

**COMMERCIAL/RETAIL FINDINGS RESOLUTION
KEUKA SHORES LLC PROJECT**

A regular meeting of Yates County Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency located at One Keuka Business Park, Suite 104, in the Village of Penn Yan, Yates County, New York on January 16, 2019 at 8:15 o'clock a.m., local time.

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

PRESENT:

Gene Pierce	Chairman
Jerry Hiller	Vice Chairman
James Willson	Treasurer
Rita Gow	Assistant Secretary/Treasurer

ABSENT:

Bill Holgate	Member
Dr. Kim Williams	Member

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Steve Griffin	Chief Executive Officer
Doreen Jensen	Chief Financial Officer
Michael Lipari	Economic Development Specialist

The following resolution was offered by James Willson, seconded by Rita Gow, to wit:

Resolution No. 0119-_____

RESOLUTION (A) DETERMINING THAT THE PROPOSED KEUKA SHORES LLC PROJECT IS A COMMERCIAL PROJECT, AND (B) MAKING CERTAIN FINDINGS REQUIRED UNDER THE GENERAL MUNICIPAL LAW.

WHEREAS, Yates County 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 113 of the 1975 Laws of New York, as amended, constituting Section 893-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 commercial, manufacturing 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 October, 2018, Keuka Shores LLC, a New York State limited liability company (the “Company”), presented an application (the “Application”) to 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: (1) the acquisition of an interest in several parcels of land located at 1 Route 54 East Lake Road in the Town of Milo, Yates County, New York (Part of Tax Map # 61.42-1-6.1) and 5 Route 54 East Lake Road in the Town of Milo, Yates County, New York (Tax Map # 61.42-1-5), containing in the aggregate approximately 8.9 acres (collectively, the “Land”), (2) the construction on the Land of approximately eleven (11) new buildings to contain approximately 74-two (2) and three (3) bedroom townhomes with attached garages (collectively, the “Facility”), and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment hereinafter collectively referred to as the “Project Facility”), all of the foregoing to be owned and operated by the Company and to constitute a residential facility to be leased to various residential tenants and other directly and indirectly related activities; (B) the granting of certain “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 November 21, 2018 (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 a 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 December 7, 2018 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 December 7, 2018 on a public bulletin board at the Yates County Courthouse located at 415 Liberty Street in Penn Yan and on a public bulletin board located at the offices of the Town of Milo located at 137 Main Street, in Penn Yan (C) caused notice of the Public Hearing to be published on December 9, 2018 in the Finger Lakes Times, a newspaper of general circulation available to the residents of the Town of Milo, New York, (D) conducted the Public Hearing on December 20, 2018 at 9:30 o’clock a.m., local time at the Offices of the Town of Milo located at 137 Main Street, in Penn Yan, Yates County, New York located at 137 Main Street, and (E) prepared a report of the Public Hearing (the “Hearing Report”) fairly summarizing the views presented at such Public Hearing and caused copies of said Hearing Report to be made available 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 January 16, 2019 (the “Resolution Confirming SEQR Determination), the Agency (A) concurred in the determination that the Town of Milo Planning Board (the “Planning Board”) is the “lead agency” with respect to SEQRA and (B) acknowledged receipt of a negative declaration from the Planning Board dated October 9, 2018 (the “Negative Declaration”), in which the Planning Board determined that the Project will not have a “significant environmental impact on the environment” and accordingly, that an environmental impact statement is not required to be prepared with respect to the Project (as such quoted

terms are defined in SEQRA); and

WHEREAS, in Opinion of the State Comptroller Number 85-51, the State Comptroller indicated that the determination whether a project that consists of the construction of an apartment house is a commercial activity within the meaning of the Act is to be made by local officials based upon all of the facts relevant to the proposed project, and that any such determination should take into account the stated purpose of the Act, that is, the promotion of employment opportunities and the prevention of economic deterioration; and

WHEREAS, to aid the Agency in determining whether the Project qualifies for Financial Assistance as a commercial project within the meaning of the Act, the Agency has reviewed the following (collectively, the "Project Qualification Documents"): (A) the Application, including the attached Cost Benefit Analysis; and (B) Housing Project Qualification Study prepared by Shepstone Management Company (the "County Housing Study");

WHEREAS, the Agency has given due consideration to the Project Qualification Documents, and to representations by the Company that although the Project constitutes a project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one-third of the total project cost, the Project is located within a census tract in the Town of Milo, Yates County, New York which is considered to be a distressed census tract and therefore is in a "highly distressed area", as that term is defined in Section 854(18) of the Act; and

WHEREAS, pursuant to Section 862(2)(b) of the Act, the Agency would be authorized to provide financial assistance in respect of the Project provided that the obligation of the Agency to proceed with the Project was subject to certain conditions, including (1) following compliance with the procedural requirements of Section 859-a of the Act, a finding by the Agency that the Project would preserve permanent, private sector jobs in the State of New York or increase the overall number of permanent, private sector jobs in the State of New York and (2) confirmation by the Chairman of the Yates County Legislature of the proposed action by the Agency with respect to the Project; and

WHEREAS, having complied with the requirements of SEQRA and Section 859-a of the Act with respect to the Project, the Agency now desires, pursuant to Section 862(2)(c) of the Act, to make its final findings with respect to the Project and its final determination whether to proceed with the Project;

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

Section 1. Based upon an examination of the Project Qualification Documents and based further upon the Agency's knowledge of the area surrounding the Project and such further investigation of the Project and its economic effects as the Agency has deemed appropriate, the Agency makes the following findings and determinations with respect to the Project:

A. The Project is located in an area having a mixture of residential, not-for-profit, commercial, retail, and service uses.

B. The County Housing Study makes the following comments/findings regarding housing in Yates County:

- The supply of market rate single-family housing is extremely important for economic development
- There is a need for market rate housing in Yates County

- There is a multiplier effect regarding the construction jobs/spending associated with the construction of the Facility
- There is a multiplier effect regarding the new residents and their spending patterns in Yates County
- Increase job opportunities for all residents

C. That undertaking the Project is consistent with the County Housing Study and will assist and maintain current and future residential and commercial development and expansion in Yates County.

D. The Company has informed representatives of the Agency that the Project is expected to create approximately 2 full time permanent, private sector jobs.

E. The Company has informed representatives of the Agency that the Company is not aware of any adverse employment impact caused by the undertaking of the Project.

Section 2. Based upon the foregoing review of the Project Qualification Documents and based further upon the Agency’s knowledge of the area surrounding the Project Facility and such further investigation of the Project and its economic effects as the Agency has deemed appropriate, the Agency makes the following determinations with respect to the Project:

A. That although the Project does constitute a project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one-third of the total project cost, the Project is located in a “highly distressed area” (as defined in the Act).

B. That (1) the Project Facility will provide necessary infrastructure for area employers and businesses, (2) the completion of the Project Facility will have an impact upon the creation, retention and expansion of employment opportunities in Yates County and in the State of New York, and (3) the completion of the Project will assist in promoting employment opportunities and assist in preventing economic deterioration in Yates County and in the State of New York.

C. That the acquisition, construction and installation of the Project Facility is essential to the retention of existing employment and the creation of new employment opportunities and is essential to the prevention of economic deterioration of businesses and neighborhoods located in Yates County.

D. That the Project constitutes a “commercial” project, within the meaning of the Act.

E. That the undertaking of the Project will serve the public purposes of the Act by preserving and creating permanent private sector jobs in the State of New York.

Section 3. Having reviewed the Public Hearing Report, and having considered fully all comments contained therein, and based upon the findings contained in Section 1 above, the Agency hereby determines to proceed with the Project and the granting of the financial assistance described in the notice of the Public Hearing; provided, however, that no financial assistance shall be provided to the Project by the Agency unless and until the Chairman of the Yates County Legislature, as chief executive officer of Yates County, New York, shall, pursuant to Section 862(2)(c) of the Act, confirm the proposed action of the Agency with respect to the Project.

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:

Gene Pierce	VOTING	Yes
Jerry Hiller	VOTING	Yes
James Willson	VOTING	Yes
Rita Gow	VOTING	Yes
Bill Holgate	VOTING	Absent
Dr. Kim Williams	VOTING	<u>Absent</u>

The foregoing Resolution was thereupon declared duly adopted.