsie, New York (the "Land"), (2) refunding an existing mortgage on a facility then owned by the Institution located at Vassar Road, Poughkeepsie, New York, (3) funding a debt service reserve fund to be pledged to secure the 1997 Bonds, and (4) paying certain incidental expenses incurred in connection with the 1997 Bonds; (B) the refinancing and/or refunding of certain existing indebtedness incurred by or on behalf of the Institution to finance additional improvements to the Project Facility and the Land (the Land and the Project Facility being collectively referred to as the "Project Facility"); (C) the financing of all or a portion of the costs of the foregoing by the issuance of revenue bonds of the Issuer in one or more issues or series in an aggregate principal amount sufficient to pay the cost of undertaking the Project, together with necessary incidental costs in connection therewith (the "Obligations"); (D) the paying of all or a portion of the costs incidental to the issuance of the Obligations, including issuance costs of the Obligations and any reserve funds as may be necessary to secure the Obligations; and (E) the granting of certain other "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing, including potential exemptions from certain real estate transfer taxes and mortgage recording taxes (collectively with the Obligations, the "Financial Assistance"); and

WHEREAS, by e-mail dated April 7, 2020, from counsel to the Institution (the "Waiver Request"), counsel to the Institution informed the Issuer that the Institution has requested that the Holder consider approving the waiver and deferral of the payment of principal and interest on the Series 2010A Bond for a period not to extend beyond December 1, 2020, the current maturity date of the Series 2010A Bond, as further described in Exhibit A attached (the "Waiver"); and

WHEREAS, the Issuer is willing to consent to the Waiver Request and to execute and deliver any documents deemed necessary or desirable in connection with the Waiver Request (collectively, the "Waiver Documents"), subject to final approval by Bond Counsel and Issuer Counsel and the terms of this Resolution; and

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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"), it appears that the Waiver constitutes a Type II action under SEQRA;

NOW, THEREFORE, BE IT RESOLVED, BY THE MEMBERS OF THE DUTCHESS COUNTY LOCAL DEVELOPMENT CORPORATION AS FOLLOWS:

Section 1. Based upon an examination of the Waiver Request, the Issuer hereby makes the following findings and determinations:

(A) The Waiver Request constitutes a "Type II action" pursuant to 6 NYCRR 617.5(c)(23), and therefore that, pursuant to 6 NYCRR 617.6(a)(1)(i), the Issuer has no further responsibilities under SEQRA with respect to the Waiver Request.

(B) Based on representations made by the Institution to the Issuer, (1) no new money will be advanced by the Holder with respect to the approval of the Waiver Request and the entering into the Waiver Documents, (2) the maturity date of the Series 2017 Bond will not be affected by the Waiver, and (3) no other changes are proposed for (a) the description of the Project or (b) the Financing Documents.

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

(D) The approval of the Waiver Request and the Waiver Documents will relieve and reduce unemployment, promote and provide for additional and maximum employment and better maintain job opportunities, and thereby lessen the burdens of government.

(E) It is desirable and in the public interest for the Issuer to comply with the Waiver Request and the execution and delivery of the Waiver Documents, subject to Section 2 below.

Section 2. The Issuer hereby consents to the Waiver Request and the execution and delivery of the Waiver Documents; provided, however, that such consent is contingent upon (A) the consent of the Holder, (B) approval by Bond Counsel and Issuer Counsel of the form of the Waiver Documents, (C) compliance with the terms and conditions contained in the Financing Documents, (D) compliance with applicable state and federal law, (E) the payment by the Institution of all fees and expenses of the Issuer in connection with the delivery of such consent, including, the administrative fee of the Issuer, if any, and the fees of Issuer Counsel and Bond Counsel, and (F) the following additional conditions: none.

Section 3. Subject to the satisfaction of the conditions described in Section 2 hereof, the Chairman, Vice Chairman or Chief Executive Officer of the Issuer is hereby authorized to execute and deliver the Waiver Documents to the Institution, and, where appropriate, the Secretary (or 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 form thereof presented to this meeting, with such changes, variations, omissions and insertions as the Chairman (or Vice Chairman) or Chief Executive Officer shall approve, the execution thereof by the Chairman (or Vice Chairman) or Chief Executive Officer to constitute conclusive evidence of such approval.

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Section 4. 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 Waiver 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 the foregoing Resolution and to cause compliance by the Issuer with all of the terms, covenants and provisions of the Waiver Documents binding upon the Issuer.

Section 5. The law firm of Hodgson Russ LLP is hereby appointed Bond Counsel to the Issuer with respect to all matters in connection with the Waiver Request. The Issuer has been informed that Hodgson Russ LLP has acted as counsel to Manufacturers and Traders Trust Company, the holder of the Series 2010A Bond, on unrelated matters. The Issuer hereby waives any potential conflict resulting from Hodgson Russ LLP acting as counsel to Manufacturers and Traders Trust Company on such other unrelated matters and authorizes the Chairman, Vice Chairman or Chief Executive Officer to execute any document or documents evidencing such waiver. Bond Counsel is hereby authorized, at the expense of the Institution, to work with the Institution, the purchaser of the Series 2010A Bond and others to prepare, for submission to the Issuer, all documents necessary to effect the Waiver and the transactions contemplated by this Resolution.

Section 6. 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:

| | | |
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| Timothy Dean, Chairman | VOTING | “Aye” |
| Mark Doyle, Vice Chairman | VOTING | “Aye” |
| Kathleen M. Bauer, Secretary/Treasurer | VOTING | “Aye” |
| Alfred D. Torreggiani | VOTING | “Aye” |
| Stacey M. Langenthal | VOTING | “Aye” |
| Donald R. Sagliano | VOTING | “Aye” |
| Ronald J. Piccone, II | VOTING | “Aye” |

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned Secretary of Dutchess County Local Development Corporation (the "Corporation"), DO HEREBY CERTIFY that I have compared the foregoing extract of the minutes of the meeting of the members of the Corporation, including the resolution contained therein, held on May 13, 2020, with the original thereof on file in my office, and that the same is a true and correct copy of such proceedings of the Corporation 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.

I FURTHER CERTIFY that (A) all members of the Board of Directors of the Issuer 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 Board of Directors of the Issuer 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 and affixed the seal of the Issuer this 13th day of May, 2020.



Kathleen M. Bauer, Secretary

(SEAL)