

Approving The Deviation By The Ulster County Industrial Development Agency Relating To The Terms And Conditions Of A Certain PILOT Agreement To Be Entered Into Between Ulster County Industrial Development Agency And Landmark Preservation, L.P. In Connection With The Landmark Preservation, L.P. Project

WITHDRAWN BY SPONSOR

Referred to: The Laws and Rules, Governmental Services Committee (Chairman Roberts and Legislators Belfiglio, Donaldson, R. Parete and Rodriguez)

Chairman of the Laws and Rules Governmental Services Committee, Kevin A. Roberts, offers the following:

BE IT ENACTED by the County Legislature of Ulster County, New York (the “County Legislature”), as follows:

WHEREAS, pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended (the “Enabling Act”) and Chapter 787 of the 1976 Laws of New York, as amended, constituting Section 923 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”), the County Legislature of Ulster County has heretofore appointed the Chairman and members of Ulster County Industrial Development Agency (the “Agency”) and has duly caused to be filed in the office of the Secretary of State of the State of New York the certificates required by Section 856 of the Act; and

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

WHEREAS, Landmark Preservation, L.P., a New York limited partnership (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”), said Project consisting of the following: (A)(1) the acquisition of an interest in (a) an approximately 2.90 acre parcel of land located at 295 Broadway (tax map no. 56.34-9-1) in the City of Kingston, Ulster County, New York (the “Broadway Land”), together with an approximately 69,000 square foot building located thereon (the “Broadway Facility”) and (b) an approximately 2.30 acre parcel of land located at 1 Albany Avenue (tax map no. 48.80-1-12.11) in the City of Kingston, Ulster County,

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New York (the “Albany Land” and collectively with the Broadway Land, the “Land”), together with an approximately 107,000 square foot building located thereon (the “Albany Facility” and collectively with the Broadway Facility, the “Facility”), (2) the renovation and rehabilitation of the Facility, and (3) the acquisition and installation therein and thereon of certain machinery, equipment and other personal property (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 Section 8, senior and handicapped housing facility to be owned by the Company and leased to residential tenants, together with incidental and related commercial space leased to various commercial entities, and any 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, in connection with the undertaking of the Project, the Company will execute and deliver a certain payment in lieu of tax agreement (the “PILOT Agreement”) by and between the Agency and the Company pursuant to which the Company will agree to pay certain payments in lieu of taxes with respect to the Project Facility; and

WHEREAS, the proposed payment terms of the PILOT Agreement constitute a deviation from the Agency’s Uniform Tax Exemption Policy (the “Policy”); and

WHEREAS, under the Policy, prior to entering into a PILOT Agreement that deviates from the Policy’s standard payment terms, the Agency shall (1) notify each affected tax jurisdiction, and (2) attempt to obtain the written consent of all the affected tax jurisdictions; and

WHEREAS, the Agency desires that the County of Ulster, through its County Legislature, as one of the affected tax jurisdictions with respect to the Project Facility, adopt a resolution indicating whether the County Legislature agrees to the terms of the proposed PILOT Agreement; now, therefore be it

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RESOLVED by the County Legislature, as follows:

Section 1. For the purpose of satisfying the requirements contained in the Agency's Policy, the County Legislature hereby (1) acknowledges notification of the proposed deviation from the Agency's Policy, (2) waives any formal notice from the Agency of the proposed deviation from the Agency's Policy, and (3) approves the payment terms and other conditions to be contained in the PILOT Agreement, as substantially described in Schedule A attached.

Section 2. Subject to receipt by the County Legislature of a certified resolution indicating that the City of Kingston and the Kingston City School District have approved the terms described in Schedule A and authorized the Mayor and President of the School District, respectively, to execute and deliver the PILOT Agreement, the Chairman of the County Legislature is hereby authorized, on behalf of the County of Ulster, to execute and deliver the PILOT Agreement for the purpose of evidencing its approval to the proposed deviation from the Agency's Policy, said PILOT Agreement to contain the terms described in Schedule A attached, with such changes, variations, omissions and insertions as the Chairman of the County Legislature shall approve, the execution thereof by the Chairman of the County Legislature to constitute conclusive evidence of such approval.

Section 3. The officers, employees and agents of the County of Ulster are hereby authorized and directed for and in the name and on behalf of the County of Ulster to do all acts and things required or provided for by the applicable provisions of this Resolution in order to ensure compliance with such provisions as they relate to the execution and delivery of the PILOT Agreement, and to execute and deliver all such additional certificates, instruments and documents, and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution.

Section 4. This resolution shall take effect immediately,

and move its adoption.

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ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

Passed Committee: Laws and Rules, Governmental Services on _____.

FINANCIAL IMPACT:

AMOUNTS PURSUANT TO SCHEDULE A PAYABLE ANNUALLY FOR THIRTYFIVE YEARS TO BE APPORTIONED TO EACH AFFECTED TAX ENTITY ACCORDING TO THE PRORATED TAX RATES