

Board Member _____ offered the following resolution and moved its adoption:

RESOLUTION 2023-1-10-2

RESOLUTION AUTHORIZING AMENDED AND RESTATED BONDS AND AMENDMENTS TO RELATED BOND DOCUMENTS IN CONNECTION WITH THE PUTNAM COUNTY INDUSTRIAL DEVELOPMENT AGENCY INDEX INTEREST RATE INDUSTRIAL DEVELOPMENT REFUNDING REVENUE BONDS (SINCERITY +, LLC PROJECT), SERIES 2013 AND THE TAKING OF OTHER ACTION IN CONNECTION THEREWITH

WHEREAS, the Putnam County Industrial Development Agency (the “Agency”) is authorized under the laws of the State of New York, and in particular under the provisions of the New York State Industrial Development Agency Act, and Chapter 399 of the 1987 Laws of the State of New York, as amended (collectively, the “Act”), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York (the “State”) and to improve their prosperity and standard of living; and

WHEREAS, on December 30, 2013, the Agency issued its Index Interest Rate Industrial Development Refunding Revenue Bonds (Sincerity +, LLC Project), Series 2013 in the aggregate principal amount of \$8,130,000 (the “Series 2013 Bonds”) pursuant to a resolution adopted by the Agency on December 10, 2013 and an Indenture of Trust, dated as of December 1, 2013 (the “2013 Indenture”), between the Agency and U.S. Bank Trust Company, National Association (formerly, U.S. Bank National Association), as trustee, for the purpose of refinancing the Agency’s Industrial Development Revenue Bonds, Series 2004 (Sincerity +, LLC Facility) in a principal amount not to exceed \$9,900,000, which were issued to finance costs of (a) the acquisition of land in the Town of Southeast in Putnam County, the construction of an approximately 99,000 square foot warehouse and office building thereon and the installation of certain equipment to be owned by Sincerity +, LLC, a New York limited liability company (the “Company”) for lease to, and use by Ace Endico Corp. a New York corporation (the “Affiliate”) for food processing, distribution, warehousing and office space (such facility and all improvements, equipment and personal property therein and thereon, the “Facility”), all for commercial purposes; and

WHEREAS, in connection with the issuance of the Series 2013 Bonds, the Agency and the Company entered into a certain Amended and Restated Lease Agreement dated as of December 1, 2013 (the “2013 Lease”), providing for the continued leasing of the Facility by the Agency to the Company; and

WHEREAS, in connection with the issuance of the 2013 Bonds, the Agency assigned substantially all of its rights in and to the 2013 Lease to the Trustee pursuant to an Amended and Restated Pledge Agreement, dated as of December 1, 2013 (the “2013 Pledge and Assignment”); and

WHEREAS, the Series 2013 Bonds were purchased by, and continue to be held by, Wells Fargo Bank, National Association (the “Bondholder”); and

WHEREAS, to facilitate an addition to the Facility, on October 27, 2017, at the request of the Company, the Agency and the Company entered into a certain First Amendment to Amended and Restated Lease Agreement dated as of October 1, 2017 (the “2017 Lease Amendment”), providing for the construction, renovation and equipping of the approximately 117,000 square foot existing building located at the Facility by an additional approximately 63,000 square feet (consisting of the addition of approximately 51,740 square feet of cold storage warehouse and distribution space and approximately 11,242 square feet of office space) (the “2017 Expansion Project”); and

WHEREAS, to facilitate the 2017 Expansion Project, the Agency and the Company entered into a “straight-lease transaction” within the meaning of the Act pursuant to which the Agency and the Company amended the 2013 Lease pursuant to the 2017 Lease Amendment (the 2013 Lease, as so amended by the 2017 Lease Amendment, is referred to collectively as the “Facility Lease”); and

WHEREAS, concurrently with the issuance of the Series 2013 Bonds, the Agency and the Company entered into one or more mortgages with respect to the Facility to secure the Series 2013 Bonds (the “2013 Bond Mortgage”) and, concurrently with the execution of the 2017 Lease Amendment, the Agency and the Company entered into one or more mortgages to secure certain loans made by Wells Fargo Bank, National Association, as lender (the “Lender”) to the Company (the “2017 Loan Mortgages”); and

WHEREAS, the interest rate with respect to the Series 2013 Bonds was based upon a formula related to the U.S. Dollar London Interbank Offered Rate (“LIBOR”), and LIBOR is soon scheduled to be discontinued; and

WHEREAS, each of the Company and the Bondholder have requested that the Agency amend the Series 2013 Bonds to replace LIBOR with the Secured Overnight Financing Rate that is currently published by the Federal Reserve Bank of New York (“SOFR”) as the referenced rate for the Series 2013 Bonds; and

WHEREAS, in order to effect such interest rate change with respect to the Series 2013 Bonds, it is necessary to (a) amend and restate the Series 2013 Bonds (the “Amended and Restated Series 2013 Bonds”), (b) amend and restate the Facility Lease with a Second Amended and Restated Lease Agreement (the “Second Amended and Restated Lease Agreement”), (c) amend the 2013 Indenture with a First Supplemental Indenture of Trust (the “First Supplemental Indenture”), (d) amend and restate the 2013 Bond Mortgage and the 2017 Loan Mortgages, and (e) amend and restate the 2013 Pledge and Assignment, among other documents (the amendments to each of such documents to which the Agency is a party, together with such other

documents deemed advisable ore related thereto, being collectively referred to as the “Amending Documents”), and the Company has requested that the Agency take appropriate action to authorize the Amended and Restated Series 2013 Bonds and the Amending Documents; and

WHEREAS, the Agency desires to accommodate such request of the Company;

NOW, THEREFORE, BE IT RESOLVED BY PUTNAM COUNTY INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. The Agency hereby authorizes the execution and delivery of the Amended and Restated Series 2013 Bonds and the terms thereof, to amend and restate the Series 2013 Bonds. The Amended and Restated Series 2013 Bonds shall never constitute a debt of the State of New York or of the County of Putnam, and neither the State of New York nor the County of Putnam shall be liable thereon, nor shall the Amended and Restated Series 2013 Bonds be payable out of any funds of the Agency other than those pledged therefor.

Section 2. The execution and delivery of the Amending Documents are hereby authorized. The Chairman and the Vice Chairman of the Agency are hereby authorized to execute, acknowledge and deliver each such Amending Document. The execution and delivery of each such Amending Document by said officer shall be conclusive evidence of due authorization and approval.

Section 3. All covenants, stipulations, obligations and agreements of the Agency contained in this Resolution and contained in the Amending Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Agency to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Agency and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Agency or the members thereof by the provisions of this Resolution and the Amending Documents shall be exercised or performed by the Agency or by such members, officers, board or body as may be required by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in any of the Amending Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member, director, officer, agent or employee of the Agency in his individual capacity, and neither the members of the Agency nor any officer executing the Amended and Restated Series 2013 Bonds or any of the Amending Documents shall be liable personally on the Amended and Restated Series 2013 Bonds or on any of the Amending Documents or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 4. The officers of the Agency are hereby designated the authorized representatives of the Agency, and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates,

affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Amending Documents and the issuance of the Amended and Restated Series 2013 Bonds.

Section 5. The Agency recognizes that due to the unusual complexities of the financing it may become necessary that certain of the terms approved hereby may require modifications which will not affect the intent and substance of the authorizations and approvals by the Agency herein. The Agency hereby authorizes the Chairman and the Vice Chairman to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution. The approval of such modifications shall be evidenced by the certificate of determination of an officer of the Agency.

Section 6. This Resolution shall take effect immediately.

ADOPTED: January 10, 2023

The adoption of the foregoing resolution was seconded by Board Member _____ and duly put to a vote on roll call, which resulted as follows:

AYES:

NOES:

The resolution was declared adopted.

Record of Roll Call Vote

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January 10, 2023

PCIDA Conference Room, Patterson, NY

MEETING DATE

MEETING LOCATION

Board Member _____ offered the above resolution and moved its adoption.

The resolution was seconded by Board Member _____ and duly put to a vote on roll call, which resulted as follows:

<u>Board Member</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Abby O'Brien	___	___	_____	_____
Simon Carey	___	___	_____	_____
Ben Cheah	___	___	_____	_____
Edward Cooke	___	___	_____	_____
Joe Downey	___	___	_____	_____
Mike Karlsson	___	___	_____	_____
Bill Nulk	___	___	_____	_____

AYES: _____

NOES: _____

The resolution was declared adopted.

Testified: _____ Title: _____

SECRETARY’S CERTIFICATE

I, Joseph M. Downey, being the duly appointed and acting Secretary of the Putnam County Industrial Development Agency, New York, HEREBY CERTIFY that the foregoing resolution of a meeting of the Members of the Putnam County Industrial Development Agency duly called and held on January 10, 2023, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said Board and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relates to the subject matters referred to in said extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Agency this _____ day of January, 2023.

Secretary