


# *Tompkins County Development Corporation*

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Administration provided by 

**TOMPKINS COUNTY DEVELOPMENT CORPORATION  
BOARD OF DIRECTORS MEETING**

• Thursday, September 20, 2012 •

**3:30 PM**

**Tompkins County Public Library  
Borg Warner Room  
101 E. Green Street, Ithaca NY**

**AGENDA**

- 1. CALL TO ORDER**
- 2. PRIVILEGE OF THE FLOOR**
- 3. BUSINESS**  
  
Kendal at Ithaca Refinance – Final Approval  
Tompkins Cortland Community College Foundation Application
- 4. STAFF REPORT**
- 5. APPROVAL OF MEETING MINUTES – August 16, 2012**
- 6. ADJOURNMENT**

**BOND RESOLUTION**  
*(Kendal at Ithaca, Inc. Project)*

A regular meeting of the Tompkins County Development Corporation was convened in public session on September 20, 2012, at 3:30 p.m., local time, at the Borg Warner Room East, Tompkins County Public Library, 101 E. Green Street, Ithaca, New York 14850.

The meeting was called to order by the Chair, with the following members being:

PRESENT:

ABSENT:

ALSO PRESENT:

On motion duly made and seconded, the following resolution was placed before the members of the Tompkins County Development Corporation:

**Resolution No. 09/12 - \_\_**

RESOLUTION AUTHORIZING THE ISSUANCE, EXECUTION, SALE AND DELIVERY OF THE ISSUER'S CONTINUING CARE RETIREMENT COMMUNITY REVENUE BONDS (KENDAL AT ITHACA, INC. PROJECT), SERIES 2012 IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO \$10,000,000 AND THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS

WHEREAS, by Section 1411 of the Not-for-Profit Corporation Law ("N-PCL") of the State of New York (the "State"), as amended (hereinafter collectively called the "Act"), the Tompkins County Development Corporation (the "Issuer") was established as a not-for-profit local development corporation of the State with the authority and power to own, lease and sell personal and real property for the purposes of, among other things, acquiring, constructing and equipping certain projects exclusively in furtherance of the charitable or public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, by encouraging the development of, or

retention of, an industry in the community or area, and lessening the burdens of government and acting in the public interest; and

WHEREAS, the Act authorizes the Issuer 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, Kendal at Ithaca, Inc. (the "Company") has requested the Issuer to issue its up to \$10,000,000 Continuing Care Retirement Community Revenue Bonds (Kendal at Ithaca, Inc. Project), Series 2012 (the "Bonds") the purpose of financing a certain project (the "Project") consisting of: (A) the refinancing of the outstanding principal amount of the Tompkins County Industrial Development Agency's (the "Agency") \$12,830,000 original principal amount Continuing Care Retirement Community Revenue Bonds (Kendal at Ithaca, Inc. Project), Series 2003A (the "Series 2003A Bonds") issued for the benefit of the Company for the purpose of refunding in part the \$23,255,000 original principal amount Tompkins County Industrial Development Agency Life Care Community Bonds (Kendal at Ithaca, Inc. Project), Series 1994, the proceeds of which were used to finance a certain project (the "1994 Project") consisting of (i) the acquisition of an approximately 100-acre parcel of land located in the Village of Cayuga Heights, Tompkins County, New York (the "Land"); (ii) the construction on the Land of a Life Care Community facility consisting of approximately 210 independent living units, 35 nursing care beds, 12 adult care units and related facilities; (iii) the acquisition and installation in and around the Series 1994 Project of certain items of equipment, machinery, furniture and other tangible personal property (collectively, the "Equipment" and together with the Land and the Series 1994 Project, the "Series 1994 Facility"); and (iv) the payment of certain costs incidental to the issuance of the Series 1994 Bonds; and (B) the payment of certain costs incidental to the issuance of the Bonds ((A) and (B) hereinafter referred to as "Project Costs"); and

WHEREAS, the Bonds will be issued pursuant to the terms of a certain Indenture of Trust, to be dated as of October 1, 2012, by and between the Issuer and The Bank of New York Mellon, as trustee (the "Trustee") (the "Indenture"); and

WHEREAS, pursuant to a certain Loan Agreement, to be dated as of October 1, 2012 (the "Loan Agreement"), by and between the Issuer and the Company, the Issuer will loan the proceeds of the Bonds to the Company with the debt service payments thereunder in an amount sufficient to pay, among other things, the principal of, sinking fund installments, redemption price of and interest on the Bonds; and

WHEREAS, as security for the Bonds: (i) the Issuer will assign to the Trustee all of its rights (except Reserved Rights, as defined in the Indenture) under the Loan Agreement, pursuant to the terms of a certain Pledge and Assignment, to be dated as of October 1, 2012, from the Issuer to the Trustee (the "Pledge and Assignment"), (ii) the Company will grant to the Issuer a mortgage lien on and security interest in the Mortgaged Premises (as defined in the Mortgage, as defined below) pursuant to a certain Mortgage and Security Agreement, to be dated as of October 1, 2012, from the Company to the Issuer (the "Mortgage"); which mortgage lien and security interest shall be assigned by the Issuer to the Trustee pursuant to a certain Assignment of

Mortgage and Security Agreement, to be dated as of October 1, 2012, from the Issuer to the Trustee (the "Assignment of Mortgage"); and

WHEREAS, as additional security for the Bonds, (i) the Company will grant to the Trustee a security interest in the Gross Revenues (as defined in the Indenture) and in certain other collateral pursuant to the terms of a certain Security Agreement, to be dated as of October 1, 2012, from the Company to the Trustee (the "Security Agreement"); (ii) the Company will assign to the Trustee all of its right, title and interest in all Residency Agreements (as defined in the Assignment of Residency Agreements, as defined below) pursuant to the terms of a certain Assignment of Residency Agreements, to be dated as of October 1, 2012, by and between the Company and the Trustee (the "Assignment of Residency Agreements") and (iii) the Company will assign to the Trustee all of its right, title and interest in the Management Contract (as defined in the Assignment of Management Agreement Contract and Permits, as defined below) and Permits (as defined in the Assignment of Management Contract Agreement and Permits, as defined below), pursuant to a certain Assignment of Management Contract Agreement and Permits, to be dated as of October 1, 2012, from the Company to the Trustee (the "Assignment of Management Contract and Permits"); and

WHEREAS, the Bonds are being purchased by Ziegler (the "Underwriter"), pursuant to a certain Bond Purchase Agreement, to be dated on or about October 15, 2012, by and among the Issuer, the Company and the Underwriter (the "Bond Purchase Agreement"); and

WHEREAS, in order to establish the respective rights of the Trustee, Wachovia Bank, National Association, as letter of credit provider to the Agency's \$5,000,000 aggregate principal amount Variable Rate Demand Continuing Care Retirement Community Revenue Bonds (Kendal at Ithaca, Inc. Project), Series 2003B (the "Series 2003B Bonds") and \$8,250,000 aggregate principal amount Variable Rate Demand Continuing Care Retirement Community Revenue Bonds (Kendal at Ithaca, Inc. Project), Series 2000 ("Series 2000 Bonds") and The Bank of New York Mellon, as trustee for the Series 2003B Bonds and Series 2000 Bonds (the "2003B/2000 Trustee"), the Trustee, the Bank, the 2003B/2000 Trustee, the Agency and the Issuer have entered into a certain Intercreditor Agreement, dated as of October 1, 2012 (the "Intercreditor Agreement"); and

WHEREAS, pursuant to correspondence dated February 4, 2003, the New York State Continuing Care Retirement Community Council issued to the Company a Certificate of Authorization with respect to the Series 2003 Bonds in accordance with Section 4604-a of the New York State Public Health Law; and

WHEREAS, on September 18, 2012, the Board of Legislators of Tompkins County approved the issuance of the Bonds to finance the Project, in accordance with Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code").

NOW, THEREFORE, BE IT RESOLVED by Tompkins County Development Corporation as follows:

Section 1. The Issuer hereby finds and determines:

(a) By virtue of the Act, the Issuer has been vested with all the 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 Project will promote and maintain permanent private sector jobs, health, general prosperity and economic welfare of the citizens of the State of New York and improve their standard of living and will increase the overall number of permanent private sector jobs in the state and thereby serve the public purposes of the Act;

(c) The Project and the operations conducted therein will not cause or result in the violation of the health, labor or other laws of the United States of America, the State of New York, or Tompkins County, New York;

(d) It is desirable and in the public interest for the Issuer to issue and sell the Bonds to be dated on or about October 31, 2012 (or such other date as approved by Bond Counsel to the Issuer), upon the terms and conditions set forth in the Indenture and to secure the Bonds by, among other things, the execution and delivery to the Trustee of the Indenture, the Mortgage and the Assignment of Mortgage, all for the purposes of assisting in financing the cost of undertaking the Project, paying certain incidental costs and expenses in connection with the issuance of the Bonds, and funding a deposit to the Debt Service Reserve Fund established under the Indenture to secure the Bonds; and

(e) The public hearing held by the Issuer on August 24, 2012, concerning the issuance of the Bonds and the undertaking of the Project was duly held in accordance with the requirements of the Code, including but not limited to the giving of public notice of the meeting a reasonable time before the meeting and affording a reasonable opportunity for persons with differing views on both the issuance of the Bonds and the undertaking of the Project; and

(f) The Issuer hereby approves the issuance of the Bonds and the execution and delivery of all documents necessary and incidental thereto as further set forth herein.

Section 2. In consequence of the foregoing, the Issuer hereby determines to (i) issue the Bonds pursuant to the terms of the Indenture, (ii) use the proceeds of the Bonds to (A) assist in undertaking the refunding the Series 2003A Bonds, (B) pay certain incidental expenses in connection therewith, and (C) fund a deposit to the Debt Service Reserve Fund established under the Indenture to secure the Bonds, (iii) execute the Loan Agreement, pursuant to which the Issuer shall loan the proceeds of the Bonds to the Company, (iv) assign its mortgage lien on and security interest in the Facility to the Trustee pursuant to the terms of the Assignment of Mortgage, (v) execute a certain Tax Compliance Agreement, to be dated as of the date of issuance and delivery of the Bonds (the "Tax Compliance Agreement"), pursuant to which the Issuer and the Company make certain representations and covenants to ensure the continued tax-exempt status of the Bonds, (vi) execute a certain purchase contract with respect to the initial sale of the Bonds (the "Bond Purchase Agreement"), by and among the Issuer, the Company and the Underwriter; (vii) publish and disseminate to potential purchasers of the Bonds an official statement relating to the issuance and initial sale of the Bonds (the "Official Statement"), (viii)

execute the Intercreditor Agreement, (ix) execute an Internal Revenue Service Form 8038 (the "Information Return") in connection with the issuance of the Bonds, and (x) execute and deliver any additional documents or instruments necessary and incidental thereto and approved by Bond Counsel to the Issuer.

Section 3. The form and substance of the Bonds (in substantially the form presented to this meeting) are hereby approved, and the Secretary is hereby directed to include a copy of the form of the Bonds submitted to this meeting with the records of the Issuer.

Section 4. The form and substance of the Indenture (in substantially the form presented to this meeting) is hereby approved, and the Secretary is hereby directed to include a copy of the form of the Indenture submitted to this meeting with the records of the Issuer.

Section 5. The form and substance of the Loan Agreement (in substantially the form presented to this meeting) is hereby approved, and the Secretary is hereby directed to include a copy of the form of the Loan Agreement submitted to this meeting with the records of the Issuer.

Section 6. The form and substance of the Mortgage and Assignment of Mortgage (in substantially the forms presented to this meeting) are hereby approved, and the Secretary is hereby directed to include a copy of the form of Mortgage and Assignment of Mortgage submitted to this meeting with the records of the Issuer.

Section 7. The form and substance of the Tax Compliance Agreement (in substantially the form presented to this meeting) are hereby approved, and the Secretary is hereby directed to include copies of the Tax Compliance Agreement and the Information Return submitted to this meeting with the records of the Issuer.

Section 8. The form and substance of the Bond Purchase Agreement (in substantially the form presented to this meeting) is hereby approved, and the Secretary is hereby directed to include copies of the Bond Purchase Agreement submitted to this meeting with the records of the Issuer.

Section 9. The form and substance of the Official Statement (in substantially the form presented to this meeting) is hereby approved and the Secretary is hereby directed to include copies of the Official Statement submitted to this meeting with the records of the Issuer.

Section 10. The form and substance of the Intercreditor Agreement (in substantially the form presented to this meeting) is hereby approved and the Secretary is hereby directed to include copies of the Intercreditor Agreement submitted to this meeting with the records of the Issuer.

Section 11. The Issuer hereby determines to execute the Information Return in such form as is hereinafter approved by the Chair (or Vice Chair) of the Issuer, 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 Bonds in the aggregate principal amount of up to \$10,000,000 in the forms heretofore approved in this resolution, pursuant to the Act and in accordance with the Indenture; provided that:

(a) The 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 Chair (or Vice Chair) of the Issuer shall determine, (ii) shall be in such aggregate principal amount (not to exceed \$10,000,000) as is hereinafter approved by the Chair (or Vice Chair) of the Issuer in accordance with this resolution, (iii) shall bear interest at such rates as are set forth in the Bonds and the Indenture or as are hereinafter approved by the Chair or Vice Chair 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 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 Bonds shall be issued solely for the purpose of providing funds to finance the Project, the administrative, legal, financial, and other expenses of the Issuer in connection with the Project and incidental to the issuance of the Bonds, as such costs are more specifically set forth in the Loan Agreement, and the funding of a deposit to the Debt Service Reserve Fund established under the Indenture to secure the Bonds.

(c) The Bonds and the interest thereon are not and shall never be a debt of the State of New York, or Tompkins County, New York, and neither the State of New York, nor Tompkins County, New York shall be liable thereon.

(d) The Bonds, together with interest payable thereon, shall be special obligations of the Issuer payable solely from the revenues and receipts derived from the sale of the Facility or from the enforcement of the security provided by the Indenture.

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

Section 15. (a) The Chair (or Vice Chair) or Administrative Director of the Issuer is hereby authorized, on behalf of the Issuer, to execute and deliver the Indenture, the Loan Agreement, the Mortgage, the Assignment of Mortgage, the Tax Compliance Agreement, the Bond Purchase Agreement, the Official Statement, the Intercreditor Agreement, the Bonds, and any document or instrument necessary and incidental thereto as approved by Bond Counsel to the Issuer (hereinafter collectively called the "Financing Documents"), and the Information Return, 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, variations, omissions and insertions as the Chair (or Vice Chair) or Administrative Director shall approve. The execution of the Financing Documents and the

Information Return by the Chair (or Vice Chair) or Administrative Director shall constitute conclusive evidence of such approval.

(b) The Chair (or Vice Chair) or Administrative Director of the Issuer is hereby further authorized and directed, on behalf of the Issuer, to approve, without further action of the Issuer, any variations in the terms of the Bonds from those set forth in the form of the Bonds, respectively, submitted to this meeting, including, without limitation, the aggregate principal amounts of the Bonds (not in excess of the maximum aggregate principal amount of \$10,000,000), the interest rates, maturities, redemption premiums, optional redemption dates and sinking fund redemption dates and amounts. The execution and delivery of the Amended and Restated Indenture by the Chair (or Vice Chair) or Administrative Director shall constitute conclusive evidence of such approval.

(c) The Chair (or Vice Chair) or Administrative Director of the Issuer is hereby further authorized and directed, on behalf of the Issuer, to execute and deliver such documents and instruments as, in the opinion of such officer, upon the advice of Counsel and Bond Counsel to the Issuer, are reasonable or necessary in order to refund the Series 2003A Bonds in accordance with the Indenture, including, without limitation the Intercreditor Agreement with, or irrevocable letter of instructions to the Trustee, satisfying the requirements of the Indenture. Such documents and instruments shall be in such form and substance as the Chair (or Vice Chair) or Administrative Director of the Issuer may hereinafter approve and the execution of any such documents or instrument by the Chair (or Vice Chair) or Administrative Director of the Issuer shall constitute conclusive evidence of such approval thereof.

(d) The Chair (or Vice Chair) or Administrative Director is further hereby authorized, on behalf of the Issuer, to designate any additional Authorized Representatives of the Issuer (as defined in and pursuant to the Loan Agreement).

Section 16. 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 the Information Return, and to do all such further acts and things as may be necessary or in the opinion of the officer, employee, or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Issuer with all of the terms, covenants, and provisions of the Financing Documents binding upon the Issuer.

Section 17. It is hereby found and determined that all formal actions of the Issuer concerning and relating to the adoption of this resolution were adopted in an open meeting of the Issuer; and that all deliberations of the Issuer and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements.

Section 18. This resolution shall take effect immediately and the Bonds are hereby ordered to be issued in accordance with this resolution.



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

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Martha Robertson	[ ]	[ ]	[ ]	[ ]
Larry Baum	[ ]	[ ]	[ ]	[ ]
Jeffrey Furman	[ ]	[ ]	[ ]	[ ]
Will Burbank	[ ]	[ ]	[ ]	[ ]
Jim Dennis	[ ]	[ ]	[ ]	[ ]
Svante Myrick	[ ]	[ ]	[ ]	[ ]
Nathan Shinagawa	[ ]	[ ]	[ ]	[ ]

The Resolutions were thereupon duly adopted.

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

The undersigned, being the Secretary of Tompkins County Development Corporation,  
DOES HEREBY CERTIFY THAT:

I have compared the foregoing extract of the minutes of the meeting of Tompkins County Development Corporation (the "Agency") including the resolution contained therein, held on the 20<sup>th</sup> day of September, 2012, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency 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 members of said Agency 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 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 modified.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Agency this 20<sup>th</sup> day of September 2012.

\_\_\_\_\_  
Larry Baum, Secretary

## **NOTICE OF PUBLIC HEARING ON PROPOSED ISSUANCE OF BONDS**

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Tompkins County Development Corporation (the "Issuer") on August 24, 2012, at 1:00 p.m., local time, at the Cayuga Heights Village Hall, 836 Hanshaw Road, Ithaca, New York 14850, in connection with the following matter:

Kendal at Ithaca, Inc., a New York not-for-profit corporation, having offices at 2230 North Triphammer Road, Village of Cayuga Heights, New York 14850 (the "Company"), has submitted an application to the Issuer requesting that the Issuer issue its tax-exempt revenue bonds in one or more issues or series in an aggregate principal amount not to exceed \$10,000,000 (the "Bonds") for the purpose of financing a certain project (the "Project") consisting of: (A) the refunding of the outstanding principal amount of the Tompkins County Industrial Development Agency's \$12,830,000 original principal amount Continuing Care Retirement Community Revenue Bonds (Kendal at Ithaca, Inc. Project), Series 2003A (the "Series 2003A Bonds"), which were issued for the benefit of the Company for the purpose of refunding in part the \$23,255,000 original principal amount Tompkins County Industrial Development Agency Life Care Community Bonds (Kendal at Ithaca, Inc. Project), Series 1994 (the "Series 1994 Bonds"), the proceeds of which were used to finance a certain project (the "1994 Project") consisting of (i) the acquisition of an approximately 100-acre parcel of land located in the Village of Cayuga Heights, Tompkins County, New York (the "Land"); (ii) the construction on the Land of a Life Care Community facility consisting of approximately 210 independent living units, 35 nursing care beds, 12 adult care units and related facilities; (iii) the acquisition and installation in and around the 1994 Project of certain items of equipment, machinery, furniture and other tangible personal property (collectively, the "Equipment" and together with the Land and the 1994 Project, the "Series 1994 Facility"); and (iv) the payment of certain costs incidental to the issuance of the Series 1994 Bonds; and (B) the payment of certain costs incidental to the issuance of the Bonds ((A) and (B) hereinafter referred to as "Project Costs").

The Company has requested that the Issuer issue the Bonds. If the issuance of the Bonds is approved, (i) it is intended that interest on such Bonds will be excluded from gross income for federal income tax purposes, pursuant to Section 103(a) of the Internal Revenue Code of 1986, as amended (the "Code"), (ii) the Issuer and the Company shall enter into a loan or other financing agreement (the "Agreement"), which will require the Company or its designee to make payments equal to debt service on the Bonds and make certain other payments, and (iii) the Bonds will be special limited obligations of the Issuer payable solely from the revenues derived from the payments made by the Company pursuant to the Agreement and certain other related assets of the Company pledged to the repayment of the Bonds.

THE BONDS SHALL NOT BE A DEBT OF THE STATE OF NEW YORK OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING TOMPKINS COUNTY, AND NEITHER THE STATE OF NEW YORK NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING TOMPKINS COUNTY, SHALL BE LIABLE THEREON.

The Issuer will at said time and place provide a reasonable opportunity to all interested persons to present their views, either orally or in writing, on the location and nature of the Project and the proposed plan of financing for the Project by the issuance from time to time of the Bonds.

This public hearing is being conducted in accordance with Section 147(f) of the Code.

DATED: August 9, 2012

By: TOMPKINS COUNTY DEVELOPMENT  
CORPORATION

# AFFIDAVIT OF PUBLICATION

## The Ithaca JOURNAL

State of New York, Tompkins County, ss:

**Stacie A. Heath** being duly sworn, deposes and states aforesaid that she/he is Clerk of The Ithaca Journal a public newspaper printed and published in Ithaca aforesaid and that a notice of which the annexed is a true copy was published in said paper: 8/9/2012

Subscribed and sworn to before me this 9<sup>th</sup> day of

August, 2012

NOTICE OF PUBLIC HEARING ON PROPOSED ISSUANCE OF BONDS

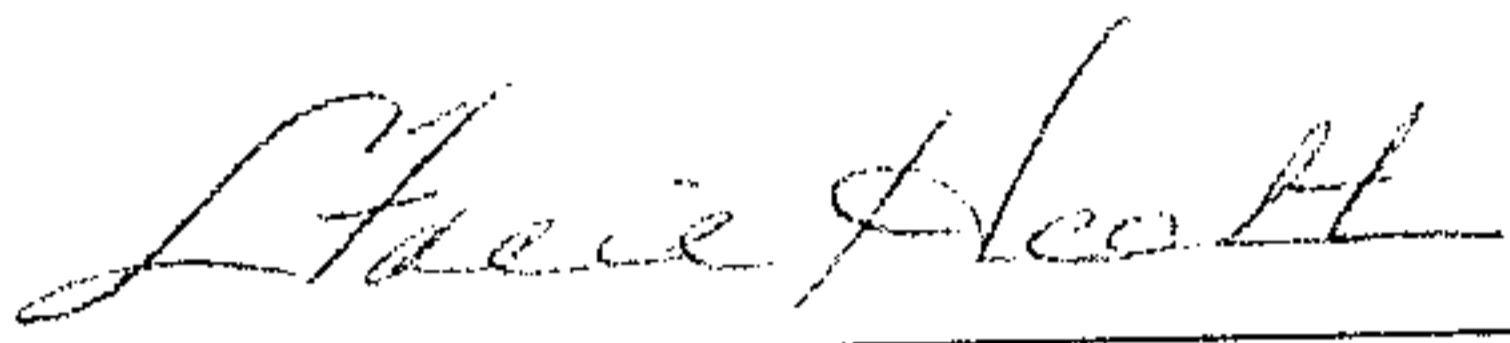
Notice is hereby given that a public hearing will be held by the Tompkins County Development Corporation (the "Issuer") on August 24, 2012, at 1:00 p.m., local time, at the Cayuga Heights Village Hall, 836 Hanshaw Road, New York 14850, in connection with the following matter:

Kendal at Ithaca, Inc., a New York not-for-profit corporation, having offices at 2230 North Triphammer Road, Village of Cayuga Heights, New York 14850 (the "Company"), has submitted an application to the Issuer requesting that the Issuer issue its tax-exempt revenue bonds in one or more issues or series in an aggregate principal amount not to exceed \$10,000,000 (the "Bonds") for the purpose of financing a certain project (the "Project") consisting of: (A) the refunding of the outstanding principal amount of the Tompkins County Industrial Development Agency's \$12,830,000 original principal amount Kendal Care Retirement Community Revenue Bonds (Kendal at Ithaca, Inc. Project), Series 1994 (the "Series 1994 Bonds"), the proceeds of which were used to finance a certain project (the "1994 Project") consisting of (i) the acquisition of an approximately 100-acre parcel of land located in the Village of Cayuga Heights, Tompkins County, New York (the "Land"); (ii) the construction on the Land of a Life Care Community facility consisting of approximately 210 independent living units, 35 nursing beds, 12 adult care units and related facilities; (iii) the acquisition and installation in and around the Project of certain items of equipment, machinery, furniture and other tangible personal property (collectively, the "Equipment" and together with the Land and the 1994 Project, the "Series 1994 Facility"); and (iv) the payment of certain costs incidental to the issuance of the Series 1994 Bonds; and (B) the payment of certain costs incidental to the issuance of the Bonds ((A) and (B) hereinafter referred to as "Project Costs").

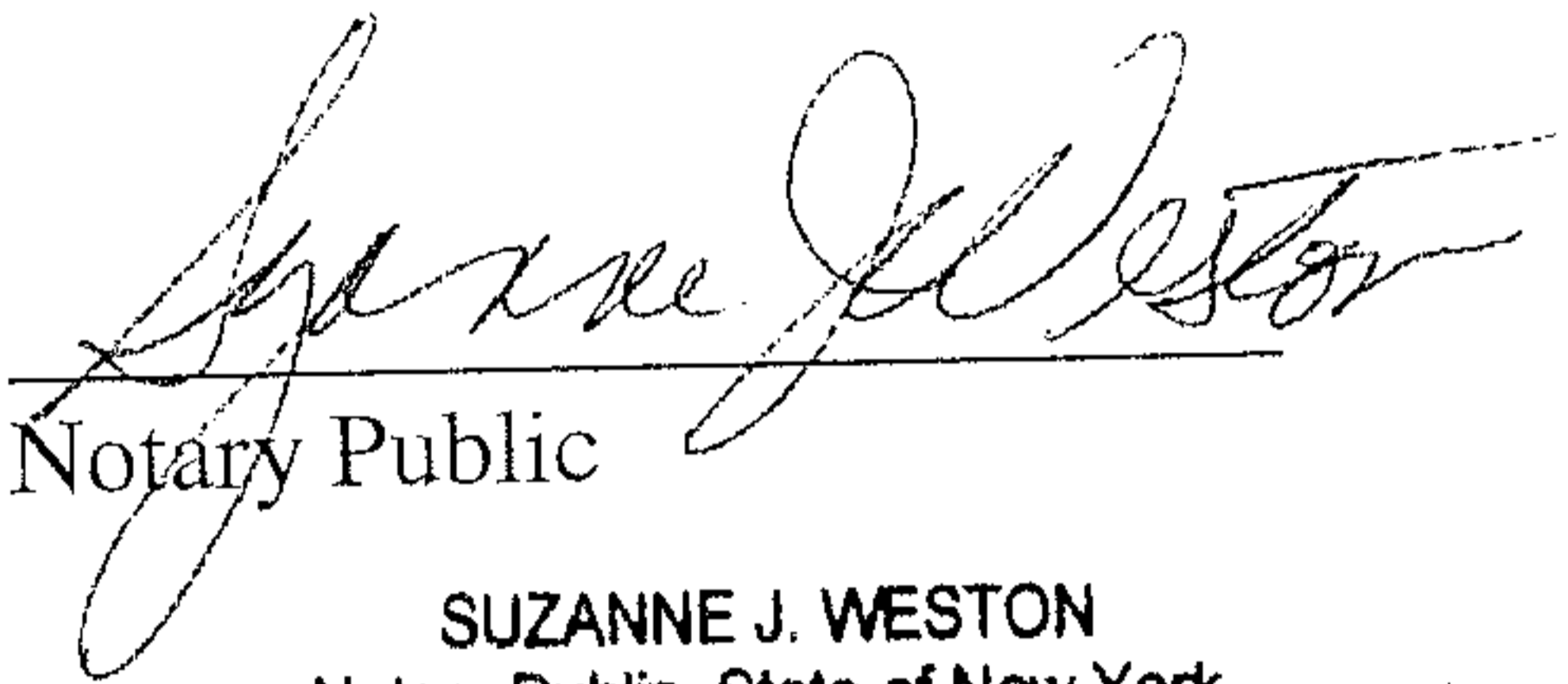
The Company has requested that the Issuer issue the Bonds. If the issuance of the Bonds is approved, (i) it is intended that interest on such Bonds will be excluded from gross income for federal income tax purposes, pursuant to Section 103(a) of the Internal Revenue Code of 1986, as amended (the "Code"); (ii) the Issuer and the Company shall enter into a loan or other financing agreement (the "Agreement"), which will require the Company or its designee to make payments equal to debt service on the Bonds and make certain other payments, and (iii) the Bonds will be special limited obligations of the Issuer payable solely from the revenues derived from the payments made by the Company pursuant to the Agreement and certain other related assets of the Company pledged to the repayment of the Bonds.

THE BONDS SHALL NOT BE A DEBT OF THE STATE OF NEW YORK OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING TOMPKINS COUNTY, AND NEITHER THE STATE OF NEW YORK NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING TOMPKINS COUNTY, SHALL BE LIABLE THEREON.

The Issuer will at said time and place provide a reasonable opportunity to all interested persons to present their views, either orally or in writing, on the location and nature of the Project and the proposed plan of fi-



Stacie A. Heath




Notary Public

SUZANNE J. WESTON  
Notary Public, State of New York  
No. 01WE4980512  
Residing in Broome County  
My Commission Expires 4-22-2015

# Tompkins County Development Corporation

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Administration provided by  **TCAD**

## MINUTES OF PUBLIC HEARING

Kendal at Ithaca, Inc.

August 24, 2012

1:00 PM

Village Hall, Village of Cayuga Heights

836 Hanshaw Road, Ithaca NY

Present: Heather Filiberto (for Tompkins County Development Corporation) Ann E. Wall (for Kendal at Ithaca)

1. Heather Filiberto called the public hearing to order at 1:00 PM.
2. Call for comments.
3. No comments were made.
4. The hearing was adjourned at 1:20 PM.

**RESOLUTION OF THE TOMPKINS COUNTY  
COUNTY LEGISLATURE**

RESOLUTION OF THE TOMPKINS COUNTY LEGISLATURE, AS THE ELECTED LEGISLATIVE BODY OF TOMPKINS COUNTY, NEW YORK, IN ACCORDANCE WITH SECTION 147(F) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE"), APPROVING THE ISSUANCE BY THE TOMPKINS COUNTY DEVELOPMENT CORPORATION OF UP TO \$10,000,000 AGGREGATE PRINCIPAL AMOUNT TAX-EXEMPT REVENUE BONDS (KENDAL AT ITHACA, INC. PROJECT), SERIES 2012

WHEREAS, the Tompkins County Legislature (the "Legislature"), as the elected legislative body of Tompkins County, New York (the "County"), has been advised by the Tompkins County Development Corporation (the "Issuer") that, in order to assist in the financing of a certain Project (as defined below) for the benefit of Kendal at Ithaca, Inc., a New York not-for-profit corporation (the "Company") and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), the Issuer proposes to issue, contingent upon the adoption of this Resolution, its Tax-Exempt Revenue Bonds (Kendal at Ithaca, Inc. Project), Series 2012, in an aggregate principal amount not to exceed \$10,000,000 (the "Bonds"); and

WHEREAS, the project (the "Project") shall consist of: (A) the refunding of the outstanding principal amount of the Tompkins County Industrial Development Agency's \$12,830,000 original principal amount Continuing Care Retirement Community Revenue Bonds (Kendal at Ithaca, Inc. Project), Series 2003A (the "Series 2003A Bonds"), which were issued for the benefit of the Company for the purpose of refunding in part the \$23,255,000 original principal amount Tompkins County Industrial Development Agency Life Care Community Bonds (Kendal at Ithaca, Inc. Project), Series 1994 (the "Series 1994 Bonds"), the proceeds of which were used to finance a certain project (the "1994 Project") consisting of (i) the acquisition of an approximately 100-acre parcel of land located in the Village of Cayuga Heights, Tompkins County, New York (the "Land"); (ii) the construction on the Land of a Life Care Community facility consisting of approximately 210 independent living units, 35 nursing care beds, 12 adult care units and related facilities; (iii) the acquisition and installation in and around the 1994 Project of certain items of equipment, machinery, furniture and other tangible personal property (collectively, the "Equipment" and together with the Land and the 1994 Project, the "Series 1994 Facility"); and (iv) the payment of certain costs incidental to the issuance of the Series 1994 Bonds; and (B) the payment of certain costs incidental to the issuance of the Bonds ((A) and (B) hereinafter referred to as "Project Costs"); and

WHEREAS, the Issuer proposes to assist in the financing of the Project by issuing the Bonds to (i) pay all or a substantial portion of the cost of financing the Project and (ii) pay reserves and costs incidental to the issuance of the Bonds; and

WHEREAS, pursuant to Section 147(f) of the Code, interest on the Bonds will *not* be excluded from gross income for Federal income tax purposes *unless* the issuance of the Bonds is

approved by the Legislature after a public hearing to consider both the issuance of the Bonds and the nature and location of the facilities financed therewith has been conducted following reasonable public notice; and

WHEREAS, on August 24, 2012, the Issuer held such a public hearing upon proper notice in compliance with Section 147(f) of the Code; and

WHEREAS, to aid the Legislature in its deliberations, the Issuer has made available to the members of the Legislature prior to this meeting (a) the Company's application to the Issuer for financial assistance; (b) the notice of public hearing published by the Issuer in *The Ithaca Journal*, along with the affidavit of publication of such newspaper; and (c) the minutes of such public hearing held on August 24, 2012; and

WHEREAS, the Legislature, after due consideration of the foregoing, as the "applicable elected representative" of Tompkins County, New York, within the meaning of Section 147(f)(2)(E) of the Code, desires to approve the issuance of the Bonds, provided the principal, premium, if any, and interest on the Bonds shall be special obligations of the Issuer and shall never be a debt of the State of New York (the "State") or any political subdivision thereof, including without limitation the County, and neither the State nor any political subdivision thereof, including without limitation the County, shall be liable thereon.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY LEGISLATURE OF TOMPKINS COUNTY:

Section 1. For the purpose of satisfying the approval requirement of Section 147(f) of the Code, on the recommendation of the Tompkins County Planning, Development & Environmental Quality Committee, the Legislature hereby gives its approval of the issuance by the Issuer of the Bonds and related acts to be taken by the Issuer as part of the Project, provided that the Bonds, and the premium (if any) and interest thereon, shall be special obligations of the Issuer and shall never be a debt of the State or any political subdivision thereof, including without limitation the County, and neither the State nor any political subdivision thereof, including without limitation the County, shall be liable thereon. This approval is given pursuant to Section 147(f) of the Code for the sole purpose of qualifying the interest payable on the Bonds for exclusion from gross income for federal income tax purposes pursuant to the provisions of Sections 103 and 141-150 of the Code.

Section 2. This Resolution shall be deemed to be made for the benefit of the holders of the Bonds.

Section 3. This Resolution shall take effect immediately.

The foregoing Resolution was offered by \_\_\_\_\_  
and seconded by \_\_\_\_\_.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll



call, which resulted as follows:

	<u>YEA</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Pamela Mackesey	[ ]	[ ]	[ ]	[ ]
Leslyn McBean-Clairborne	[ ]	[ ]	[ ]	[ ]
Carol Chock	[ ]	[ ]	[ ]	[ ]
Nathan Shinagawa	[ ]	[ ]	[ ]	[ ]
Katherine Luz Herrera	[ ]	[ ]	[ ]	[ ]
Pat Pryor	[ ]	[ ]	[ ]	[ ]
Frank Proto	[ ]	[ ]	[ ]	[ ]
David McKenna	[ ]	[ ]	[ ]	[ ]
Brian Robison	[ ]	[ ]	[ ]	[ ]
Dooley Kiefer	[ ]	[ ]	[ ]	[ ]
Peter Stein	[ ]	[ ]	[ ]	[ ]
Will Burbank	[ ]	[ ]	[ ]	[ ]
Martha Robertson	[ ]	[ ]	[ ]	[ ]
Michael Lane	[ ]	[ ]	[ ]	[ ]
James Dennis	[ ]	[ ]	[ ]	[ ]

The Resolution was thereupon duly adopted.

STATE OF NEW YORK     )  
  )  
COUNTY OF TOMPKINS    )     *ss.:*

This is to certify that I, the undersigned, Clerk of the Legislature of Tompkins County, New York, have compared the foregoing copy of resolution with the original resolution now on file in the office and which was passed by the Legislature of Tompkins County on the 18<sup>th</sup> day of September, 2012, a majority of all the members elected to the Legislature voting in favor thereof, and that the same is a correct and true transcript of such original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal of the Legislature of Tompkins County, this \_\_\_\_\_ day of September, 2012.

\_\_\_\_\_  
Clerk of the Legislature of Tompkins  
County

[SEAL]

**Tompkins County Development Corp.  
Board of Directors Meeting DRAFT Minutes  
August 20, 2012  
Tompkins County Public Library  
Borg Warner East Room  
101 E. Green Street, Ithaca, NY**

**Present:** Martha Robertson, Jeff Furman, Larry Baum, Svante Myrick, Jim Dennis

**Excused:** Will Burbank, Nathan Shinagawa

**Staff Present:** Heather Filiberto, Mariette Geldenhuys, Manesh Patel (Harris Beach), Ina Arthur (recording)

**Guests Present:** Noel Desh, Mark Macera (Longview/Ithacare), Annie Wall (Kendal at Ithaca),

**CALL TO ORDER** The meeting was called to order at 3:35 PM

**ADDITIONS TO THE AGENDA - NONE**

**PRIVILEGE OF THE FLOOR - NONE**

**BUSINESS**

Kendal at Ithaca Refinance Bond Application

Introductions were made around the room.

Ms. Wall explained that this bond application to refinance prior bonds. With interest rates at a very low level, it just makes sense to refinance and save the organization money.

Mr. Furman commented on the 17% workforce diversity figure on the application. This is very commendable. Ms. Wall stated that Kendal at Ithaca is part of the whole Kendal system and diversity is not only a local community ethic but a Kendal ethic.

Mr. Dennis applauded Kendal's efforts as it can be difficult to reach such a high goal in the Ithaca area.

Ms. Robertson asked about paying a living wage to all workers.

Ms. Wall stated that Kendal at Ithaca embraces the ideology of a living wage but at this time needs to maintain the flexibility when it comes to workers wages. Their organization is very regulated in New York State. Kendal does offer benefits at the 30 hour level.

**Jeff Furman moved to approve sending the Kendal at Ithaca Refinance Bond Application to a public hearing. Larry Baum seconded the motion. The motion passed unanimously.**

Longview/Ithacare Patio Homes Bond Application (note: this application was withdrawn as of August

Mr. Macera (Executive Director) and Mr. Desh (Chairman of Board) gave a history of Longview beginning in 1990. When the care facility needed more room they moved to their present location on South Hill in 1998. This application for bond financing is for enhanced assisted living patio homes. These will be 11 duplexes on grade level with garages. The hope is that still independent clients will age in place and remain in the Longview community.

Longview is a fee for service facility but 20 – 30% of its community residents are on a sliding scale based on income. No resident is turned away if his or her income dwindles or is depleted. Therefore tax-exempt bond financing will help save money for the facility.

Mr. Dennis commented on the 1% of workers that are considered to be minority (this was later corrected to 10%).

Mr. Macera stated that he and his facility are willing to work with the County's Workforce Investment Board to develop a diversity hiring plan.

Mr. Furman stated that he would like to see a plan when the applicant comes back to the full board for final approval. He also suggested looking at their applicant pool and hiring process to address this deficiency.

Mr. Macera stated that he is definitely willing to do this but does not know if he could implement before the next board meeting. Ms. Robertson suggested meeting with Julia Mattick of the WIB and to start working on the plan by the time the board meetings again. She also stated she was interested in Longview getting their information out to the community. Mr. Macera stated that they do try to get to various venues to "advertise" their services.

The timeline for the project was discussed.

Ms. Robertson asked for clarification on the question on page two regarding meeting prior project objectives met. Mr. Macera stated that the answer incorporates the job creation objectives from phase I and phase II. Ms. Robertson asked that a revised application with this clarification be submitted.

Ms. Robertson also asked why with 22 units of housing being added that only 2 new employees would be generated. Mr. Macera stated that the residents of the patio homes would be the most independent clients with a very low level of care needed.

**Jim Dennis moved to approve sending the Longview Patio Home Bond Application to a public hearing. Svante Myrick seconded the motion. The motion passed unanimously.**

## **STAFF REPORT**

None.

## **MINUTES**

**Larry Baum moved to approve the Draft Board meeting minutes of July 19, 2012. Jeff Furman seconded the motion. The motion passed unanimously.**

Meeting adjourned at 4:15 PM