

SILVER CREEK APARTMENTS, LLC - Consent Resolution

A regular meeting of the County of Chautauqua Industrial Development Agency (the “Agency”) was convened in public session on December 17, 2024, at 10:30 A.M., local time, at the offices of the Agency located at Fredonia Technology Incubator, 214 Central Avenue, 1st Floor Conference Room, Dunkirk, County of Chautauqua, New York (the “IDA Office”).

The meeting was called to order by the _____ and, upon roll being called, the following members of the Agency were:

PRESENT:

Gary Henry	Chairman
Bradley Walters	Vice Chairman
Sagan Sheffield-Smith	Treasurer
Daniel Heitzenrater	Secretary
Amy Harding	Member
Daniel DeMarte	Member
Tom Harmon	Member
Kevin Muldowney	Member

NOT PRESENT:

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Mark Geise	Administrative Director/CEO
Richard E. Dixon	Chief Financial Officer
Milan K. Tyler, Esq.	Counsel
Gregory L. Peterson, Esq.	Counsel

The attached resolution no. 12-17-24-01 was offered by _____, seconded by _____:

Resolution No. 12-17-24-01

RESOLUTION AUTHORIZING CERTAIN MATTERS IN CONNECTION
WITH A CERTAIN PROJECT FOR SILVER CREEK APARTMENTS, LLC

WHEREAS, the County of Chautauqua Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 71 of the 1972 Laws of New York, as amended, constituting Section 895-h of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more “projects” (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, SILVER CREEK APARTMENTS, LLC, a limited liability company duly organized and existing under the laws of the State of New York (the “Applicant”), presented an application for financial assistance (the “Application”) to the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 2.3 acre parcel of land located at 58-62 Main Street (a/k/a 60 Main Street), Village of Silver Creek, Town of Hanover, County of Chautauqua, New York (the “Land”), (2) the demolition of the existing buildings and structures on the Land, (3) the construction of an approximately 50,574 square foot building on the Land, together with related improvements to the Land, including, without limitation, a patio and storage shed (collectively, the “Building”), and (4) the acquisition of certain furniture, fixtures, machinery, equipment and building materials necessary for the completion thereof (collectively, the “Equipment” and together with the Land and the Building, collectively, the “Project Facility”), all of the foregoing for use by the Applicant and/or its affiliates as an affordable multifamily residential rental facility consisting of approximately 51 1-bedroom units and 3 2-bedroom units; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from sales and use taxes, mortgage recording taxes and real property taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, by Resolution dated February 29, 2024, the Agency approved the requested Financial Assistance; and

WHEREAS, pursuant to a request for additional financial assistance, the Applicant has requested (the “Consent Request”) that the Agency grant certain additional “financial assistance” within the meaning of the Act with respect to the Project in the form of an additional exemption from mortgage recording taxes in an amount not to exceed \$23,426 (the “Additional Financial Assistance”); and

WHEREAS, the amount of the Additional Financial Assistance being requested by the Applicant is less than \$100,000 and, therefore, no public hearing of the Agency is required pursuant to Section 859-a of the Act; and

WHEREAS, the Agency now desires to make its determination to grant the requested consent, subject to the terms hereof;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE COUNTY OF CHAUTAUQUA INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. The Agency hereby ratifies, confirms and approves actions heretofore taken by the Chairman and the staff of the Agency with respect to the matters contemplated by this Resolution, including, without limitation, those actions required to ensure full compliance with the requirements of the Act, SEQRA, and all other Applicable Laws that relate thereto.

Section 2. The Agency hereby determines that the Applicant's request with respect to the previously approved and unchanged Project is a Type II Action pursuant to SEQRA involving “continuing agency administration” which does not involve “new programs or major reordering of priorities that may affect the environment” (6 NYCRR §617.5(c)(20)) and therefore no findings or determination of significance are required under SEQRA.

Section 3. The amount of the Additional Financial Assistance being requested by the Applicant in connection with the Consent Request is less than \$100,000 and, therefore, no public hearing of the Agency is required pursuant to Section 859-a of the Act.

Section 4. The Agency has considered the request made by the Applicant and hereby finds and determines that granting the requested consent will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of Chautauqua County, New York, and improve their standard of living, and thereby serve the public purposes of the Act.

Section 5. The Agency has reviewed the Consent Request, and, based upon the representations made by the Applicant to the Agency and information obtained by the Agency, the Agency has reviewed and assessed all material information necessary to afford a reasonable basis for the Agency to make a determination to approve the Consent Request.

Section 6. The Agency hereby determines that the Agency has fully complied with the requirements of the Act, SEQRA and all other Applicable Laws that relate to the Consent Request.

Section 7. The Agency hereby approves the Applicant's request that the Agency grant an additional \$23,426 in mortgage recording tax exemptions with respect to the Project such that the Maximum Mortgage Recording Tax Benefit shall not exceed \$215,000 in the aggregate.

Section 8. The Chairman, Vice Chairman, Administrative Director/CEO and the Chief Financial Officer of the Agency are each hereby designated an Authorized Representative of the Agency and each of them is hereby authorized and directed, acting individually or jointly, to execute and deliver any and all consents, agreements, amendments, papers, instruments, opinions, certificates, affidavits and other documents required in connection with the consent and waiver authorized hereby (collectively, the "Consent Documents"), and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, including, without limitation, taking any necessary action to obtain consent of any other person or party necessary with respect to execution, delivery and approval of the Consent Documents, The execution and delivery of the Consent Documents by any one of said officers shall be conclusive evidence of due authorization and approval. The execution and delivery of the Consent Documents, being substantially in the forms used for prior similar transactions, are hereby authorized and approved and ratified.

Section 9. The authorizations set forth in this Resolution are subject to the conditions that the Applicant shall reimburse the Agency for all costs and expenses incurred by the Agency in connection with the transactions contemplated herein, including, without limitation, the Agency's consent and amendment fee in the amount of \$-0- and all reasonable attorneys' fees and disbursements incurred by the Agency, including without limitation, the fees and expenses of Special Counsel, Phillips Lytle LLP.

Section 10. The Chairman, the Administrative Director/CEO and the Chief Financial Officer of the Agency are each hereby authorized to approve modifications to the terms approved herein which are not inconsistent with the intent and substance of this Resolution, such approval to be evidenced by the execution by any one of such officers of the Consent Documents containing such modifications.

Section 11. 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	VOTING
Bradley Walters	VOTING
Sagan Sheffield-Smith	VOTING
Dan Heitzenrater	VOTING
Kevin Muldowney	VOTING
Amy Harding	VOTING
Daniel DeMarte	VOTING
Tom Harmon	VOTING

The foregoing resolution was thereupon declared duly _____.

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

WE, the undersigned officers of the County of Chautauqua Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on December 17, 2024 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency 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 at both locations at which members of the Agency were present, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; (D) there was a quorum of the members of the Agency present throughout said meeting; and (E) the meeting was recorded and the recording has been or will be posted on the public website of the Agency pursuant to the Open Meetings Law.

WE 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, we have hereunto set our hand this 17th day of December, 2024.

[Assistant] Secretary

[Vice] Chairman

(SEAL)