

RESOLUTION

(LaMartine/Warburton LLC - Charter School of Educational Excellence Project)

Meeting of the Board of Directors of Yonkers Economic Development Corporation was convened on October 14, 2020.

The following resolution was duly offered and seconded, to wit:

Resolution No. 10/2020-10

RESOLUTION OF THE YONKERS ECONOMIC DEVELOPMENT CORPORATION AUTHORIZING THE ISSUANCE, EXECUTION, SALE AND DELIVERY OF ITS EDUCATIONAL REVENUE BONDS (LAMARTINE/WARBURTON LLC – CHARTER SCHOOL OF EDUCATIONAL EXCELLENCE PROJECT) SERIES 2020A AND EDUCATIONAL REVENUE BONDS (LAMARTINE/WARBURTON LLC – CHARTER SCHOOL OF EDUCATIONAL EXCELLENCE PROJECT) SERIES 2020B (TAXABLE) IN THE AMOUNT NOT TO EXCEED \$15,000,000 AND THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS FOR THE PURPOSE OF UNDERTAKING A CERTAIN PROJECT AS MORE FULLY DESCRIBED BELOW.

WHEREAS, Yonkers Economic Development Corporation (the “Issuer”) a not-for-profit local development corporation duly organized and validly existing pursuant to Section 1411 of the Not-for-Profit Corporation Law (“N-PCL”) of the State of New York (the “State”); and

WHEREAS, pursuant to the N-PCL the Issuer was established as a not-for-profit corporation for the 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, and has the powers, among other things, to construct, acquire, rehabilitate and improve for use by others industrial or manufacturing plants, to assist financially in such construction, acquisition, rehabilitation and improvement, to acquire real or personal property and to issue bonds, notes and other obligations thereof; and

WHEREAS, the N-PCL authorizes the Issuer to lease and sell any or all of its facilities, to issue its bonds for the purpose of carrying out any of its corporate purposes and, as security for the payment of the principal and redemption price of and interest on any such bonds so issued and any agreements made in connection therewith, to pledge the revenues and receipts from the lease or sale thereof to secure the payment of such bonds and interest thereon; and

WHEREAS, Charter School of Educational Excellence (the “School”), a New York not-for-profit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), has submitted an application (the “Application”) to the Issuer, on behalf of itself and its wholly-owned subsidiary Lamartine/Warburton LLC (the “Company” and, collectively with the School, the “Applicant”), requesting that the Issuer issue

its Educational Revenue Bonds (Charter School of Educational Excellence Project) Series 2020A (the "Series 2020A Bonds") and the Issuer's Educational Revenue Bonds (Charter School of Educational Excellence Project) Series 2020B (the "Series 2020B Bonds" and collectively with the Series 2020A Bonds, the "Series 2020 Bonds") in the principal amount not to exceed \$15,000,000.00 pursuant to the provisions of a trust indenture or amendment thereof (the "Indenture") by and between the Issuer and a trustee for the holders of the Bonds issued under the Indenture in connection with the undertaking by the Issuer of a project (the "Project"), which Project consists of the (A) Refunding of the Issuer's Educational Revenue Bonds (Charter School of Educational Excellence Project) Series 2010A ("Series 2010A Bonds"); (B) financing all or a portion of the costs associated with the acquisition of a leasehold interest in and renovation of and a one-story approximately 5,600 square foot building (currently used as a laundromat) located at 244 Warburton Avenue City of Yonkers, Westchester County, New York ("Expansion Facility"); (C) paying capitalized interest on the portion of the Series 2020 Bonds allocable to the Expansion Facility, if any; (D) funding a reserve fund, if any and such other and necessary funds for the Bonds as described in and required by the Indenture; and (E) and funding certain other costs incidental to the issuance of the Series 2020 Bonds (the costs associated with items (A), through (E) being hereinafter collectively referred to as the "Project Costs"); and

WHEREAS, the proceeds of the Series 2010A Bonds were used to finance the costs of (i) the acquisition, construction, installation and equipping of an approximately 29,000 square foot modular classroom facility constituting an addition to an approximately 22,000 existing facility, all to be operated as a charter school and located on an approximately 2.50 acre parcel of land located at 260 Warburton Avenue in the City of Yonkers, Westchester County, New York (the "2010 Facility and collectively with the Expansion Facility as the "Facility"), (ii) the refinancing of certain existing indebtedness of the School previously incurred in connection with the existing facility, (iii) the funding of a portion of the interest to become due on the Series 2010A Bonds, (iv) the funding of a reserve fund for the Series 2010A Bonds, and (v) the financing of certain costs incurred in connection with the issuance of the 2010A Bonds; and

WHEREAS, the Tax-Exempt Bonds are presently estimated to be issued in an aggregate Principal amount not to exceed \$12,200,000 and the Taxable Bonds are presently estimated to be issued in an aggregate principal amount not to exceed \$300,000; and

WHEREAS, the Expansion Facility, including the improvements to be renovated and equipped thereon will be subject to the Expansion Facility Lease by and between 260 Warburton Partners, LLC, as landlord and the Company, as tenant; and

WHEREAS, the site for certain lower school facilities of the School including the improvements to be constructed and or renovated thereon with a portion of the Series 2010A Bonds are subject to a Lower School Lease by and between Warburton Partners, LLC, as landlord and the School, as tenant; and

WHEREAS, the site for certain other lower school facilities of the School, are subject to the Annex Lease by and between Warburton Partners, LLC, as landlord and the School, as tenant; and

WHEREAS, the premises and facilities subject to the Lease, the Expansion Facility Lease and the Annex Lease, together the 'Facility Lease' (the "Mortgaged Property") will be subject to a sublease agreement dated as of November 1, 2020 (or such other appropriate date) between the School, as sub-lessee and the Company, as sub-lessor (the "Sublease Agreement"), and

WHEREAS, the Lower School Lease and the Annex Lease will be assigned to the Company pursuant to one or more assignment agreements dated as of November 1, 2020 (or such other appropriate date) (the "Assignment of Agreement"); and

WHEREAS, the Issuer desires to adopt a resolution describing the Project, ratifying a public hearing held on September 25, 2020 in accordance with Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Series 2020 Bonds will be issued pursuant to a Trust Indenture (the "Indenture"), dated as of November 1, 2020 (or such other appropriate date), by and between the Issuer and Manufacturers and Traders Trust Company, a national banking association or another national banking association, a bank or a trust company selected by the Company and approved by the Issuer, as trustee (the "Trustee"); and

WHEREAS, pursuant to the Indenture and as security for the Series 2020 Bonds, the Issuer will grant a first priority security interest in the Trust Estate (as defined in the Indenture); and

WHEREAS, pursuant to a certain Loan Agreement (the "Loan Agreement"), dated as of November 1, 2020 or the date the Series 2020 Bonds are issued and delivered (the "Closing Date") (or such other appropriate date), by and between the Issuer and the Company, the Issuer has agreed to use the proceeds derived from the sale of Series 2020A Bonds and Series 2020B Bonds to make a loan in an amount equal to the aggregate principal amount of the Series 2020A Bonds and Series 2020B Bonds (the "Loan") to the Company in order to finance a portion of the Project. The Company has agreed to use the proceeds of the Loan to fund a portion the Project Costs; and

WHEREAS, the Company's repayment obligations in respect of the Loan will be evidenced by a Promissory Note (the "Note"), dated as of the Closing Date (or such other appropriate date), delivered to the Issuer, which Note will be endorsed by the Issuer to the Trustee; and

WHEREAS, the lease payments made by the School to the Company pursuant to the Sublease Agreement shall be in an amount sufficient to make principal and interest payments on the Loan; and

WHEREAS, as further security for the Series 2020A Bonds and Series 2020B Bonds, the Company will execute and deliver to the Issuer one or more Mortgage and Security Agreement and Assignment of Leases and Rents (collectively the “Mortgage”), dated as of November 1, 2020 or Closing Date (or such other appropriate date), pursuant to which the Company will mortgage the Mortgaged Property to the Issuer; and

WHEREAS, the Issuer will assign all of its right, title and interest in the Mortgage to the Trustee pursuant to one or more Assignment of Mortgage (the “Assignment of Mortgage”), dated November 1, 2020 or as of the Closing Date (or such other appropriate date), from the Issuer to the Trustee; and

WHEREAS, in connection with the issuance of the Issuer’s Educational Revenue Bonds (Charter School of Educational Excellence Project), Series 2010A and Series 2010B (the “Series 2010 Bonds”) for the benefit of the School, the School, Manufacturers and Traders Trust Company (the “Custodian”) and Manufacturers and Traders Trust Company, as Trustee for the Series 2010 Bonds (the “Series 2010 Trustee”) have executed and delivered a custody agreement dated as of November 1, 2010 (the “Original Custody Agreement”). Pursuant to the Original Custody Agreement, the School causes payments of Education Aid due to the School from the School Districts named in the Original Custody Agreement to be delivered to the Custodian, and the Custodian in turn makes transfers of certain moneys to the Series 2010 Trustee for deposit under the trust indenture for the Series 2010 Bonds; and

WHEREAS, in connection with the issuance of the Series 2020 Bonds and the refunding of the Refunded Bonds, the School, the Custodian, the 2010 Trustee and the Trustee, will execute and deliver a certain amended and restated custody agreement, dated as of the Closing Date (or such other appropriate date) amending and restating the Original Custody Agreement providing that the Custodian will make further transfers of certain moneys to the Trustee for deposit under this Indenture on account of lease payments owed by the School under the Sublease Agreement pro-rata with such transfers of certain moneys to the 2019 Trustee for deposit under the trust indenture for the Series 2019 Bonds, pursuant to the Intercreditor Agreement as hereinafter defined (the “Custody Agreement”).

WHEREAS, the Issuer has previously issued its Educational Revenue Bonds (Charter School of Educational Excellence Project), Series 2019A in the aggregate principal amount of \$35,740,000 (the “Series 2019A Bonds”), the Issuer’s Educational Revenue Bonds (Charter School of Educational Excellence Project), Series 2019B (Taxable) in the aggregate principal amount of \$1,045,000 (the “Series 2019B Bonds” and collectively with the Series 2019A Bonds, and the Series 2019B Bonds, the “Series 2019 Bonds”) under and pursuant to an Indenture of Trust dated as of November 1, 2019 (the “Series 2019 Indenture”) between the Issuer and Manufacturers and traders Trust Company, as trustee (the “2019 Trustee”). The proceeds of the Series 2019 Bonds were be loaned to the Company pursuant to a Loan Agreement dated as of November 1, 2019 (the “2019 Loan Agreement”) between the Issuer and the Company; and

WHEREAS, the Custodian, the 2010 Trustee, the 2019 Trustee, the School, and the Company executed and delivered a certain intercreditor agreement (the “Original Intercreditor

Agreement”) dated as of November 14, 2019 providing that the Custodian is to make transfers of certain moneys to the 2019 Trustee for deposit under the 2019 Trust Indenture on account of lease payments owed by the School under the 2019 Lease Agreement pro-rata with such transfers of certain moneys to the 2010 Trustee for deposit under the trust indenture for the Series 2010 Bonds; and

WHEREAS, in connection with the issuance of the Series 2020 Bonds, the Custodian, the 2010 Trustee, the 2019 Trustee, the Trustee, the School, and the Company will execute and deliver a certain First Supplement to Intercreditor Agreement (“First Supplement” and the Original Intercreditor Agreement, as supplemented by the First Supplement, the “Intercreditor Agreement”), dated as of the Closing Date (or such other appropriate date) amending and supplementing the Original Intercreditor Agreement (i) recognizing the Amended and Restated Custody Agreement and (ii) providing that the Custodian will continue to make transfers of certain moneys to the 2019 Trustee for deposit under the Series 2019 Indenture on account of lease payments owed by the School under a certain lease agreement executed and delivered in connection with the Series 2019 Bonds pro-rata with such transfers of certain moneys to the Trustee for deposit under this Indenture for the Series 2020 Bonds on account of lease payments owed by the School under the Sublease, all as set forth in the Intercreditor Agreement; and

WHEREAS, the Series 2020 Bonds will be purchased by Robert W. Baird & Co. (the “Underwriter”), pursuant to a Bond Purchase Agreement, to be dated as of the date of the sale of the Series 2020 Bonds (or such other appropriate date) (the “Bond Purchase Agreement”), by and between the Issuer, the Company and the Underwriter; and

WHEREAS, the Issuer will grant exemption from New York State and local recording taxes applicable to the recording of the Mortgage, as such term is hereinafter defined; and

NOW, THEREFORE, BE IT RESOLVED BY THE ISSUER AS FOLLOWS:

Section 1. The Issuer hereby finds and determines:

(a) Pursuant to the Issuer’s certificate of incorporation filed on June 5, 2007 with the Department of State (the “Certificate”) and the purposes and powers contained within Section 1411 of the N-PCL, the Issuer is empowered to undertake the Project, issue the Series 2020 Bonds, and undertake the various transactions contemplated herein.

(b) The Issuer, in undertaking the Project pursuant to the purposes and powers set forth within N-PCL Section 1411 and the Certificate is acting in the public interest by lessening the burdens of government and, further, is promoting urban redevelopment initiatives in the City of Yonkers, Westchester County, New York.

(c) The Project involves a Type II action as said term is defined under SEQRA. The Issuer has further determined that the Project constitutes a Type II action pursuant to SEQRA because it involves the interior replacement, rehabilitation or reconstruction of the Expansion

Facility and routine activities of educational institutions, including expansions of existing facilities by less than 10,000 square feet of gross floor area. The Issuer has determined that the action does not have a significant impact on the environment and no further action under SEQRA is required.

Section 2. The public hearing held by the Issuer on September 25, 2020 relating to the Project and the issuance of the Series 2020 Bonds were duly noticed, whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views, and conducted in accordance with the requirements of the Code. The Issuer hereby ratifies all prior action taken by the Issuer regarding the provision of notice for and conducting said public hearing.

Section 3. Based on the foregoing, the Issuer hereby determines to (i) issue the Series 2020 Bonds pursuant to the terms of the Indenture; (ii) use the proceeds of the Series 2020 Bonds to (A) fund the Loan to provide funds to pay the Project Costs and (B) pay certain incidental expenses in connection therewith; (iii) execute and deliver the Financing Documents (as defined below); (iv) secure the Series 2020 Bonds by granting the Trustee a first priority security interest pursuant to the Indenture; (v) execute a certain Tax Certificate, to be dated as of the date of the issuance and delivery of the Series 2020 Bonds (the "Tax Certificate"), pursuant to which the Issuer makes certain representations and covenants to insure the continued tax-exempt status of the Series 2020A Bonds and Series 2020B Bonds; (vi) execute the First Supplement (vii) execute the Bond Purchase Agreement; (viii) publish and distribute an preliminary official statement and final official statement relating to the issuance and purchase of the Series 2020 Bonds (collectively, the "Official Statement"); and (xi) grant exemption from recording taxes applicable to the Mortgages, as such term is hereinafter defined.

Section 4. The President, Vice President, or their duly authorized designee or any other officer of the Issuer, is hereby delegated the authority to approve the Series 2020 Bonds (which shall be in a form as will be approved by counsel to the Issuer).

Section 5. The President, Vice President, or their duly authorized designee or any other officer of the Issuer, is hereby delegated the authority to approve the Indenture (which shall be in a form as will be approved by counsel to the Issuer).

Section 6. The President, Vice President, or their duly authorized designee or any other officer of the Issuer, is hereby delegated the authority to approve the Loan Agreement (which shall be in a form as will be approved by counsel to the Issuer).

Section 7. The President, Vice President, or their duly authorized designee or any other officer of the Issuer, is hereby delegated the authority to approve the Assignment of Mortgage (which shall be in a form as will be approved by counsel to the Issuer).

Section 8. The President, Vice President, or their duly authorized designee or any other officer of the Issuer, is hereby delegated the authority to approve the Tax Certificate (which shall be in a form as will be approved by counsel to the Issuer).

Section 9. The President, Vice President, or their duly authorized designee or any other officer of the Issuer, is hereby delegated the authority to approve the Bond Purchase Agreement (which shall be in a form as will be approved by counsel to the Issuer).

Section 10. The President, Vice President, or their duly authorized designee or any other officer of the Issuer, is hereby delegated the authority to approve the Preliminary Official Statement (which shall be in a form as will be approved by counsel to the Issuer). The Issuer hereby approves the mailing of the Preliminary Official Statement with such changes as approved by President of the Issuer.

Section 11. The President, Vice President, or their duly authorized designee or any other officer of the Issuer, is hereby delegated the authority to approve the Official Statement (which shall be in a form as will be approved by counsel to the Issuer). The distribution of such Official Statement, in the form approved by counsel, with such changes as the President of the Issuer may hereafter approve, is hereby authorized.

Section 12. The Issuer hereby determines to execute the Information Return and to file the same with the Internal Revenue Service.

Section 13. The Issuer is hereby authorized to issue, execute, sell and deliver to the Underwriter the Series 2020 Bonds in the aggregate principal amount of up to \$15,000,000 in the forms heretofore approved in this resolution, and in accordance with the Indenture, provided that:

(a) The Series 2020 Bonds authorized to be issued, executed, sold and delivered pursuant to this Resolution (i) shall be issued, executed and delivered at such time as the President of the Issuer shall determine, (ii) shall be in such aggregate principal amount (not to exceed \$15,000,000, in the aggregate), and (iii) shall bear interest at such rate or rates as are set forth in the Series 2020 Bonds and the Indenture or as are hereinafter approved by the President of the Issuer in accordance with this Resolution, and (iv) shall be subject to prepayment prior to maturity, and have such other provisions and be issued in such manner and on such conditions as are set forth in the Series 2020 Bonds and the Indenture, all of which provisions are specifically incorporated herein with the same force and effect as if fully set forth in this resolution.

(b) The Series 2020 Bonds shall be issued solely for the purpose of providing funds to assist the Issuer to finance a portion of the Project Costs and the administrative, legal, financial, and other expenses of the Issuer in connection with and incidental to the issuance of the Series 2020 Bonds.

(c) Based upon the opinion of Harris Beach PLLC, as Bond Counsel, the Series 2020 Bonds and the interest thereon are not and shall never be a debt of the State of New York or the City of Yonkers, and neither the State of New York nor the City of Yonkers, shall be liable thereon.

(d) The Series 2020 Bonds, together with interest payable thereon, shall be special obligations of the Issuer payable solely from the revenues and receipts from payments made by the Company to the Issuer under the Loan Agreement.

(e) The Issuer recognizes that the Guaranty represents Parity Additional Indebtedness under the 2010 Indenture.

Section 14. Notwithstanding any other provision of this resolution, the Issuer covenants that it will make no use of the proceeds of the Tax-Exempt Bonds or of any other funds which, if such use had been reasonably expected on the date of issue of the Tax-Exempt Bonds, would cause the Tax-Exempt to be “arbitrage bonds” within the meaning of Section 148 of the Code.

Section 15. (a) The President, Vice President, or their duly authorized designee or any other officer of the Issuer is hereby authorized, on behalf of the Issuer, to execute and deliver the Indenture, the Loan Agreement, the Assignment of Mortgage, the Tax Certificate, the Bond Purchase Agreement, the Preliminary Official Statement, the Official Statement, and the Series 2020 Bonds, the Amended and Restated Custody Agreement, the First Supplement and any documents necessary and incidental thereto, including, but not limited to, any documents reasonably required by the Trustee, the 2019 Trustee, or the Underwriter and approved by counsel to the Issuer (hereinafter collectively called the “Financing Documents”); and the Secretary of the Issuer is hereby authorized to affix the seal of the Issuer thereto where appropriate and to attest the same, all in substantially the forms thereof presented to this meeting with such changes (including without limitation any change in the dated date of such documents), variations, omissions and insertions as the President shall approve. The execution of the Financing Documents by the President shall constitute conclusive evidence of such approval.

(b) President, Vice President, or their duly authorized designee or any other officer of the Issuer is further hereby authorized, on behalf of the Issuer, to designate any additional Authorized Representatives of the Issuer (as defined in the Indenture).

Section 16. Due to the complex nature of this transaction, the Issuer hereby authorizes its President, Vice President or any other officer to approve, execute and deliver such further agreements, documents and certificates as the Issuer may be advised by counsel to the Issuer and/or Bond Counsel to be necessary or desirable to effectuate the foregoing, such approval to be conclusively evidenced by the execution of any such agreements, documents or certificates by the President of the Issuer.

Section 17. The officers, employees, and agents of the Issuer are hereby authorized and directed for and in the name and or behalf of the Issuer to do all acts and things required or provided by the provisions of the Financing Documents, and to execute and deliver all such additional certificates, instruments and documents, including the Financing Documents, 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

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cause compliance by the Issuer with all of the terms, covenants, and provisions of the Financing Documents binding upon the Issuer.

Section 18. The Issuer hereby expressly acknowledges that the Series 2020 Bonds will be limited obligations of the Issuer payable, with respect to the Issuer, solely from Trust Revenues (as defined within the Indenture) pledged by the Issuer. The Series 2020 Bonds will not be general obligations of the City of Yonkers, or the State. Neither the full faith and credit nor the taxing power of the City of Yonkers or the State of New York are pledged to the payment of any amount due under the Series 2020 Bonds.

Section 19. Counsel to the Issuer and Harris Beach PLLC, as Bond Counsel for the Issuer, are hereby authorized to work with counsel to the Company and others to prepare for submission to the Issuer, all documents necessary to effect the authorization, issuance and sale of the Series 2020 Bonds and reimbursement of the cost of all such work prior to the date hereof is hereby authorized to the extent permitted by the Code.

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Section 21. This resolution shall take effect immediately and the Series 2020 Bonds are hereby authorized to be issued in accordance with this resolution.

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

| | <i>Yea</i> | <i>Nay</i> | <i>Absent</i> | <i>Abstain</i> |
|------------------|------------|------------|---------------|----------------|
| Mayor Mike Spano | [✓] | [] | [] | [] |
| Wilson Kimball | [✓] | [] | [] | [] |
| Cecile D. Singer | [✓] | [] | [] | [] |
| Peter Kischak | [✓] | [] | [] | [] |
| Melissa Nacerino | [] | [] | [×] | [] |

The Bond Resolution was thereupon duly adopted.

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

The undersigned, being the Secretary of the Yonkers Economic Development Corporation, DOES HEREBY CERTIFY THAT:

I have compared the foregoing extract of the minutes of the meeting of Yonkers Economic Development Corporation (the "Corporation") including the resolution contained therein, held on the 14 th day of October 2020, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Corporation and of such resolution set forth therein and of the whole of said original insofar as the same relates to the subject in matters therein referred to.

I FURTHER CERTIFY that all board members of said Corporation had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY that there was a quorum of the board members of the Corporation 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 modified.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Corporation this 15th day of October 2020.

Wilson Kimball, Secretary