



ESSEX COUNTY IN THE PARK  
INDUSTRIAL DEVELOPMENT AGENCY

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**Essex County IDA Board Meeting**

**June 23, 2021 at 9:00 AM**

**Saranac Waterfront Lodge, 250 Lake Flower Avenue, Saranac Lake, NY 12983**

**Present:** Darren Darrah  
John Boyea  
Jamie Rogers  
James Bowen  
Roy Holzer

**Also Present:** Jody Olcott  
Carol Calabrese

**Absent:** Matthew Courtright  
James Monty

**Open of Meeting**

Chairman Darren Darrah opened the meeting at 9:02AM.

**Approval of Minutes**

1. May 20, 2021 Meeting Minutes – Table until next meeting

**Financial Services/Program**

1. Monthly Loan Report – All loans are current
2. Straight Lease Back Transactions:
  - a. Dual Development (North Elba) – Essex County Board of Supervisors have approved the project. TEFRA hearing has been held with no comments received.

**Motion#2021-45: WHEREAS**, the Essex County Industrial Development Agency (the “Agency”) is a corporate governmental agency, constituting a public benefit corporation created pursuant to Chapter 563 of the Laws of 1973 of the State of New York (the “State”), as amended, and is authorized and empowered by the New York State Industrial Development Agency Act, Chapter 1030 of the Laws of 1969 of the State (Title 1 of Article 18-A of the New York General Municipal Law of the State), as amended (the “Act”), to promote the economic welfare and prosperity of the inhabitants of Essex County, New York (the “County”) and to actively promote, attract, encourage and develop economically sound commerce and industry within the County; and **WHEREAS**, the Agency desires to assist Dual Development LLC, a New York limited liability company (the “Company”) located in North Elba, New York, and its successors and assigns (the “Company”), in its acquisition, construction, equipping and furnishing of a certain Project (as hereinafter defined); and **WHEREAS**, the Project consists of the (i) acquisition, construction, reconstruction and equipping of a building in North Elba, New York, to be operated by the Company as an approximately 185-unit dual-branded-hotel, including the removal of the existing Quality Inn Hotel (the “Facility”), (ii) the acquisition and installation of various machinery, equipment and furnishings for the Facility, including substantial rehabilitation (the “Equipment”), and (iii) certain necessary preliminary and incidental expenses related thereto (the Facility and the Equipment hereinafter collectively referred to as the “Project”); and **WHEREAS**, pursuant to the Act the Agency is authorized and empowered to finance the Project through a “straight-lease transaction” (as

defined in Section 854(15) of the General Municipal Law of the State); and **WHEREAS**, on May 22, 2021, the Agency adopted an initial project resolution (the "Inducement Resolution") which (i) accepted the Company's application, (ii) authorized the scheduling and conduct of a public hearing in compliance with the Act, (iii) described the contemplated forms of Financial Assistance (as hereinafter defined) to be provided by the Agency; and (iv) authorized the lease arrangement with the Company and related documents; and **WHEREAS**, in accordance with the Inducement Resolution, the Agency published and forwarded a notice of public hearing to the Town of North Elba (the "Town"), the County, the Village of Lake Placid (the "Village") and the Lake Placid Central School District (the "School", and together with the Town, County and the Village, the "Affected Tax Jurisdictions") at least ten (10) days prior to said public hearing (the "Public Hearing"); and **WHEREAS**, pursuant to Section 859-a of the Act, the Agency held the Public Hearing on May 6, 2021 at 10:00 a.m. at the Town of North Elba, 2693 Main Street, Lake Placid, New York, which hearing was also made available by video/audio conference pursuant to executive order 202.1 (2020) of the Governor of the State with respect to the Project and the proposed Financial Assistance (as hereinafter defined) being contemplated by the Agency where interested parties were provided a reasonable opportunity, both orally and in writing, to present their views; and **WHEREAS**, in furtherance of the foregoing and in order in order to assist the Company, the Company will lease the Project to the Agency pursuant to a Company Lease Agreement (the "Company Lease Agreement"), dated June \_\_, 2021 and the Agency has agreed to lease the Project to the Company pursuant to an Agency Lease between the Company and the Agency, dated June \_\_, 2021 (the "Agency Lease"), and a Project Agreement between the Agency and the Company, dated June \_\_, 2021 (the "Project Agreement"), for good and valuable consideration in the amount of approximately \$1.00 and certain financial assistance in the form of an exemption from all state and local sales and use taxes with respect to the qualifying personal property included in or incorporated into the Facility or used in the construction and equipping of the Facility (the "Financial Assistance"), whereby the Company will be obligated to lease the Project from the Agency and the Agency will be obligated to lease the Project to the Company until the termination of the Agency Lease at the end of the lease term; and **WHEREAS**, the Agency's retention of a leasehold interest in the Project throughout the Agency Lease will enable the Agency to pass on State law tax benefits to the Company; and **WHEREAS**, the Agency is authorized to grant a mortgage and security interest in and with respect to the Project and assign the Project Agreement to a lender secured by the Company, as collateral, as may be required by such lender, if applicable; and **WHEREAS**, the Agency has considered the proposed Project pursuant to the State Environmental Quality Review Act, as codified under Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, "SEQRA") and pursuant to its review of the Application and related materials provided by the Company; and **NOW, THEREFORE, BE IT RESOLVED** by the Essex County Industrial Development Agency, as follows: Section 1. Based upon the representations made by the Company to the Agency in the Application, the Agency hereby finds and determines that: (A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and (B) It is desirable and in the public interest for the Agency to appoint the Company as agent to undertake the Project; and (C) The action to be taken by the Agency will induce the Company to undertake the Project, thereby increasing employment opportunities in the Town of North Elba, which is located within Essex County, New York, and otherwise furthering the purposes of the Agency as set forth in the Act; and (D) The Project will not result in the removal of a facility or plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's Application, to the extent occupants are relocating from one plant or facility to

another, the Project is reasonably necessary to discourage the Project occupants from removing such other facility or plant to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and (E) Based upon a review of the Application and related materials, the Agency has identified the Project as a "Type II Action" within the meaning of SEQRA, for which no formal SEQRA review is necessary. Section 2. The Agency hereby authorizes the Company to proceed with the acquisition, renovation, construction, reconstruction, rehabilitation and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency and hereby authorizes the execution of the Company Lease Agreement by the Company as Landlord/Lessor and the Agency as Tenant/Lessee (the "Company Lease Agreement"), together with the Agency Lease by the Agency as Landlord/Lessor and the Company as Tenant/Lessee, in connection with the Project pursuant to the Project Agreement. Section 3. To provide for the consummation of the transaction contemplated herein, the Chairman, Vice Chairman or any other appropriate officer of the Agency, alone or in conjunction with such officers, are hereby authorized and directed to execute, acknowledge and deliver, for and in the name and on behalf of the Agency, (i) the Project Agreement in substantially the form attached hereto as Exhibit A, (ii) the Company Lease Agreement and the Agency Lease in substantially the forms attached hereto as Exhibit B-1 and B-2, and (iii) any other documents in connection with the financing of the Project by the Company, including any necessary mortgages (collectively, the "Agency Documents") upon the advice of special counsel to the Agency. Section 4. The Chairman, Vice Chairman or any other appropriate officer of the Agency, alone or in conjunction with such officers, are authorized and directed to execute, deliver and, if applicable file, for and in the name and on behalf of the Agency, any certifications, financing statements, assignments and other instruments and documents which are necessary or appropriate to perfect the assignments contemplated in the Agency Documents and to consummate the transactions contemplated in the Agency Documents. Section 5. Pursuant to Section 875(3) of the Act, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any sales and use tax exemption benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; (iv) the Company has made a material false statement on its application for financial assistance; (v) the sales and use tax exemption benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project; and/or (vi) the Company obtains mortgage recording tax benefits and/or real property tax abatements and fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project (collectively, items (i) through (vi) hereby defined as a "Recapture Event"). As a condition precedent of receiving sales and use tax exemption benefits and real property tax abatement benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, must (i) if a Recapture Event determination is made by the Agency, cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, mortgage recording tax benefits and/or real property tax abatements abatement benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands, if and as so required to be paid over as determined by the Agency. Section 6. It is found and

determined that all formal actions of the Agency concerning and relating to the adoption of this Resolution were adopted in an open meeting of the Agency, and that all deliberations of the Agency that resulted in those formal actions were in meetings open to the public, in compliance with the law. Section 7. This Resolution shall take effect and be in force immediately or at the earliest time permitted by law.

A motion to approve was made by Roy Holzer and seconded by Jamie Rogers. All members were in favor.

- b. 89 Greenwood Apartments (North Elba) – IDA and CRC induced project, TEFRA hearing held, Essex County Board of Supervisors economic development committee approved. Full BOS resolution anticipated in July.
- c. Champlain Hudson Power Express (Lake Champlain) – Project was presented last week at the Essex County Board of Supervisors economic development committee meeting. IDA will need to send notice to all taxing entities regarding deviation of PILOT schedule.

**Motion #2021-46:** Resolution authorizing the executive director to send a letter to the chief executive officers of the affected taxing entities informing them of a proposed deviation from the agency's uniform tax exemption policy in connection with the proposed CHPE LLC. project. WHEREAS, Essex 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 225 of the 1971 Laws of New York, as amended, constituting Section 895-f 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 manufacturing, warehousing, research, commercial 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, 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, in March of 2021, CHPE LLC, a New York State limited liability company (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") for the benefit of the Company, said Project consisting of the following: (a)(1) the acquisition of an interest in the Company's interim permit and easement issued or to be issued by the New York State Office of General Services ("OGS") in relation to submerged State-owned land located in the Towns of Chesterfield, Willsboro, Essex, Westport, Moriah, Crown Point and Ticonderoga, Essex County, New York (collectively, the "Land"), (2) the acquisition of two five-inch diameter high-voltage direct current ("HVDC") transmission cables (the "Equipment"), and (3) the construction, installation and equipping on or under the Land of a fully-buried, up to 1,250-megawatt ("MW") HVDC electric transmission line and related infrastructure (the "Improvements", and together with the Land and Equipment, the "Project Facility"), all of the foregoing for use by the Company as a portion of an electric transmission line from the U.S.-Canada border to New York City, (b) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with

respect to the foregoing, including exemptions from sales and use taxes, mortgage recording taxes, and real property taxes for the Project Facility (but not including special district taxes) (collectively, the "Financial Assistance"); and (c) the lease of the Project Facility by the Agency back to the Company; all as contemplated by and in furtherance of the purposes of the General Municipal Law; and WHEREAS, by resolution adopted by the members of the Agency on May 20, 2021 (the "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, in connection with the Application, the Company made a request to the Agency (the "Pilot Request") that the Agency deviate from the Agency's Uniform Tax Exemption Policy (the "Policy") by providing a fixed payment per year for a term of 30 years based on estimated construction costs and applicable tax rates; and WHEREAS, the Policy provides that, for a facility similar to the Project Facility, payments in lieu of taxes will normally be determined as follows: the Company would have the benefit of a 50% abatement in real property taxes on 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") in year one of the payment in lieu of tax agreement with a five percent per year increase over the term of the ten year payment in lieu of tax agreement; and WHEREAS, pursuant to Section 874(4) of the Act, prior to taking final action on such Pilot Request for a deviation from the Agency's Policy, the Agency must give the chief executive officers of the County and each city, town, village and school district in which the Project is located (collectively, the "Affected Tax Jurisdictions") no fewer than thirty (30) days prior written notice of the proposed deviation from the Agency's uniform tax exemption policy and the reasons therefore; and WHEREAS, pursuant to Section 856(15) of the Act, unless otherwise agreed by the Affected Tax Jurisdictions, payments in lieu of taxes must 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; NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF COUNTY OF ESSEX INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS: Section 1. Having considered both the Application and the Pilot Request, the Agency hereby authorizes the Executive Director of the Agency to send a written notice to the chief executive officers of each of the Affected Tax Jurisdictions informing them that the Agency is considering a proposed deviation from its uniform tax exemption policy with respect to the Project and the reasons therefore (in substantially the form of the draft of said letter attached hereto as Exhibit A), and soliciting any comments that such Affected Tax Jurisdictions may have with respect to said proposed deviation. Section 2. This Resolution shall take effect immediately. A motion to deviation of PILOT 30-year & notification was made by Darren Darrah and seconded by Jamie Rogers. All members were in favor.

### 3. Bond Transactions

- a. Northwood School (North Elba) – need to schedule TEFRA Hearing

## **Business Park Development**

### 1. Moriah Business Park

- a. Lot #4 Building (High Peaks Building) – building was pressure washed last week.
- b. Lots #3, #5, #6 & #8 (Whistlepig) – IDA received letter dated May 28, 2021 from DEC noting permits would be needed for development of newly acquired 38 acres. Letter noted SPDES permit needed if disturbance was over 1 acre, endangered and threatened species (bats) are located in vicinity of project site and disturbance to stream. Issues have been addressed with staff at DEC and no further action is needed.
- c. New Property
  - Proposed Sale of 8 acres to Whistlepig – The IDA received contract and deposit.

- Proposed Sale of 5 acres to Pre-Tech Plastics – The IDA received contract and deposit.

### **Business Development Updates**

1. Marketing/Internet Based Marketing Monthly Report – No Comments
2. CVTEC Extension Agreement for Training Equipment – 5-year contract to extend usage from July 2021 to June 2026.

**Motion #2021-47:** A motion to approve the CVTEC Extension Agreement for training equipment from July 2021 to June 2026 was made by Jamie Rogers and seconded by John Boyea. All members were in favor.

3. Grant Administration
  - a. USDA Rural Development Grant (Essex County) – On June 11, 2021 IDA sent request to extend the grant deadline for one year to utilize loan funds. The IDA summarized marketing completed to date and have shown program has been actively marketed to Essex County businesses, area banks and financial institutions as well as regional partners.
  - b. LEAF COVID-19 Grant Program (North Elba) – The IDA received 10 applications, 2 incomplete and 1 late. 7 applications were summarized and sent to grant review committee (\$103,900 requested). This will leave a balance of \$98,600. The grant review committee to meet and review next week and make recommendations to the IDA Board. The IDA staff is working with Lake Placid Business Association to market round 2 of program which will include COVID affected as well as Main Street/Saranac Ave. construction affected businesses.

**Motion #2021-48:** A motion to reprogram remaining funds (\$98,600) for round 2 to include COVID and Main Street/Saranac Avenue construction affected businesses was made by Jamie Rogers and seconded by James Bowen. All members were in favor.

### **New Business**

1. April & May 2021 Financial Statements
2. Town of Ticonderoga 487 Solar PILOT Program – The IDA has been assisting the Town in formulating a fair RPTL 487 PILOT program. IDA has received information from NYSERDA and reviewed existing PILOT agreements in the state. The Town would like to continue to work with the IDA to administer their proposed 487 program.

**Motion #2021-49:** This Memorandum of Understanding (“MOU”) is dated this 23<sup>rd</sup> day of June, 2021 by and between the Town of Ticonderoga, a New York municipal corporation with a mailing address at 132 Montcalm Street, Ticonderoga, New York 12883 (hereinafter the “Town”) and the Essex County Industrial Development Agency, a New York industrial development agency with a mailing address at 7566 Court Street, Elizabethtown, New York 12932 (hereinafter the “IDA”) evidences the following: WHEREAS, pursuant to New York Real Property Tax Law §487, the Town is authorized to enter into payment in lieu of tax or “PILOT” transactions with certain renewable energy systems such as solar energy equipment; and WHEREAS, pursuant to New York General Municipal law §874, the IDA is permitted to enter into PILOT transactions; and WHEREAS, the IDA has expertise and experience in negotiating and administering PILOT transactions; and WHEREAS, the Town and IDA have overlapping PILOT jurisdiction such that both the IDA and Town could, if they so desired, enter into PILOT transactions relative to certain renewable energy systems such as solar energy equipment as defined under New York Real Property Tax Law §487; and WHEREAS, the Town and IDA desire to partner in the Town’s negotiation and administration of PILOT transactions relative to solar energy equipment projects

in the Town, all as more set forth in this MOU. NOW THEREFORE, in consideration of the mutual promises set forth herein, the Town and IDA agree as follows: 1. Pilots for Solar Energy Equipment: The Town and IDA agree that, for the term of this MOU as may be extended by the parties and commencing on the Effective Date, the IDA shall negotiate, enter into, and administer agreements for PILOT benefits with owners, operators or sponsors of solar energy equipment systems as same are defined in New York Real Property Tax Law §487, to be constructed in the corporate limits of the Town (hereinafter "Solar Projects"). During the term of this MOU and unless earlier terminated by the Town hereunder, the Town shall not enter into any PILOT transactions for any Solar Projects pursuant to New York Real Property Tax Law §487. 2. PILOT Terms: The Town and IDA agree that the uniform tax exemption policy of the IDA pursuant to General Municipal Law §§874 and 859-a for PILOT benefits for Projects shall be as attached hereto as "Exhibit A". The IDA shall not, without the prior express approval by resolution of the Town Board of the Town, agree to any deviation from the schedule set forth in the attached "Exhibit A" for any PILOT benefits for Projects. The IDA agrees to publish this MOU on its website and by the IDA's board of directors approval, adopt the terms hereof for its PILOT uniform tax exemption policy for any PILOT benefits for Projects. No agreement for PILOT benefits for any Project that does not adhere to the uniform tax exemption policy set forth in the attached "Exhibit A" for PILOT agreements for Projects shall be applicable in the Town. For projects in excess of 20 MW the Town and IDA shall cooperate in the review and approval of any agreements for PILOT benefits. 3. Annual Allocation: In accordance with normal and customary PILOT allocation processes, the IDA will, no less than annually, allocate PILOT payments among applicable taxing entities including but not limited to the Town, the Ticonderoga School District and Essex County. No special district assessments are impacted or shall be impacted by any PILOT. 4. Effective Date: The Effective Date of this MOU shall be June 1, 2021. 5. Term and Termination: This MOU shall be effective on June 1, 2021 (hereinafter the "Effective Date") and shall remain in effect for a period of three (3) years unless renewed by the parties, provided that for any agreement for PILOT benefits entered into by the IDA under this MOU, the agreement of the Town and IDA hereunder shall remain applicable for the duration of any such PILOT agreement. Notwithstanding the foregoing, this MOU shall be terminable at will by the Town by resolution adopted by the Town Board of the Town and sent to the IDA on no less than thirty (30) days notice of termination. In the event of such termination the IDA shall continue to administer any previously approved and executed PILOT agreements prior to such termination. 6. Review of Uniform Tax Exemption Policy: At the recommendation of the Town Supervisor and/or IDA Executive Director, the Town and IDA will review the uniform tax exemption policy schedule attached as "Exhibit A". 7. Good Faith: The parties have entered into this MOU in good faith in an effort to stream-line the review, negotiation and administration of agreements for PILOT benefits for Projects. 8. Notices: For routine and project related correspondence, the parties agree to use their normal and customary email addresses for official business of each party. For any notice hereunder, any such notices, consents, requests, or other communications provided for or permitted to be given hereunder by a party must be in writing and will be deemed to have been properly given or served upon the personal delivery thereof, via courier delivery service, by hand, or by certified mail, return receipt requested. Such notices shall be addressed or delivered to the parties at their respective addresses shown above. Notices shall be sent if to the Town, care of the Town Supervisor, and if to the IDA, care of the Executive Director. Any such addresses for the giving of notices may be changed by either party by giving written notice as provided above to the other party. 9. Entire Agreement: The parties agree that this is the entire, fully integrated MOU between them with regard to PILOT benefits for Projects. 10. Amendments: This MOU may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto. 11. No Third Party Beneficiaries: The parties state that there are no third-party beneficiaries to this MOU. 12. Severability: If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this MOU shall for any reason be held or adjudged to

be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this MOU shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

IN WITNESS WHEREOF, the parties have executed this MOU effective as of the Effective Date. A motion to approve the Town of Ticonderoga 487 Solar PILOT Program MOU was made by Roy Holzer and seconded by Jamie Rogers. All members were in favor.

3. June Abstract for Payment

**Motion #2021-50:** A motion to approve the June Abstract for Payment was made by Darren Darrah and seconded by James Bowen. All members were in favor.

4. Next Meeting – July 21, 2021 at 10AM at \_\_\_\_\_.

**Adjourn**

**Motion #2021-51:** A motion to adjourn the meeting at 10:25AM was made by Darren Darrah and seconded by John Boyea. All members were in favor.