

Warren County Board of Supervisors

RESOLUTION NO. 51 OF 2012

Resolution introduced by Supervisors Strainer, Dickinson, McDevitt, Vanselow and Westcott

**RESOLUTION APPROVING THE ISSUANCE OF CERTAIN OBLIGATIONS
BY THE COUNTIES OF WARREN AND WASHINGTON CIVIC
DEVELOPMENT CORPORATION TO FINANCE A CERTAIN STUDENT
HOUSING FACILITY PROJECT FOR ADIRONDACK HOUSING
ASSOCIATION, LLC.**

WHEREAS, The Counties of Warren and Washington Civic Development Corporation (the “Issuer”) was created pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York, as amended (the “Enabling Act”). Pursuant to the provisions of the Enabling Act and Revenue Ruling 57-187 and Private Letter Ruling 200936012, the Boards of Supervisors of Warren County and Washington County (the “Counties”) each adopted a resolution (A) authorizing the incorporation of the Issuer under the Enabling Act and (B) appointing the initial members of the board of directors of the Issuer. Subsequently, a certificate of incorporation was filed with the New York Secretary of State’s Office (the “Certificate”) creating the Issuer as a public instrumentality of the Counties; and

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

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

WHEREAS, on November, 2011, Adirondack Housing Association, LLC (the “Company”), a New York limited liability company, submitted an application (the “Application”) to the Issuer and requested that the Issuer consider undertaking a project (the “Project”) consisting of the following: (A) (1) the construction

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of an approximately 140,000 square foot student residence hall, containing approximately 408 beds and related academic, administrative, security and support facilities (the "Facility") on a parcel of real estate containing approximately 6.387 acres and located at 640 Bay Road in the Town of Queensbury, Warren County, New York (the "Land") and (2) the acquisition and installation thereon and therein of various machinery, equipment and other personal property (collectively, the "Equipment") (the Land, the Facility, and the Equipment hereinafter collectively referred to as the "Project Facility"), all of the foregoing to constitute the construction and improvement of student housing facilities and other directly and indirectly related activities to be owned and operated by the Company; (B) the financing of all or a portion of the costs of the foregoing by the issuance of revenue bonds in one or more issues or series in an aggregate principal amount to be approximately \$25,500,000 and in any event not to exceed \$30,000,000 (the "Obligations"); (D) the granting of potential exemptions from mortgage recording taxes (collectively with the Obligations, the "Financial Assistance"); and (E) the making of a loan (the "Loan") of the proceeds of the Obligations to the Company or such other person as may be designated by the Company and agreed upon by the Issuer; and

WHEREAS, the Company has requested that interest on the Obligations be treated by the federal government as excludable from gross income for federal income tax purposes pursuant to Section 103 and Section 145(a) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Warren County Board of Supervisors (the "Board of Supervisors") has been advised by the Issuer that the Issuer proposes to issue, subsequent to the adoption of this resolution, the Obligations from time to time in a principal amount sufficient to fund all or a portion of the costs of the Project; and

WHEREAS, interest on the Obligations will not be excludable from gross income for federal income tax purposes unless, among other things, pursuant to Section 147(f) of the Code, the issuance of the Obligations is approved by the "applicable elected representative" of Warren County, New York after the Issuer has held a public hearing on the nature and location of the Project Facility and the issuance of the Obligations; and

WHEREAS, pursuant to the authorization contained in a resolution adopted by the members of the Issuer on November 21, 2011 (the "Public Hearing Resolution"), the Chief Executive Officer of the Issuer

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(A) caused notice of public hearing of the Issuer (the “Public Hearing”) in compliance with the requirements of Section 859-a of the General Municipal Law and Section 147(f) of the Code, to hear all persons interested in the Project and the Financial Assistance being contemplated by the Issuer with respect to the Project, to be mailed on December 5, 2011 to the chief executive officers of the county and of each city, town, village and school district in which the Project is or is to be located, (B) caused notice of the Public Hearing to be posted on December 4, 2011 on a bulletin board located at 5 Warren Street, Glens Falls, Warren County, New York, (C) caused notice of the Public Hearing to be published on December 4, 2011 in The Post Star, a newspaper of general circulation available to the residents of in the Town of Queensbury, Warren County, New York, (D) conducted the Public Hearing on December 19, 2011 at 10:00 o’clock a.m., local time at the Town Supervisor’s Conference Room at the Queensbury Town Hall, 742 Bay Road, Queensbury, New York, and (E) prepared a report of the Public Hearing (the “Hearing Report”) which fairly summarized the views presented at said Public Hearing and distributed same to the members of the Issuer and to the Board of Supervisors of Warren County, New York and the Board of Supervisors of Washington County, New York; and

WHEREAS, pursuant to Section 147(f) of the Code, the Board of Supervisors desires to allow the interest on the Obligations to be treated as excludable from gross income for federal income tax purposes; and

WHEREAS, pursuant to the Issuer’s Certificate, neither the Obligations nor any other obligation of the Issuer shall be a debt of Warren County, New York, nor shall Warren County, New York be liable thereon; now, therefore, be it

RESOLVED, that for the sole purpose of qualifying the interest payable on the Obligations for exclusion from gross income for federal income tax purposes pursuant to the provisions of Section 145(a) of the Code, the Board of Supervisors, as the elected legislative body of Warren County, New York, hereby approves the issuance by the Issuer of the Obligations, provided that the Obligations, and the premium (if any) and interest thereon, shall be special obligations of the Issuer and shall never be a debt of the State of New York, Warren County, New York or any political subdivision thereof (other than the Issuer), and

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neither the State of New York, Warren County, New York nor any political subdivision thereof (other than the Issuer) shall be liable thereon, and it is further

RESOLVED, the Chairman of the Board of Supervisors be, and he hereby is, authorized to execute an agreement and/or such other documents that may be necessary to carry out the terms of this resolution, in the form approved by the County Attorney.