

**APPROVING RESOLUTION  
MODIFICATIONS RELATING TO  
LUTHERAN HOUSING ADMINISTRATIVE SERVICES GROUP, INC.  
d/b/a LUTHERAN SENIOR HOUSING – SERIES 2017 BOND**

A regular meeting of the board of directors (the “Board of Directors”) of Chautauqua County Capital Resource Corporation (the “Issuer”) was convened in public session at the offices of the Issuer located at 201 West Third Street – Suite 115, in the City of Jamestown, Chautauqua County, New York on February 28, 2023 at 10:00 o’clock a.m., local time.

The meeting was called to order by the (Vice) Chairperson of the Board of Directors and, upon roll being called, the following members of the Board of Directors were:

PRESENT:

Gary Henry	Chairperson
Bradley Walters	Vice Chairperson
Sagan Sheffield-Smith	Treasurer
Dan Heitzenrater	Secretary
Brad Walters	Member
Steven Thorpe	Member
Kevin Muldowney	Member

ABSENT:

Jay Churchill	Member
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ISSUER STAFF PRESENT INCLUDED THE FOLLOWING:

Mark Geise	Administrative Director/Chief Executive Officer
Richard E. Dixon	Chief Financial Officer
Kayla Strandburg	Controller/Assistant Chief Financial Officer
Rosemarie Strandburg	Executive Assistant/Assistant Treasurer
Carol Rasmussen	Project Manager
Kristine Morabito	Project Manager
Linda Burns	Project Manager
Jeanette Lo Bello	Administrative Assistant
Gregory L. Peterson, Esq.	Issuer Counsel
Milan K. Tyler, Esq.	Issuer Counsel
Christopher C. Canada, Esq.	Bond Counsel
Kristine Morabito	IDA Staff
Nate Aldrich	IDA Staff
Rebecca Wurster	IDA Staff
Jason Toczydlowski	IDA Staff
Crystal Erhard	IDA Staff
James Feldman	County Executive Staff
Greg Bacon	Post Journal

The following resolution was offered by Brad Walters seconded by Dan Heitzenrater, to wit:

Resolution No. 02-28-23-08

RESOLUTION AUTHORIZING THE EXECUTION OF CERTAIN AMENDMENTS BY CHAUTAUQUA COUNTY CAPITAL RESOURCE CORPORATION (THE "ISSUER") TO (A) THE ISSUER'S REVENUE BOND (LUTHERAN HOUSING ADMINISTRATIVE SERVICES GROUP, INC. d/b/a LUTHERAN SENIOR HOUSING PROJECT), SERIES 2017 ISSUED BY THE ISSUER ON DECEMBER 22, 2017 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$6,300,000 AND (B) CERTAIN DOCUMENTS RELATED THERETO.

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 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, (B) declares that in carrying out the aforesaid purposes and in exercising the powers conferred in the Enabling Act, such corporations will be performing essential governmental functions, and (C) authorizes each such corporation to acquire real and personal property, to borrow money and issue negotiable bonds, notes and other obligations therefore, and 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 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 Enabling Act and Revenue Ruling 57-187 and Private Letter Ruling 200936012, the County Legislature of Chautauqua County, New York (the "County") adopted a resolution on November 18, 2009 (the "Sponsor 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, who serve at the pleasure of the County Legislature of the County; and

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

WHEREAS, in October, 2017, Lutheran Housing Administrative Services, Group, Inc. d/b/a Lutheran Senior Housing (the "Borrower"), a New York not-for-profit corporation, presented an application (the "Application") to the Issuer, which Application requested that the Issuer consider undertaking a project (the "Project") for the benefit of the Borrower, said Project to consist of the following: (A)(1) the acquisition of an interest in multiple parcels of land located on Falconer Street (tax map numbers: 371.09-1-12, 371.09-1-11, 371.09-1-10 and 371.09-1-9) and Aldren Avenue (tax map numbers: 371.09-1-8, 371.09-1-13 and 371.09-1-2) in the City of Jamestown, Chautauqua County, New York (collectively, the "Land"), together with existing buildings located therein (collectively, the "Existing Facility"), (2) the demolition of a portion of the Existing Facility, the renovation of the remainder of the Existing Facility and the construction of an approximately 18,600 square foot building on the Land (the "New Facility" and collectively with the Existing Facility, as renovated and demolished, the "Facility"), (3) the making of other improvements therein, including, but not limited to, landscaping, parking and upgrades to technology systems, (collectively, the "Improvements") and (4) the acquisition and installation thereon and therein of certain related furniture, fixtures, machinery and equipment (collectively, the "Equipment") (the Land, the Facility and the Equipment hereinafter collectively referred to as the "Project Facility"), all of the foregoing to constitute an affordable/assistive senior living

facility; (B) the refinancing of certain taxable financing used to pay costs of renovation and equipping of the Existing Facility; (C) the financing of all or a portion of the costs of the foregoing by the issuance of the Series 2017 Bond (as defined herein); (D) paying a portion of the costs incidental to the issuance of the Series 2017 Bond, including issuance costs of the Series 2017 Bond and any reserve funds as may be necessary to secure the Series 2017 Bond; and (E) the making of a loan of the proceeds of the Series 2017 Bond to the Borrower or such other person as may be designated by the Borrower and agreed upon by the Issuer; and

WHEREAS, pursuant to the authorization contained in a resolution adopted by the members of the board of directors of the Issuer on October 26, 2017 (the “Public Hearing Resolution”), the Chief Executive Officer of the Issuer (A) caused notice of a public hearing of the Issuer (the “Public Hearing”) pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”) and, as provided in the Certificate of Incorporation, pursuant to the applicable provisions of Section 859-a and Section 859-b of the General Municipal Law of the State of New York (the “GML”), to hear all persons interested in the Project and the financial assistance being contemplated by the Issuer with respect to the Project, to be published on November 7, 2017 in The Post-Journal, a newspaper of general circulation available to the residents of the City of Jamestown, New York, (B) caused notice of the Public Hearing to be posted on November 6, 2010 at public bulletin board located at City Hall located at 200 East 3rd Street # 1 in the City of Jamestown, Chautauqua County, New York, as well as on the Issuer’s website, (C) caused notice of the Public Hearing to be mailed on November 6, 2017 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is (or will be) located, (D) conducted the Public Hearing on November 22, 2017 at 10:30 o’clock a.m., local time at the offices of the Issuer located at 201 West Third Street, Suite 115, in the City of Jamestown, Chautauqua County, New York, and (E) prepared a report of the Public Hearing (the “Public Hearing Report”) which fairly summarized the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the board of directors of the Issuer and to the County Executive of Chautauqua County, New York (the “County Executive”) and

WHEREAS, by certificate signed by the County Executive on November 27, 2017 (the “Public Approval”), the County Executive approved the issuance of the Series 2017 Bond for purposes of Section 147(f) of the Code; 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 adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6NYCRR Part 617, as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), by resolution adopted by the members of the board of directors of the Issuer on October 26, 2017 (the “SEQR Resolution”), the Issuer (A) determined to conduct an uncoordinated review of the Project, (B) determined that the Project is an “Unlisted action” which will not have a significant effect on the environment and, therefore, that an environmental impact statement is not required to be prepared with respect to the Project, and (C) as a consequence of the foregoing, determined to prepare a negative declaration with respect to the Project; and

WHEREAS, by resolution adopted by the members of the Board of Directors on November 28, 2017 (the “Bond Resolution”), the board of directors of the Issuer authorized the issuance of the Issuer’s Revenue Bond (Lutheran Housing Administrative Services Group, Inc. d/b/a Lutheran Senior Housing Project), Series 2017 in an aggregate principal amount not to exceed \$6,300,000 (the “Series 2017 Bond”) for the purpose of financing a portion of the costs of the Project, delegating to the Chairperson, Vice Chairperson, Chief Executive Officer or Chief Financial Officer of the Issuer authority to determine the final details of the Series 2017 Bond (the “Bond Details”); and

WHEREAS, the Series 2017 Bond was initially purchased by Manufacturers and Traders Trust Company (the “Holder”) pursuant to a bond purchase and disbursing agreement dated as of December 1, 2017 (the “Bond Purchase Agreement”) by and among the Issuer, the Borrower, the Holder and Manufacturers and Traders Trust Company, as disbursing agent (the “Disbursing Agent”); and

WHEREAS, contemporaneously with the issuance of the Series 2017 Bond, the Issuer, the Borrower, the Holder and the Disbursing Agent entered into various documents related to the Series 2017 Bond (collectively referred to hereinafter as the “Financing Documents”), including but not limited to the following: (A) the Bond Purchase Agreement; (B) a loan agreement dated as of December 1, 2017 (the “Loan Agreement”) by and between the Issuer and the Company; (C) a pledge and assignment agreement dated as of December 1, 2017 (the “Pledge and Assignment”) from the Issuer to the Holder; and (D) a mortgage dated as of December 1, 2017 (the “Mortgage”) from the Borrower to the Issuer, as assigned by the Issuer to the Holder pursuant to a mortgage assignment dated as of December 1, 2017 (the “Mortgage Assignment”); and

WHEREAS, the Issuer received a letter dated February 22, 2023 from the Borrower (the “Modification Request Letter”) (A) indicating the intention of the Borrower to amend the Tax-Exempt Rate (as defined in the Bond Purchase Agreement) on the Series 2017 Bond currently based on LIBOR (as defined in the Bond Purchase Agreement) to incorporate hardwire fallback language and benchmark replacement provisions, including daily and term rates based on the Secured Overnight Financing Rate (“SOFR”) as replacements for LIBOR as more specifically described in the Modification Request Letter, with a copy of such Modification Request Letter being attached hereto as Exhibit A, and (B) requesting that the Issuer enter into modifications to the Series 2017 Bond and the related Financing Documents necessary to implement such amendment (collectively referred to hereinafter as the “Modification Request”); and

WHEREAS, in connection with the Modification Request, the Issuer now desires to authorize the following actions (collectively, the “Action”): (1) to make the amendments to the Financing Documents and the Series 2017 Bond, (2) to make certain related amendments to the Financing Documents and the Series 2017 Bond, and (3) if (and only if) the Action results, in the opinion of Hodgson Russ, LLP, bond counsel to the Issuer (“Bond Counsel”), in a deemed reissuance of a Series 2017 Bond (such Series 2017 being referred to hereinafter as a “Reissued Bond”) and a deemed purchase of such Reissued Bond by the Holder, pursuant to the provisions of the Internal Revenue Code of 1986, as amended (the “Code”), to delegate to the Chairperson, Vice Chairperson and Chief Executive Officer of the Issuer (each, an “Authorized Officer”) to determine the final details of such Reissued Bond, including but not limited to (a) the authorized principal amount of such Reissued Bond, (b) the purpose or purposes for which such Reissued Bond is being issued, (c) the date or dates, the maturity date or dates and principal amounts of such Reissued Bond, (d) the interest rate or rates of such Reissued Bond, (e) the denomination or denominations of and the manner of numbering and lettering such Reissued Bond, (f) the redemption price or purchase in lieu of redemption price or redemption prices or purchase in lieu of redemption prices, if any, and the redemption or purchase in lieu of redemption terms, if any, for such Reissued Bond, (g) the form of such Reissued Bond and (h) any other provisions deemed advisable by the Authorized Officer not in conflict with the provisions of this resolution (collectively, the “Reissued Bond Details”); and

WHEREAS, in connection therewith, the Issuer, the Borrower, the Holder and the Disbursing Agent desire to enter into (A) a first omnibus amendment to bond purchase agreement and related financing documents (the “First Omnibus Amendment”) by and among the Issuer, the Borrower, the Holder and the Disbursing Agent and (B) certain other documents modifying the terms of the Financing

Documents (the First Omnibus Amendment and such other documents are hereinafter referred to as the “Modification Documents”); and

WHEREAS, if (and only if) the Action results, in the opinion of Bond Counsel, in a deemed reissuance of the Series 2017 Bond and a deemed purchase of such Series 2017 Bond by the Holder pursuant to the provisions of the Code in order to demonstrate compliance with the provisions of the Code relating to the Action, (A) the Borrower will (1) execute a tax regulatory agreement dated the date of delivery of such Reissued Bond (the “Reissued Tax Regulatory Agreement”) concerning the requirements in Section 148 of the Code relating to such Reissued Bond, (B) the Issuer will (1) execute an arbitrage certificate dated the date of delivery of such Reissued Bond (the “Reissued Arbitrage Certificate”) relating to certain requirements set forth in Section 148 of the Code relating to such Reissued Bond, (2) execute a completed Internal Revenue Service Form 8038 (Information Return for Tax-Exempt Private Activity Bonds) relating to such Reissued Bond (the “Reissued Information Return”) pursuant to Section 149(e) of the Code, and (3) file the Information Return with the Internal Revenue Service and (C) the Holder will execute a letter relating to such Reissued Bond (the “Issue Price Letter”) confirming the issue price of such Reissued Bond for purposes of Section 148 of the Code, and further confirming the difference between the interest rate payable on such Reissued Bond and the interest rate payable on the Series 2017 Bond immediately preceding the execution and delivery of the Modification Documents (the Series 2017 Bond, any Reissued Bond, the Modification Documents, the Reissued Tax Regulatory Agreement, the Reissued Arbitrage Certificate and the Reissued Information Return are hereinafter referred to as the “Bond Documents”); and

WHEREAS, pursuant to SEQRA, the Issuer must determine the potential environmental significance of the Action;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE BOARD OF DIRECTORS OF CHAUTAUQUA COUNTY CAPITAL RESOURCE CORPORATION AS FOLLOWS:

Section 1. Pursuant to SEQRA, the Issuer hereby finds and determines that:

(A) Pursuant to Section 617.5(c)(26) of the Regulations, the Action (including but not limited to the execution and delivery of the Bond Documents) is a “Type II action” (as said quoted term is defined in the Regulations).

(B) Accordingly, the Issuer hereby determines that no environmental impact statement or any other determination or procedure is required under SEQRA with respect to the Action.

Section 2. The Issuer hereby finds and determines that:

(A) By virtue of the Act, the Issuer has been vested with all 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) It is desirable and in the public interest for the Issuer to enter into the Bond Documents.

Section 3. In consequence of the foregoing, the Issuer hereby determines to: (A) authorize the Action; (B) subject to approval of the form and substance of the Bond Documents by Bond Counsel

and counsel to the Issuer, approve the form and substance of the Bond Documents; (C) subject to (i) compliance with the terms and conditions contained in the existing documents relating to the Series 2017 Bond and (ii) compliance with state and federal law applicable to the Action, authorize the execution and delivery of the Bond Documents.

Section 4. Subject to the satisfaction of the conditions described in Section 3 hereof, the Authorized Officer of the Issuer is hereby authorized, on behalf of the Issuer, to (a) determine, on behalf of the Issuer, the Bond Details relating to a Reissued Bond (if applicable) and (b) execute and deliver the Bond Documents and the other documents related thereto and, where appropriate, the Assistant Secretary of the Issuer is hereby authorized to affix the seal of the Issuer thereto and to attest the same, all in substantially the forms thereof approved by Bond Counsel and counsel to the Issuer, with such changes, variations, omissions and insertions as the Authorized Officer of the Issuer shall approve, the execution thereof by the Authorized Officer of the Issuer to constitute conclusive evidence of such approval.

Section 5. Subject to the execution and delivery of the other Bond Documents, the Issuer determines to execute and deliver the Series 2017 Bond or any Reissued Bond (as the case may be), provided that:

(A) The Series 2017 Bond or any Reissued Bond (as the case may be) authorized to be issued, executed, sold and delivered pursuant to this Section 5 shall (1) be issued, executed and delivered at such time as the Authorized Officer of the Issuer shall determine, and (2) bear interest at the rate or rates, be issued in such form, be subject to redemption prior to maturity and have such other terms and provisions and be issued in such manner and on such conditions as are set forth in the Series 2017 Bond or any Reissued Bond (as the case may be) and the other Bond Documents or as are hereinafter approved by the Authorized Officer of the Issuer in accordance with Section 4 hereof, which terms are specifically incorporated herein by reference with the same force and effect as if fully set forth in this resolution.

(B) Neither the directors nor officers of the Issuer, nor any person executing the Series 2017 Bond or any Reissued Bond (as the case may be) or any of the other Bond Documents on behalf of the Issuer, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution, issuance or delivery thereof. The Series 2017 Bond or any Reissued Bond (as the case may be), and the interest thereon are not and shall never be a debt of the State of New York, Chautauqua County, New York or any political subdivision thereof (other than the Issuer), and neither the State of New York, Chautauqua County, New York nor any political subdivision thereof (other than the Issuer) shall be liable thereon.

(C) The Series 2017 Bond or any Reissued Bond (as the case may be), together with interest payable thereon, are and shall be special obligations of the Issuer payable solely from certain of the revenues and receipts derived from the operation, sale or other disposition of the Project Facility or from the enforcement of the security provided by the Bond Documents and the other security pledged to the payment thereof.

(D) Notwithstanding any other provision of this resolution, the Issuer covenants that it will make no use of the proceeds of the Series 2017 Bond or any Reissued Bond (as the case may be) or of any other funds of the Issuer which, if said use had been reasonably expected on the date of issuance of the Series 2017 Bond or any Reissued Bond (as the case may be), would have caused the Series 2017 Bond or any Reissued Bond (as the case may be) to be an “arbitrage bond” within the meaning of Section 148 of the Code.

Section 6. The officers, employees and agents of the Issuer are hereby authorized and directed for and in the name and on behalf of the Issuer to do all acts and things required or provided for by the provisions of the Bond Documents, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses 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 this resolution and to cause compliance by the Issuer with all of the terms, covenants and provisions of the Bond Documents binding upon the Issuer.

Section 7. This resolution shall take effect immediately.

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

Gary Henry	AYE	_____
Bradley Walters	AYE	_____
Sagan Sheffield-Smith	AYE	_____
Dan Heitzenrater	AYE	_____
Brad Walters	AYE	_____
Steven Thorpe	AYE	_____
Kevin Muldowney	AYE	_____

The foregoing resolution was thereupon declared duly adopted.

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

I, the undersigned Secretary of Chautauqua County Capital Resource Corporation (the "Issuer"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the board of directors of the Issuer (the "Board of Directors") held on February 28, 2023 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Board of Directors had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Board of Directors 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 rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Issuer this 28th day of February, 2023.

BY:   
Secretary

BY:   
(Vice) Chairperson

(SEAL)



EXHIBIT A  
REQUEST LETTER

See attached.



February 22, 2023

Mr. Mark Geise  
CEO – CCCRC  
201 W. Third Street  
Jamestown, NY 14701

**Re: Request for Bond Modifications — Chautauqua County Capital Resources Corporation Revenue Bond (Lutheran Housing Administrative Services Group, Inc.) , Series 2017, dated 12/22/2017, in the principal amount of \$6,300,000.00 (the “Bond”) – LIBOR-based rate of interest to SOFR-based rate of interest**

Dear Mr. Geise:

We are writing to request that the Chautauqua County Capital Resources Corporation (the "Issuer") consider and approve certain modifications relating to the Bond described above in order to change the variable rate index used to determine the Tax-Exempt Bond Rate (such terms are defined in the underlying financing documents) from the one-month London Inter-Bank Offered Rate ("LIBOR"), which is being discontinued, to the Secured Overnight Financing Rate ("SOFR").

We are not requesting any new financial assistance. The maturity date of the Bond will not be affected (extended or shortened) as a result of the requested modifications, and no new money will be borrowed. The request is limited to modifications to the bond and underlying financing documents necessary to implement the change from LIBOR to SOFR.

We respectfully ask that the Issuer consider this request expeditiously so that we can complete the modification by or close to March 31, 2023.

Please let me know if you have any questions or need further information. I can be reached [JasonB@lutheran-jamestown.org](mailto:JasonB@lutheran-jamestown.org) or 716-640-7630.

Very truly yours,

  
Jason Beckwith  
Chief Financial Officer

cc: Kevin K. Brombacher  
Christopher Canada, Esq.  
Jean S. Everett, Esq.

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715 Falconer Street • Jamestown, New York, 14701 • Phone: 716.665.4905  
[www.lutheran-jamestown.org](http://www.lutheran-jamestown.org)