



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

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**Essex County IDA Board Meeting
September 13, 2021 at 9:00AM
7566 Court Street, Elizabethtown, NY**

Present: Darren Darrah
John Boyea (via conference call)
James Bowen (via conference call)
Roy Holzer
Matthew Courtright (via conference call)
James Monty (arrived at 9:12AM)

Also Present: Jody Olcott
Carol Calabrese

Absent: Jamie Rogers

Open of Meeting

Chairman Darren Darrah opened the meeting at 9:01AM.

Approval of Minutes

1. May 20, 2021 Meeting Minutes

Motion #2021-62: A motion to approve the May 20, 2021 meeting minutes was made by James Monty and seconded John Boyea. Roy Holzer and Darren Darrah abstained. Motion passes.

2. June 23, 2021 Meeting Minutes

Motion #2021-63: A motion to approve the June 23, 2021 meeting minutes was made by Roy Holzer and seconded by Darren Darrah. Matthew Courtright abstained. Motion Passes.

3. June 30, 2021 Special Meeting Minutes

Motion #2021-64: A motion to approve the June 30, 2021 special meeting minutes was made by Darren Darrah and seconded by Roy Holzer. James Bowen abstained. Motion passes.

4. July 1, 2021 Special Meeting Minutes

Motion #2021-65: A motion to approve the July 1, 2021 special meeting minutes was made by Roy Holzer and seconded by John Boyea. Darren Darrah and Matthew Courtright abstained. Motion passes.

Financial Services

1. Monthly Loan Report – September 2, 2021 report was distributed to the board. All loans are current. Refinancing of the Moriah Country Club balloon payment of \$9,330.59 is in process.
2. Straight Lease Back Transactions:
 - a. Dual Development (North Elba) – Demolition has begun on the existing main building. IDA working with business to close construction financing.

- b. 89 Greenwood Apartments (North Elba) – IDA has held public hearing, Essex County Board of Supervisors has approved the project and provided incentives and bonding. Additional bond allocation has been granted by the North Country Regional Development Council. IDA will be providing sales tax exemption not to exceed \$64,000 and CRC will be conduit for tax-exempt bond financing and mortgage recording tax abatement.

Motion #2021-66: Resolution of the Essex County Industrial Development Agency (i) appointing 89 Greenwood Street, LLC, (the “company”) as its agent to undertake a certain project (as more fully described below); (ii) authorizing the execution and delivery of an agent agreement and related documents with respect to the project; (iii) authorizing the provision of certain financial assistance to the company (as further defined herein); (iv) adopting findings with respect to the state environmental quality review act (“SEQRA”); and (v) authorizing the execution of related documents with respect to the project. WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 563 of the Laws of 1973 of the State of New York, (hereinafter collectively called the “Act”), the ESSEX COUNTY INDUSTRIAL DEVELOPMENT AGENCY (hereinafter called the “Agency”) was created with the authority and power to promote, develop, encourage and assist in acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research, and recreational facilities as authorized by the Act; and WHEREAS, 89 GREENWOOD STREET, LLC, a New York limited liability company, for itself and/or on behalf of an entity or entities to be formed (collectively, the “Company”), has submitted an application to the Agency requesting the Agency’s assistance with a certain project (the “Project”) consisting of: (i) the renovation, reconstruction, rehabilitation and operation of an approximately 109,000 square-foot residential apartment building consisting of approximately one hundred twenty-two (122) one bedroom units (the “Existing Improvements”), all of which are HUD Section 8 subsidized, together with other related site work, exterior access and egress improvements, curbage, signage, utility and related exterior improvements (collectively, the “Improvements”), located on approximately 2.20 acres of real property located at 89 Greenwood Street in the Village of Lake Placid, Essex County, New York (the “Land”, being more particularly described as tax parcel No. 42.142-4-4.000); and (iii) the acquisition of and installation in and around the Land, the Existing Improvements, and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the “Equipment” and, collectively with the Land, the Existing Improvements and the Improvements, the “Facility”); and WHEREAS, on April 22, 2021, the Agency adopted an initial project resolution (the “Initial Project 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 (the “Financial Assistance”, as described herein); and (iv) authorized the negotiation of an Agent and Financial Assistance and Project Agreement (the “Agent Agreement”) and related documents; and WHEREAS, in accordance with the Initial Project Resolution, the Agency published and forwarded a Notice of Public Hearing to the Town of North Elba (the “Town”), the County of Essex (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 are attached hereto as Exhibit A; and WHEREAS, pursuant to Section 859-a of the Act, the Agency held a public hearing on Wednesday, May 12, 2021 at 10:00 a.m. at the Village of North Elba, 2693 Main Street, Lake Placid, New York with respect to the Project (the “Public Hearing”) and the proposed Financial Assistance (as further defined herein) being contemplated by the Agency whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views, a copy of the minutes of the Public Hearing also being attached hereto within Exhibit

A; 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 WHEREAS, in furtherance of the foregoing, the Agency desires to authorize (i) the appointment of the Company as agent of the Agency to undertake the Project; (ii) the execution and delivery of the Agent Agreement and related documents; (iii) the provision of the Financial Assistance to the Company 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, and (iv) the adoption of findings pursuant to SEQRA in connection with the Project. Now, therefore, be it resolved by the members of 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 Village of Lake Placid, 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. Subject to (i) the Company executing the Agent Agreement, (ii) payment by the Company of all Agency fees and costs accrued in connection with the Project, and (iii) the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, 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: (i) to acquire, construct and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; *provided, however*, the Agent Agreement shall expire on December 31, 2022 (*unless extended for good cause by the Executive Director of the Agency*). Section 3. Based upon the representation and warranties made by the Company the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project and that would otherwise be subject to New York State and local sales and use tax in an amount up to approximately

\$2,400,000.00, which result in New York State and local sales and use tax exemption benefits (“sales and use tax exemption benefits”) not to exceed \$64,000.00. The Agency agrees to consider any requests by the Company for increase to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services, and, to the extent required, the Agency authorizes and conducts any supplemental public hearing(s). Section 4. 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 5. The Chairman, Vice Chairman and/or Executive Director(s) of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Agent Agreement and related documents with such changes as shall be approved by the Chairman, Vice Chairman, the Executive Director(s) and counsel to the Agency upon execution. Section 6. 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 and to execute and deliver all such 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 resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency. 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 – Second additional information request was submitted to the APA last week. IDA awaiting application to be deemed completed.
- The IDA is working with new CV-TEC instructor on potential projects for the school year. Potential projects to include stormwater detention basin #3 to complete the existing SWPP plan as well as potential clearing and grubbing of the new 38 acres.

Business Development Updates

1. Marketing/Internet Based Marketing Monthly Report – A report was submitted and reviewed.
2. Grant Administration
 - a. USDA Rural Development Grant (Essex County) – No projects on the table.
 - b. LEAF COVID-19 Grant Program (North Elba) – Round 2 awards were made, site visits were conducted. The IDA to post Round 3 in mid-October, \$103,000 in funds is remaining.

New Business

1. July 2021 Financial Statements – No Comments
2. August Abstract for Payment

Motion #2021-67: A motion to approve the August Abstract for Payment was made by Darren Darrah and seconded by James Bowen. All members were in favor.

3. 2020 – 2021 Employee Reviews

Motion #2021-68: A motion to go into executive session at 9:38AM to discuss personnel reviews was made by Darren Darrah and seconded by Roy Holzer. All members were in favor.

Motion #2021-69: A motion to come out of executive session at 9:47AM was made by James Bowen and seconded by Roy Holzer. All members were in favor.

4. Next Meeting – October 25, 2021 at 2:00PM at Moriah Business Park. Board would like to tour existing 32-acre park and tenants and also review new 38-acres.

Adjourn Meeting

Motion #2021-70: A motion to adjourn the meeting at 9:55AM was made by James Monty and seconded by Roy Holzer. All members were in favor.