

OTSEGO COUNTY CAPITAL RESOURCE CORPORATION

March 23rd, 2023

MEETING MINUTES

CALL TO ORDER

Chair, C. Robinson, joined the meeting virtually and asked Vice Chair, D. Rowley, to lead the meeting. D. Rowley called to order the meeting of OCCRC at 8:21am. M. Marino conducted roll call and determined there was a quorum. Voting members present included:

Cheryl Robinson (v)
Jeffrey Lord
Tom Armao
Jeffery Joyner

David Rowley
Patricia Kennedy
Craig Gelbsman
James Seward

Absent Board Member(s): Andrew Marietta

Also, in attendance:

STAFF

Jody Zakrevsky, **CEO**
Meaghan Marino, **Dir. of Finance and Administration**
Gina Gardner, **Marketing Coordinator**
Nasim Vargha, **Administrative Assistant**
Kurt Schulte, **Counsel (v)**

GUESTS

Shannon Wagner, **Hodgson and Russ, LLP (v)**

(v) – virtual and did not count toward a voting quorum

CHAIRMAN'S REMARKS

Vice Chair, D. Rowley, welcomed fellow board members and staff to the March board meeting and moved immediately into the agenda.

MEETING MINUTES

D. Rowley presented the meeting minutes from the February 23rd OCCRC board meeting. Board members were given a copy of the minutes prior to the meeting for review. J. Joyner made a motion to approve the meeting minutes. The motion was seconded by J. Lord, and it was approved by the remaining members present.

BILLS TO BE PAID

There were no bills to be paid at this meeting.

COMMITTEE REPORTS

- ❖ Audit & Finance – The Audit & Finance Committee meeting was held on March 9th, 2023. Please refer to the March 23rd COIDA board meeting minutes for a summary of the joint COIDA/OCCRC Audit & Finance Committee meeting.
- ❖ Governance Committee – The Governance Committee meeting was held on January 12th, 2023. Please refer to the February 23rd COIDA board meeting minutes for a summary of the joint COIDA/OCCRC Governance Committee meeting.
- ❖ Projects Committee – The Projects Committee meeting was held on March 9th, 2023. Please refer to the March 23rd COIDA board meeting minutes for a summary of the joint COIDA/OCCRC Projects Committee meeting.

NEW BUSINESS / UNFINISHED BUSINESS

Approving Resolution: Modifications relating to the Templeton Foundation Project and

Approving Resolution: Modifications relating to the Mary Imogene Bassett Hospital Project:

Shannon Wagner of Hodgson Russ LLP explained that the resolutions were regarding the Templeton Foundation Project and the Mary Imogene Bassett Hospital Project and that the modifications that were made to the bond were connected to tax exemption. S. Wagner said that the interest rate was previously based on the London Interbank Offered Rate (LIBOR) but would now be based on the Secured Overnight Financing Rate (SOFR) because the use of LIBOR is being discontinued within the United States. The resolution also included provisions in the event this is considered a reissuance, although S. Wagner noted that it would most likely just be modifications and not a reissuance.

Reviewing and Approving PARIS Reports including Annual Report, Certified Financial Audit, Procurement Report, and Investment Report for the OCCRC:

J. Zakrevsky did not have any comments regarding the PARIS Reports for the OCCRC. He noted that there was a page blank because he was still waiting for more board evaluations to be submitted. J. Zakrevsky added that all the bonds have been reconciled.

J. Seward made a motion to approve the PARIS reports for the OCCRC. The motion was seconded by J. Lord and approved by the remaining members present.

RESOLUTIONS

Approving Resolution: Modifications relating to the Templeton Foundation Project

Resolution No. 0323-

RESOLUTION AUTHORIZING THE EXECUTION OF CERTAIN AMENDMENTS BY THE OTSEGO COUNTY CAPITAL RESOURCE CORPORATION (THE "ISSUER") TO (A) THE ISSUER'S TAX-EXEMPT MULTI-MODE REVENUE BOND (TEMPLETON FOUNDATION PROJECT), SERIES 2018A ISSUED BY THE ISSUER ON NOVEMBER 9, 2018 IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$12,000,000 AND (B) CERTAIN DOCUMENTS RELATED THERETO.

WHEREAS, Section 1411 of the Not-For-Profit Corporation Law of the State of New York, as amended (the "Enabling Act") (A) authorizes any county, city, town or village to cause a not-for-profit local development corporation to be incorporated by public officers for, among other things, the public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, and lessening the burdens of government and acting in the public interest, (B) declares that in carrying out the aforesaid purposes and in exercising the powers conferred in the Enabling Act, such corporations will be performing essential governmental functions, and (C) authorizes each such corporation to acquire real and personal property, to borrow money and issue negotiable bonds, notes and other obligations therefore, and 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 carry out its corporate purposes in the territory in which the operations of such corporation are principally to be conducted; and

WHEREAS, pursuant to the provisions of the Enabling Act and Revenue Ruling 57-187 and Private Letter Ruling 200936012, the Board of Representatives of Otsego County, New York (the "County") adopted a resolution on October 1, 2008 (the "Sponsor Resolution") (A) authorizing the incorporation of Otsego County Capital Resource Corporation (the "Issuer") under the Enabling Act and (B) appointing the initial members of the board of directors of the Issuer, who serve at the pleasure of the Board of Representatives of the County; and

WHEREAS, on October 15, 2008, a certificate of incorporation was filed with the New York Secretary of State's Office (the "Certificate of Incorporation") creating the Issuer pursuant to the Enabling Act as a public instrumentality of the County; and

WHEREAS, on November 9, 2018, the Issuer issued its Tax-Exempt Multi-Mode Revenue Bond (Templeton Foundation Project), Series 2018A in the aggregate principal amount not to exceed \$12,000,000 (the "Bond"); and

WHEREAS, the Bond was issued for the purpose of financing a portion of the costs of a certain project (the "Project") undertaken for the benefit of Templeton Foundation, a New York not-for-profit corporation (the "Borrower") consisting of the following: (A) the refinancing of a commercial loan, the proceeds of which were used for (i) the refunding of the Issuer's Tax-Exempt Multi-Mode Revenue Bonds (Templeton Foundation Project), Series 2011A in the original aggregate principal amount of \$11,980,000 (the "Series 2011A Bonds") issued on November 30, 2011, which Series 2011A Bonds were issued to finance a portion of the following project: (a) the refinancing and/or refunding of the County of Otsego Industrial Development Agency Multi-Mode Variable Rate Civic Facility Revenue Bonds (Templeton Foundation Project – Letter of Credit Secured), Series 2007A in the aggregate principal amount of \$13,500,000 (the "Series 2007A Bonds"), which Series 2007A Bonds were issued for the purpose of: (1) the acquisition of an interest in (A) a parcel of land containing approximately 6.9 acres located at 4580 State Highway 28, in the Town of Hartwick, Otsego County, New York ("Parcel A"), together with the existing building located thereon containing approximately 27,218 square feet of space (the "Parcel A Building"), (B) a parcel of land containing approximately 6.6 acres located at One and Seven Associate Drive in the City of Oneonta, Otsego County, New York ("Parcel B"), together with the existing buildings located thereon, the first building containing approximately 48,000 square feet of space (the "First Building") and the second building containing approximately 5,000 square feet of space (the "Second Building") (the First Building and the Second Building hereinafter collectively referred to as the "Parcel B Buildings"), and (C) a parcel of land containing approximately 0.63 acres located at 125 Main Street in the City of Oneonta, Otsego County, New York ("Parcel C") (Parcel A, Parcel B and Parcel C hereinafter collectively referred to as the "Land"), together with the existing building located thereon containing approximately 18,512 square feet of space (the "Parcel C Building") (the Parcel A Building, the Parcel B Building and the Parcel C Building hereinafter collectively referred to as the "Facility"); (ii) the renovation and reconstruction of the Facility; (iii) the acquisition and installation of various machinery and equipment therein and thereon (the "Equipment") (the Land, the Facility and the Equipment hereinafter collectively referred to as the

“Project Facility”); and (iv) the payment of issuance costs relating to the Series 2007A Bonds; and (b) the payment of issuance costs relating to the Series 2011A Bonds; (B) the financing of all or a portion of the costs of the foregoing by the issuance of the Bond; and (C) the payment of a portion of the costs incidental to the issuance of the Bond, including issuance costs of the Obligations and any reserve funds as may be necessary to secure the Bond; 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 (the “Regulations”, and collectively with the SEQR Act, “SEQRA”), by resolution adopted by the members of the board of directors the Issuer on October 25, 2018 (the “SEQR Resolution”), the Issuer determined that the Project constitutes a “Type II Action” (as such quoted term is defined under SEQRA), and therefore that no further action with respect to the Project was required under SEQRA; and

WHEREAS, the Bond was issued pursuant to a resolution adopted by the board of directors of the Issuer on October 25, 2018 (the “Bond Resolution”), a certificate of determination dated November 9, 2018 executed by the Chairperson of the Issuer (“Certificate of Determination”) and a trust indenture dated as of November 1, 2018 (the “Indenture”) by and between the Issuer and The Bank of New York Mellon, as trustee for the holders of the Bond (the “Trustee”); and

WHEREAS, the Bond was purchased by Manufacturers and Traders Trust Company, as initial purchaser (the “Initial Purchaser”) pursuant to a bond purchase agreement dated as of November 1, 2018 (the “Bond Purchase Agreement”) by and among the Issuer, the Borrower and the Initial Purchaser; and

WHEREAS, contemporaneously with the issuance of the Bond, the Issuer, the Borrower, the Trustee and the Initial Purchaser entered into various documents related to the Bond (hereinafter sometimes collectively referred to as the “Financing Documents”), including but not limited to the following: (A) the Indenture; (B) the Bond Purchase Agreement; (C) a pledge and assignment dated as of November 1, 2018 from the Issuer to the Trustee (the “Pledge and Assignment”); (D) a loan agreement dated as of November 1, 2018 (the “Loan Agreement”) by and between the Issuer and the Borrower; and (E) a guaranty dated as of November 1, 2018 (the “Guaranty”) from the Borrower to the Trustee and the Initial Purchaser; and

WHEREAS, the Issuer received a letter dated February 21, 2023 (the “Modification Request Letter”) from the Borrower indicating the intention of the Borrower to replace the current interest rate index used to calculate interest on the Bond while bearing interest at the Bank Purchase Variable Rate (as defined in the Indenture) currently based on LIBOR (as defined in the Indenture) to incorporate hardwire fallback language and benchmark replacement provisions, including daily and term rates based on the Secured Overnight Financing Rate (“SOFR”) as replacements for LIBOR as more specifically described in the Modification Request Letter, with a copy of such Modification Request Letter being attached hereto as Exhibit A, and (B) requesting that the Issuer enter into modifications to the Bond and the related Financing Documents necessary to implement such amendment (collectively referred to hereinafter as the “Modification Request”); and

WHEREAS, in connection with the Modification Request, the Issuer now desires to authorize the following actions (collectively, the “Action”): (1) to make the amendments to the Financing Documents and the Bond, (2) to make certain related amendments to the Financing Documents and the Bond, and (3) if (and only if) the Action results, in the opinion of Hodgson Russ LLP, bond counsel to the Issuer, in a deemed reissuance of the Bond (referred to hereinafter as the “Reissued Bond”) and a deemed purchase of the Reissued Bond by the Initial Purchaser pursuant to the provisions of the Internal Revenue Code of 1986, as amended (the “Code”), to delegate to the Chairperson, Vice Chairperson or Chief Executive Officer of the Issuer (each, an “Authorized Officer”) to determine the final details of the Reissued Bond, including but not limited to (a) the authorized principal amount of the Reissued Bond, (b) the purpose or purposes for which the Reissued Bond is being issued, (c) the date or dates, the maturity date or dates and principal amounts of the Reissued Bond, (d) the interest rate or rates of the Reissued Bond, (e) the denomination or denominations of and the manner of numbering and lettering the Reissued Bond, (f) the redemption price or purchase in lieu of redemption price or redemption prices or purchase in lieu of redemption prices, if any, and the redemption or purchase in lieu of redemption terms, if any, for the Reissued Bond, (g) the form of the Reissued Bond and (h) any other provisions deemed advisable by the Authorized Officer not in conflict with the provisions of this resolution (collectively, the “Reissued Bond Details”); and

WHEREAS, in connection therewith, the Issuer and the Initial Purchaser desire to enter into (A) a first omnibus amendment to the trust indenture and related financing documents (the “First Omnibus Amendment”) by and among the Issuer, the Trustee and the Initial Purchaser and (B) certain other documents modifying the terms of the Financing Documents (the Omnibus Amendment and such other documents are hereinafter referred to as the “Modification Documents”); and

WHEREAS, since, pursuant to the provisions of the Internal Revenue Code of 1986, as amended (the “Code”), the amendments to the Bond may constitute a deemed reissuance of the Bond and a deemed purchase of the Bond by the Initial Purchaser, in order to demonstrate compliance with the provisions of the Code relating to the Action, (A) the Issuer will (1) execute a tax regulatory agreement dated the date of delivery of the Reissued Bond (the “Reissued Tax Regulatory Agreement”) concerning the requirements in Section 148 of the Code relating to the Reissued Bond, (2) execute an arbitrage certificate dated the date of delivery of the Reissued Bond (the “Reissued Arbitrage Certificate”) relating to certain requirements set forth in Section 148 of the Code relating to the Reissued Bond, (3) execute a completed Internal Revenue Service Form 8038 (Information Return for Tax-Exempt Private Activity Bonds) relating to the Reissued Bond (the “Reissued Information Return”) pursuant to Section 149(e) of the Code, and (4) file the Reissued Information Return with the Internal Revenue Service, (B) the Initial Purchaser will execute a letter (the “Reissued Issue Price Letter”) confirming the issue price of the Reissued Bond for purposes of Section 148 of the Code, and further confirming the difference between the interest rate payable on the Reissued Bond and the interest rate payable on the Bond immediately preceding the execution and delivery of the Reissued Modification Documents (the Reissued Bond, the Reissued Modification Documents, the Reissued Tax Regulatory Agreement, the Reissued Arbitrage Certificate and the Reissued Information Return are hereinafter referred to as the “Reissued Bond Documents”); and

WHEREAS, pursuant to SEQRA, the Issuer must determine the potential environmental significance of the Action;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE OTSEGO COUNTY CAPITAL RESOURCE CORPORATION 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 Action (including but not limited to the execution and delivery of the Bond 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 Action.

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 Bond Documents.

Section 3. In consequence of the foregoing, the Issuer hereby determines to: (A) authorize the Action; (B) subject to approval of the form and substance of the Bond Documents by Bond Counsel and counsel to the Issuer, approve the form and substance of the Bond Documents; (C) subject to (i) compliance with the terms and conditions contained in the existing documents relating to the Bond and (ii) compliance with state and federal law applicable to the Action, authorize the execution and delivery of the Bond Documents.

Section 4. Subject to the satisfaction of the conditions described in Section 3 hereof, the Authorized Officer of the Issuer is hereby authorized, on behalf of the Issuer, to (a) determine, on behalf of the Issuer, the Bond Details relating to the Bond and (b) execute and deliver the Bond Documents and the other documents related thereto and, where appropriate, the 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 as provided herein, with such changes, variations, omissions and insertions as the Authorized Officer of the Issuer shall approve, the execution thereof by the Authorized Officer of the Issuer to constitute conclusive evidence of such approval.

Section 5. Subject to the execution and delivery of the other Bond Documents, the Issuer determines to execute and deliver the Bond, the Bond to have substantially the terms described in Exhibit A attached hereto, provided that:

(A) The Bond authorized to be issued, executed, sold and delivered pursuant to this Section 5 shall (1) be issued, executed and delivered at such time as the Authorized Officer 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 Bond and the other Bond Documents or as are hereinafter approved by the Authorized Officer 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 members nor officers of the Issuer, nor any person executing the Bond or any of the other Bond 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 Bond and the interest thereon are not and shall never be a debt of the State of New York, Otsego County, New York or any political subdivision thereof (other than the Issuer), and neither the State of New York, Otsego County, New York nor any political subdivision thereof (other than the Issuer) shall be liable thereon.

(C) The Bond, together with interest payable thereon, shall be a special obligation 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 Bond or of any other funds of the Issuer which, if said use had been reasonably expected on the date of issuance of the Bond, would have caused the Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code.

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 Bond 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 Bond Documents binding upon the Issuer.

Section 7. This resolution shall take effect immediately and the Bond is hereby ordered to be executed and delivered in accordance with this resolution.

The resolution to approve the modifications relating to the Templeton Foundation Project was approved through a roll call vote. J. Joyner abstained from the vote, and C. Robinson abstained from the vote because she joined the meeting virtually.

Approving Resolution: Modifications relating to the Mary Imogene Bassett Hospital Project

Resolution No. 0323-

RESOLUTION AUTHORIZING THE EXECUTION OF CERTAIN AMENDMENTS BY THE OTSEGO COUNTY CAPITAL RESOURCE CORPORATION (THE “ISSUER”) TO (A) THE ISSUER’S TAX-EXEMPT MULTI-MODE REVENUE BOND (THE MARY IMOGENE BASSETT HOSPITAL PROJECT), SERIES 2018A ISSUED BY THE ISSUER ON NOVEMBER 9, 2018 IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$60,550,000 AND (B) CERTAIN DOCUMENTS RELATED THERETO.

WHEREAS, Section 1411 of the Not-For-Profit Corporation Law of the State of New York, as amended (the “Enabling Act”) (A) authorizes any county, city, town or village to cause a not-for-profit local development corporation to be incorporated by public officers for, among other things, the public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, and lessening the burdens of government and acting in the public interest, (B) declares that in carrying out the aforesaid purposes and in exercising the powers conferred in the Enabling Act, such corporations will be performing essential governmental functions, and (C) authorizes each such corporation to acquire real and personal property, to borrow money and issue negotiable bonds, notes and other obligations therefore, and 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 carry out its corporate purposes in the territory in which the operations of such corporation are principally to be conducted; and

WHEREAS, pursuant to the provisions of the Enabling Act and Revenue Ruling 57-187 and Private Letter Ruling 200936012, the Board of Representatives of Otsego County, New York (the “County”) adopted a resolution on October 1, 2008 (the “Sponsor Resolution”) (A) authorizing the incorporation of Otsego County Capital Resource Corporation (the “Issuer”) under the Enabling Act and (B) appointing the initial members of the board of directors of the Issuer, who serve at the pleasure of the Board of Representatives of the County; and

WHEREAS, on October 15, 2008, a certificate of incorporation was filed with the New York Secretary of State's Office (the "Certificate of Incorporation") creating the Issuer pursuant to the Enabling Act as a public instrumentality of the County; and

WHEREAS, on November 9, 2018, the Issuer issued its Tax-Exempt Multi-Mode Revenue Bond (The Mary Imogene Bassett Hospital Project), Series 2018A in the aggregate principal amount not to exceed \$60,550,000 (the "Bond"); and

WHEREAS, the Bond was issued for the purpose of financing a portion of the costs of a certain project (the "Project") undertaken for the benefit of The Mary Imogene Bassett Hospital, a New York not-for-profit corporation (the "Borrower") consisting of the following: (A) the refinancing of a commercial loan, the proceeds of which were used for the refunding of the Issuer's Multi-Mode Refunding Revenue Bonds (The Mary Imogene Bassett Hospital Project), Series 2011B in the original aggregate principal amount of \$19,200,000 (the "Series 2011B Bonds") issued on November 2, 2011, which Series 2011B Bonds were issued to finance a portion of the following project: (a) the refinancing and/or refunding of the County of Otsego Industrial Development Agency Multi-Mode Variable Rate Civic Facility Revenue Bonds (The Mary Imogene Bassett Hospital Project – Letter of Credit Secured), Series 2007A in the aggregate principal amount of \$20,000,000 (the "Series 2007A Bonds"), which Series 2007A Bonds were issued for the purpose of: (i) the acquisition of an interest in a parcel of land located at One Atwell Road, in the Village of Cooperstown, Otsego County, New York (the "Series 2007A Land"), together with a portion of two existing buildings located thereon and more particularly described as follows: (a) an interest in approximately 46,420 square feet of a building commonly referred to as Building 6 and (b) an interest in approximately 200,250 square feet of a building commonly referred to as Building 9 (collectively, the "Series 2007A Facility"); (ii) the renovation and reconstruction of the Series 2007A Facility; (iii) the acquisition and installation therein and thereon of machinery and equipment (the "Series 2007A Equipment") (the Series 2007A Land, the Series 2007A Facility and the Series 2007A Equipment hereinafter collectively referred to as the "Series 2007A Project Facility"); and (iv) payment of issuance costs relating to the Series 2007A Bonds; and (b) the payment of issuance costs relating to the Series 2011B Bonds; (B) the refunding of the Issuer's Tax-Exempt Multi-Mode Revenue Bonds (The Mary Imogene Bassett Hospital Project), Series 2015A in the original aggregate principal amount of \$23,600,000 (the "Series 2015A Bonds") issued on August 21, 2015, which Series 2015A Bonds were issued to finance a portion of the following project: (i) the refinancing and/or refunding, in whole, of the County of Otsego Industrial Development Agency Civic Facility Revenue Bonds (Bassett Healthcare Obligated Group – Outpatient Clinic Project), Series 1998A in the original aggregate principal amount of \$15,000,000 (the "Series 1998A Bonds") and Civic Facility Revenue Bonds (Bassett Healthcare Obligated Group Project), Series 1998B in the original aggregate principal amount of \$14,900,000 (the "Series 1998B Bonds") (collectively, the "Series 1998 Bonds"), which Series 1998 Bonds were issued for the purpose of: (a) the financing and/or refinancing various capital projects located at One Atwell Road in the Village of Cooperstown, Otsego County, New York (the "Series 1998 Facility"), said Series 1998 Facility being operated by the Borrower as an acute care hospital facility, an outpatient clinic and other directly and indirectly related uses; (b) the acquisition and installation of an electronic medical records system at the Borrower's campus located at One Atwell Road in the Village of Cooperstown, Otsego County, New York (the "Campus") and at an additional facility of the Borrower located at 4773 State Highway 28 in the Town of Hartwick, Otsego County, New York, including, among other things, the replacement of and installation of various computer equipment, computer software systems, software licenses and maintenance/support, special project capability and programming services (collectively, the "Series 1998 Improvements") (the Series 1998 Improvements and the Series 1998 Facility hereinafter collectively referred to as the "Series 1998 Project Facility"); and (c) the payment of issuance costs relating to the Series 1998 Bonds; and (ii) the payment of issuance costs relating to the Series 2015A Bonds; (C) the acquisition and installation of certain machinery and equipment at the Campus (the "Series 2018 Project Facility") (the Series 2007A Project Facility, the Series 1998 Project Facility and the Series 2018 Project Facility hereinafter referred to as the "Project Facility"); (D) the financing of all or a portion of the costs of the foregoing by the issuance of the Bond; and (E) the payment of a portion of the costs incidental to the issuance of the Bond, including issuance costs of the Obligations and any reserve funds as may be necessary to secure the Bond; 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 (the "Regulations", and collectively with the SEQR Act, "SEQRA"), by resolution adopted by the members of the board of directors the Issuer on October 25, 2018 (the "SEQR Resolution"), the Issuer determined that the Project constitutes a "Type II Action" (as such quoted term is defined under SEQRA), and therefore that no further action with respect to the Project was required under SEQRA; and

WHEREAS, the Bond was issued pursuant to a resolution adopted by the board of directors of the Issuer on October 25, 2018 (the "Bond Resolution"), a certificate of determination dated November 9, 2018 executed by the Chairperson of the Issuer ("Certificate of Determination") and a trust indenture dated as of November 1, 2018 (the "Indenture") by and between the Issuer and The Bank of New York Mellon, as trustee for the holders of the Bond (the "Trustee"); and

WHEREAS, the Bond was purchased by Manufacturers and Traders Trust Company, as initial purchaser (the “Initial Purchaser”) pursuant to a bond purchase agreement dated as of November 1, 2018 (the “Bond Purchase Agreement”) by and among the Issuer, the Borrower and the Initial Purchaser; and

WHEREAS, contemporaneously with the issuance of the Bond, the Issuer, the Borrower, the Trustee and the Initial Purchaser entered into various documents related to the Bond (hereinafter sometimes collectively referred to as the “Financing Documents”), including but not limited to the following: (A) the Indenture; (B) the Bond Purchase Agreement; (C) a pledge and assignment dated as of November 1, 2018 from the Issuer to the Trustee (the “Pledge and Assignment”); (D) a loan agreement dated as of November 1, 2018 (the “Loan Agreement”) by and between the Issuer and the Borrower; and (E) a guaranty dated as of November 1, 2018 (the “Guaranty”) from the Borrower to the Trustee and the Initial Purchaser; and

WHEREAS, the Issuer received a letter dated February 21, 2023 (the “Modification Request Letter”) from the Borrower indicating the intention of the Borrower to replace the current interest rate index used to calculate interest on the Bond while bearing interest at the Bank Purchase Variable Rate (as defined in the Indenture) currently based on LIBOR (as defined in the Indenture) to incorporate hardwire fallback language and benchmark replacement provisions, including daily and term rates based on the Secured Overnight Financing Rate (“SOFR”) as replacements for LIBOR as more specifically described in the Modification Request Letter, with a copy of such Modification Request Letter being attached hereto as Exhibit A, and (B) requesting that the Issuer enter into modifications to the Bond and the related Financing Documents necessary to implement such amendment (collectively referred to hereinafter as the “Modification Request”); and

WHEREAS, in connection with the Modification Request, the Issuer now desires to authorize the following actions (collectively, the “Action”): (1) to make the amendments to the Financing Documents and the Bond, (2) to make certain related amendments to the Financing Documents and the Bond, and (3) if (and only if) the Action results, in the opinion of Hodgson Russ LLP, bond counsel to the Issuer, in a deemed reissuance of the Bond (referred to hereinafter as the “Reissued Bond”) and a deemed purchase of the Reissued Bond by the Initial Purchaser pursuant to the provisions of the Internal Revenue Code of 1986, as amended (the “Code”), to delegate to the Chairperson, Vice Chairperson or Chief Executive Officer of the Issuer (each, an “Authorized Officer”) to determine the final details of the Reissued Bond, including but not limited to (a) the authorized principal amount of the Reissued Bond, (b) the purpose or purposes for which the Reissued Bond is being issued, (c) the date or dates, the maturity date or dates and principal amounts of the Reissued Bond, (d) the interest rate or rates of the Reissued Bond, (e) the denomination or denominations of and the manner of numbering and lettering the Reissued Bond, (f) the redemption price or purchase in lieu of redemption price or redemption prices or purchase in lieu of redemption prices, if any, and the redemption or purchase in lieu of redemption terms, if any, for the Reissued Bond, (g) the form of the Reissued Bond and (h) any other provisions deemed advisable by the Authorized Officer not in conflict with the provisions of this resolution (collectively, the “Reissued Bond Details”); and

WHEREAS, in connection therewith, the Issuer and the Initial Purchaser desire to enter into (A) a first omnibus amendment to the trust indenture and related financing documents (the “First Omnibus Amendment”) by and among the Issuer, the Trustee and the Initial Purchaser and (B) certain other documents modifying the terms of the Financing Documents (the Omnibus Amendment and such other documents are hereinafter referred to as the “Modification Documents”); and

WHEREAS, since, pursuant to the provisions of the Internal Revenue Code of 1986, as amended (the “Code”), the amendments to the Bond may constitute a deemed reissuance of the Bond and a deemed purchase of the Bond by the Initial Purchaser, in order to demonstrate compliance with the provisions of the Code relating to the Action, (A) the Issuer will (1) execute a tax regulatory agreement dated the date of delivery of the Reissued Bond (the “Reissued Tax Regulatory Agreement”) concerning the requirements in Section 148 of the Code relating to the Reissued Bond, (2) execute an arbitrage certificate dated the date of delivery of the Reissued Bond (the “Reissued Arbitrage Certificate”) relating to certain requirements set forth in Section 148 of the Code relating to the Reissued Bond, (3) execute a completed Internal Revenue Service Form 8038 (Information Return for Tax-Exempt Private Activity Bonds) relating to the Reissued Bond (the “Reissued Information Return”) pursuant to Section 149(e) of the Code, and (4) file the Reissued Information Return with the Internal Revenue Service, (B) the Initial Purchaser will execute a letter (the “Reissued Issue Price Letter”) confirming the issue price of the Reissued Bond for purposes of Section 148 of the Code, and further confirming the difference between the interest rate payable on the Reissued Bond and the interest rate payable on the Bond immediately preceding the execution and delivery of the Reissued Modification Documents (the Reissued Bond, the Reissued Modification Documents, the Reissued Tax Regulatory Agreement, the Reissued Arbitrage Certificate and the Reissued Information Return are hereinafter referred to as the “Reissued Bond Documents”); and

WHEREAS, pursuant to SEQRA, the Issuer must determine the potential environmental significance of the Action;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE OTSEGO COUNTY CAPITAL RESOURCE CORPORATION 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 Action (including but not limited to the execution and delivery of the Bond 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 Action.

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 Bond Documents.

Section 3. In consequence of the foregoing, the Issuer hereby determines to: (A) authorize the Action; (B) subject to approval of the form and substance of the Bond Documents by Bond Counsel and counsel to the Issuer, approve the form and substance of the Bond Documents; (C) subject to (i) compliance with the terms and conditions contained in the existing documents relating to the Bond and (ii) compliance with state and federal law applicable to the Action, authorize the execution and delivery of the Bond Documents.

Section 4. Subject to the satisfaction of the conditions described in Section 3 hereof, the Authorized Officer of the Issuer is hereby authorized, on behalf of the Issuer, to (a) determine, on behalf of the Issuer, the Bond Details relating to the Bond and (b) execute and deliver the Bond Documents and the other documents related thereto and, where appropriate, the 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 as provided herein, with such changes, variations, omissions and insertions as the Authorized Officer of the Issuer shall approve, the execution thereof by the Authorized Officer of the Issuer to constitute conclusive evidence of such approval.

Section 5. Subject to the execution and delivery of the other Bond Documents, the Issuer determines to execute and deliver the Bond, the Bond to have substantially the terms described in Exhibit A attached hereto, provided that:

(A) The Bond authorized to be issued, executed, sold and delivered pursuant to this Section 5 shall (1) be issued, executed and delivered at such time as the Authorized Officer 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 Bond and the other Bond Documents or as are hereinafter approved by the Authorized Officer 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 members nor officers of the Issuer, nor any person executing the Bond or any of the other Bond 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 Bond and the interest thereon are not and shall never be a debt of the State of New York, Otsego County, New York or any political subdivision thereof (other than the Issuer), and neither the State of New York, Otsego County, New York nor any political subdivision thereof (other than the Issuer) shall be liable thereon.

(C) The Bond, together with interest payable thereon, shall be a special obligation 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 Bond or of any other funds of the Issuer which, if said use had been reasonably expected on the date of issuance of the Bond, would have caused the Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code.

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 Bond 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 Bond Documents binding upon the Issuer.

Section 7. This resolution shall take effect immediately and the Bond is hereby ordered to be executed and delivered in accordance with this resolution.

The resolution to approve the modifications made relating to the Mary Imogene Bassett Hospital Project was approved through a roll call vote. J. Joyner abstained from the vote, and C. Robinson abstained from the vote because she joined the meeting virtually.

ADJOURNMENT

There being no further business to discuss J. Joyner made a motion to adjourn the meeting at 8:26am.

UPCOMING MEETING SCHEDULE

- COIDA/OCCRC Audit & Finance Committee Meeting / Projects Committee Meeting/ Governance Committee Meeting – April 13th, 2023
- COIDA/OCCRC Board Meeting – April 27th, 2023

***All meetings are held at the Otsego Now offices at 189 Main Street, Oneonta. NY. 13820, unless otherwise specified.**