

**RESOLUTION AUTHORIZING MODIFICATION TO BASIC DOCUMENTS
FOR THE EXTENSION OF DEADLINE TO SALES TAX EXEMPTION
VILAS HOME, LLC PROJECT**

A regular meeting of County of Clinton Industrial Development Agency (the "Agency") was convened in public session at the Comfort Inn & Suites located at 411 State Route 3 in the City of Plattsburgh, Clinton County, New York on January 9, 2023 at 12:00 o'clock p.m., local time.

The meeting was called to order by the Chairperson of the Agency and, upon roll being called, the following members of the Agency were:

PRESENT:

Trent Trahan	Chairperson
Michael E. Zurlo	Secretary
Keith Defayette	Treasurer
Mark Leta	Assistant Secretary
John VanNatten	Member
Joey Trombley	Member

ABSENT:

David Hoover	Vice Chairperson
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AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Molly F. Ryan	Executive Director
Toni Moffat	Executive Assistant
Dorothy Brunell	Administrative Assistant
Christopher C. Canada, Esq.	Agency Counsel
Shannon Wagner, Esq.	Agency Counsel

The following resolution was offered by K. Defayette, seconded by J. VanNatten, to wit:

Resolution No. 01-23-04

**RESOLUTION AUTHORIZING THE EXECUTION BY COUNTY OF CLINTON
INDUSTRIAL DEVELOPMENT AGENCY OF A CERTAIN MODIFICATION
AGREEMENT IN CONNECTION WITH THE VILAS HOME, LLC PROJECT**

WHEREAS, County of Clinton Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of 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 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 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, on August 27, 2021 (the “Closing”), the Agency granted certain financial assistance to Vilas Home, LLC (the “Company”), in connection with a project (the “Project”), said Project consisting of the following: (A)(1) the acquisition of an interest in an approximately 3.40 acre parcel of land located at 61 Beekman Street (Tax Map No. 207.18-6-38) in the City of Plattsburgh, Clinton County, New York (the “Land”), together with an existing 22,400 square foot building located thereon (the “Existing Facility”), (2) the reconstruction and renovation of the Existing Facility and the construction of a 60,000 square foot addition to the Existing Facility (the “Addition” and collectively with the Existing Facility, the “Facility”) and (3) the acquisition and installation therein and thereon of related fixtures, machinery and equipment (collectively, the “Equipment”) (the Land, the Facility and the Equipment hereinafter collectively referred to as the “Project Facility”), all of the foregoing to constitute an adult home facility and other directly and indirectly related activities; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease of the Project Facility to the Company pursuant to the terms of an amended and restated lease agreement dated as of August 1, 2021 (the “Lease Agreement”) by and between the Company and the Agency; and

WHEREAS, simultaneously upon the execution and delivery of the Lease Agreement (the “Closing”), (A) the Company executed and delivered to the Agency (1) a certain amended and restated lease to agency dated as of August 1, 2021 (the “Lease to Agency”) by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company leased to the Agency a portion of the Land and all improvements now or hereafter located on said portion of the Land (collectively, the “Leased Premises”); (2) a certain amended and restated license agreement dated as of August 1, 2021 (the “License to Agency”) by and between the Company, as licensor, and the Agency, as licensee, pursuant to which the Company granted to the Agency (a) a license entered upon the balance of the Land (the “Licensed Premises”) for the purpose of undertaking and completing the Project and (b) in the event of an occurrence of an Event of Default by the Company, an additional license to enter upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement; and (3) a certain bill of sale dated as of August 1, 2021 (the “Bill of Sale to Agency”), which conveyed to the Agency all right, title and interest of the Company in the Equipment, (B) the Company and the Agency executed and delivered (1) a certain amended and restated payment in lieu of tax agreement dated as of August 1, 2021 (the “Payment in Lieu of Tax Agreement”) by and between the Agency and the Company, pursuant to which the Company agreed to pay certain payments in lieu of taxes with respect to the Project Facility, (2) a certain recapture agreement (the “Section 875 GML Recapture Agreement”) by and between the Company and the Agency, required by the Act, regarding the recovery or recapture of certain sales and use taxes; and (3) a certain uniform agency project agreement dated as of August 1, 2021 (the “Uniform Agency Project Agreement”) related to the granted Financial Assistance by the Agency to the Company, (D) the Agency filed with the assessor and mailed to the chief executive officer of each “affected tax jurisdiction” (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form 412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (the “Real Property Tax Exemption Form”) relating to the Project Facility and the Payment in Lieu of Tax Agreement, (E) the Agency executed and delivered to the

Company a sales tax exemption letter (the "Sales Tax Exemption Letter") to ensure the granting of the sales tax exemption which forms a part of the Financial Assistance and (F) the Agency filed with the New York State Department of Taxation and Finance the form entitled "IDA Appointment of Project Operator or Agent for Sales Tax Purposes" (the form required to be filed pursuant to Section 874(9) of the Act) (the "Thirty-Day Sales Tax Report") (together with the Lease Agreement, the above-enumerated documents being collectively referred to as the "Basic Documents"); and

WHEREAS, the Company has requested, pursuant to the correspondence attached hereto as Exhibit A, that the Agency modify the terms of the Basic Documents in order to extend the Sales Tax Exemption (as defined in the Basic Documents) from December 31, 2022 to December 31, 2024 (the "Modification"); and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the "Regulations" and collectively with the SEQR Act, "SEQRA"), it appears that the Modification constitutes a Type II action under SEQRA;

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

Section 1. Based upon an examination of the Modification, the Agency hereby makes the following determinations:

(A) The Modification constitutes a "Type II action" pursuant to 6 NYCRR 617.5(c), (26), and therefor that, pursuant to 6 NYCRR 617.6(1)(i), the Agency has no further responsibilities under SEQRA with respect to the Modification.

(B) That since compliance by the Agency with the Modification will not result in the Agency providing more than \$100,000 of "financial assistance" (as such quoted term is defined in the Act) to the Company, Section 859-a of the Act does not require a public hearing to be held with respect to the Modification.

Section 2. Subject to (A) compliance with the terms and conditions in the Basic Documents, (B) evidence of current certificates of insurance acceptable to the Agency, and (C) payment by the Company of all fees and expenses of the Agency in connection with the delivery of the Modification Agreement, including the fees of Agency Counsel, the Agency hereby (a) consents to the Modification and (b) determines to enter into the Modification Agreement.

Section 3. The form and substance of the Modification Agreement (in substantially the form presented to this meeting) are hereby approved.

Section 4. Subject to the satisfaction of the conditions described in Section 2 hereof, the Chairperson (or Vice Chairperson) of the Agency is hereby authorized to execute and deliver the Modification Agreement to the Company, and, where appropriate, the Secretary of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in substantially the form thereof presented to this meeting, with such changes, variations, omissions and insertions as the Chairperson (or Vice Chairperson) shall approve, the execution thereof by the Chairperson (or Vice Chairperson) to constitute conclusive evidence of such approval.

Section 5. 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 Modification 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 Modification Agreement binding upon the Agency.

Section 6. 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:

Trent Trahan	VOTING	Yes
David Hoover	VOTING	Excused
Michael E. Zurlo	VOTING	Yes
Keith Defayette	VOTING	Yes
Mark Leta	VOTING	Yes
John VanNatten	VOTING	Yes
Joey Trombley	VOTING	Yes

The foregoing Resolution was thereupon declared duly adopted.

[Remainder of page left blank intentionally]

EXHIBIT A

REQUEST

- SEE ATTACHED -

Zeigler, Nadene E.

From: Ryan, Molly <Molly.Ryan@clintoncountygov.com>
Sent: Monday, January 2, 2023 9:24 AM
To: Zeigler, Nadene E.
Subject: Fwd: Draft agenda-mtg 1/9/23

External Email - Use Caution

Molly F. Ryan

Executive Director, County of Clinton Industrial Development Agency Director of Economic Development, Clinton County
p: 518-565-4627
f: 518-565-4616
a: 137 Margaret Street, Suite 208
Plattsburgh, NY 12901
w: <http://www.clintoncountyida.com><<http://www.clintoncountyida.com/>>
e: molly.ryan@clintoncountygov.com<<mailto:molly.ryan@clintoncountygov.com>>
Sent from my iPhone

Begin forwarded message:

From: Eli Schwartzberg <eli@champlainassistedliving.com>
Date: January 1, 2023 at 11:41:24 PM EST
To: "Ryan, Molly" <Molly.Ryan@clintoncountygov.com>
Subject: Re: Draft agenda-mtg 1/9/23

Hi Molly,

The reason for the request is that we are still under construction and the project would continue to benefit from the sales tax exemption until construction is complete.

We expect construction to be completed by 12/31/24

We are not requesting any additional benefits that are not currently in place from the previous closing of the IDA/loan closing agreements.

I will request proof of insurance and forward to you.

Thanks for your help and I hope you had a nice New Year!

Eli

On Fri, Dec 30, 2022 at 2:35 PM Ryan, Molly
<Molly.Ryan@clintoncountygov.com<<mailto:Molly.Ryan@clintoncountygov.com>>> wrote:
Eli- please see below items needed. Thx.