

**PILOT DEVIATION APPROVAL RESOLUTION
NATHAN GALINSKY APARTMENTS PRESERVATION LLC PROJECT**

A special meeting of the Herkimer County Industrial Development Agency (the "Agency") was convened at the Herkimer County Chamber of Commerce Conference Room at 420 E. German Street, Suite 101A Herkimer, New York, on April 6, 2022 at 8:00 o'clock a.m., local time.

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

PRESENT:

Vincent James Bono	Chairman
John Scarano	Secretary
Michael Werenczak	Treasurer
Ann Gaworecki	Director
Cory Albrecht	Director
Catherine Ricci	Director

Each of the members of the Agency present participated in the meeting either in person or remotely pursuant to the signing into law on September 2, 2021 of Chapter 417 of the Laws of 2021, as amended on January 14, 2022.

ABSENT:

David Chlus	Vice Chairman
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AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

John J. Piseck, Jr.	Chief Executive Officer
Victoria Adams	Administration & Grant Coordinator
Ryan Palmiotto	Marketing/Communication Specialist
A. Joseph Scott, III, Esq.	Bond Counsel

The following resolution was offered by Ann Gaworecki, seconded by Catherine Ricci, to wit:

Resolution No. 0422-

RESOLUTION AUTHORIZING A DEVIATION FROM THE AGENCY'S UNIFORM TAX EXEMPTION POLICY IN CONNECTION WITH THE PROPOSED PAYMENT IN LIEU OF TAX AGREEMENT TO BE ENTERED INTO BY THE AGENCY IN CONNECTION WITH THE PROPOSED NATHAN GALINSKY APARTMENTS PRESERVATION LLC PROJECT.

WHEREAS, Herkimer County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 410 of 1970 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 410 of the 1970 Laws of New York, as amended, constituting Section 898 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 industrial, manufacturing, warehousing, commercial, research, and recreation

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 issue its industrial development revenue bonds to finance the cost of the acquisition, construction, reconstruction and installation of one or more “projects” (as defined in the Act), to acquire, construct, reconstruct and install said projects 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, Nathan Galinsky Apartments Preservation LLC (the “Company”), has presented an application (the “Application”) to the Agency, requesting that the Agency consider undertaking a project (the “Project”) consisting of the following: (A) (1) the acquisition of an interest or interests in a parcel of land located at 105 Protection Avenue in the Village of Herkimer, Herkimer County, New York (the “Land”), together with the existing building located on the Land and known as the Nathan Galinsky Apartment Project (the “Facility”); (2) the reconstruction and renovation of the Facility, and (3) the acquisition and installation thereon and therein of various 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 constitute a housing facility containing approximately 112 apartment units to be owned and operated by the Company; (B) the financing of all or a portion of the costs of the foregoing by the issuance of taxable and/or tax-exempt revenue bonds of the Agency in one or more issues or series in an aggregate principal amount sufficient to pay all or a portion of the cost of undertaking the Project, together with necessary incidental costs in connection therewith, presently estimated to equal approximately \$15,000,000, but in any event not to exceed \$27,000,000 (the “Bonds”); (C) the payment of a portion of the costs incidental to the issuance of the Bonds, including issuance costs of the Bonds and any reserve funds as may be necessary to secure the Bonds; (D) the granting of certain other “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including exemption from certain sales taxes, deed transfer taxes, mortgage recording taxes and real property taxes (collectively with the Bonds, the “Financial Assistance”); and (E) 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 17, 2021 (the “Preliminary Inducement 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 Preliminary Inducement Resolution, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Issuer (the “Public Hearing”) pursuant to Section 859-a of the Act and Section 147(f) of Internal Revenue Code of 1986, as amended (the “Code”), to hear all persons interested in the Project and the financial assistance being contemplated by the Issuer with respect to the Project, to be mailed on January 12, 2022 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Public Hearing to be posted on January 12, 2022 at the Herkimer County Office Building located at 109 Mary Street, in the Village of Herkimer, Herkimer County, New York and on the Issuer’s website, (C) caused notice of the Public Hearing to be published on January 12, 2022 in The Time Telegram, a newspaper of general circulation available to the residents of Town of Herkimer, Herkimer County, New York, (D) conducted the Public Hearing on January 25, 2022 at 8:00 o’clock a.m., local time at Herkimer County Chamber Conference Room located at 420 E. German Street, in the Town of Herkimer, Herkimer County, New York, and (E) prepared a report of the Public Hearing (the “Report”) fairly

summarizing the views presented at such Public Hearing and caused copies of said Report to be made available to the members of the board of directors of the Issuer and to the County Legislature of Herkimer County; and

WHEREAS, by a resolution executed by the County Legislature of Herkimer County (the "County Legislature") on February 16, 2022 (the "TEFRA Approval"), the County Legislature approved the issuance of the Bonds for purposes of Section 147(f) of the Code; and

WHEREAS, in connection with the Project, the Company has requested that the Agency deviate from its uniform tax exemption policy (the "Policy") with respect to the terms of the PILOT Agreement; and

WHEREAS, pursuant to Section 874(4) of the Act, prior to taking final action on such request for a deviation from the Policy, the Agency must give the chief executive officers of the County and each city, town, village and school district in which the Project Facility is located (collectively, the "Affected Tax Jurisdictions") written notice of the proposed deviation from the Policy and the reasons therefor prior to the meeting of the Agency at which the members of the Agency shall consider whether to approve such proposed deviation; and

WHEREAS, the members of the Agency authorized the Chief Executive Officer to notify the Affected Tax Jurisdictions of the proposed deviation from the Policy in connection with the Project, which proposed deviation is outlined in the letter dated March 25, 2022 (the "PILOT Deviation Letter"), a copy of which PILOT Deviation Letter is attached hereto as Exhibit A; and

WHEREAS, pursuant to the PILOT Deviation Letter, the Chief Executive Officer notified the chief executive officers of the Affected Tax Jurisdictions of the proposed deviation from the Policy and further notified said chief executive officers that the members of the Agency would consider whether to approve such proposed deviation at this meeting;

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

Section 1. The Agency hereby finds and determines as follows:

(A) The Agency has considered any and all responses from the Affected Tax Jurisdictions to the PILOT Deviation Letter.

(B) The Agency has reviewed and responded to all written comments received from any Affected Tax Jurisdiction with respect to the proposed deviation.

(C) The Agency has given all representatives from an Affected Tax Jurisdictions in attendance at this meeting the opportunity to address the members of the Agency regarding the proposed deviation.

Section 2. Based upon (A) the findings and determinations in Section 1 above, (B) any comments received at the Public Hearing, (C) input received at this meeting from the Affected Tax Jurisdictions with respect to the proposed deviation, (D) the Agency's knowledge of the Project, (E) the recommendations of Agency staff, and (F) such further investigation of the Project and the effect of the proposed deviation as the Agency has deemed appropriate, the Agency hereby determines to deviate from the Policy with respect to the terms of the PILOT Agreement for the reasons set forth in the PILOT Deviation Letter. Based upon the aforementioned, the Agency hereby approves a deviation from the Policy, the terms of the approved deviation to be as described in the attached PILOT Deviation Letter.

Section 3. Upon preparation by counsel to the Agency of the PILOT Agreement with respect to the Project Facility reflecting the terms of this resolution and approval of same by the Chairman or Vice Chairman of the Agency, the Chairman or Vice Chairman of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the PILOT Agreement, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in such form as is approved by the Chairman or Vice Chairman of the Agency, the execution thereof by the Chairman or Vice Chairman of the Agency to constitute conclusive evidence of such approval.

Section 4. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the PILOT Agreement, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses 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 and to cause compliance by the Agency with all of the terms, covenants and provisions of the PILOT Agreement binding upon the Agency.

Section 5. 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:

Vincent James Bono	VOTING	<u>YES</u>
David Chlus	VOTING	<u>ABSENT</u>
John Scarano	VOTING	<u>YES</u>
Michael Werenczak	VOTING	<u>YES</u>
Ann Gaworecki	VOTING	<u>YES</u>
Cory Albrecht	VOTING	<u>YES</u>
Catherine Ricci	VOTING	<u>YES</u>

The foregoing resolution was thereupon declared duly adopted.

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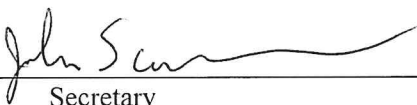
STATE OF NEW YORK)
) SS.:
COUNTY OF HERKIMER)

I, the undersigned Secretary of Herkimer County 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 6, 2022 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 Chapter 417 of the Laws of 2021, as amended (the "2022 Laws"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given; and (D) there was a quorum of the members of the Agency, either in person or attending remotely in accordance with the 2022 Laws, 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 6th day of April, 2022.



Secretary

(SEAL)

EXHIBIT A
PILOT DEVIATION LETTER

-SEE ATTACHED-

HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY

420 E. German Street, Suite 101A

Herkimer, New York 13350

Tel: 315-866-3000

March 25, 2022

Hon. Vincent J. Bono, Chairman
Herkimer County Legislature
109 Mary Street, Suite 1310
Herkimer, New York 13350

Gary Tutty, Interim Superintendent of Schools
Herkimer Central School District
801 West German Street
Herkimer, New York 13350

Hon. Dominic J. Frank, Town Supervisor
Town of Herkimer
114 North Prospect Street
Herkimer, NY 13350

Brian Crandall, President
Herkimer Central School District
Board of Education
801 West German Street
Herkimer, New York 13350

Hon. Mark Netti, Mayor
Village of Herkimer
120 Green Street
Herkimer, New York 13350

RE: Proposed Deviation from Uniform Tax Exemption Policy by
Herkimer County Industrial Development Agency in connection with its Proposed
Nathan Galinsky Apartments Preservation LLC Project

Dear Gentlemen:

This letter is delivered to you pursuant to Section 874(4)(b) of the General Municipal Law.

Herkimer County Industrial Development Agency (the "Agency") received an application (the "Application") from Nathan Galinsky Apartments Preservation LLC (the "Company"), which Application requested that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project to consist of the following: (A) (1) the acquisition of an interest or interests in a parcel of land located at 105 Protection Avenue in the Village of Herkimer, Herkimer County, New York (the "Land"), together with the existing building located on the Land and known as the Nathan Galinsky Apartments (the "Facility"); (2) the reconstruction and renovation of the Facility, and (3) the acquisition and installation thereon and therein of various 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 constitute a housing facility containing approximately 112 apartment units to be owned and operated by the Company, and any other directly or indirectly related activities; (B) the financing of all or a portion of the costs of the foregoing by the issuance of taxable and/or tax-exempt revenue bonds of the Agency in one or more issues or series in an aggregate principal amount sufficient to pay all or a portion of the cost of undertaking the Project, together with necessary incidental costs in connection therewith, presently estimated to equal approximately \$16,000,000, but in any event not to exceed \$27,000,000 (the "Obligations"); (C) the payment of a portion of the costs incidental to the issuance of the Obligations, including issuance costs of the Obligations and any reserve funds as may be necessary to secure the Obligations; (D) the granting of certain other "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including exemption from certain

sales taxes, deed transfer taxes, mortgage recording taxes and real property taxes (collectively with the Obligations, the “Financial Assistance”); and (E) 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.

In connection with the Application, the Company has made a request to the Agency to enter into a payment in lieu of tax agreement (the “Proposed Pilot Agreement”). In connection with the consideration of the Proposed Pilot Agreement, the Agency is considering deviating from the Agency’s Uniform Tax Exemption Policy (the “Policy”). Capitalized terms not otherwise defined herein are defined in the Policy.

The Proposed Pilot Agreement would not provide any abatements for any special assessments levied on the Project Facility.

The Proposed Pilot Agreement will provide that the Company be granted a payment in lieu of tax agreement with respect to the Facility and any portion of the Equipment assessable as real property pursuant to the New York Real Property Tax Law (collectively, with the Facility, the “Improvements”). The term of the Proposed Pilot Agreement would equal the term of the Obligations to be issued by the Agency, which term is currently estimated to equal approximately 15 years, but in any event not to exceed 30 years. The Company will be required to make annual payments to the Treasurer of Herkimer County, for distribution among the affected tax jurisdictions, in an amount equal to ten percent (10%) of the aggregate collected annual tenant paid rents generated by the Project Facility, which includes rent supplements and subsidies received from the federal government, the State, or a municipality on behalf of such tenants, less the aggregate annual owner paid utilities. Pursuant to Section 874 of the General Municipal Law and Section 3(C) of the Policy, unless otherwise agreed by the affected tax jurisdictions, payments in lieu of taxes will be allocated among the affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the Project Facility not been tax exempt due to the status of the Agency:

The terms of the Proposed Pilot Agreement deviate from the Agency’s Policy. The Policy provides that, for a facility similar to the Project Facility, payments in lieu of taxes would normally be real property tax abatements equal to that provided pursuant to Section 485-b of the Real Property Tax Law, more particularly described in the table below:

<u>Pilot Payment Year</u>	<u>Abatement</u>
1	50%
2	45%
3	40%
4	35%
5	30%
6	25%
7	20%
8	15%
9	10%
10	5%
11	100% Taxable

The purpose of this letter is to inform you of the Company’s request and that the Agency is considering whether to grant the request and to approve a Proposed Pilot Agreement conforming to the terms of the request. The Agency expects to consider whether to approve the terms of the Proposed Pilot Agreement at a

special meeting scheduled for April 6, 2022 at 8:00 a.m., local time at the offices of the Agency located at 420 E. German Street, Suite 101A, Herkimer, Herkimer County, New York (the "Meeting"). As described later in this letter, during the meeting on April 6, 2022, the Agency will review the terms of the request and, based on the discussions during such meeting the terms of the request may be modified.

This letter is forwarded to you for purposes of complying with Section 874 of the General Municipal Law of the State of New York and the Policy, which requires written notice prior to the Agency taking final action with respect to the Proposed Pilot Agreement (if said Proposed Pilot Agreement may deviate from the provisions of the Agency's Policy).

The Agency considered the following factors in considering the proposed deviation:

1. **The nature of the Project:** The Project involves the reconstruction and renovation of an existing senior affordable housing facility.
2. **The present use of the property:** The present use of the property consists of existing affordable senior housing units.
3. **The economic condition of the area at the time of the request of the Company and the economic multiplying effect that the Project will have on the area:** At the time of the filing of the Application, the economic condition of the area in which the Project Facility is to be located is considered a "highly distressed area" as defined in the Act. The reconstruction and renovation of the Project Facility will provide for the continued affordable residential options for senior citizens. Such residential options potentially provide customers for business and entertainment facilities located within Herkimer County. Additional benefits created by the Project are described in the Application
4. **The extent to which the Project will create or retain permanent, private sector jobs and the number of jobs to be created or retained and the salary range of such jobs:** The Company has estimated that the Project will retain approximately 3.5 service jobs, with an average annual salary of \$33,656. The Company has also represented that, for the planned renovation of the Property, it hopes to utilize local labor by conducting job outreach through postings on local media and at job fairs.
5. **The estimated value of new tax exemptions to be provided:** The estimated value of the tax exemptions are the following: approximately \$373,601.25 of sales and use tax; approximately \$150,000 of mortgage recording tax; and approximately \$1,871,453.60 of real property taxes.
6. **The economic impact of the Proposed Pilot Agreement on affected tax jurisdictions:** The Proposed PILOT Agreement is expected to provide a net benefit to the affected tax jurisdictions in the form of increased municipal revenues under the Proposed PILOT Agreement when compared to the current amounts being paid relating to the Project site.
7. **The impact of the Proposed Pilot Agreement on existing and proposed businesses and economic development projects in the vicinity:** The impact of the Project is a positive one on the community, as it retains jobs and economic activity in the community and the provision of improved senior housing pursuant to the Project addresses senior housing needs in Herkimer County.

8. **The amount of private sector investment generated or likely to be generated by the Project:** approximately \$27,000,000.

9. **The effect of the Project on the environment:** It is likely that the Project will not have a significant effect on the environment.

10. **Project Timing:** It is anticipated that the Project will be accomplished in a timely fashion.

11. **The extent to which the Project will require the provision of additional services including, but not limited to, additional educational, transportation, police, emergency medical or fire services:** The Project consists of the reconstruction and renovation of the Project Facility. It is not anticipated that the Project will have any increased impacts on any school district within the Herkimer County, or increase any burdens on any other municipal services, including emergency medical and police services.

12. **Anticipated tax revenues:** It is expected that sales tax collections will increase due to retained employment and increased residential units at the reconstructed and renovated Facility.

13. **The extent to which the Project will provide a benefit (economic or otherwise) not otherwise available within the municipality in which the Project Facility is located:** The benefit is a positive one economically, in that the Proposed PILOT Agreement will assist with reconstruction and renovation of the Facility, which will potentially offer affordable housing options to senior citizens which is a growing need as the nation's population ages.

The Agency will consider the Proposed Pilot Agreement (and the proposed deviation from the Agency's Policy) at the Meeting. The discussion at the Meeting will include a review of (a) the terms of the Company's request, (b) other projects where the Agency has approved a deviation from its Policy, and (c) the information contained in this letter and other materials provided by the Company supporting the request. Based on the discussion at the Meeting, and the review of any comments received by the Agency with respect to the Company's request, the Agency may determine to modify the terms of the request.

The Agency would welcome any written comments that you might have on this proposed deviation from the Agency's Policy. Prior to taking final action at the Meeting, the Agency will review and respond to any written comments received from any affected tax jurisdiction with respect to the proposed deviation. The Agency will also allow any representative of any affected tax jurisdiction present at the Meeting to address the Agency regarding the proposed deviation.

If you have any questions or comments regarding the foregoing, please do not hesitate to contact me at the above telephone number.

Sincerely yours,

HERKIMER COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: /s/ John J. Piseck, Jr.
Chief Executive Officer