
SCHENECTADY COUNTY CAPITAL RESOURCE CORPORATION

AND

SCHAFER HEIGHTS HOUSING CORPORATION

OMNIBUS AMENDMENT TO FINANCING DOCUMENTS

DATED AS OF MARCH 19, 2018

OMNIBUS AMENDMENT TO FINANCING DOCUMENTS

THIS OMNIBUS AMENDMENT TO FINANCING DOCUMENTS, dated as of the 19th day of March, 2018 (the "Agreement") is by and between the SCHENECTADY COUNTY CAPITAL RESOURCE CORPORATION, a not-for-profit local development corporation organized under the laws of the State of New York, having an office for the transaction of business located at 433 State Street, Schenectady, New York 12305 (the "Corporation") and SCHAFFER HEIGHTS HOUSING CORPORATION, a not-for-profit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 107 Nott Terrace, Schenectady, New York 12308 (the "Institution").

WITNESSETH:

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 to cause a not-for-profit local development corporation to be incorporated by public officers for, among other things, the public purpose to relieve and reduce unemployment, promote and provide for additional and maximum employment, for the bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, carrying on scientific research for the purpose of aiding a community or geographical area by attracting new industry to the community or area or by encouraging the development, or retention of, an industry in the community or area, 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 Act, such corporations will be performing essential governmental functions, and (C) authorizes each such corporation to acquire by purchase, lease, bequest, devise or otherwise real or personal property or interests therein, to borrow money and to issue negotiable bonds, notes and other obligations therefor and to sell, lease, mortgage or otherwise dispose of or encumber any of its real or personal property or any interest therein 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 Act and Revenue Ruling 57-187 and Private Letter Ruling 200936012, the County Legislature of Schenectady County, New York (the "County") adopted a resolution on July 13, 2010 (the "Sponsor Resolution") (A) authorizing the incorporation of Schenectady County Capital Resource Corporation (the "Corporation") under the Enabling Act and (B) appointing the initial members of the Board of Directors of the Corporation, who serve at the pleasure of the Legislature of the County; and

WHEREAS, in August, 2010, a certificate of incorporation was filed with the New York State Secretary of State's Office (the "Certificate of Incorporation") creating the Corporation pursuant to the Enabling Act as a public instrumentality of the County; and

WHEREAS, the Corporation 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 Corporation will be performing essential governmental functions; and

WHEREAS, to accomplish its stated purposes, the Corporation 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 Corporation are principally to be conducted; and

WHEREAS, pursuant to a resolution duly adopted by the members of the Corporation on April 2, 2014 (the "Bond Resolution"), the Corporation undertook a project (the "Project") consisting of the following: (A) the issuance of its Tax-Exempt Refunding Revenue Bond (Schaffer Heights Housing Corporation Project), Series 2014A in the principal amount of not to exceed \$7,500,000 (the "Series 2014A Bond"), Taxable Revenue Bond (Schaffer Heights Housing Corporation Project), Series 2014B in the principal amount of not to exceed \$1,500,000 (the "Series 2014B Bond"), and Taxable Refunding Revenue Bond (Schaffer Heights Housing Corporation Project), Series 2014C in the principal amount of not to exceed \$2,000,000 (the "Series 2014C Bond", and collectively with the Series 2014A Bond and Series 2014B Bond, the "Series 2014 Bonds"); and (B) the making of a loan (the "Loan") of the proceeds of the Series 2014 Bonds to the Institution to finance (1) the renovation of a portion of the Project Facility (as that term is defined in the Berkshire Bond Purchase Agreement (as defined herein)) into office and judicial space for County of Schenectady court functions (the "2014 Project"), (2) the refunding of the outstanding principal balance of the \$7,875,000 Tax-Exempt Civic Facility Revenue Bonds (GNMA Collateralized — Schaffer Heights Housing Corporation Project), Series 2000A (the "Series 2000A Bonds") and the outstanding principal balance of the \$2,000,000 Taxable Subordinated Civic Facility Revenue Bonds (Schaffer Heights Housing Corporation Project), Series 2000B (the "Series 2000B Bonds" and, collectively, with the Series 2000A Bonds, the "Series 2000 Bonds") issued by the City of Schenectady Industrial Development Agency, and (4) the costs incidental to the issuance of the Series 2014 Bonds, including issuances costs of the Series 2014 Bonds; and

WHEREAS, the Series 2014A Bond and the Series 2014B Bond were issued pursuant to the Bond Resolution, a certificate of determination dated the date of the issuance of the Series 2014 Bonds (the "Certificate of Determination") executed by the Chairman of the Corporation and a bond purchase agreement dated as of April 1, 2014 (the "Berkshire Bond Purchase Agreement"), by and among the Corporation, the Institution and Berkshire Bank ("Berkshire Bank"), as initial purchaser of the Series 2014A Bond and the Series 2014B Bond; and

WHEREAS, in order to consummate the Project and the granting of the Financial Assistance, the Corporation entered into a loan agreement dated as of April 1, 2014 (the "Loan Agreement") by and between the Corporation and the Institution; and

WHEREAS, Berkshire Bank and the Institution have agreed to amend the Berkshire Bond Purchase Agreement, the Series 2014A Bond and the Series 2014B Bond to revise the schedule of debt service payments due on the Series 2014A Bond and the Series 2014B Bond (collectively, the "Amendment"); and

WHEREAS, the Amendment will cause the Series 2014A Bond to be deemed to be reissued for purposes of Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”) (the execution and delivery of the Amendment and the reissuance of the Series 2014A Bond for federal income tax purposes referred to herein as the “Transaction”); and

WHEREAS, in order for the Series 2014A Bond to continue to be a federally tax-exempt obligation, the interest on which is excludable from gross income for federal income tax purposes (A) pursuant to Section 147(f) of the Code and the regulations of the United States Treasury Department thereunder, the Corporation must provide notice of and conduct a public hearing and the County Legislature of the County of Schenectady (the “County Legislature”) must approve the reissuance of the Series 2014A Bond; and (B) all of the requirements of Section 145 of the Code must be satisfied; and

WHEREAS, pursuant to the authorization contained in a resolution duly adopted on May 22, 2017 (the “Public Hearing Resolution”), the Executive Director of the Corporation (A) caused notice of a public hearing of the Corporation (the “Public Hearing”) pursuant to the Corporation’s certificate of incorporation and Section 147(f) of the Code to be published on June 10, 2017 in the Daily Gazette, a newspaper of general circulation available to the residents of the County of Schenectady, Schenectady County, New York, (B) conducted the Public Hearing on June 28, 2017 at 5:00 o’clock p.m., local time, at the offices of Schenectady Metroplex Development Authority located at Center City Plaza, 433 State Street, 4th Floor, in the City of Schenectady, Schenectady County, New York, and (C) caused to be prepared a report of the Public Hearing which fairly summarized the views presented at said Public Hearing and distributed same to the members of the Corporation and to the County Legislature; and

WHEREAS, by resolution duly adopted on July 10, 2017 the County Legislature approved the reissuance of the Series 2014A Bond for federal income tax purposes pursuant to Section 147(f) of the Code; and

WHEREAS, to demonstrate compliance with the provisions of the Code relating to the reissuance of the Series 2014A Bond for federal income tax purposes, (A) the Corporation and the Institution will execute a tax compliance agreement dated the date of reissuance of the Series 2014A Bond (the “Tax Compliance Agreement”) relating to certain requirements set forth in Sections 145 and 148 of the Code; and (B) the Corporation will (1) execute a completed Internal Revenue Service Form 8038 (Information Return for Private Activity Bonds) relating to the reissuance of the Series 2014A Bond (the “Information Return”) pursuant to Section 149(e) of the Code, and (2) file the Information Return with the Internal Revenue Service; 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 (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), the Corporation determined in the Public Hearing Resolution that the potential environmental significance of the Amendment, the reissuance of the Series 2014A Bonds and the execution and delivery of the documents related thereto constituted a “Type II action” (as such quoted term is defined under SEQRA), and therefor that no further action with respect to the Project was required under SEQRA; and

WHEREAS, the Corporation and the Institution have agreed to enter into this Agreement in order to amend certain provisions of the Berkshire Bond Purchase Agreement, the Series 2014A Bond and the Series 2014B Bond; and

WHEREAS, the Corporation and the Institution have agreed to execute this Agreement with the revised Monthly Principal Payment Schedule attached as Schedule A, which this Agreement is intended to and shall replace in the Berkshire Bond Purchase Agreement, the Series A 2014A Bond and the Series 2014B Bond and to amend any loan payments and other amounts payable under Section 5.1 of the Loan Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged it is mutually agreed as follows:

SECTION 1. AMENDMENT OF FINANCING DOCUMENTS. The Financing Documents are hereby amended as follows:

(A) Schedule A – Monthly Principal Payment Schedule attached to the FORM OF SERIES 2014A BOND in Schedule I to the Berkshire Bond Purchase Agreement is hereby deleted in its entirety and replaced with Schedule A-1 attached hereto and incorporated herein by reference. Schedule A – Monthly Principal Payment Schedule attached to the FORM OF SERIES 2014B BOND in Schedule I to the Berkshire Bond Purchase Agreement is hereby deleted in its entirety and replaced with Schedule A-2 attached hereto and incorporated herein by reference.

(B) Schedule A – Monthly Principal Payment Schedule attached to the Series 2014A Bond is hereby deleted in its entirety and replaced with Schedule A-1 attached hereto and incorporated herein by reference.

(C) Schedule A – Monthly Principal Payment Schedule attached to the Series 2014B Bond is hereby deleted in its entirety and replaced with Schedule A-2 attached hereto and incorporated herein by reference.

SECTION 2. REPRESENTATIONS BY INSTITUTION. (A) The Institution represents that (1) the Institution has the legal authority to enter into this Agreement, and (2) the Institution has authorized the execution, delivery and performance of this Agreement.

(B) The Institution further represents that neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and thereby nor the fulfillment of or compliance with the provisions of this Agreement requires the approval of any governmental authority or will conflict with or result in a breach of any of the terms, conditions or provisions of or any restriction or any agreement or instrument to which the Institution is a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature whatsoever upon any of the properties of the Institution under the terms of any such instrument or agreement.

(C) No Event of Default specified in any of the Financing Documents, as amended to the date hereof, has occurred and no event which with notice or lapse of time or both would become such an Event of Default has occurred and is continuing.

(D) Each of the representations of the Institution set forth in each of the Financing Documents, as amended to the date hereof, is true and correct as of the date hereof.

SECTION 3. PROVISIONS OF THIS AGREEMENT CONSTRUED WITH FINANCING DOCUMENTS. All of the covenants, agreements and provisions of this Agreement shall be deemed to be and construed as part of the applicable Financing Document and vice versa to the same extent as if fully set forth verbatim therein and herein. In the event of any variation or inconsistency between any covenant, agreement or provision contained in this Agreement and any covenant, agreement or provision contained in the applicable Financing Document, the covenant, agreement or provision contained herein shall govern.

SECTION 4. FINANCING DOCUMENTS AS AMENDED TO REMAIN IN EFFECT. Except as amended by this Agreement, each of the Financing Documents shall remain in full force and effect and the terms and conditions thereof are hereby confirmed.

SECTION 5. EXECUTION OF COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

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IN WITNESS WHEREOF, the Institution and the Corporation have caused this Agreement to be executed in their respective names, all as of the date first above written.

SCHENECTADY COUNTY CAPITAL
RESOURCE CORPORATION

By: 

Chairman

BERKSHIRE BANK, as Holder

By: _____

Authorized Officer

SCHAFFER HEIGHTS HOUSING
CORPORATION

By: _____

Authorized Representative

IN WITNESS WHEREOF, the Institution and the Corporation have caused this Agreement to be executed in their respective names, all as of the date first above written.

SCHENECTADY COUNTY CAPITAL
RESOURCE CORPORATION

By: _____
Chairman

BERKSHIRE BANK, as Holder

By:  _____
Authorized Officer

SCHAFFER HEIGHTS HOUSING
CORPORATION

By: _____
Authorized Representative

IN WITNESS WHEREOF, the Institution and the Corporation have caused this Agreement to be executed in their respective names, all as of the date first above written.

SCHENECTADY COUNTY CAPITAL
RESOURCE CORPORATION

By: _____
Chairman

BERKSHIRE BANK, as Holder

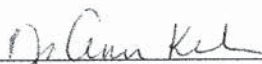
By: _____
Authorized Officer

SCHAFFER HEIGHTS HOUSING
CORPORATION

By: Marie J. Gorman
Authorized Representative

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

On the 15th day of December in the year 2017 before me, the undersigned, a notary public in and for the State of New York, personally appeared Gary Hughes, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.




Notary Public

JO-ANN KILMER
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01K1 052088
QUALIFIED IN SARATOGA COUNTY
COMMISSION EXPIRES NOV. 20, 20 21

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

On the 27th day of December in the year 2017 before me, the undersigned, a notary public in and for the State of New York, personally appeared James J. Morris IV, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

CORNELIA M. CAHILL
Notary Public, State of New York
NO. 02CA6104039
Qualified in Schenectady County
Commission Expires January 26, 20 20

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

On the ____ day of December in the year 2017 before me, the undersigned, a notary public in and for the State of New York, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

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

On the ____ day of December in the year 2017 before me, the undersigned, a notary public in and for the State of New York, personally appeared Gary Hughes, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

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

On the ____ day of December in the year 2017 before me, the undersigned, a notary public in and for the State of New York, personally appeared James J. Morris IV, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

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

On the 28th day of December in the year 2017 before me, the undersigned, a notary public in and for the State of New York, personally appeared Marie J. Gorman, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

JOHN R. MINEAUX
Notary Public, State of New York
No. 02MI4829537
Qualified in Albany County
Commission Expires 03-30-20__

SCHEDULE A-1

Series 2014A Bond

Revised Monthly Principal Payment Schedule

Schedule A

Schaffer Heights Housing Corp - 2014 Taxable Bond

Payment Number	Payment Date	Principal Amount Due
1	4/1/2018	\$2,184.03
2	5/1/2018	\$2,378.53
3	6/1/2018	\$2,206.23
4	7/1/2018	\$2,400.11
5	8/1/2018	\$2,228.64
6	9/1/2018	\$2,239.48
7	10/1/2018	\$2,432.45
8	11/1/2018	\$2,262.21
9	12/1/2018	\$2,454.56
10	1/1/2019	\$2,285.16
11	2/1/2019	\$2,296.28
12	3/1/2019	\$2,848.15
13	4/1/2019	\$2,321.31
14	5/1/2019	\$2,512.02
15	6/1/2019	\$2,344.82
16	7/1/2019	\$2,534.89
17	8/1/2019	\$2,368.56
18	9/1/2019	\$2,380.09
19	10/1/2019	\$2,569.18
20	11/1/2019	\$2,404.17
21	12/1/2019	\$2,592.60
22	1/1/2020	\$2,428.48
23	2/1/2020	\$2,440.29
24	3/1/2020	\$2,803.30
25	4/1/2020	\$2,465.80
26	5/1/2020	\$2,652.54
27	6/1/2020	\$2,490.71
28	7/1/2020	\$2,676.76
29	8/1/2020	\$2,515.85
30	9/1/2020	\$2,528.09
31	10/1/2020	\$2,713.11
32	11/1/2020	\$2,553.59
33	12/1/2020	\$2,737.90
34	1/1/2021	\$2,579.33
35	2/1/2021	\$2,591.88
36	3/1/2021	\$3,116.45
37	4/1/2021	\$2,619.65
38	5/1/2021	\$2,802.15
39	6/1/2021	\$2,646.03
40	7/1/2021	\$2,827.80
41	8/1/2021	\$2,672.66
42	9/1/2021	\$2,685.67
43	10/1/2021	\$2,866.35
44	11/1/2021	\$2,712.68
45	12/1/2021	\$2,892.61
46	1/1/2022	\$2,739.95
47	2/1/2022	\$2,753.28
48	3/1/2022	\$3,262.94
49	4/1/2022	\$2,782.55
50	5/1/2022	\$2,960.56
51	6/1/2022	\$2,810.49
52	7/1/2022	\$2,987.73
53	8/1/2022	\$2,838.70
54	9/1/2022	\$2,852.51
55	10/1/2022	\$3,028.60
56	11/1/2022	\$2,881.13
57	12/1/2022	\$3,056.42

Schedule A

Schaffer Heights Housing Corp - 2014 Taxable Bond

Payment Number	Payment Date	Principal Amount Due
58	1/1/2023	\$2,910.02
59	2/1/2023	\$2,924.17
60	3/1/2023	\$3,418.04
61	4/1/2023	\$2,955.03
62	5/1/2023	\$3,128.29
63	6/1/2023	\$2,984.63
64	7/1/2023	\$3,157.07
65	8/1/2023	\$3,014.51
66	9/1/2023	\$3,029.17
67	10/1/2023	\$3,200.39
68	11/1/2023	\$3,059.48
69	12/1/2023	\$3,229.86
70	1/1/2024	\$3,090.08
71	2/1/2024	\$3,105.12
72	3/1/2024	\$3,428.26
73	4/1/2024	\$3,136.90
74	4/30/2024	\$974,775.77

Schedule A

Schaffer Heights Housing Corp - 2014 Tax-Exempt Bond

Payment Number	Payment Date	Principal Amount Due
1	4/1/2018	\$13,247.57
2	5/1/2018	\$13,984.67
3	6/1/2018	\$13,347.24
4	7/1/2018	\$14,081.47
5	8/1/2018	\$13,447.62
6	9/1/2018	\$13,496.83
7	10/1/2018	\$14,226.77
8	11/1/2018	\$13,598.29
9	12/1/2018	\$14,325.32
10	1/1/2019	\$13,700.48
11	2/1/2019	\$13,750.62
12	3/1/2019	\$15,817.94
13	4/1/2019	\$13,858.84
14	5/1/2019	\$14,578.38
15	6/1/2019	\$13,962.91
16	7/1/2019	\$14,679.47
17	8/1/2019	\$14,067.73
18	9/1/2019	\$14,119.22
19	10/1/2019	\$14,831.29
20	11/1/2019	\$14,225.17
21	12/1/2019	\$14,934.19
22	1/1/2020	\$14,331.88
23	2/1/2020	\$14,384.33
24	3/1/2020	\$15,740.60
25	4/1/2020	\$14,494.58
26	5/1/2020	\$15,195.87
27	6/1/2020	\$14,603.24
28	7/1/2020	\$15,301.41
29	8/1/2020	\$14,712.68
30	9/1/2020	\$14,766.53
31	10/1/2020	\$15,460.01
32	11/1/2020	\$14,877.15
33	12/1/2020	\$15,567.45
34	1/1/2021	\$14,988.57
35	2/1/2021	\$15,043.42
36	3/1/2021	\$16,989.90
37	4/1/2021	\$15,160.65
38	5/1/2021	\$15,842.82
39	6/1/2021	\$15,274.12
40	7/1/2021	\$15,953.02
41	8/1/2021	\$15,388.40
42	9/1/2021	\$15,444.72
43	10/1/2021	\$16,118.72
44	11/1/2021	\$15,560.23
45	12/1/2021	\$16,230.92
46	1/1/2022	\$15,676.58
47	2/1/2022	\$15,733.95
48	3/1/2022	\$17,615.88
49	4/1/2022	\$15,856.00
50	5/1/2022	\$16,518.20
51	6/1/2022	\$15,974.48
52	7/1/2022	\$16,633.27
53	8/1/2022	\$16,093.82
54	9/1/2022	\$16,152.72
55	10/1/2022	\$16,806.39
56	11/1/2022	\$16,273.34
57	12/1/2022	\$16,923.55

Schedule A

Schaffer Heights Housing Corp - 2014 Tax-Exempt Bond

Payment Number	Payment Date	Principal Amount Due
58	1/1/2023	\$16,394.83
59	2/1/2023	\$16,454.83
60	3/1/2023	\$18,269.38
61	4/1/2023	\$16,581.91
62	5/1/2023	\$17,223.26
63	6/1/2023	\$16,705.63
64	7/1/2023	\$17,343.42
65	8/1/2023	\$16,830.24
66	9/1/2023	\$16,891.83
67	10/1/2023	\$17,524.28
68	11/1/2023	\$17,017.79
69	12/1/2023	\$17,646.62
70	1/1/2024	\$17,144.65
71	2/1/2024	\$17,207.39
72	3/1/2024	\$18,391.19
73	4/1/2024	\$17,337.67
74	4/30/2024	\$4,711,298.86

