

**Minutes of the Meeting of the
County of Clinton Industrial Development Agency
August 11, 2014**

The meeting was called to order by T. Trahan, Chairperson, at 12:00 p.m., at the offices of the County of Clinton Industrial Development Agency, 190 Banker Road, Suite 500, Plattsburgh, N.Y.

Members Present: Trent Trahan, Chairperson
 David Hoover, Vice Chairperson
 Keith Defayette, Treasurer and CFO
 Kim Murray, Assistant Secretary
 Mark Leta, Member
 John VanNatten, Member

Members Excused: Michael Zurlo, Secretary

Others Present: Erin Hynes, Executive Director
 Michael Logan, Esq., Agency Counsel
 Barbara Shute, Recording Secretary

T. Trahan ascertained that there was a *quorum* present.

T. Trahan waived the reading of the notice of the meeting published in the *Press-Republican* on October 21, 2013.

Reading and Consideration of the Draft Minutes of the CCIDA meeting of June 9, 2014:

T. Trahan waived the reading of the minutes of the June 9, 2014 regular meeting. He asked if there were any questions or discussion regarding the draft minutes, there was none. On a motion by M. Leta and seconded by K. Murray, it was unanimously carried to approve the minutes of the June 9, 2014 regular meeting, as presented.

Public Comment: None

Bills and Communications: None

Treasurer's Report

CCIDA:

The account balance at 6/30/14 was \$299,386.89

Other income reported for June:

CVPH Medical Center (modification)	\$500.00
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Balance Sheet:

There is \$0 remaining in the CIDA, LLC's bank account.

Income Statement:

The income statement shows the expenses that were approved during the month of June.

The "net income or loss" for each month will be for expenses for administering the CCIDA.

Expenses paid in June:

Delish – Lunch	\$345.56
TDC- Admin fee	\$6,936.00
Total Expenses	\$7,281.56

T. Trahan asked if there were any questions regarding the Treasurers Report and there were none.

On a motion by M. Leta and seconded by D. Hoover, it was unanimously carried to accept the Treasurer's Report as presented by K. Defayette.

Reports of the Committees: None

New Business:

1. Discussion of Public Hearing regarding Northstar 41, LLC PILOT Technical Amendments

E. Hynes stated that the public hearing for the PILOT Deviation was held on July 16th. A copy of the transcript was included in the meeting packet.

She noted that there was no opposition to the technical amendment to bring the PILOT in line with the sales agreement. The only stipulation was that the amendment cannot apply to this year's calculation because the school budget vote has already occurred (their budget number was based on the PILOT calculation given to them by the County for 2014-15). They were very close to the tax cap and the decrease in billable PILOT revenue would force them into a 2/3 vote situation (retroactively) - putting them in a very difficult position with the taxpayers. The Agency along with the taxing jurisdictions and Northstar41, LLC concur.

Old Business:

1. Discussion regarding Northstar 41, LLC PILOT Deviation Request

E. Hynes stated that the freeze on the assessment will be based on a fixed rate with a maximum increase of 5% of the value of the property, each year for the remainder of the PILOT, of which the cumulative increase over said remainder (which is 9 years) not to exceed \$4M.

The taxing jurisdictions are comfortable with this plan and Northstar now has some idea on how to best standardize their lease rates. E. Hynes noted that Northstar is currently in open negotiations with three tenants and this freeze will allow the company to offer fixed lease rates for the duration of the term. The taxing jurisdictions view this as positive as this will bring people into the community to hopefully fill the void which Pfizer left behind.

Action Items:

1. Vote to Accept Transcript of the Public Hearing for the Northstar 41, LLC PILOT technical amendments.

T. Trahan asked for a motion to accept the transcript of the Northstar 41, LLC Public Hearing regarding PILOT technical amendments.

On a motion by K. Murray and seconded by K. Defayette, it was unanimously authorized to accept the transcript of the Northstar 41, LLC's Public Hearing as presented.

2. Consider a Resolution authorizing the PILOT deviations request by Northstar41, LLC.

The following resolution was offered by J. VanNatten, seconded by D. Hoover, to wit:

Resolution No. 08-14-01

RESOLUTION APPROVING (A) A DEVIATION FROM THE AGENCY'S UNIFORM TAX EXEMPTION POLICY AND (B) A TECHNICAL AMENDMENT TO THE ORIGINAL PAYMENT IN LIEU OF TAX AGREEMENT WITH RESPECT TO THE NORTHSTAR 41 LLC PROJECT.

WHEREAS, County of Clinton 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 commercial, manufacturing 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, pursuant to a Contract for Purchase and Sale of Real Estate entered into on April 15, 2013 (the "Purchase Contract") between Clinton Industrial Acquisition, LLC, as seller (the "Seller"), executed by County of Clinton Industrial Development Agency (the "Agency") as sole member of the Seller, and Northstar Private Capital LLC, as purchaser (the "Purchaser"), the Purchaser agreed to purchase from the Seller the following (collectively, the "Project Facility"): the former Pfizer facility located at 641 Ridge Road (Tax Map # 78.-1-13.1) in the Town of Chazy, Clinton County, New York, including an approximately 55.70 acre parcel of land (the "Land"), together with approximately 386,000 square foot of buildings located thereon (the "Facility") and certain personal property located thereon and/or therein (the "Equipment"). The Purchase Contract provided, among other things, that the Purchaser could apply to the Agency for certain tax benefits with respect to the Project Facility, including certain real property tax abatements relating to the Project Facility. Prior to May 31, 2013, the Purchaser assigned its rights under the Purchase Contract to a related entity known as Northstar 41 LLC (the "Company"), and the Company purchased the Project Facility from the Seller; and

WHEREAS, on February 28, 2014 (the "Closing"), the Agency entered into a lease agreement dated as of February 1, 2014 (the "Lease Agreement") by and between the Agency and the Company for the purpose of undertaking a project (the "Project") consisting of the following: (A)(1) the acquisition of an interest in a portion of an approximately 55.70 acre parcel of land located at 641 Ridge Road (Tax Map # 78.-1-13.1) in the Town of Chazy, Clinton County, New York (the "Land"), together with an existing approximately 386,000 square foot building located thereon (the "Facility"), (2) the renovation of the Facility and making of other improvements including but not limited to, parking (collectively, the "Improvements") and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property, including without limitation, tenant improvement and finish (the "Equipment") (the Land, the Facility, the Improvements and the Equipment hereinafter collectively referred to as the "Project Facility"), all of the foregoing to be leased by the Company to manufacturing, warehousing, commercial and other industrial multi-use tenants for long term leases; (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 sales taxes, real property transfer taxes, mortgage recording taxes and real estate taxes (collectively, the "Financial Assistance"); and (C) the lease of the Project Facility to the Company pursuant to the terms of a lease agreement dated as of February 1, 2014 (the "Lease Agreement") by and between the Company and the Agency; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement, (A) the Company executed and delivered to the Agency (1) a certain lease to agency dated as of February

1, 2014 (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") for a lease term ending on December 31, 2024;

(2) a certain license agreement dated as of February 1, 2014 (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 to enter 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 bill of sale dated as of February 1, 2014 (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 payment in lieu of tax agreement dated as of February 1, 2014 (the "Original Payment in Lieu of Tax Agreement") by and between the Agency and the Company, providing that the Company would make annual payments in lieu of taxes ("Pilot Payments") under the Original Payment in Lieu of Tax Agreement for the benefit of Clinton County, the Town of Chazy and the Chazy Union Free School District (collectively, the "Affected Tax Jurisdictions"), each such annual Pilot Payment for the benefit of a particular Affected Tax Jurisdiction to be in an amount equal to the sum of the following: (A) 100% of "normal taxes" that would be payable to such Affected Tax Jurisdiction with respect to the Land if the Agency were not involved with the Project (the "Normal Tax"), and (B) a percentage of the Normal Tax that would be payable to such Affected Tax Jurisdiction with respect to the Facility (the "Percentage"), said Percentage to begin at 50% in year one of the abatement period under the Original Payment in Lieu of Tax Agreement and to increase by 5% per year until such Percentage reaches 100% in at the end of the tenth year of such abatement period, (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; (C) 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 Original Payment in Lieu of Tax Agreement; (D) 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 (E) 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"); and

WHEREAS, on March 3, 2014, the Company made a request to the Agency (the "Pilot Request") that the Original Payment in Lieu of Tax Agreement be amended in certain respects (hereinafter referred to as the "Amendment") which would amend the Original Payment in Lieu of Tax Agreement as follows: (A) the Pilot Payment that would be payable to each Affected Tax Jurisdiction with respect to the Land would be determined as follows: (1) in year one of the abatement period under the Original Payment in Lieu of Tax Agreement, the Pilot Payment that would be payable to each Affected Tax Jurisdiction with respect to the Land would remain at 100% of Normal Tax on the Land, and (2) thereafter, as contemplated by the Purchase Contract, commencing in year two of the abatement period under the Original Payment in Lieu of Tax Agreement, the Percentage would apply to both the Land and the Facility, resulting in the Pilot Payment payable to each Affected Tax Jurisdiction with respect to the Land in year two of the abatement period under the Original Payment in Lieu of Tax Agreement falling from 100% of

“normal taxes” on the Land to 55% of “normal taxes” on the Land, said Percentage increasing 5% per year thereafter as aforesaid; and (B) in order to entice prospective tenants to consider locating at the Project Facility, the assessment utilized solely for purposes of determining the Pilot Payments due under the Original Payment in Lieu of Tax Agreement and upon which the “normal tax”

calculation under the Original Payment in Lieu of Tax Agreement is based (the “Pilot Assessment”) would be subject to the following limitations: (1) the Pilot Assessment would be frozen at the current \$3 million assessment for the first year of the abatement period under the Original Payment in Lieu of Tax Agreement; (2) thereafter, the assessor could raise the Pilot Assessment, subject to the following limitations: (a) the maximum increase in the Pilot Assessment with respect to any year of the abatement period under the Original Payment in Lieu of Tax Agreement cannot exceed 5% of the Pilot Assessment applicable to the Project Facility in the preceding year of the abatement period under the Original Payment in Lieu of Tax Agreement; and (b) in no event can the Pilot Assessment exceed \$4 million prior to the end of the tenth year of the abatement period under the Original Payment in Lieu of Tax Agreement; and (c) as currently provided in the Original Payment in Lieu of Tax Agreement, the aforesaid limitations on the Pilot Assessment do not apply with respect to any additional Pilot Assessment respecting any structural addition which might be made to the Facility or to any additional building or other structure which might be constructed on the Land (such structural additions and additional buildings and other structures being hereinafter referred to as “Additional Facilities”). It is estimated by the Affected Tax Jurisdictions that the Amendment would result in a saving to the Company of approximately \$85,374.55 over the remaining 9-year term of the Original Payment in Lieu of Tax Agreement; and

WHEREAS, by resolution adopted by the members of the Agency on June 9, 2014 (the “Resolution Authorizing PILOT Deviation Letter and Public Hearing to Amend PILOT”), the members of the Agency authorized the Executive Director of the Agency to notify the Affected Tax Jurisdictions of the proposed deviation from the Agency’s uniform tax exemption policy in connection with the Amendment; and

WHEREAS, pursuant to the authorization contained in the Resolution Authorizing PILOT Deviation Letter and Public Hearing to Amend PILOT, the Executive Director of the Agency (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on June 18, 2014 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Public Hearing to be (1) posted on June 18, 2014 on the Agency’s website www.clintoncountyida.com and (2) posted on a public bulletin board located at the Town of Chazy Town Hall located at 609 Miner Farm Road in the Town of Chazy, Clinton County, New York, (C) caused notice of the Public Hearing to be published on June 22, 2014 in The Press Republican, a newspaper of general circulation available to the residents of the Town of Chazy, Clinton County, New York, (D) conducted the Public Hearing on July 16, 2014 at 10:00 o’clock a.m., local time at Chazy Town Hall, 9631 Route 9 in the Town of Chazy, Clinton County, New York, and (E) prepared a report of the Public Hearing (the “Public Hearing Report”) fairly summarizing the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the Agency; 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 (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), the Agency determined,

pursuant to the Resolution Authorizing PILOT Deviation Letter and Public Hearing to Amend PILOT, that the Amendment constituted a "Type II action" pursuant to 6 NYCRR 617.5(26), and therefor that, pursuant to 6 NYCRR 617.6(1)(i), the Agency has no further responsibilities under SEQRA with respect to the Amendment; and

WHEREAS, the First Amendment to Payment in Lieu of Tax Agreement will be a deviation from the Agency's uniform tax exemption policy in that the First Amendment to Payment in Lieu of Tax Agreement will revise the payments in lieu of taxes made by the Company each year under the Original Payment in Lieu of Tax Agreement as outlined above and in the letter dated June 18, 2014 (the "Pilot Deviation Letter") attached hereto as Exhibit A; and

WHEREAS, pursuant to Section 874(4) of the Act, prior to taking final action on such a deviation from the Agency's uniform tax exemption policy, the Agency must give the Affected Tax Jurisdictions prior written notice of the proposed deviation from the Agency's uniform tax exemption policy and the reasons therefore; and

WHEREAS, pursuant to the Pilot Deviation Letter, the Executive Director of the Agency notified the chief executive officers of the Affected Tax Jurisdictions of the proposed deviation from the Agency's uniform tax exemption policy; and

WHEREAS, having complied with the requirements of Section 859-a of the Act and with the requirements of SEQRA relating to the Amendment and the Project, the Agency now desires to make its final determination whether to proceed with the Amendment;

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

Section 1. The Agency hereby finds and determines as follows:

(A) The Agency has considered any and all responses from the Affected Tax Jurisdictions to the Pilot Deviation Letter.

(B) The Agency has permitted all individuals attending this meeting, including any representative from an Affected Tax Jurisdiction, to address the Agency regarding the proposed deviation.

(C) The Agency has reviewed and responded to all written comments received with respect to the proposed deviation.

Section 2. Based upon (A) the findings and determinations in Section 1 above, (B) comments received at the Public Hearing, (C) input received at this meeting from the Affected Tax Jurisdictions with respect to the proposed deviation, (D) the Agency's knowledge of the Project and (E) such further investigation of the Project and the effect of the proposed deviation as the Agency has deemed appropriate, the Agency hereby determines to deviate from the Agency's uniform tax exemption policy with respect to the terms of the proposed payment in lieu of tax agreement to be entered into by the Agency with respect to the Project Facility for the reasons set forth in the Pilot Deviation Letter. Based upon the aforementioned, the Agency hereby approves a deviation from the Agency's uniform tax exemption policy, such deviation to be as described in the Pilot Deviation Letter.

Section 3. The Agency hereby further determines that the Agency has now fully complied with the requirements of Section 859-a of the Act and the requirements of SEQRA that relate to the Amendment.

Section 4. Having reviewed the Public Hearing Report, and having considered fully all comments contained therein, the Agency hereby determines to proceed with the Amendment and the granting of the financial assistance described in the notice of Public Hearing.

Section 5. Upon preparation by counsel to the Agency of the First Amendment to Payment in Lieu of Tax Agreement, with respect to the Project Facility reflecting the terms of the Pilot Deviation Letter and approval of same by the Chairperson (or Vice Chairperson) of the Agency, the Chairperson or Vice Chairperson of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the First Amendment to Payment in Lieu of Tax Agreement, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in such form as is approved by the Chairperson (or Vice Chairperson), the execution thereof by the Chairperson or Vice Chairperson to constitute conclusive evidence of such approval.

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 or provided for by the provisions of the First Amendment to Payment in Lieu of Tax 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 First Amendment to Payment in Lieu of Tax Agreement binding upon the Agency.

Section 7. 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	YES
Michael E. Zurlo	VOTING	EXCUSED
Keith Defayette	VOTING	YES
Kim Murray	VOTING	YES
Mark Leta	VOTING	YES
John VanNatten	VOTING	YES

The foregoing Resolution was thereupon declared duly adopted.

Executive Director's Report:

E. Hynes stated that the Agency is waiting to be contacted by the Comptroller's office to schedule a meeting to review the findings of the audit. At that time the Agency will receive the physical document and will then be able to issue a response.

T. Trahan noted that the audit was looking at a time (prior to 2012) when many of the new policies and procedures were not in place. The Agency can address all of the changes that have been implemented since in the response.

With no other items to discuss on a motion by D. Hoover and seconded by K. Murray, it was unanimously authorized to adjourn the meeting at 12:23.



Trent Trahan, Chairperson