

BATAVIA DEVELOPMENT CORPORATION

RESOLUTION

RESOLUTION RATIFYING, CONFIRMING, AND AUTHORIZING THE BATAVIA DEVELOPMENT CORPORATION (THE "BDC") TO (i) ACQUIRE TITLE TO CERTAIN PARCELS OF LAND LOCATED ON ELLICOTT STREET IN THE CITY OF BATAVIA, GENESEE COUNTY, NEW YORK, AND (ii) EXECUTE RELATED DOCUMENTS

WHEREAS, the City of Batavia (the "City") is in fee title to real property located at 40-52 Ellicott Street properties and 56-70 Ellicott Street properties (collectively, the 40-52 Ellicott Street properties and the 56-70 Ellicott Street properties are hereinafter referred to as the "Properties"); and

WHEREAS, the City has discontinued the public use of said Properties and has resolved to convey the Properties to the BDC; and

WHEREAS, pursuant to the purposes and powers contained within Section 1411 of the Not-for-Profit Corporation Law of the State of New York (the "State"), as amended (hereinafter collectively called the "Act"), and pursuant to its certificate of incorporation filed on August 15, 1994, (the "Certificate") the BDC was established as a not-for-profit local development corporation of the State of New York with the authority and power to own, lease and sell personal and real property for the purposes of, among other things, acquiring, constructing and equipping certain projects exclusively in furtherance of the charitable or public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, by encouraging the development of, or retention of, business in the community or area, and lessening the burdens of government and acting in the public interest; and

WHEREAS, on January 27, 2016, the Batavia Development Corporation (the "BDC") authorized the BDC Board president, vice president, staff and counsel to review and negotiate the contemplated Purchase and Sale Agreement for the Properties and related documents, and upon satisfactory consensus, further authorized the Board president or vice president to execute the Purchase and Sale Agreement to accept title to the Properties from the City of Batavia as well as all necessary and appropriate related documents with respect to the Properties; and

WHEREAS, on January 27, 2016, the BDC further authorized the Board president, vice president, staff and counsel to, upon taking title to the Properties, to convey the Properties to Ellicott Station LLC and related thereto, authorized the Board president, vice president, staff and counsel to prepare and execute a Purchase and Sale Agreement and all necessary and related documents to complete the title transfer of the Properties from the BDC to Ellicott Station LLC; and

WHEREAS, the Board president, vice president, staff and counsel have undertaken review of, and are satisfied with, the contents of the Purchase and Sale Agreements, as contemplated herein; and

WHEREAS, prior to the date hereof, the City gave notice of a public hearing as required by Section 1411(d)(4) of the Act and conducted a public hearing in connection with the transfer of the Properties to the BDC as required by Section 1411(d)(3) of the Act; and

WHEREAS, the BDC must comply with Article 8 of the New York Environmental Conservation Law and the regulations adopted thereto (collectively referred to as "SEQR"), and determine whether or not the taking of title to the Properties presents a potential significant adverse environmental impact requiring the preparation of an environmental impact statement pursuant to SEQR; and

WHEREAS, the BDC has prepared a Short Environmental Assessment Form (the "EAF"); and

WHEREAS, the BDC, pursuant to SEQR, must satisfy the applicable requirements set forth in SEQR, as necessary, prior to making a final determination on whether to take title to the Properties.

NOW THEREFORE, BE IT RESOLVED BY THE DIRECTORS OF THE BDC AS FOLLOWS:

Section 1. Based upon the review by the BDC of the EAF, and other materials related to the Properties in possession of the BDC, the BDC hereby finds and determines: (i) that taking title to the Properties constitutes an "Unlisted Action" within the meaning of SEQR and a coordinated review is optional; (ii) the BDC has conducted an uncoordinated review under SEQR; (iii) that taking title to the Properties will result in no major impacts and, therefore, is one which may not cause significant damage to the environment; (iv) that taking title to the Properties will not have a "significant effect on the environment" as such quoted term is defined in SEQR; and (v) that no "environmental impact statement" as such quoted term is defined in SEQR, need be prepared for this action.

Section 2. The BDC thus issues a Negative Declaration pursuant to 6 N.Y.C.R.R. § 617.7 of the SEQR regulations, which concludes the BDC's uncoordinated review of the Project.

Section 3. The BDC ratifies and confirms any and all prior actions and resolutions related to the Properties as supplemented by this Resolution.

Section 4. This Resolution shall take effect immediately.

MOTION: Jason Molino, 2nd Pier Cipollone

VOTE: carried

Jason Molino, Pier Cipollone, Ray Chaya, Steve Pies, Barb Shine, Kathy Ferrara, Susie Boyce, Mary Valle and Jay Sackett (absent: Peter Casey)

DATE: March 14, 2016