

**FINAL SEQR RESOLUTION  
SUNNY OLEAN LLC PROJECT**

A regular meeting of County of Cattaraugus Industrial Development Agency (the "Agency") was convened in public session at the Olean Business Development Office located at 301 N. Union Street (3rd Floor Conf. Room) in the City of Olean, Cattaraugus County, New York on April 30, 2019 at 11:15 o'clock a.m., local time.

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

**PRESENT:**

Joseph E. Higgins	First Vice Chairman
James J. Snyder, Jr.	Second Vice Chairman/Secretary
Brent A. Driscoll	Treasurer
Virgilio Giardini	Member
John Stahley	Member

**ABSENT:**

Thomas E. Buffamante	Chairman
Michael Wimer	Assistant Secretary

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Corey R. Wiktor	Executive Director
George W. Cregg, Jr., Esq.	Agency Counsel
Robert J. McLaughlin, Esq.	Agency Counsel

The following resolution was offered by Brent A. Driscoll, seconded by James J. Snyder, Jr., to wit:

Resolution No. 0419-03

**RESOLUTION DETERMINING THAT ACTION TO UNDERTAKE A PROJECT FOR THE BENEFIT OF SUNNY OLEAN LLC IS A "TYPE II ACTION" AND NO FURTHER ACTION IS REQUIRED UNDER SEQRA WITH RESPECT THERETO.**

WHEREAS, County of Cattaraugus Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws 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 536 of the 1971 Laws of New York, as amended, constituting Section 890-b 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 manufacturing, warehousing, research, commercial and industrial 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 and install one or more “projects” (as defined in the Act) or to cause said projects to be acquired, constructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, in March, 2019, Sunny Olean LLC, a New York State limited liability company (the “Company”) submitted an application (the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in an approximately 5,500 square foot parcel of land located at 106-108 W. State Street (currently Tax ID #s 94.253-1-26.2) in the City of Olean, Cattaraugus County, New York (the “Land”), together with an approximately 11,300 square foot building located thereon (the “Facility”), (2) the renovation and reconstruction of the Facility and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property, including without limitation, tenant improvement and finish (collectively, the “Equipment”) (the Land, the Facility, and the Equipment being collectively referred to as the “Project Facility”); all of the foregoing to constitute a retail and market rate apartment facility and any other directly and indirectly related uses; (B) the granting of certain other “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on March 19, 2019 (the “Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Executive Director of the Agency (A) caused notice of public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the Financial Assistance being contemplated by the Agency with respect to the Project, to be mailed on March 21, 2019 to the chief executive officers of the county and of each city, town, village and school district in which the Project is or is to be located, (B) caused notice of the Public Hearing to be posted on March 21, 2019 (1) on a bulletin board located at the Agency offices located at 9 East Washington Street in the Town of Ellicottville, Cattaraugus County, New York, (2) on a bulletin board located at the Olean Municipal Building located at 101 E. State Street in the City of Olean, Cattaraugus County, New York and (3) on the Agency’s website on March 21, 2019, (C) caused notice of the Public Hearing to be published on March 22, 2019 in the Olean Time Herald, a newspaper of general circulation available to the residents of City of Olean, Cattaraugus County, New York, (D) conducted the Public Hearing on April 9, 2019 at 11:30 a.m., local time in Conference Room #119 of the Olean Municipal Building located at 101 East State Street in the City of Olean, Cattaraugus County, New York, and (E) prepared a report of the Public Hearing (the “Hearing Report”) which fairly summarized the views presented at said Public Hearing and distributed same to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), by resolution adopted by the members of the Agency on March 19, 2019 (the “Preliminary SEQR Resolution”), the Agency (A) determined (1) that the Project involves more than one “involved agency”, and (2) that, although the Project may constitute an “unlisted

action”, and coordinated review and notification of other involved agencies is strictly optional with respect to the Project, the Agency wished to investigate the advisability of undertaking a coordinated review with respect to the Project and (B) authorized the Executive Director of the Agency to contact all other “involved agencies” for the purpose of ascertaining whether such “involved agencies” were interested in undertaking a coordinated review of the Project and, if so, designating a “lead agency” with respect to the Project (as such quoted terms are defined in SEQRA); and

WHEREAS, to aid the Agency in determining whether the Project may have a significant effect upon the environment, the Company has prepared and submitted to the Agency an environmental assessment form (the “EAF”) with respect to the Project, a copy of which EAF was presented to and reviewed by the Agency at this meeting and a copy of which is on file at the office of the Agency; and

WHEREAS, pursuant to SEQRA, the Agency has examined the EAF in order to make an determination as to the potential environmental significance of the Project; and

WHEREAS, the Project appears to constitute a “Type II action” (as said quoted term is defined in the Regulations), and therefore it appears that no further determination or procedure under SEQRA is required with respect to the Project;

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

Section 1. The Agency has received copies of, and has reviewed, the Application and the EAF submitted to the Agency by the Company with respect thereto (collectively, the “Reviewed Documents”) and, based upon said Reviewed Documents and the representations made by the Company to the Agency at this meeting, and based further upon the Agency’s knowledge of the area surrounding the Project Facility and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings and determinations with respect to the Project:

(A) The project (the “Project”) consists of the following: (A) (1) the acquisition of an interest in an approximately 5,500 square foot parcel of land located at 106-108 W. State Street (currently Tax ID #s 94.253-1-26.2) in the City of Olean, Cattaraugus County, New York (the “Land”), together with an approximately 11,300 square foot building located thereon (the “Facility”), (2) the renovation and reconstruction of the Facility and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property, including without limitation, tenant improvement and finish (collectively, the “Equipment”) (the Land, the Facility, and the Equipment being collectively referred to as the “Project Facility”); all of the foregoing to constitute a retail and market rate apartment facility and any other directly and indirectly related uses; (B) the granting of certain other “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency.

(B) The Project consists of the replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site and the purchase of equipment.

Section 2. Based upon the foregoing, the Agency makes the following findings and determinations with respect to the Project:

(A) Pursuant to Sections 617.5(c)(2), 617.5(c)(18) and 617.5(c)(31) of the Regulations, the Project is a "Type II action" (as said quoted term is defined in the Regulations); and

(B) Therefore, the Agency hereby determines that no environmental impact statement or any other determination or procedure is required under the Regulations.

Section 3. The Executive Director of the Agency is hereby directed to file a copy of this Resolution with respect to the Project in the office of the Agency.

Section 4. 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:

Thomas E. Buffamante	VOTING	Excused
Joseph E. Higgins	VOTING	Yes
James J. Snyder, Jr.	VOTING	Yes
Michael Wimer	VOTING	Excused
Brent A. Driscoll	VOTING	Yes
Virgilio Giardini	VOTING	Yes
John Stahley	VOTING	Yes

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned (~~Assistant~~) Secretary of County of Cattaraugus Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on April 30, 2019 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the 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, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 13<sup>th</sup> day of May, 2019.

  
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(Assistant) Secretary

(SEAL)