

2022 IDA/CDC Resolutions

- 22-09 Approval of Bucks County Biscotti Sales Tax Extension and Mortgage Increase
- 22-10 Approval of Fort William Henry Sales Tax Extension and Mortgage Increase
- 22-11 Approval of Sun Valley Apartments Application
- 22-12 Approval of Adirondack Winery Sales Tax Extension
- 22-13 Approval of 78-80 Main Street LLC Application
- 22-14 Approval of Sun Valley Apartments Project
- 22-15 Preliminary Approval of 78-80 Main Street LLC Project
- 22-16 Adoption of Videoconferencing Procedures

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- 22-13 Approval of 78-80 Main Street LLC Application
- 22-14 Approval of Sun Valley Apartments Project
- 22-15 Preliminary Approval of 78-80 Main Street LLC Project
- 22-16 Adoption of Videoconferencing Procedures

Adopted April 18, 2022
Resolution 22-09

Introduced by Mr. Bittel
who moved its adoption.

Seconded by Mr. Leggett

**RESOLUTION TAKING ACTION EXTENDING COMPLETION DATE FOR
CONSTRUCTION AND INCREASING THE MORTGAGE RECORDING TAX
EXEMPTION AMOUNT FOR BUCKS COUNTY BISCOTTI CO., OR ITS ASSIGNS, AS
AGENT OF THE AGENCY, FOR THE PURPOSE OF CONSTRUCTING AND
EQUIPPING THE PROJECT FACILITY**

WHEREAS, Bucks County Biscotti Co., a business corporation established pursuant to the laws of the State of Pennsylvania and to be authorized to do business in New York, having an address of PO Box 241, Hilltown, Pennsylvania 18927 and its assigns have filed an application with the Agency; and

WHEREAS, the Company has requested that the Agency provide financial assistance in the form of a payment in lieu of taxes, a mortgage recording tax exemption and sales tax abatements regarding a manufacturing and distribution project (the "Project") to consist of: (i) the acquisition by the Agency of a leasehold interest in certain real property located at Lot #7, Casey Road in the Town of Kingsbury, County of Washington, New York and being known as tax map parcel 137.-2-1.8 (the "Land"); (ii) the planning, design, construction, operation and maintenance by the Company of an approximately 5,000+/- square foot facility to be used by the Company for the manufacture and distribution of biscotti (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"), all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the "Act"), as amended; and

WHEREAS, under the "Act", the Legislature of the State of New York has granted the Agency the power and authority to undertake the Project;

WHEREAS, by resolutions duly adopted November 3, 2021 and February 22, 2022, the Agency named the Company agent for the Agency to undertake and develop the Project; and

WHEREAS, said resolutions anticipated a date for completion of construction of September 30, 2022; and

WHEREAS, said resolutions approved a mortgage recording tax exemption on mortgages not to exceed \$915,000.00; and

WHEREAS, due to delays, the Company has requested that the Agency extend its completion of construction date to September 30, 2022; and

WHEREAS, due to modifications of the project budget, the Company has requested that the Agency increase the authorization on mortgage recording tax exemption on mortgages to \$925,000.00; and

WHEREAS, the Agency has reviewed information needed to make determinations as to said requests.

NOW, THEREFORE, BE IT RESOLVED:

1. That it is in the best interest of the Agency to complete the Project as described above; and
2. That the Agency hereby authorizes the extension of the construction completion date for the project being undertaken by Bucks County Biscotti Co. and its assigns to September 30, 2022.
3. That the Agency hereby authorizes an increase to the mortgage recording tax exemption on mortgages not to exceed \$925,000.00.
4. That the Agency shall require the Company to pay for any legal fees or expenses incurred as a result of the granting of said extension; and
5. That this resolution shall take effect immediately.

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

Member	Yes	No	Abstain	Absent
Craig Leggett	x			
Michael Bittel	x			
Brian Campbell				X
Chuck Barton	x			
Ginny Sullivan	x			
Mike Wild	x			
Dan Bruno	x			
Mary King	x			
Nick Caimano	x			
Dave O'Brien	x			
Total	9	0	0	1

The foregoing resolution was thereupon declared duly adopted.

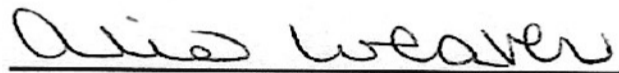
STATE OF NEW YORK)

) SS:

COUNTY OF WARREN)

This is to certify that I, Alie Weaver, Office Administrator for the Counties of Warren and Washington Industrial Development Agency, do hereby certify that the foregoing is a true and correct copy and the whole thereof of a Resolution duly adopted by the Counties of Warren and Washington Industrial Development Agency, Glens Falls, New York on the 18th day of April 2022.

In witness whereof, I have hereto set my hand and affixed the official seal of the Counties of Warren and Washington Industrial Development Agency on the 3rd day of April 18, 2022.



Alie Weaver
Counties of Warren and Washington
Industrial Development Agency

[SEAL]

Adopted April 18, 2022
Resolution 22-10

Introduced by Mr. Barton
who moved its adoption.

Seconded by Mr. Bruno

**RESOLUTION TAKING ACTION INCREASING AUTHORIZATION FOR
MORTGAGE RECORDING TAX EXEMPTION AND SALES TAX EXEMPTION TO
THE FORT WILLIAM HENRY CORPORATION, AS AGENT OF THE AGENCY, FOR
THE PURPOSE OF CONSTRUCTING AND EQUIPPING THE PROJECT FACILITY
AND EXPANDING THE PROJECT SCOPE**

WHEREAS, The Fort William Henry Corporation (the "Company"), having an address of 48 Canada Street, Lake George, New York, is a business corporation created pursuant to the Laws of the State of New York, and

WHEREAS, the Agency, on behalf of the Company, has undertaken a tourist destination project (the "Project") consisting of (i) the acquisition by the Agency of a leasehold interest in certain real property located at 48 Canada Street in the Village and Town of Lake George, County of Warren, New York and being known as tax map parcel 251.18-3-72 (the "Land"); (ii) the planning, design, construction, operation and maintenance by the Company of a three season porch around the White Lion Room and kitchen expansion at the Tankard Tavern (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"), all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the "Act"), as amended; and

WHEREAS, under the "Act", the Legislature of the State of New York has granted the Agency the power and authority to undertake the Project; and

WHEREAS, by resolution duly adopted February 2, 2022, the Agency named the Company agent for the Agency to undertake and develop the Project; and effective March 4, 2022 issued an IDA Appointment of Project Operator or Agent (ST-60) and its Letter of Authorization for Sales Tax Exemption to the Company (the "Exemption Letter"); and

WHEREAS, by resolution duly adopted February 2, 2022, the Agency approved a mortgage recording tax exemption in an estimated amount of \$16,250.00; and

WHEREAS, the Company has reviewed its project budget and scope and has also determined that it is necessary and in the best interests of the Company to expand the Project to include an upgraded sound system and security and lock system; and

WHEREAS, due to a reevaluation of the Project budget by the Company and supply chain delays, increased costs and inability to secure construction materials, the Company has requested that the Agency (i) increase its authorization for sales tax exemption purchases to the amount of \$1,500,000 (from \$1,250,000) and to increase the sales tax exemption amount to \$105,000; (ii) increase its mortgage recording tax exemption to an estimated exemption amount of \$25,984 (from \$16,250); and (iii) expand the Project description and scope to include the installation of an upgraded sound system and security and lock system; and

WHEREAS, the Company advises that the total project cost has increased to \$3,167,716 (from \$2,410,000); and

WHEREAS, the Agency has reviewed information needed to make a determination regarding the requests of the Company.

NOW, THEREFORE, BE IT RESOLVED:

1. That it is in the best interest of the Agency to complete the Project as amended and as described above; and

2. That the Agency hereby authorizes the following: (i) the increase of the authorization for sales tax exemption purchases to the amount of \$1,500,000 and to increase the sales tax exemption amount to \$105,000; (ii) the increase of the mortgage recording tax exemption to an estimated exemption amount of \$25,984; and (iii) the expansion of the Project description and scope to include the installation of an upgraded sound system and security and lock system.

3. That the Agency hereby approves of the amendments to any of the closing documents to effectuate this resolution and authorizes that any necessary amendments be properly filed with the NYS Department of Taxation and Finance; and

4. That the Agency shall require the Company to pay for any legal fees or expenses incurred as a result of the granting of the requests approved herein, including but not limited to any additional administrative fee that shall become due as a result of the increase of the total project cost; and

5. That the Agency hereby authorizes the Chairman to execute any and all documentation necessary to effectuate the terms of this resolution; and

6. That this resolution shall take effect immediately.

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

Member	Yes	No	Abstain	Absent
Craig Leggett	x			
Michael Bittel	x			
Brian Campbell				x
Chuck Barton	x			
Ginny Sullivan	x			
Mike Wild	x			
Dan Bruno	x			
Mary King	x			
Nick Caimano	x			
Dave O'Brien	x			
Total	9	0	0	1

The foregoing resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS:
COUNTY OF WARREN)

This is to certify that I, Alie Weaver, Office Administrator for the Counties of Warren and Washington Industrial Development Agency, do hereby certify that the foregoing is a true and correct copy and the whole thereof of a Resolution duly adopted by the Counties of Warren and Washington Industrial Development Agency, Glens Falls, New York on the 18th day of April 2022.

In witness whereof, I have hereto set my hand and affixed the official seal of the Counties of Warren and Washington Industrial Development Agency on the 3rd day of April 18, 2022.



Alie Weaver
Counties of Warren and Washington
Industrial Development Agency

[SEAL]

Resolution No. 22-11
Adopted April 18, 2022

Introduced by Mr. Leggett
who moved its adoption.

Seconded by Mr. Caimano

**RESOLUTION ACCEPTING AN APPLICATION FOR FINANCIAL ASSISTANCE
SUBMITTED BY SUN VALLEY APARTMENTS LLC (THE "COMPANY") RELATING
TO A CERTAIN PROJECT; AUTHORIZING A PUBLIC HEARING WITH RESPECT
TO THE PROJECT; AND DESCRIBING THE FINANCIAL ASSISTANCE BEING
CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT**

WHEREAS, Sun Valley Apartments, LLC, a limited liability company established pursuant to the laws of the State of New York, having an address of 23 Rapport Drive, Lake George, New York (the "Company") has requested that the Agency provide financial assistance in the form of a partial real property tax abatement, a mortgage recording tax exemption and a sales tax abatement regarding a certain commercial project (the "Project") to consist of: (i) the acquisition by the Agency of a leasehold interest in certain real property located at Sun Valley Drive in the Town of Lake George, County of Warren, New York and being known as tax map parcel 264.11-1-37 (the "Land"); (ii) the planning, design, construction, operation and maintenance by the Company of five (5) buildings which include a total of thirty nine (39) apartment units intended for year round occupancy (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"), all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the "Act"), as amended; and

WHEREAS, Chapters 356 and 357 of the Laws of 1993 require that prior to granting financial assistance of more than \$100,000.00 to any project, an Agency must (i) adopt a resolution describing the project and the financial assistance contemplated by the Agency with respect thereto, and (ii) hold a public hearing in the city, town or village where the project proposes to locate upon at least ten (10) days published notice and, at the same time, provide notice of such hearing to the Chief Executive Officer of each affected taxing jurisdiction within which the project is located; and

WHEREAS, the Agency is in the process of reviewing and considering the Company's Application requesting the Agency to provide financial assistance for the proposed Project (collectively the "Financial Assistance") in the form of (i) an exemption from all State and local sales and use taxes with respect to qualifying personal property included in and incorporated into

the Facility or used in the acquisition, construction or equipping of the Facility, (ii) an exemption for mortgage recording tax on eligible mortgages and (iii) a partial real property tax abatement through a payment in lieu of tax agreement (the "PILOT Agreement"), pursuant to which the Company would make payments in lieu of real property taxes to each affected tax jurisdiction (the "Affected Tax Jurisdictions"), all of which shall be consistent with the uniform tax exemption policy of the Agency; and

WHEREAS, the Agency desires to (i) accept the Application; (ii) authorize the scheduling and conduct of a public hearing; and (iii) negotiate, but not enter into an Agent Agreement and Project Agreement, pursuant to which the Agency will designate the Company, as its agent for the purpose of acquiring, constructing and equipping the Project, and Lease Agreement, a Leaseback Agreement and related Payment in lieu of Tax Agreement with the Company.

NOW, THEREFORE, BE IT RESOLVED:

1. The Company has presented an application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company's Application, the Agency hereby finds and determines that:

- (a) Pursuant to the Act, the Agency 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; and
- (b) The Agency has the authority to take the actions contemplated herein under the Act; and
- (c) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Warren and Washington Counties, New York, and otherwise furthering the purposes of the Agency as set forth in the Act; and
- (d) The Project will not result in the removal of a commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company.

2. The proposed financial assistance being contemplated by the Agency includes (i) an exemption from all state and local sales and use taxes with respect to the qualifying personal property included within the Project or used in the acquisition, construction or equipping of the Project in the estimated amount of \$153,720.00 based on purchases in the amount of \$2,196,000.00; (ii) an exemption from mortgage recording tax for qualifying mortgages in the estimated amount of \$59,532.00 based on mortgages in the approximate amount of \$4,762,500.00; and (iii) a partial real property tax abatement through a PILOT Agreement pursuant to the following terms (below) and an estimated value of \$166,702.00, pursuant to

which the Company would make payments in lieu of real property taxes to the Affected Tax Jurisdictions.

Year 1: Base Value plus 50% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 2: Base Value plus 45% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 3: Base Value plus 40% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 4: Base Value plus 35% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 5: Base Value plus 30% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 6: Base Value plus 25% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 7: Base Value plus 20% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 8: Base Value plus 15% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 9: Base Value plus 10% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 10: Base Value plus 5% of increased assessed valuation attributable to improvements made to the Project Facility.

The Base Value for the parcel shall be \$405,000.00 for the term of the PILOT.

The estimated total project cost is \$5,981,301.

3. The Chairman, Vice Chairman and/or the Chief Executive Officer of the Agency are hereby authorized, on behalf of the Agency, to cause the issuance of public hearing notices, hold a public hearing in compliance with the Act and negotiate (but not execute or deliver) the terms of (A) the Agent Agreement and Project Agreement, whereby the Agency appoints the Company as its agent to undertake the Project, (B) a Lease Agreement whereby the Company leases the Project to the Agency, (C) a related Leaseback Agreement conveying the Project back to the Company, (D) a PILOT Agreement, whereby the Company agrees to make certain payments-in-lieu-of real property taxes and (E) related documents; provided (i) the rental payments under the Agent Agreement and Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project.

4. The Agency is hereby authorized to schedule and conduct a public hearing pursuant to Article 18-A of the General Municipal Law and, if applicable, in accordance with any legislation adopted by the State of New York and/or Executive Orders issued by the Governor of the State of New York permitting virtual meetings at a date and time and in a manner determined by the Chairman. The Agency hereby further authorizes the posting and publication of a Notice of Public Hearing for the Project in accordance with the Act and the Agency's policies and procedures.

5. This resolution shall take effect immediately.

Member	Yes	No	Abstain	Absent
Craig Leggett	x			
Michael Bittel	x			
Brian Campbell				x
Chuck Barton	x			
Ginny Sullivan	x			
Mike Wild	x			
Dan Bruno	x			
Mary King	x			
Nick Caimano	x			
Dave O'Brien	x			
Total	9	0	0	1


The foregoing resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS:
 COUNTY OF WARREN)

This is to certify that I, Alie Weaver, Records Management Officer for the Counties of Warren and Washington Industrial Development Agency, do hereby certify that the foregoing is a true and correct copy and the whole thereof of a Resolution duly adopted by the Counties of Warren and Washington Industrial Development Agency, Glens Falls, New York on the 18th day of April 2022.

In witness whereof, I have hereto set my hand and affixed the official seal of the Counties of Warren and Washington Industrial Development Agency on this 18th day of April 2022.

[SEAL]



Alie Weaver
 Counties of Warren and Washington
 Industrial Development Agency

Adopted April 18, 2022
Resolution 22-12

Introduced by Mr. Bruno
who moved its adoption.

Seconded by Mr. Bittel

**RESOLUTION TAKING ACTION EXTENDING AND INCREASING
AUTHORIZATION FOR SALES TAX EXEMPTION TO 395 BIG BAY ROAD, LLC, AS
AGENT OF THE AGENCY, FOR THE PURPOSE OF CONSTRUCTING AND
EQUIPPING THE PROJECT FACILITY**

WHEREAS, 395 Big Bay Road, LLC (the "Company"), having an address of 395 Big Bay Road, New York, is a limited liability company created pursuant to the Laws of the State of New York, and

WHEREAS, the Agency, on behalf of the Company, has undertaken an industrial development project (the "Project") consisting of (i) the acquisition by the Agency of a leasehold interest in certain real property located at 395 Big Bay Road in the Town of Queensbury, County of Warren, New York (the "Land"); (ii) the planning, design, construction, operation and maintenance by the Company of an approximately 11,100+/- square foot additional facility, including a 50' x 30' covered pad and a 60' x 30' open pad, which will be used by the Company for the manufacture of wine and tasting room space (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"), all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the "Act"), as amended; and

WHEREAS, under the "Act", the Legislature of the State of New York has granted the Agency the power and authority to undertake the Project;

WHEREAS, by resolution duly adopted December 21, 2020, the Agency named the Company agent for the Agency to undertake and develop the Project; and issued an IDA Appointment of Project Operator or Agent (ST-60) and its Letter of Authorization for Sales Tax Exemption to the Company (the "Exemption Letter"); and

WHEREAS said IDA Appointment of Project Operator or Agent ST-60 and Exemption Letter expired on August 1, 2021; which was the original anticipated date for completion of construction; and

WHEREAS, on August 16, 2021, the Agency approved an extension of completion dated of the Project to April 1, 2022; and

WHEREAS, due to further financing delays and construction materials and supplies delays, the Company has requested that the Agency (i) extend its authorization for sales tax exemption until the completion of construction or July 15, 2022, whichever date is earlier; and (ii) increase its authorization for sales tax exemption purchases to the amount of \$1,126,286 and to increase the sales tax exemption amount to \$78,840; and

WHEREAS, the Company advises that the total project cost has increased to \$2,572,642; and

WHEREAS, the Agency has reviewed information needed to make a determination to extend the sales tax exemption authorization.

NOW, THEREFORE, BE IT RESOLVED:

1. That it is in the best interest of the Agency to complete the Project as described above; and
2. That the Agency hereby authorizes the extension of the sales tax exemption for 395 Big Bay Road, LLC and all duly appointed third party agents to the earlier of (i) July 15, 2022, (ii) the completion of construction or (iii) the termination or suspension of this authorization to extend the sales tax exemption and authorizes that the extension be properly filed with the NYS Department of Taxation and Finance; and
3. That the Agency hereby authorizes the increase of the sales tax authorization to \$1,126,286 and the increase of the sales tax exemption amount to \$78,840 and authorizes that said amendments be properly filed with the NYS Department of Taxation and Finance; and
4. That the Agency hereby approves of the amendments to any of the closing documents to effectuate this extension, as may be required and applicable; and
5. That the Agency hereby authorizes the Chairman to execute any and all documentation necessary to effectuate the terms of this resolution; and
6. That the Agency shall require the Company to pay for any legal fees or expenses incurred as a result of the granting of said extension; and
7. That this resolution shall take effect immediately.

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

Member	Yes	No	Abstain	Absent
Craig Leggett	x			
Michael Bittel	x			
Brian Campbell				x
Chuck Barton	x			
Ginny Sullivan	x			
Mike Wild	x			
Dan Bruno	x			
Mary King	x			
Nick Caimano	x			
Dave O'Brien	x			
Total	9	0	0	1

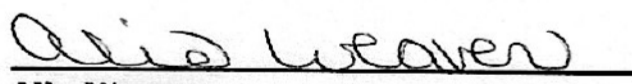
The foregoing resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS:
COUNTY OF WARREN)

This is to certify that I, Alie Weaver, Office Administrator for the Counties of Warren and Washington Industrial Development Agency, do hereby certify that the foregoing is a true and correct copy and the whole thereof of a Resolution duly adopted by the Counties of Warren and Washington Industrial Development Agency, Glens Falls, New York on the 18th day of April, 2022.

In witness whereof, I have hereto set my hand and affixed the official seal of the Counties of Warren and Washington Industrial Development Agency on the 18th day of April 2022.

[SEAL]


Alie Weaver
Counties of Warren and Washington
Industrial Development Agency

Resolution No. 22-13
Adopted May 2, 2022

Introduced by Mr. Bittel
who moved its adoption.

Seconded by Mr. Bruno

**RESOLUTION ACCEPTING AN APPLICATION FOR FINANCIAL ASSISTANCE
SUBMITTED BY 78-80 MAIN STREET LLC (THE "COMPANY") RELATING TO A
CERTAIN PROJECT; AUTHORIZING A PUBLIC HEARING WITH RESPECT TO
THE PROJECT; AND DESCRIBING THE FINANCIAL ASSISTANCE BEING
CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT**

WHEREAS, 78-80 Main Street LLC, a limited liability company established pursuant to the laws of the State of New York, having an address of 9 Mountainside Drive, Queensbury, New York (the "Company") has requested that the Agency provide financial assistance in the form of a partial real property tax abatement, a mortgage recording tax exemption and a sales tax abatement regarding a certain commercial project (the "Project") to consist of: (i) the acquisition by the Agency of a leasehold interest in certain real properties located at 78 Main Street and 80 Main Street in the Town of Queensbury, County of Warren, New York and being known as tax map parcel numbers 309.10-1-24 and 309.10-1-25 (the "Land"); (ii) the planning, design, construction, operation and maintenance by the Company of an approximately 12,000+/- square foot facility which will be used by the Company for a mixed-use facility that will consist of retail and residential space (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"), all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the "Act"), as amended; and

WHEREAS, Chapters 356 and 357 of the Laws of 1993 require that prior to granting financial assistance of more than \$100,000.00 to any project, an Agency must (i) adopt a resolution describing the project and the financial assistance contemplated by the Agency with respect thereto, and (ii) hold a public hearing in the city, town or village where the project proposes to locate upon at least ten (10) days published notice and, at the same time, provide notice of such hearing to the Chief Executive Officer of each affected taxing jurisdiction within which the project is located; and

WHEREAS, the Agency is in the process of reviewing and considering the Company's Application requesting the Agency to provide financial assistance for the proposed Project (collectively the "Financial Assistance") in the form of (i) an exemption from all State and local sales and use taxes with respect to qualifying personal property included in and incorporated into

to which the Company would make payments in lieu of real property taxes to the Affected Tax Jurisdictions.

Year 1: Base Value plus 50% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 2: Base Value plus 45% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 3: Base Value plus 40% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 4: Base Value plus 35% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 5: Base Value plus 30% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 6: Base Value plus 25% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 7: Base Value plus 20% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 8: Base Value plus 15% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 9: Base Value plus 10% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 10: Base Value plus 5% of increased assessed valuation attributable to improvements made to the Project Facility.

The Base Value for the parcel shall be \$317,500.00 for the term of the PILOT.

The estimated total project cost is \$3,355,000.00.

3. The Chairman, Vice Chairman and/or the Chief Executive Officer of the Agency are hereby authorized, on behalf of the Agency, to cause the issuance of public hearing notices, hold a public hearing in compliance with the Act and negotiate (but not execute or deliver) the terms of (A) the Agent Agreement and Project Agreement, whereby the Agency appoints the Company as its agent to undertake the Project, (B) a Lease Agreement whereby the Company leases the Project to the Agency, (C) a related Leaseback Agreement conveying the Project back to the Company, (D) a PILOT Agreement, whereby the Company agrees to make certain payments-in-lieu-of real property taxes and (E) related documents; provided (i) the rental payments under the Agent Agreement and Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project.

4. The Agency is hereby authorized to schedule and conduct a public hearing pursuant to Article 18-A of the General Municipal Law and, if applicable, in accordance with any legislation adopted by the State of New York and/or Executive Orders issued by the Governor of the State of New York permitting virtual meetings at a date and time and in a manner determined by the Chairman. The Agency hereby further authorizes the posting and publication of a Notice of Public Hearing for the Project in accordance with the Act and the Agency's policies and procedures.

Counties of Warren and Washington Industrial Development Agency

Resolution No. 22-14

Adopted May 2, 2022

Introduced by Mr. Campbell
who moved its adoption.

Seconded by Mr. Bruno

**RESOLUTION TAKING ACTION TOWARD UNDERTAKING A CERTAIN PROJECT,
AS DEFINED HEREIN, APPOINTING SUN VALLEY APARTMENTS LLC (THE
“COMPANY”), AS AGENT OF THE AGENCY FOR THE PURPOSE OF
CONSTRUCTING AND EQUIPPING THE PROJECT FACILITY (AS DEFINED
HEREIN) AND, ON CERTAIN CONDITIONS, AUTHORIZING THE EXECUTION
AND DELIVERY OF AN AGENT AGREEMENT AND CLOSING DOCUMENTS BY
AND BETWEEN THE AGENCY AND THE COMPANY**

WHEREAS, the Counties of Warren and Washington Industrial Development Agency (the “Agency”) is a body corporate and politic duly organized and existing under Sections 856 and 890-c of the General Municipal Law (“GML”) of the State of New York (the “State”), with its principal place of business at 5 Warren Street, Glens Falls, New York; and

WHEREAS, Sun Valley Apartments, LLC, a limited liability company established pursuant to the laws of the State of New York, having an address of 23 Rapport Drive, Lake George, New York (the “Company”) has requested that the Agency provide financial assistance in the form of a partial real property tax abatement, a mortgage recording tax exemption and a sales tax abatement regarding a certain commercial project (the “Project”) to consist of: (i) the acquisition by the Agency of a leasehold interest in certain real property located at Sun Valley Drive in the Town of Lake George, County of Warren, New York and being known as tax map parcel 264.11-1-37 (the “Land”); (ii) the planning, design, construction, operation and maintenance by the Company of five (5) buildings which include a total of thirty nine (39) apartment units intended for year round occupancy (collectively, the “Improvements”); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the “Equipment” and, collectively with, the Land and the Improvements, the “Facility”); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the “Straight Lease Transaction”), all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the “Act”), as amended; and

WHEREAS, under Article 18-A of the General Municipal Law (the “Act”), the Legislature of the State of New York has granted the Agency the power and authority to undertake the Project, as the Act authorizes the Agency to promote, develop, encourage and

assists projects such as this Project and to advance job opportunities, health general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Project will require the Agency and the Company to enter into an agreement whereby the Company will acquire, by lease, and construct the Project Facility and the Agency will lease the Project Facility to the Company; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities which may arise in connection with the transactions contemplated by the lease of the Facility; and

WHEREAS, a lease agreement (the "Lease Agreement") with respect to the Project, along with certain financing documents, will be executed by and between the Company and the Agency; and

WHEREAS, the Agency is a state agency under Section 8-0105 of the Environmental Conservation Law of the State of New York and the Project is an action under Article 8 of said law (Article 8 hereinafter being referred to as the "State Environmental Quality Review Act" or "SEQRA") and under 6 NYCRR Part 617, §§ 617.2(b) and 617.3(g); and

WHEREAS, the Company has submitted to the Agency, and the Agency has reviewed information needed to determine whether or not the Project will have a significant impact on the environment; and

WHEREAS, the acquisition, construction and installation of the Project Facility has not been commenced, and the Agency has not yet authorized the Project; and

WHEREAS, the Agency conducted a public hearing on May 2, 2022 pursuant to Article 18-A of the New York State General Municipal Law (the "Law") before taking official action relating to the Project.

NOW, THEREFORE, BE IT RESOLVED:

SECTION 1. Findings. The Agency has reviewed the application to determine compliance with the requirements of the Act and based on the representations of the Company to the Agency in said application and elsewhere, the Agency hereby makes the following findings and determinations with respect to the Project:

(A) The Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes of the Act and to exercise all powers granted to it under the Act;

(B) The Project constitutes a "project", as that quoted term is defined in the Act;

(C) The acquisition, construction and installation of the Facility and the lease of the Facility to the Company (i) will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the State of New York and the Counties of

Warren and Washington and improve their standard of living; and (ii) will not result in the removal of an industrial or manufacturing plant of the Company from one area of the State to another area of the State nor will the completion of the Project result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Facility located within the State of New York;

(D) It is in the public interest for the Agency to undertake the Project on behalf of the Company as this Project will promote employment opportunities and will prevent economic deterioration in the area. The Agency hereby makes this determination concerning the Project due to the following:

- (i) The potential of persons to continue to reside or move to the area served by the Agency.
- (ii) The potential to create a need for additional services for said persons residing at the Project, particularly in light of the current economic climate.
- (iii) There is a need for housing in the Town of Lake George.
- (iv) There is support from the officials of the Town of Lake George and the Lake George Central School District.
- (v) This Project will increase the overall tax base of the Town, as this property is currently vacant land.

(E) The location of the site of the Project is acceptable to the Agency;

(F) The Facility is not known by the Agency to be in material violation of the local zoning laws and planning regulations of the Town of Lake George and all regional and local land use plans for the area in which the Facility shall be located;

(G) The Facility and the operations of the Company are not known by the Agency to cause or result in the violation of the health, labor, environmental or other laws of the United States of America, the State of New York, the County of Warren or the Town and Village of Lake George; and

(H) The Project is a "Unlisted Action" under SEQRA for which the Town of Lake George Planning Board (the "Planning Board") has acted as lead agency. On or about July 13, 2021, the Planning Board reviewed the Project Site Plan Application submitted on behalf of the Company and approved said Site Plans, and issued its Negative Declaration finding that the Project will not have a significant impact on the environment; and (ii) the Agency has thoroughly reviewed the environmental assessment form, negative declaration and related supporting information presented to the Agency within the Company's Application for Assistance in order to determine whether the Project might have any potential significant adverse impacts upon the environment. After conducting this review, the Agency has determined that the acquisition, construction and equipping of the Project Facility are consistent with social, economic and other essential considerations and will not result in any significant adverse impacts on the environment. The Agency hereby ratifies the findings and Negative Declaration of the Town of Lake George Planning Board. In doing so, the Agency satisfies the requirements of Part 617 of Title 6 of the New York Code of Rules and Regulations and no further SEQRA review is required for the Project; and

(I) The Agency further determines that the Project will consist of a private investment of approximately \$5,981,302.00 and the Agency hereby determines this to be a Material Term, as defined in the Agency's Recapture of Benefits Policy, as amended from time to time, for the purposes of monitoring in accordance with the policies and procedures of the Agency; and

(J) Undertaking the Project will lead to the creation of one (1) full time equivalent job opportunity and one (1) part time opportunity for the inhabitants of the Counties of Warren and Washington and in the State of New York, the Agency hereby determines this to be a Material Term, as defined in the Agency's Recapture of Benefits Policy, as amended from time to time, in its determination to approve the Project and will require the Company to annually report its job numbers as required by law.

(K) Undertaking the Project will lead to the creation of approximately fifty seven (57) construction jobs that the Company advised will be filled by construction companies employing people primarily in the Counties of Warren and Washington.

SECTION 2. Determinations. The Agency hereby determines to:

(A) enter into, execute and deliver the a lease agreement from the Company to the Agency and the Lease Agreement with the Company for the Project Facility subject to the approval of said documents by the Chairman and counsel to the Agency; and

(B) execute and deliver all other certificates and documents subject to the review and approval of said documents by the Chairman and counsel to the Agency.

The Company shall complete the Project by May 31, 2023 (the "Completion Date"). Unless an extension is granted by the Agency, the failure of the Company to complete the Project by the Completion Date shall be considered a "significant change in the use of the facility" as set forth in the Agency's Recapture of Benefits Policy, as amended from time to time.

SECTION 3. Company Appointed Agent of Agency.

(A) The Company is hereby appointed the true and lawful agents of the Agency to:

- (1) construct and install the Project Facility;
- (2) make, execute, acknowledge, and deliver all contracts, orders, receipts, instructions, and writings needed to complete the Project; and
- (3) do all other things requisite and proper for the completion of the Project.

(B) The Company is authorized to proceed with the acquisition, construction and installation of the Project Facility, subject to receiving appropriate municipal approvals needed prior to commencement of construction, and to advance such funds as may be necessary to accomplish these goals.

(C) The Company is also authorized to appoint third party agents to undertake the Project and thereby make available to such third party agents an exemption from New York State sales and use taxes in connection with undertaking the Project. This provision is subject to the Company entering into an Agent Agreement with the Agency.

(D) The Agency hereby authorizes exemptions from State and local sales and use taxes for purchases and rentals related to the undertaking of the Project in an amount not to exceed One Hundred Fifty Three Thousand Seven Hundred Twenty Dollars (\$153,720.00), based on eligible Project costs of Two Million One Hundred Ninety Six Thousand Dollars (\$2,196,000.00); which exemption shall expire May 31, 2023.

(E) The Agency hereby approves of the Agent Agreement, a copy of which is incorporated herein by reference, with the Company which shall be subject to the termination and recapture of benefits policy of the Agency. The Agency further authorizes the execution and delivery of the Agent Agreement and any additional documents relative thereto.

(F) The Agency hereby acknowledges and approves a mortgage tax exemption relating to the Project in an estimated amount of \$59,532.00, based on an estimated mortgage amount of \$4,762,500.00.

SECTION 4. Payment in Lieu of Tax (PILOT) Agreement. The Agency's approval is subject to the Company entering into a PILOT Agreement with the Agency whereby the Company agrees to make payments in lieu of taxes in any given year as if the Company were the owner of the Project and not the Agency. The Agency's approval is also subject to the Company agreeing to the terms of the Agency's Recapture of Benefits Policy.

The following PILOT schedule is consistent with the Agency's uniform policy is a partial real property tax abatement through a PILOT Agreement pursuant to which the Company would make payments in lieu of real property taxes to the Affected Tax Jurisdictions in accordance with the schedule set forth below:

Year 1: Base Value plus 50% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 2: Base Value plus 45% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 3: Base Value plus 40% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 4: Base Value plus 35% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 5: Base Value plus 30% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 6: Base Value plus 25% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 7: Base Value plus 20% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 8: Base Value plus 15% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 9: Base Value plus 10% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 10: Base Value plus 5% of increased assessed valuation attributable to improvements made to the Project Facility.

The total Base Value for the parcel shall be 405,000.00 for the term of the PILOT.

At all times, including during the term of the PILOT Agreement, the Company shall be responsible for the full payment of water and sewer assessments, as may be applicable and any other special district assessments.

The estimated real property tax benefit during the term of the PILOT Agreement is \$166,702.00.

The substance and form of the Agreement for Payments in Lieu of Taxes is hereby approved, subject to approval as to content by the Chairman and the Agency's counsel.

SECTION 5. Administrative and Legal Fees. The Company will pay all costs incurred by the Agency, including but not limited to attorney's fees, which arise out of Company's Application for Financial Assistance, whether or not such assistance is ultimately issued. Agency's attorney's fees will be calculated at a time rate of \$375.00 per hour for attorney's time and \$125.00 per hour for senior legal assistant's time, plus disbursements. Upon closing of all of the Project documents, the Company will pay to the Agency an administrative fee (the "Administrative Fee") of \$44,859.77.00 based upon an estimated Project cost of \$5,981,302.00 pursuant to the schedule set forth below and contained within the Company's Application for Financial Assistance:

First \$10 Million of Project Costs:	$\frac{3}{4}$ of 1%
Next \$10 Million of Project Costs:	$\frac{1}{2}$ of 1%
Next \$10 Million of Project Costs:	$\frac{1}{4}$ of 1 %
Above \$30 Million of Project Costs:	$\frac{1}{8}$ of 1%.

Following the completion of the Project Facility, the Company shall confirm, in writing, the actual Project cost. In the event that the total Project cost exceeds the estimate provided herein, the Agency may require the payment of the difference that would otherwise be due pursuant to the above-schedule.

SECTION 6. Insurance. The Company shall deliver to the Agency a certificate of insurance, complying with the requirements as required by the Agency, and indicating that:

(a) The Company maintains insurance with respect to the Facility providing the coverage against the risks and for such amounts as are customarily insured against by businesses of like size and type, paying, as the same become due and payable, all premiums with respect thereto, and mandated by the Agency, including, but not necessarily limited to the following:

(i) Insurance protecting the interests of the Company and the Agency against loss or damage to the Project Facility by fire, lightning and other casualties normally insured against with a uniform standard extended coverage endorsement, such insurance at all times to be in an amount not less than the total

cash replacement value of the Project Facility, as determined by a recognized appraiser or insurer selected by the Company; provided, however, that the Company may, insure all or a portion of the Project Facility under a blanket insurance policy or policies covering not only the Project Facility or portions thereof but other property. The parties agree that for purposes of this Project the Company will be responsible for providing builders risk insurance.

(ii) Workers' compensation insurance, disability benefits insurance, and each other form of insurance which the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Project Facility and for all contractors and subcontracts.

(iii) Insurance protecting the Company and the Agency against loss or losses from liabilities imposed by law or assumed in any written contract and arising from personal injury and death or damage to the Property of others caused by any accident or occurrence, with a single combined limit of not less than \$2,000,000.00 per accident or occurrence on account of personal injury, including death resulting therefrom, and damage to the Property of others, excluding liability imposed upon the Company by any applicable workers' compensation law; and a blanket excess liability policy in the amount not less than \$5,000,000.00 protecting the Company and the Agency against any loss or liability or damage for personal injury, death or Property damage.

(iv) If applicable and if it is determined that the Project Facility is located within an area identified by the Secretary of Housing and Urban Development as having special flood hazards, insurance against loss by floods in an amount not less than \$1,000,000.00 or to the maximum limit of coverage made available, whichever is less.

(v) Other insurance coverage required by any Governmental Authority in connection with any Requirement.

(b) all policies evidencing such insurance,

(i) name the Company and the Agency as insureds, as their interests may appear, and

(ii) provide for at least thirty (30) days' written notice to the Agency prior to cancellation, lapse, reduction in policy limits or material change in coverage thereof.

SECTION 7. Approval of Closing Documents. The substance and form of the Underlying Lease, the Lease Agreement, Project Agreement, Agent Agreement, Environmental Compliance and Indemnification Agreement and accompanying NYS forms, and all other certificates or documents to be delivered or executed and delivered by the Agency (hereinafter

collectively referred to as the "Closing Documents") are hereby approved, subject to approval as to content by the Chairman and the Agency's counsel. The documents shall include a provision that makes the assignment of any unit, the sublet any unit and/or the short term rental of any unit for a period of 30 days or less a default under the terms of the Lease Agreement. In addition, the sale of a majority interest of the Company or the sale of the Project Facility shall require the consent of the Agency or shall be considered a default of the Lease Agreement. In addition, a default with the financing bank shall be considered a default of Lease Agreement.

SECTION 8. Approval of Company's Financing Documents. The Chairman or the Vice Chairman of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company in an estimated principal amount of \$4,762,500.00 to undertake the Project, acquire the Facility and/or finance equipment and other personal property and related transactional costs. The Agency hereby approves of a mortgage tax exemption in connection with the mortgage, assignment of leases and rents, and/or security agreement set forth in this Section.

SECTION 9. Authorized Representatives. (A) The Chairman or the Vice Chairman is hereby authorized to execute and deliver any and all documents necessitated by this Resolution. If required, the signature of the Chairman or Vice Chairman shall be attested by the Secretary or Treasurer of the Agency (or Agency Counsel, in the absence of a Secretary/Treasurer) who, if required, shall affix a facsimile of the Agency's seal to documents required to be under seal. (B) On the advice of Counsel to the Agency, the Chairman or Vice Chairman shall make such reasonable changes to the documents as shall be required to promote and protect the Agency's interests with respect to the Project. All such changes shall be made prior to the closing.

SECTION 10. Public Inspection. A copy of this resolution and a copy of the Company's Application for Assistance, together with all other application materials not protected under applicable Freedom of Information Laws, shall be placed on file in the office of the Agency. Such documents shall be available for public inspection during normal business hours.

SECTION 11. Document Preparation. Counsel to the Agency is hereby authorized and directed to cooperate with counsel to the Company, as well as all other necessary parties in order to prepare the documents need to undertake the Project and to effectuate the provisions of this Resolution.

SECTION 12. Distribution of Resolution. The Chairman of the Agency is hereby authorized to distribute copies of this resolution to the Company and all other persons requesting it.

SECTION 13. Public Hearing. A public hearing for this Project was duly authorized and held on May 2, 2022 in accordance with the provisions of Article 18-A of the General Municipal Law.

SECTION 14. Further Action. The Chairman of the Agency is authorized to take such

further action as shall be necessary to give effect to and implement this resolution.

SECTION 15. Effective Date. This resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote by roll call and was thereupon declared duly adopted.

Member	Yes	No	Abstain	Absent
Craig Leggett	x			
Michael Bittel	x			
Brian Campbell	x			
Chuck Barton	x			
Ginny Sullivan				x
Mike Wild	x			
Dan Bruno	x			
Mary King	x			
Nick Caimano				x
Dave O'Brien	x			
Total	8	0	0	2

{Acknowledgement to Follow}

STATE OF NEW YORK)
) SS:
COUNTY OF WARREN)

This is to certify that I, Alie Weaver, Records Management Officer for the Counties of Warren and Washington Industrial Development Agency, do hereby certify that the foregoing is a true and correct copy and the whole thereof of a Resolution duly adopted by the Counties of Warren and Washington Industrial Development Agency, Glens Falls, New York on the 2nd day of May 2022.

In witness whereof, I have hereto set my hand and affixed the official seal of the Counties of Warren and Washington Industrial Development Agency on this 2nd day of May 2022.



Alie Weaver
Counties of Warren and Washington
Industrial Development Agency

[SEAL]

Acknowledged and Agreed to

By: _____
Title: _____ of Sun Valley Apartments LLC

Counties of Warren and Washington Industrial Development Agency

Resolution No. 22-15

Adopted May 31, 2022

Introduced by Mr. Bittel
who moved its adoption.

Seconded by Mr. Bruno

RESOLUTION TAKING PRELIMINARY ACTION TOWARD UNDERTAKING A CERTAIN PROJECT, AS DEFINED HEREIN, APPOINTING 78-80 MAIN STREET LLC (THE "COMPANY"), AS AGENT OF THE AGENCY FOR THE PURPOSE OF CONSTRUCTING AND EQUIPPING THE PROJECT FACILITY (AS DEFINED HEREIN) AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PROJECT AGREEMENT, BY AND BETWEEN THE AGENCY AND THE COMPANY

WHEREAS, the Counties of Warren and Washington Industrial Development Agency (the "Agency") is a body corporate and politic duly organized and existing under Sections 856 and 890-c of the General Municipal Law ("GML") of the State of New York (the "State"), with its principal place of business at 5 Warren Street, Glens Falls, New York; and

WHEREAS, 78-80 Main Street LLC, a limited liability company established pursuant to the laws of the State of New York, having an address of 9 Mountainside Drive, Queensbury, New York (the "Company") has requested that the Agency provide financial assistance in the form of a partial real property tax abatement, a mortgage recording tax exemption and a sales tax abatement regarding a certain commercial project (the "Project") to consist of: (i) the acquisition by the Agency of a leasehold interest in certain real properties located at 78 Main Street and 80 Main Street in the Town of Queensbury, County of Warren, New York and being known as tax map parcel numbers 309.10-1-24 and 309.10-1-25 (the "Land"); (ii) the planning, design, construction, operation and maintenance by the Company of an approximately 12,000+/- square foot facility which will be used by the Company for a mixed-use facility that will consist of retail and residential space (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"), all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the "Act"), as amended; and

WHEREAS, under Article 18-A of the General Municipal Law (the "Act"), the Legislature of the State of New York has granted the Agency the power and authority to undertake the Project, as the Act authorizes the Agency to promote, develop, encourage and assists projects such as this Project and to advance job opportunities, health general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Project will require the Agency and the Company to enter into an

agreement whereby the Company will acquire, by lease, and construct the Project Facility and the Agency will lease the Project Facility to the Company; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities which may arise in connection with the transactions contemplated by the lease of the Facility; and

WHEREAS, a lease agreement (the "Lease Agreement") with respect to the Project, along with certain financing documents, will be executed by and between the Company and the Agency; and

WHEREAS, the Agency is a state agency under Section 8-0105 of the Environmental Conservation Law of the State of New York and the Project is an action under Article 8 of said law (Article 8 hereinafter being referred to as the "State Environmental Quality Review Act" or "SEQRA") and under 6 NYCRR Part 617, §§ 617.2(b) and 617.3(g); and

WHEREAS, the Company has submitted to the Agency, and the Agency has reviewed information needed to determine whether or not the Project will have a significant impact on the environment; and

WHEREAS, pursuant to the Act, any approval of the Project contained herein is contingent upon a determination by the members of the Agency to proceed with the Project following satisfaction of all requirements of SEQRA that relate to the Project; and

WHEREAS, the acquisition, construction and installation of the Project Facility has not been commenced, and the Agency has not yet authorized the Project; and

WHEREAS, the Agency conducted a public hearing on May 23, 2022 pursuant to Article 18-A of the New York State General Municipal Law (the "Law") before taking official action relating to the Project.

NOW, THEREFORE, BE IT RESOLVED:

SECTION 1. Findings. The Agency has reviewed the application to determine compliance with the requirements of the Act and based on the representations of the Company to the Agency in said application and elsewhere, the Agency hereby makes the following findings and determinations with respect to the Project:

(A) The Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes of the Act and to exercise all powers granted to it under the Act;

(B) The Project constitutes a "project", as that quoted term is defined in the Act;

(C) The acquisition, construction and installation of the Facility and the lease of the Facility to the Company (i) will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the State of New York and the Counties of Warren and Washington and improve their standard of living; and (ii) will not result in the removal of an industrial or manufacturing plant of the Company from one area of the State to another area of the State nor will the completion of the Project result in the abandonment of one

or more plants or facilities of the Company or any other proposed occupant of the Facility located within the State of New York;

(D) It is in the public interest for the Agency to undertake the Project on behalf of the Company as this Project will promote employment opportunities and will prevent economic deterioration in the area. The Agency hereby makes this determination concerning the Project due to the following:

- (i) The potential of persons to continue to reside or move to the area served by the Agency.
- (ii) The potential to create a need for additional services for said persons residing at the Project, particularly in light of the current economic climate.
- (iii) There is a need for housing in the region.
- (iv) This Project will increase the overall tax base of the Town, as this property currently consists of partially vacant land.
- (v) The Project will create construction jobs as well as permanent jobs in connection with the proposed uses being contemplated on the first floor of the Project Facility.

(E) The location of the site of the Project is acceptable to the Agency;

(F) The Facility is not known by the Agency to be in material violation of the local zoning laws and planning regulations of the Town of Queensbury and all regional and local land use plans for the area in which the Facility shall be located;

(G) The Facility and the operations of the Company are not known by the Agency to cause or result in the violation of the health, labor, environmental or other laws of the United States of America, the State of New York, the County of Warren or the Town of Lake George; and

(H) This section is intentionally left blank.

(I) The Agency further determines that the Project will consist of a private investment of approximately \$3,355,000.00 and the Agency hereby determines this to be a Material Term, as defined in the Agency's Recapture of Benefits Policy, as amended from time to time, for the purposes of monitoring in accordance with the policies and procedures of the Agency; and

(J) Undertaking the Project will lead to the creation of ten (10) full time equivalent job opportunities and ten (10) part time opportunities for the inhabitants of the Counties of Warren and Washington and in the State of New York, the Agency hereby determines this to be a Material Term, as defined in the Agency's Recapture of Benefits Policy, as amended from time to time, in its determination to approve the Project and will require the Company to annually report its job numbers as required by law.

(K) Undertaking the Project will lead to the creation of approximately seventy-five (75) construction jobs that the Company advised will be filled by construction companies employing people primarily in the Counties of Warren and Washington.

SECTION 2. Project Agreement. The proposed project agreement by and between the Agency and the Company (the "Project Agreement"), a copy of which is incorporated by

reference and is approved as to substance and form. The proposed agreement outlines the Agency's and the Company's rights and duties with respect to the undertaking of the Project. Subject to such changes as the Chairman of the Agency, upon advice of counsel, may reasonably deem necessary, the Chairman is authorized to execute the Project Agreement. Execution shall be conclusive evidence that the Agency has approved the Project Agreement. Subject to the terms and provisions of the Project Agreement, the Agency shall: (1) acquire an interest in, construct and install the Project Facility and (2) lease the Project Facility to the Company pursuant to an agreement or agreements whereby the Company will obligate itself, among other things, to undertake the Project on behalf of the Agency.

SECTION 3. Company Appointed Agent of Agency.

(A) The Company is hereby appointed the true and lawful agents of the Agency to:

- (1) construct and install the Project Facility;
- (2) make, execute, acknowledge, and deliver all contracts, orders, receipts, instructions, and writings needed to complete the Project; and
- (3) do all other things requisite and proper for the completion of the Project.

(B) The Company is authorized to proceed with the acquisition, construction and installation of the Project Facility, subject to receiving appropriate municipal approvals needed prior to commencement of construction, and to advance such funds as may be necessary to accomplish these goals.

(C) The Company is also authorized to appoint third party agents to undertake the Project and thereby make available to such third party agents an exemption from New York State sales and use taxes in connection with undertaking the Project. This provision is subject to the Company entering into an Agent Agreement with the Agency.

(D) The Agency hereby authorizes exemptions from State and local sales and use taxes for purchases and rentals related to the undertaking of the Project in an amount not to exceed One Hundred Five Thousand Dollars (\$105,000.00), based on eligible Project costs of One Million Five Hundred Thousand Dollars (\$1,500,000.00); which exemption shall expire December 31, 2023.

(E) The Agency hereby approves of the Agent Agreement, a copy of which is incorporated herein by reference, with the Company which shall be subject to the termination and recapture of benefits policy of the Agency. The Agency further authorizes the execution and delivery of the Agent Agreement, the Chairman, and any additional documents relative thereto.

(F) The Agency hereby acknowledges and approves a mortgage tax exemption relating to the Project in an estimated amount of \$34,375.00, based on an estimated mortgage amount of \$2,750,000.00.

SECTION 4. Payment in Lieu of Tax (PILOT) Agreement. The Agency's approval is subject to the Company entering into a PILOT Agreement with the Agency whereby the Company agrees to make payments in lieu of taxes in any given year as if the Company were the owner of the Project and not the Agency. The Agency's approval is also subject to the Company

agreeing to the terms of the Agency's Recapture of Benefits Policy.

The following PILOT schedule is consistent with the Agency's uniform policy is a partial real property tax abatement through a PILOT Agreement pursuant to which the Company would make payments in lieu of real property taxes to the Affected Tax Jurisdictions in accordance with the schedule set forth below:

- Year 1: Base Value plus 50% of increased assessed valuation attributable to improvements made to the Project Facility.
- Year 2: Base Value plus 45% of increased assessed valuation attributable to improvements made to the Project Facility.
- Year 3: Base Value plus 40% of increased assessed valuation attributable to improvements made to the Project Facility.
- Year 4: Base Value plus 35% of increased assessed valuation attributable to improvements made to the Project Facility.
- Year 5: Base Value plus 30% of increased assessed valuation attributable to improvements made to the Project Facility.
- Year 6: Base Value plus 25% of increased assessed valuation attributable to improvements made to the Project Facility.
- Year 7: Base Value plus 20% of increased assessed valuation attributable to improvements made to the Project Facility.
- Year 8: Base Value plus 15% of increased assessed valuation attributable to improvements made to the Project Facility.
- Year 9: Base Value plus 10% of increased assessed valuation attributable to improvements made to the Project Facility.
- Year 10: Base Value plus 5% of increased assessed valuation attributable to improvements made to the Project Facility.

The total Base Value for the parcel shall be 308,000.00 for the term of the PILOT.

At all times, including during the term of the PILOT Agreement, the Company shall be responsible for the full payment of water and sewer assessments, as may be applicable and any other special district assessments.

The estimated real property tax benefit during the term of the PILOT Agreement is \$150,006.00.

SECTION 5. Administrative and Legal Fees. The Company will pay all costs incurred by the Agency, including but not limited to attorney's fees, which arise out of Company's Application for Financial Assistance, whether or not such assistance is ultimately issued. Agency's attorney's fees will be calculated at a time rate of \$375.00 per hour for attorney's time and \$125.00 per hour for senior legal assistant's time, plus disbursements. Upon closing of all of the Project documents, the Company will pay to the Agency an administrative fee (the "Administrative Fee") of \$25,162.50 based upon an estimated Project cost of \$3,355,000.00 pursuant to the schedule set forth below and contained within the Company's Application for Financial Assistance:

First \$10 Million of Project Costs:	¾ of 1%
Next \$10 Million of Project Costs:	½ of 1%
Next \$10 Million of Project Costs:	¼ of 1 %
Above \$30 Million of Project Costs:	1/8 of 1%.

Following the completion of the Project Facility, the Company shall confirm, in writing, the actual Project cost. In the event that the total Project cost exceeds the estimate provided herein, the Agency may require the payment of the difference that would otherwise be due pursuant to

the above-schedule.

SECTION 6. Insurance. The Company shall deliver to the Agency a certificate of insurance, complying with the requirements as required by the Agency, and indicating that:

(a) The Company maintains insurance with respect to the Facility providing the coverage against the risks and for such amounts as are customarily insured against by businesses of like size and type, paying, as the same become due and payable, all premiums with respect thereto, and mandated by the Agency, including, but not necessarily limited to the following:

(i) Insurance protecting the interests of the Company and the Agency against loss or damage to the Project Facility by fire, lightning and other casualties normally insured against with a uniform standard extended coverage endorsement, such insurance at all times to be in an amount not less than the total cash replacement value of the Project Facility, as determined by a recognized appraiser or insurer selected by the Company; provided, however, that the Company may, insure all or a portion of the Project Facility under a blanket insurance policy or policies covering not only the Project Facility or portions thereof but other property. The parties agree that for purposes of this Project the Company will be responsible for providing builders risk insurance.

(ii) Workers' compensation insurance, disability benefits insurance, and each other form of insurance which the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Project Facility and for all contractors and subcontracts.

(iii) Insurance protecting the Company and the Agency against loss or losses from liabilities imposed by law or assumed in any written contract and arising from personal injury and death or damage to the Property of others caused by any accident or occurrence, with a single combined limit of not less than \$2,000,000.00 per accident or occurrence on account of personal injury, including death resulting therefrom, and damage to the Property of others, excluding liability imposed upon the Company by any applicable workers' compensation law; and a blanket excess liability policy in the amount not less than \$5,000,000.00 protecting the Company and the Agency against any loss or liability or damage for personal injury, death or Property damage.

(iv) If applicable and if it is determined that the Project Facility is located within an area identified by the Secretary of Housing and Urban Development as having special flood hazards, insurance against loss by floods in an amount not less than \$1,000,000.00 or to the maximum limit of coverage made available, whichever is less.

(v) Other insurance coverage required by any Governmental Authority in connection with any Requirement.

(b) all policies evidencing such insurance,

(i) name the Company and the Agency as insureds, as their interests may appear, and

(ii) provide for at least thirty (30) days' written notice to the Agency prior to cancellation, lapse, reduction in policy limits or material change in coverage thereof.

SECTION 7. SEQRA Contingency. The Project is an "Action" under the State Environmental Quality Review Act ("SEQRA") for which the Town of Queensbury Planning Board will act as lead agency. A final determination by the members of the Agency to proceed with the Project and to enter into the straight lease transaction with the Company will follow a determination by the members of the Agency that all requirements of SEQRA that relate to the Project have been fulfilled. The Agency will not make a SEQRA determination until after the Town of Queensbury Planning Board review.

SECTION 8. Public Inspection. A copy of this resolution and a copy of the Company's Application for Assistance, together with all other application materials not protected under applicable Freedom of Information Laws, shall be placed on file in the office of the Agency. Such documents shall be available for public inspection during normal business hours.

SECTION 9. Document Preparation. Counsel to the Agency is hereby authorized and directed to cooperate with counsel to the Company, as well as all other necessary parties in order to prepare the documents needed to undertake the Project and to effectuate the provisions of this Resolution.

SECTION 10. Distribution of Resolution. The Chairman of the Agency is hereby authorized to distribute copies of this resolution to the Company and all other persons requesting it.

SECTION 11. Public Hearing. A public hearing for this Project was duly authorized and held on May 23, 2022 in accordance with the provisions of Article 18-A of the General Municipal Law.

SECTION 12. Further Action. The Chairman of the Agency is authorized to take such further action as shall be necessary to give effect to and implement this resolution.

SECTION 13. Effective Date. This resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote by roll call and was thereupon declared duly adopted.

**COUNTIES OF WARREN AND WASHINGTON INDUSTRIAL DEVELOPMENT
AGENCY**

WHEREAS, by passing Chapter 56 of the Laws of 2022 ("Chapter 56"), the New York State Legislature amended Section 103 of the Open Meetings Law; and

WHEREAS, Chapter 56 adds Section 103-a of the Open Meetings Law, permitting the Counties of Warren and Washington Industrial Development Agency (the Agency) to authorize its members to attend meetings by videoconferencing under extraordinary circumstances; and

WHEREAS, Section 103-a(2)(a) requires the AGENCY to adopt a resolution following a public hearing authorizing the limited use of videoconferencing under such circumstances; and

WHEREAS, Section 103-a(2) allows for hybrid meetings by requiring "that a minimum number of members are present to fulfill the public body's quorum requirement in the same physical location or locations where the public can attend"; and

WHEREAS, Section 103-a(2)(c) requires that members be physically present at any such meeting "unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances . . . including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member's physical attendance at such meeting"; and

WHEREAS, Section 103-a(2)(g) requires that any meeting where a member attends by videoconference be recorded, posted to the AGENCY webpage within five business days, and transcribed upon request; and

WHEREAS, Section 103-a(2)(h) requires that members of the public be permitted to attend and participate, if authorized, in any meeting by videoconference when a member attends by videoconference.

BE IT RESOLVED, that the AGENCY authorizes its members who experience an extraordinary circumstance, as described above and further defined by any rules or written procedures later adopted, to attend meetings by videoconference: (i) as long as a quorum of the members attend in-person at one or more locations open to the public; (ii) as long as the member can be seen, heard, and identified while the open portion of the meeting is being conducted; and (iii) as otherwise permitted under Chapter 56 of the Laws of 2022; and be it further

RESOLVED, that the AGENCY shall create written procedures further governing its use of videoconferencing by its members in compliance with Chapter 56 of the Laws of 2022.

COUNTIES OF WARREN AND WASHINGTON INDUSTRIAL DEVELOPMENT AGENCY

Procedures for Member Videoconferencing Pursuant to Public Officers Law § 103a

In compliance with Public Officers Law (POL) § 103-a(2)(a), the AGENCY, following a public hearing, authorized by resolution on [insert date] the use of videoconferencing as described in POL § 103-a.

The following procedures are hereby established to satisfy the requirement of POL § 103-a(2)(b) that any public body which in its discretion wishes to permit its members to participate in meetings by videoconferencing from private locations – under extraordinary circumstances – must establish written procedures governing member and public attendance.

1. AGENCY members shall be physically present at any meeting of the AGENCY unless such member is unable to be physically present at one of the designated public meeting locations due to extraordinary circumstances.
2. For purposes of these procedures, the term "extraordinary circumstances" includes disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member's physical attendance at such meeting.
3. If a member is unable to be physically present at one of the designated public meeting locations and wishes to participate by videoconferencing from a private location due to extraordinary circumstances, the member must notify The President or Chair prior to the scheduled meeting that they have an extraordinary circumstance that precludes them from attending from a physical public location as noticed.
4. If there is a quorum of members participating at a physical location(s) open to the public, the AGENCY may properly convene a meeting. A member who is participating from a remote location that is not open to in-person physical attendance by the public *shall not* count toward a quorum of the AGENCY but may participate and vote if there is a quorum of members at a physical location(s) open to the public.
5. Except in the case of executive sessions conducted pursuant to POL § 105, the AGENCY shall ensure that its members can be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon. This shall include the use of first and last name placards physically placed in front of the members or, for members participating by videoconferencing from private locations due to extraordinary circumstances, such members must ensure that their full first and last name appears on their videoconferencing screen.
6. The minutes of the meetings involving videoconferencing based on extraordinary circumstances pursuant to POL § 103-a shall include which, if any, members participated by videoconferencing from a private location due to such extraordinary circumstances.

7. The public notice for the meeting shall inform the public: (i) that extraordinary circumstances videoconferencing will (or may) be used, (ii) where the public can view and/or participate in such meeting, (iii) where required documents and records will be posted or available, and (iv) the physical location(s) for the meeting where the public can attend.
8. The AGENCY shall provide that each open portion of any meeting conducted using extraordinary circumstances videoconferencing shall be recorded and such recordings posted or linked on the AGENCY website within five business days following the meeting, and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request.
9. If members of the AGENCY are authorized to participate by videoconferencing from a private location due to extraordinary circumstances, the AGENCY shall provide the opportunity for members of the public to view such meeting by video, and to participate in proceedings by videoconference in real time where public comment or participation is authorized. The AGENCY shall ensure that where extraordinary circumstances videoconferencing is used, it authorizes the same public participation or testimony as in person participation or testimony.
10. Open meetings of the AGENCY conducted using extraordinary circumstances videoconferencing pursuant to the provisions of POL § 103-a shall be broadcast pursuant to the requirements of POL § 103(f) and shall utilize technology to permit access by members of the public with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and corresponding guidelines. For the purposes of this guideline, "disability" shall have the meaning defined in Executive Law § 292.
11. The in-person participation requirements of POL § 103-a(2)(c) shall not apply during a state disaster emergency declared by the governor pursuant to Executive Law § 28 or a local state of emergency proclaimed by the chief executive of a county, city, village or town pursuant to § 24 of the Executive Law if the AGENCY determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the AGENCY to hold an in person meeting.
12. These procedures shall be conspicuously posted on the AGENCY website.