

**2012 MORTGAGE APPROVAL RESOLUTION  
THE YOUNG MEN'S CHRISTIAN ASSOCIATION OF THE CAPITAL DISTRICT PROJECT**

A regular meeting of Town of Guilderland Industrial Development Agency (the "Agency") was convened in public session at the Town Hall on Western Avenue, Route 20 in the Town of Guilderland, Albany County, New York on June 8, 2012 at 8:00 o'clock a.m., local time.

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

PRESENT:

William Young	Chairman
James Shahda	Vice Chairman
Michael Bopp	Treasurer
Anthony Carrow	Secretary
Christopher Bombardier	Assistant Secretary/Assistant Treasurer

ABSENT:

THE FOLLOWING PERSONS WERE ALSO PRESENT:

Donald Csaposs	Chief Executive Officer
William Adams	Chief Financial Officer
Linda Cure	Administrative Assistant
A. Joseph Scott, III, Esq.	Agency Counsel

The following resolution was offered by \_\_\_\_\_, seconded by \_\_\_\_\_, to wit:

Resolution No. \_\_\_\_\_

**RESOLUTION CONSENTING TO AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN MORTGAGE DOCUMENTS WITH RESPECT TO THE YOUNG MEN'S CHRISTIAN ASSOCIATION OF THE CAPITAL DISTRICT PROJECT.**

WHEREAS, Town of Guilderland Industrial Development Agency (the "Agency") 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 146 of the 1973 Laws of New York, as amended, constituting Section 909-a 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 industrial, manufacturing, warehousing, commercial, research and recreation 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; 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, on June 22, 1999, the Agency issued its Civic Facility Revenue Bond (The Young Men’s Christian Association of the Capital District Project), Series 1999A in the principal amount of not to exceed \$5,000,000 (the “Bond”) to assist The Young Men’s Christian Association of the Capital District (the “Company”) in undertaking a certain civic facility project (the “Project”); and

WHEREAS, the Project consisted of the following: (A) (1) the acquisition of a parcel of land containing approximately 8.11 acres of land located on Winding Brook Drive (located approximately 433 yards south of Route 20 and one and one-quarter miles west of Route 155) in the Town of Guilderland, Albany County, New York (the “Land”), (2) the construction on the Land of a building to contain approximately 52,000 square feet of space (the “Facility”) and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment hereinafter collectively referred to as the “Project Facility”), all of the foregoing to be owned and operated by the Company as a health, fitness and recreation facility and any other directly or indirectly related activities; (B) the financing of all or a portion of the costs of the foregoing by the issuance of its civic facility revenue bonds in one or more issues or series in an aggregate principal amount not to exceed \$6,000,000 (the “Bonds”); (C) the granting of certain “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 as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, in connection with the issuance of the Bonds, the Agency entered into an installment sale agreement dated as of June 1, 1999 (the “Installment Sale Agreement”) by and between the Agency and the Company; and

WHEREAS, the Company now desires to restructure the financings of a number of its capital projects located in the Capital District, including the Project, as described in the letter from counsel to the Company dated May 14, 2012 (the “Company Letter”), a copy of which is attached hereto as **Schedule A**; and

WHEREAS, the Company Letter also requested that the Agency enter into certain assignment and termination documents (the “Transaction Documents”), as described in the Company Letter; 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 Agency must satisfy the requirements contained in SEQRA prior to making a final determination whether to proceed with the execution and delivery of the Transaction Documents; and

WHEREAS, pursuant to SEQRA, the Agency has reviewed the Company’s request to have the Agency execute and deliver the Transaction Documents in order to make a determination as to whether

such request is subject to SEQRA, and it appears that the actions contemplated by such request are not considered "Actions" under SEQRA;

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

Section 1. Based upon an examination of the Company's request, the Agency hereby determines that the Agency's execution and delivery of the Transaction Documents 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 Agency has no further responsibilities under SEQRA with respect to the Transaction.

Section 2. The Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency 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) The Agency has previously held a public hearing under Section 859-a of the Act with respect to the original Project;

(C) The Company has represented to the Agency that it is not in default under any of the Financing Documents;

(D) The entering into of the Transaction Documents constitutes a "project," as such term is defined in the Act;

(E) The Project site is located entirely within the boundaries of Town of Guilderland, New York; and

(F) It is desirable and in the public interest for the Agency to enter into the Transactions Documents.

Section 3. The Agency hereby approves the execution and delivery of the Transaction Documents, provided, however, that such consent is contingent upon (A) the written consent by any original holder and new holder of any mortgage on the Project Facility, if required, (B) release of the Agency from any obligations under the Transaction Documents and the delivery of the original Bond, once paid off by the Company, (C) approval by Agency Counsel to the form of the Transaction Documents, (D) compliance with the terms and conditions contained in the Financing Documents, (E) evidence satisfactory to the Agency that all payments in lieu of taxes and other local fees and assessments relating to the Project Facility, if any, have been paid, (F) the payment by the Company of the administrative fee of the Agency, and all other fees and expenses of the Agency in connection with the delivery of the Transaction Documents, including the fees of Agency Counsel, and (G) the following additional conditions: \_\_\_\_\_.

Section 4. Subject to the satisfaction of the conditions described in Section 3 hereof, the Chairperson (or Vice Chairperson) of the Agency is hereby authorized to execute and deliver the Transaction Documents, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency 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 Chairperson (or Vice Chairperson) shall approve, the execution thereof by the Chairperson (or Vice Chairperson) to constitute conclusive evidence of such approval.

Section 5. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Transaction 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 Agency with all of the terms, covenants and provisions of the Company Letter.

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:

William Young	VOTING	_____
James Shahda	VOTING	_____
Michael Bopp	VOTING	_____
Anthony Carrow	VOTING	_____
Christopher Bombardier	VOTING	_____

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned (Assistant) Secretary of Town of Guilderland Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on June 8, 2012 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained 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 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 and affixed the seal of the Agency this 8<sup>th</sup> day of June, 2012.

\_\_\_\_\_  
(Assistant) Secretary

(SEAL)

**SCHEDULE A**

**LETTER FROM COUNSEL OF THE  
COMPANY TO THE AGENCY**

**---SEE ATTACHED---**

**COUCH WHITE**  
COUNSELORS AND ATTORNEYS AT LAW

Couch White, LLP  
540 Broadway  
P.O. Box 22222  
Albany, New York 12201-2222  
(518) 426-4600

Alexis K. Clement  
Direct Dial: (518) 320-3424  
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email: aclement@couchwhite.com

May 14, 2012

**VIA HAND DELIVERY**

Hodgson Russ LLP  
677 Broadway  
Suite 301  
Albany, New York 12207  
Attn: A. Joseph Scott, Esq.

**VIA HAND DELIVERY**

KeyBank, N.A.  
66 S. Pearl Street  
6th Floor  
Albany, New York 12207  
Attn: Daniel T Jacques  
Vice President, Senior Relationship Manager, Commercial Banking

Re: Bond Purchase and Building Loan Agreement by and among Town of Guilderland Industrial Development Agency, The Young Men's Christian Association of the Capital District and KeyBank National Association, dated as of June 1, 1999, as further modified by that certain Modification Agreement by and among Town of Guilderland Industrial Development Agency, The Young Men's Christian Association of the Capital District and KeyBank National Association, dated as of September 29, 2000

Gentlemen :

We represent The Young Men's Christian Association of the Capital District d/b/a Capital District YMCA (the "YMCA"). We write with respect to a certain refinancing and mortgage consolidation transaction (the "Refinancing Transaction") the YMCA is undertaking with First Niagara Bank, N.A., as agent for itself and various other lenders ("First Niagara") and the above-referenced transaction (the "Bond Transaction"). Under the Refinancing Transaction, the YMCA will be receiving funds to, among other things, satisfy outstanding indebtedness, fund working capital, finance capital expenditures and for other general corporate purposes. A portion of the funds furnished by First Niagara in connection with the Refinancing Transaction

Offices in: Albany, New York City, Washington, D.C. and Farmington, Connecticut



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will be used to fully satisfy all outstanding indebtedness owed to KeyBank National Association (“Lender”) in connection with the Bond Transaction. The Town of Guilderland Industrial Development Agency (the “Guilderland IDA”) Civic Facility Revenue Bond (the “Bond”) will be fully extinguished.

Currently, in connection with the Bond Transaction, Lender holds a consolidated and modified mortgage (the “Mortgage”) made by the YMCA and the Guilderland IDA in favor of Lender. Furthermore, Lender holds a Second Assignment of Rents and Leases (the “Assignment of Rents”) made by the YMCA and the Guilderland IDA in favor of Lender.

To accommodate the Refinance Transaction, some of the Bond Transaction documents will need to be assigned and/or terminated. Specifically, the Mortgage will be assigned and the Assignment of Rents and other collateral documents will be terminated. Under applicable terms, any assignments, amendments or modifications require the consent of the Guilderland IDA and Lender.

**Requests of Guilderland IDA:**

As the Bond will be fully extinguished and the Bond Transaction effectively terminated, we respectfully request that the Guilderland IDA consent to the assignment of the Mortgage to First Niagara and the termination of the Assignment of Rents in connection with the Bond Transaction. Furthermore, we respectfully request that the Guilderland IDA execute all appropriate UCC-3 Termination Statements upon the extinguishing of the Bond thereby terminating any secured interests the Guilderland IDA holds upon the YMCA’s real or personal property.

In addition, once the Bond is fully extinguished the Bond Transaction should cease to be effective and terminate. In connection therewith, we respectfully request that the Guilderland IDA work with us to terminate all of the ancillary Bond Transaction agreements, except the Mortgage.

**Requests of Lender:**

The YMCA intends to fully satisfy all indebtedness owed to Lender in connection with the Bond Transaction. In connection with the same, please furnish a pay-off letter stating the full amount owed by the YMCA to Lender in connection with the Bond Transaction as of June 15, 2012 (the “Closing Date”).

As the indebtedness owed to Lender in connection with the Bond Transaction will be fully satisfied on the Closing Date, we respectfully request that Lender consent to and effectuate the assignment of the Mortgage and also the termination of the Assignment of Rents. Furthermore, we respectfully request that Lender execute UCC-3 Termination Statements upon

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the satisfaction of all indebtedness owed to Lender pursuant to the Bond Transaction thereby terminating any secured interests Lender holds upon the YMCA's real or personal property.

Enclosed for your review and comment please find proposed assignment documentation. We will furnish proposed termination documentation to you, under separate cover, in the next coming days for your review and comment. We will, if necessary, attend any meeting of the Guilderland IDA or with Lender and we will be available to address any questions or concerns. We respectfully request that the Guilderland IDA and Lender act to approve the aforementioned assignment and terminations so our client may be in a position to close the Transaction on the Closing Date. We respectfully request that the Guilderland IDA and Lender notify us of any other information that the Guilderland IDA and Lender may require.

If you have any questions, please do not hesitate to contact us. We look forward to working with you on this matter. At your convenience, we respectfully request your acknowledgment of receipt of this letter.

Very truly yours,

COUCH WHITE, LLP



Alexis K. Clement

AKC/alc

Enclosure

cc: Jeffrey Cohen (via e-mail; w/enclosure)  
Donald Csaspos (via e-mail; w/enclosure)  
Deborah A. Doxey (via e-mail; w/enclosure)  
Mary Pierson (via e-mail; w/enclosure)  
Robert J. Sneeringer, Esq. (via e-mail; w/enclosure)  
John R. Vero, Esq. (via e-mail; w/enclosure)

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ASSIGNMENT OF MORTGAGE

KNOW THAT THE KEYBANK NATIONAL ASSOCIATION, a national banking association ("Assignor"), in consideration of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) and other good and valuable consideration, paid by FIRST NIAGARA BANK, N.A., a national banking association, as Agent ("Assignee") has granted, bargained, sold, assigned, transferred and set over, and by these presents does grant, bargain, sell, assign, transfer and set over unto Assignee and without recourse, representations or warranties of any kind whatsoever, all of Assignor's right, title and interest in and to the following mortgage(s):

Mortgage made by THE YOUNG MEN'S CHRISTIAN ASSOCIATION OF THE CAPITAL DISTRICT and the TOWN OF GUILDERLAND INDUSTRIAL DEVELOPMENT AGENCY as Mortgagor, to Assignor, as Mortgagee, given to secure payment of the sum of Five Million Dollars (\$5,000,000.00) and interest, dated the 1st day of June, 1999 and recorded on the 13th day of July, 1999 in the Office of the Clerk of the County of Albany, New York in Liber 3751 at Page 613, covering the premises described therein (the "Mortgaged Premises);

TOGETHER, with the note, bond or obligation described in said mortgage(s), and the moneys due and to become due thereon with interest;

TO HAVE AND TO HOLD the same unto Assignee and to the heirs, successors, and assigns of Assignee forever;

IN WITNESS WHEREOF, Assignor has duly executed this Assignment this \_\_\_\_ day of \_\_\_\_\_, 2012.

KEYBANK NATIONAL ASSOCIATION

By: \_\_\_\_\_
Name:
Title:

STATE OF NEW YORK )
)
COUNTY OF \_\_\_\_\_ )

SS:

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2012, before me, the undersigned, personally appeared \_\_\_\_\_, known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public