



**COMBINED: LEGISLATIVE MEMORANDUM,
CERTIFICATE OF AVAILABILITY OF FUNDS
AND RESOLUTION COVER MEMO**

To: Executive Committee

Fr: Michael McGuire, County Attorney

Re: Authorizing the formation of a Local Development Corporation for Sunset Lake

Date: August 20, 2020

Purpose of Resolution:

<Insert detailed statement and justification here>

Is subject of Resolution mandated? Explain:

<Insert Explanation Here>

Is this a renewal of a prior contract? Yes/No

Date of prior contract? <Insert Dates Here>

Amount authorized by prior contract \$<Insert Amount Here>

Does Resolution require expenditure of funds? Yes/No

If "Yes", provide the following information

Amount to be authorized by Resolution: \$<Insert Amount Here>

Are funds already budgeted? Yes/No

If "Yes" specify appropriation code(s): <Insert Code(s) Here>

If "No", specify proposed source of funds:

Estimated Cost Breakdown by Source

County: \$<Insert Amount Here>

Grant(s): \$<Insert Amount Here>

State: \$<Insert Amount Here>

Other: \$<Insert Amount Here>

Federal Government:\$<Insert

(Specify):

Here>

Specify Compliance with Procurement Procedures:

N/A

Person(s) responsible for monitoring contract (Title): Michael McGuire County Attorney

**AUTHORIZING THE FORMATION OF A LOCAL DEVELOPMENT CORPORATION
PURSUANT TO SECTION 1411 OF THE NOT FOR PROFIT LAW**

Resolution No. August 20, 2020

**AUTHORIZING THE FORMATION OF A LOCAL DEVELOPMENT CORPORATION
PURSUANT TO SECTION 1411 OF THE NOT FOR PROFIT LAW**

Legislators Doherty, Brooks and Conklin offer the following:

WHEREAS, on or about July 2, 2020, the Sullivan County Legislature authorized the establishment of a not-for-profit Local Development Corporation pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York (the “LDC Act”) , by Resolution 252-20, for the purpose of ultimately transferring the subject real property, commonly known as the Care Center at Sunset Lake for contemplated Lease or sale; and

WHEREAS, the County Legislature desires to ensure the continued operation of the Care Center at Sunset Lake as well as maintaining the 146 beds within Sullivan County, therefore the County desires to examine the possible eventual lease or sale of the Care Center at Sunset Lake to a private entity to facilitate redevelopment of the facility to provide improved services in a modern, efficient, and economical setting, and

WHEREAS, Section 1411 of the Not-For-Profit Corporation Law of the State of New York (the “LDC Act”) authorizes the establishment of not-for-profit local development corporations operated exclusively for 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, carrying on scientific research for the purpose of aiding a community or geographical area by attracting new industry to the community or area or by encouraging the development of, or retention of, an industry in the community or area, and lessening the burdens of government and acting in the public interest, and

WHEREAS, the LDC Act further authorizes the legislative body of a county, by resolution, to determine that certain real property of the County not required for use by the County may be sold or leased to a not-for-profit local development corporation for purposes that include lessening the burdens of government and acting in the public interest, and

WHEREAS, Section 1411(d) of the LDC Act further provides that the sale or

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Authorizing the Formation of a Local Development Corporation pursuant to Section 1411 of the Not for Profit Law

Lease, following a duly noticed Public Hearing may be on such terms as may be agreed upon by the County and a local development corporation, without appraisal or public bidding, and

WHEREAS, in furtherance of the public purposes set forth above, the County Legislature has conducted a public hearing on or about July 14 and July 16, 2020 to consider possible transfer of its interest in certain portions of the land, buildings, equipment and assets of the Care Center at Sunset Lake (collectively, the “Facility”) to the Sunset Lake Local Development Corporation, formed pursuant to Section 1411(a) of the LDC Act (hereinafter the “Corporation”), subject to the County’s reserved leasehold interest in the Facility (collectively, the “Disposition”), with the foregoing Disposition allowing the County to continue operation of the Facility and

WHEREAS, pursuant to the LDC Act, the Disposition of the Facility to the Corporation may be on such terms and for such amount or amounts as may be agreed upon by the County Legislature, and

WHEREAS, to accomplish the purposes and powers as set forth within the LDC Act and the purposes and powers of the Corporation, including relieving the burdens of the County and the undertaking of the Disposition, the County desires to task the Corporation with such burdens and responsibilities and authorizes the Corporation to issue bonds on behalf of the County for such purposes pursuant to and in accordance with applicable provisions of the Internal Revenue Code (the “Code”), and

WHEREAS, in order to facilitate the Disposition pursuant to Section 1411(d) of the LDC Act, -

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Authorizing the Formation of a Local Development Corporation pursuant to Section 1411
of the Not for Profit Law

the Sullivan County Legislature may authorize the issuance of tax exempt bonds on behalf of the County, the proceeds of which would be paid to the County by the Corporation as a portion of the total purchase price of the Facility and other costs associated therewith, and

WHEREAS, pursuant to and in accordance with Section 1411(d) of the LDC Act, a public hearing relating to the sale or lease has been conducted by the Sullivan County Legislature on July 14, 2020 and continued on July 16, 2020, and

WHEREAS, The Sunset Lake Local Development Corporation as created under the July 2, 2020 resolution provided for three (3) board members and at the meeting of the Sullivan County Legislature on August 13, 2020, a resolution was passed increasing the number of Board Members on the LDC from 3 members to 5 member and changed the identify of at least one (1) of the members now, therefore, be it

RESOLVED, the Sullivan County Legislature hereby authorizes the following:

1: That the Sullivan County Legislature hereby authorizes the formation and incorporation of the Sunset Lake Local Development Corporation under the applicable provisions of Article 14 of the Not For Profit Law of the State of New York; and it is further

RESOLVED: Pursuant to Section 1411(d) (1) of the LDC Act, the County Legislature hereby determines that title to the Facility is not required for use by the County; and. The Chairman of the Sullivan County Legislature and/or the County Manager, as may be set forth in the Sullivan County Charter and Administrative Code and/or as may be required otherwise, are hereby authorized to execute any and all documents related to the creation of the LDC including the

Certificate of Incorporation (annexed hereto) along with any other agreements, forms, certificates or applications necessary to effectuate the foregoing; and it is further

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RESOLVED: notwithstanding the fact that the certificate of incorporation has general powers contemplated by the Local Development Corporation statute, except for the authority set forth above and herein, the Corporation will be limited to acquiring, financing and disposing / Leasing of the land and facilities transferred to the Corporation, and upon completion, the Corporation shall be dissolved and all net proceeds shall be paid to the County; and it is further

RESOLVED: No “environmental impact statement” as such quoted term is defined in SEQRA, need be prepared for this action. This determination constitutes a negative declaration for purposes of SEQRA ; and it is further

RESOLVED: Upon determining that the goals of improving patient care, reducing taxpayer burden and securing employees opportunities, the Sunset Lake Local Development Corporation elects to transfer the owners and or operation of the facility to a third party, they shall identify suitable candidates and present not more than three (3) options to the Sullivan County Legislature which shall be obligated to select and approve at least one of the proposed candidates, provided they meet the minimum statutory requirements for operation of a skilled nursing facility. Whereupon the Sunset Lake Local Development Corporation will be authorized to enter into an agreement with any such entity approved by at least five (5) members in good standing of the Sullivan County Legislature; and it is further

RESOLVED: That the Corporation shall seek to transfer or Lease the land and facilities to the highest qualified bidder. In doing so, it shall examine and consider, where applicable, the bidder's:

- a. competency and character;
- b. history of employee relations and practices;

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- c. quality of care of residents;
- d. record of retaining facilities subsequent to acquisition;
- e. willingness to continue to care for all existing residents at the time of acquisition (unless otherwise indicated by the New York State Department of Health criteria);
- f . financial stability; and
- g. willingness to consider existing staff as potential employees.
- h. Willingness to allow for private sector unions to be organized, maintained and recognized as bargaining units; and it is further

RESOLVED: That the Corporation shall require the purchaser or Leasee to be licensed for 146 beds with at least similar levels of care to those existing at the date of transfer with any later changes to be subject to New York State Department of Health approval; and it is further

RESOLVED, that there shall be five (5) initial Directors of the Sunset Lake Corporation and they shall serve a term of three (3) years from the date of incorporation unless appointed by virtue of a director’s public office in which case it shall run concurrently with the term of office, whichever is less, the initial directors are as follows

NAME	ADDRESS
Michelle Huck	100 North Street Monticello, New York 12701
Nadia Rajsz	100 North Street Monticello, N.Y. 12701
William Chellis	P.O. Box 624

Jeffersonville, N.Y. 12748

Lowell Feldman

P.O. Box 125

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**Authorizing the Formation of a Local Development Corporation pursuant to Section 1411
of the Not for Profit Law**

Bethel, N.Y 12720

Albee Bockman

266 Main Street
Hurleyville, N.Y. 12777;

and it is further

RESOLVED: That Resolution 252-20 passed on July 2, 2020 is hereby vacated and rendered null, void and of no consequence or authority; and it is further

This resolution shall take effect immediately, and move its adoption.