



**ESSEX COUNTY IN THE PARK
INDUSTRIAL DEVELOPMENT AGENCY**

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**Essex County IDA Board Meeting
October 25, 2021 at 2:00PM
Whistlepig (Moriah Business Park)
37 Tom Phelps Lane, Mineville, NY 12956**

Present: Darren Darrah
John Boyea
Jamie Rogers
James Bowen

Also Present: Jody Olcott
Carol Calabrese
Mark Bonfey

Absent: Roy Holzer
Matthew Courtright
James Monty

Open of Meeting

IDA Board and staff walked Moriah Business Park property as well as toured the Whistlepig facility with tour provided by Ahren Wolson, Operations Manager. Chairman Darren Darrah opened the meeting at 2:40PM.

Approval of Minutes

Minutes are being tabled until next meeting.

Financial Services/Program

1. Monthly Loan Report – A October 25, 2021 loan report was distributed to the board. The Sugar & Spice Shoppe (Ticonderoga) Lake Champlain Emergency Bridge Loan is paid off.
2. Straight Lease Back Transactions:
 - a. Dual Development (North Elba) – IDA waiting to close on transaction
 - b. 89 Greenwood Apartments (North Elba) – IDA & CRC waiting to close on financing & incentives
 - c. Champlain Hudson Power Express (Lake Champlain) – IDA has received approval from all applicable towns, schools and Essex County for the proposed 30-year PILOT Agreement. Essex County Board of Supervisors approved the proposed sales tax exemption incentive as well as the mortgage recording tax abatement at their meeting last week.

Motion #2021-71: 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 CHPE LLC, a New York limited liability company, and its successors and assigns (collectively, the "Company"), in its acquisition, construction, equipping and furnishing of a certain Project (as hereinafter defined); and WHEREAS, the Project consists of (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 (collectively, the "Project"); and WHEREAS, pursuant to the Act the Agency is authorized and empowered to provide the Financial Assistance to 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 20, 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 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 Chesterfield, Town of Crowne Point, Town of Essex, Town of Moriah, Town of Ticonderoga, Town of Westport, Town of Willsboro, (collectively, the "Towns"), the County of Essex (the "County"), the Ausable Valley Central School District, Boquet Valley Central School, Crown Point Central School District, Moriah Central School District, Ticonderoga Central School District and Willsboro Central School District (collectively, the "Schools"), and together with the Towns and County, 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 July 21, 2021 at 10:00 a.m. at the Ticonderoga Chamber of Commerce, 94 Montcalm Street, Ticonderoga, 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 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"), and the Agency has agreed to lease the Project to the Company pursuant to an Agency Lease between the Company and the Agency (the "Agency Lease"), enter into a payment in lieu of tax ("PILOT") agreement with the Company (the "PILOT Agreement"), and enter into a Project Agreement with the Company (the "Project Agreement", and together with the Company Lease Agreement, Agency Lease, and the PILOT Agreement, the "Transaction Documents"), for good and valuable consideration in the amount of approximately \$1.00, and to provide 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; and WHEREAS, the Agency's retention of a leasehold interest in the Project

throughout the Agency Lease will enable the Agency to confer State law tax exemption benefits on the Company and its contractors and subcontractors; and WHEREAS, the Agency is authorized to grant a mortgage and security interest in and with respect to the Project and assign the Transaction Documents as collateral to a lender or lenders for the Company, as may be required by such lenders, 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 to empower the Company to appoint its contractors and subcontractors as indirect agents of the Agency; and (C) The action to be taken by the Agency will induce the Company to undertake the Project, thereby increasing employment opportunities 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 (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 approves the PILOT payment schedule attached hereto as Exhibit A for the Project and its inclusion in the PILOT Agreement.

Section 3. The Agency hereby authorizes the Company to proceed with the acquisition, construction, installation 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 Transaction Documents by the Agency.

Section 4. 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, the Transaction Documents, and any other documents in connection with the Financial Assistance or 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 5. 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 consummate the transactions contemplated in the Agency Documents and to perfect the assignments contemplated in the Agency Documents.

Section 6. Pursuant to Section 875(3) of the Act, the Agency may recover or recapture from the Company, its agents, contractors, subcontractors, or any other party authorized to make purchases for the benefit of the Project, the extent of any improper sales and use tax exemption benefits taken or purported to be taken by the Company, its agents, contractors, 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, contractors, 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, contractors, 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, contractors, 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, contractors, 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 the extent of any improper 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 establishes were improper, if and as so required to be paid over as determined by the Agency. Section 7. 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 8. This Resolution shall take effect and be in force immediately or at the earliest time permitted by law. This motion was made by Darren Darrah and seconded by James Bowen. All members were in favor.

Business Park Development

1. Moriah Business Park
 - a. Lot #4 Building (High Peaks Hospice) – No issues to report
 - b. Lots #3, #5, #6 & #8 (Whistlepig) – No issues to report
 - c. New Property: APA Sub-division & Construction Application – The IDA has inquired as to when permit would be issued. Application was deemed complete on September 20, 2021 and the public comment period ended October 14, 2021. Whistlepig is in need of at least one warehouse building for 2021.

Business Development Updates

1. Marketing / Internet Based Marketing Monthly Report – No comments
2. Grant Administration
 - a. USDA Rural Development Grant (Essex County) – No updates
 - b. LEAF COVID-19 Grant Program (North Elba) – The IDA has issued Round 3 of grant application proposals. Applications are due by November 1, 2021 at 12:00PM

New Business

1. August & September Financials – No comments
2. October Abstract for Payment

Motion #2021-72: A motion to approve the October Abstract for Payment was made by Jamie Rogers and seconded by Darren Darrah. All members were in favor.

3. Next Meeting – December 15, 2021 at 11:00AM at Lake Harris Lodge (Newcomb)

Adjourn

Motion #2021-73: A motion to adjourn the meeting at 3:25PM was made by John Boyea and seconded by Darren Darrah. All members were in favor.