

**Minutes of the Meeting of the
County of Clinton Industrial Development Agency
November 14, 2016**

The meeting was called to order by T. Trahan, Chairperson, at 12:10 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
 Michael Zurlo, Secretary
 Kim Murray, Assistant Secretary
 Keith Defayette, Treasurer and CFO
 Mark Leta, Member
 John VanNatten, Member

Excused: David Hoover, Vice Chairperson

Others Present: Roseanne Murphy, Executive Director
 George Cregg, Esq., Agency Counsel
 Barbara Shute, Recording Secretary
 Melissa McManus

T. Trahan declared that a *quorum* was present.

T. Trahan waived the reading of the notice of the meeting published in the *Press-Republican* on December 11, 2015.

Approval of the Minutes:

T. Trahan waived the reading of the minutes of the October 17, 2016 regular meeting. He asked if there were any questions or discussion regarding the draft minutes, there was none. On a motion by J. VanNatten and seconded by M. Leta, it was unanimously carried to approve the minutes of the October 17, 2016 regular meeting, as presented.

Introductions:

T. Trahan welcomed Melissa McManus to the meeting. M. Zurlo stated that the County hired M. McManus to fill the position of Economic Developer and under the new administrative structure for the CCIDA she will fill the position of Executive Director of the Agency.

Public Comment: None

Treasurer's Report

K. Defayette reviewed the treasurer's report. There were no questions or concerns.

On a motion by M. Leta and seconded by K. Murray, it was unanimously carried to approve the treasurer's report as presented by K. Defayette.

Old Business:

1. Consider New and Revised Contracts for IDA Administration

The following documents/contracts will need to be approved and executed:

- Contract for IDA administrative services between the IDA and Clinton County: The IDA will now contract with the County for administrative services. The County will provide a CEO/Executive Director and administrative services, the intention is, the County will subcontract with TDC for meeting space and staff. The IDA would pay the County \$80,000/annually.
- County Sub-contract with TDC for administrative services: TDC will provide meeting space and support staff to support IDA programs - The County will pay TDC \$22,000/annually; these funds will come from the \$80,000 IDA pays County.
- Termination of administrative services between IDA and TDC: IDA administrative services will now be sub-contracted between the County and TDC as noted above.

The IDA will pay TDC incentive payments out of IDA closing fees on a select number of projects outlined in the contract. In the past the IDA has paid TDC incentive payments totaling 10% of IDA closing fees on the project. Under the new arrangement, a schedule of fees from 10% to 0% has been negotiated on five projects currently authorized or with filed applications.

TDC's Executive Committee will be acting on TDC's agreement with the County on November 15th and the County Legislature will be acting on the agreement between the IDA and the County and the agreement between TDC and the County on November 21st. M. McManus's start date and all agreements, if approved are slated to begin on November 28, 2016.

The members noted some concern regarding the Agency's Procurement Policy and the stipulation to seek bids for services. Can the Agency use TDC for administrative services or do they need to go out to bid? G. Cregg stated that the statute allows for the Agency to use the services of the County and the County is subcontracting their services out to TDC outside of the procurement process/policy.

On a motion made by M. Zurlo and seconded by K. Defayette the Agency meeting was recessed to convene a meeting of the Governance Committee at 12:28pm.

On a motion made by M. Zurlo and seconded by J. VanNatten the Agency meeting was reconvened at 12:30pm.

Reports of the Committees:

M. Zurlo noted that the Governance Committee has reviewed the draft Administrative Services Agreement between the IDA and the County and the Termination of Administrative Services Agreement between the IDA and TDC. The committee recommends approval of both documents by the full board.

Approval of Resolution #11-16-01

The following resolution was offered by J. VanNatten, seconded by M. Zurlo, to wit:

Resolution No. 11-16-01

RESOLUTION AUTHORIZING ADMINISTRATIVE
SERVICES AGREEMENT BETWEEN THE AGENCY AND
CLINTON COUNTY, NEW YORK (THE "COUNTY") AND
TERMINATION OF EXISTING AGREEMENT WITH TDC.

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 commercial facilities, manufacturing, industrial 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, The Development Corporation Clinton County, New York ("TDC"), a New York not-for-profit corporation, presently provides provide administrative and project support services (the "Services") to the Agency (and to the Agency's affiliates, Clinton County Capital Resource Corporation and Clinton Industrial Development Acquisition, LLC) pursuant to an administrative services agreement dated as of January 1, 2009 (the "TDC Agreement") by and between the Agency and TDC, as amended to date; and

WHEREAS, TDC has requested that the Agency procure the Services from another source; and

WHEREAS, Clinton County, New York (the "County"), a political subdivision of New York State, has proposed to provide the Services the Agency (and to the Agency's affiliates, Clinton County Capital Resource Corporation and Clinton Industrial Development Acquisition, LLC) pursuant to a proposed administrative services agreement to be dated as of November 28, 2016 (the "County Agreement") by and between the Agency and the County; and

WHEREAS, TDC has agreed to terminate the TDC Agreement pursuant to the terms of a proposed termination agreement (the "TDC Termination Agreement") which provides, among other things, for the Agency to pay to TDC the additional or incentive fees earned by TDC pursuant to the TDC Agreement; and

WHEREAS, the members of the Agency now wish to authorize the Agency to enter into the following transaction (the "Transaction"): the execution and delivery of the County Agreement and the TDC Termination Agreement (collectively, the "Agreements");

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 Transaction, the Agency hereby determines that the Transaction constitutes a routine administration and management activity that does not include a new program or a major reordering of priorities that may affect the environment, and accordingly constitutes a "Type II action" pursuant to 6 NYCRR 617.5(c)(20), and therefore that, pursuant to 6 NYCRR 617.6(a)(1)(i), the Agency has no further responsibilities under 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 6NYCRR Part 617, as amended (the "Regulations" and collectively with the SEQR Act, "SEQRA") with respect to the Transaction.

Section 2. In consequence of the foregoing, the Agency hereby determines that the execution and delivery of the Agreements is consistent with obtaining administrative support services for the Agency from the County and is in the best interests of the Agency at the present time.

Section 3. Subject to approval of the form and substance of the Agreements and any related documents (collectively, the "Transaction Documents") by Agency counsel, the Chairperson (or Vice Chairperson) of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Transaction Documents 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 substantially the forms thereof approved by the Chairperson (or Vice Chairperson) of the Agency and by Agency counsel, the execution thereof by the Chairperson (or Vice Chairperson) to constitute conclusive evidence of such approval.

Section 4. 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 Transaction Documents, 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 this Resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Transaction Documents binding upon the Agency.

Section 5. 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
Kim Murray	VOTING	YES
Mark Leta	VOTING	YES
John VanNatten	VOTING	YES

The foregoing Resolution was thereupon declared duly adopted.

Other Business As Required:

1. Nomination of New Executive Director

M. Zurlo made a motion to nominate Melissa McManus as the new Executive Director of the Agency contingent upon the resignation of R. Murphy as Executive Director, P. Grasso as Acting Executive Director and an affirmative vote of the County Legislature approving the contract. The effective date would be 11/28/16.

2. Update on Vermont Green Line:

M. Zurlo notified the members that he had heard from a representative of Vermont Green Line and the company was not successful in the RFP process. The company has decided to move forward with the project anyway.

New Business:

1. Reconveyance of TDC Building #15

The PILOT for TDC Building #15 is due to expire on December 31, 2016. Originally there was a lease hold title on the property while the building was under construction with the assumption that the company that occupied the building would be eligible for a 15-year PILOT. Ultimately the actual PILOT was for ten years. TDC had the option to allow the property to remain in title for an additional five years while paying 100% of the property taxes or reconveying the property. Agency Counsel informed TDC of their options and TDC chose to reconvey the property.

J. VanNatten stated that Glens Falls National Bank was the lender involved in the financing of this project and he abstained from voting on this matter.

The following resolution was offered by M. Zurlo, seconded by K. Defayette, to wit:

Resolution No. 11-16-02

RESOLUTION AUTHORIZING RECONVEYANCE OF THE
DEVELOPMENT CORPORATION CLINTON COUNTY, NEW YORK
PROJECT AND THE EXECUTION OF RELATED DOCUMENTS.

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 warehousing 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 closing on September 29, 2005 (the "Closing"), the Agency entered into a lease agreement dated as of September 1, 2005 (the "Lease Agreement") with The Development Corporation Clinton County, New York (the "Company") in connection with a project (the "Project") consisting of the following: (A) (1) the construction of an approximately 20,000 square foot building (the "Facility") on the land of an existing CCIDA project #05-01 in the Town of Plattsburgh, Clinton County, New York (the "Land") and (2) the acquisition and installation therein and thereon of certain machinery and equipment (the "Equipment"), all of the foregoing to constitute a facility to be leased or sold to one or more entities for use as a manufacturing and/or distribution facility (the Land, the Facility and the Equipment being collectively referred to as the "Project Facility"); (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 Lease Agreement; and

WHEREAS, simultaneously with the Closing, (A) the Company executed and delivered to the Agency (1) a certain lease to agency dated as of September 1, 2005 (the "Underlying Lease") by and between the Company, as landlord and the Agency, as tenant pursuant to which the Company leased to the Agency the Land and all improvements now or hereafter located on the land (collectively, the "Premises") for a lease term ending on December 31, 2021, and (2) bill of sale dated as of September 1, 2005 (the "Bill of Sale to Agency"), which conveyed to the Agency all right, title and interest of the Company in the Equipment, (B) the Agency filed with and/or mailed to the assessor and 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, (C) 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 (D) 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") (collectively, with the Lease Agreement, the "Basic Documents"); and

WHEREAS, in order to finance a portion of the costs of the Project, the Company obtained a loan in the principal sum of up to \$920,000 (the "Loan") from Glens Falls National Bank and Trust Company (the "Lender"), which Loan was secured by (1) a mortgage and security agreement dated as of September 1, 2005 (the "Mortgage") from the Agency and the Company to the Lender and (2) an assignment of rents and leases dated as of September 1, 2005 (the "Assignment of Rents") from the Agency and the Company to the Lender and (3) a general security agreement dated as of September 1, 2005 (the "Security Agreement") from the Agency and the Company to the Lender; and

WHEREAS, subsequent to the Closing, the Agency and the Company (A) entered into a modification agreement dated as of January 1, 2006 (the "Modification Agreement"),

which Modification Agreement amended the Basic Documents by amending the lease term of December 31, 2021 to December 31, 2016 and (B) a payment in lieu of tax agreement dated as of January 1, 2006 (the "Payment in Lieu of Tax Agreement"); and

WHEREAS, per the Basic Documents and the correspondence attached hereto as Exhibit A, the Project is being terminated and reconveyed to the Company (the "Reconveyance"); and

WHEREAS, in connection with the Reconveyance, the Agency and the Company will execute certain documents to evidence the Reconveyance, (collectively, the "Reconveyance Documents"); 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"), the Agency must satisfy the requirements contained in SEQRA prior to making a final determination on the above described Reconveyance; and

WHEREAS, pursuant to SEQRA, the Agency has examined the Reconveyance in order to make a determination as to whether the Reconveyance is subject to SEQRA, and it appears that the Reconveyance 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 Reconveyance, the Agency hereby determines that the Reconveyance constitutes a "Type II action" pursuant to 6 NYCRR 617.5(c)(26), and therefore that, pursuant to 6 NYCRR 617.6(a)(1)(i), the Agency has no further responsibilities under SEQRA with respect to the Reconveyance.

Section 2. Subject to (A) approval of the form of the Reconveyance Documents by Agency counsel, (B) evidence satisfactory to the Agency that (i) all payments in lieu of taxes and other local fees and assessments relating to the Project Facility have been paid by the Company and (ii) the evidence that the Agency has been removed as a party to the Mortgage and any other security documents and (C) receipt by the Chairperson of the Agency's administrative fee and counsel fees relating to the Reconveyance, the Agency hereby authorizes the execution by the Agency of the Reconveyance Documents.

Section 3. 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 Reconveyance Documents to the Company, 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 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 4. The law firm of Hodgson Russ LLP is hereby appointed Agency Counsel to the Agency with respect to all matters in connection with the Reconveyance. Agency Counsel for the Agency is hereby authorized, at the expense of the Company, to work with the Company, and counsel to the Company, and others to prepare, for submission to the Agency, all documents necessary to effect the transactions contemplated by this Resolution.

Section 5. This Resolution shall take effect immediately.

Project Monitoring:

DHC of Plattsburgh

The project continues to be non-compliant is responding to the annual audit request for information letters. The original owners of the project went through the IDA in 2012 to assign the property and the benefits to another entity which was, in essence a real estate holding company.

Staff are still working to determine the correct point of contact for this project.

After a brief discussion the members directed staff to send a letter to the determined contact giving them 30 days to comply with the request. If the company does not comply then Agency Counsel will draft a letter explaining the steps that will be taken against the company to end their benefits for non-compliance. This is an older project that began before the recapture of benefits was in place. The only recourse that the Agency has is to terminate benefits going forward.

Project Status:

Saranac Power Partners

A public hearing has been scheduled for November 30, 2016 at 3:00pm here at the Agency Offices. A thirty-day notice letter was mailed out to the taxing jurisdictions on November 3, 2016. The board will need input from the taxing jurisdictions prior to taking any action on this request so staff will be scheduling a meeting with representatives prior to the December IDA meeting.

R. Murphy was made aware that the company has filed an Article 7 asking for judicial relief to reduce the \$32M assessed value to \$20M.

NorthStar 41 LLC

Staff spoke with K. Lamberton from NorthStar 41, LLC to determine if the company has met the job requirement goal of 21 jobs per the purchase agreement with Empire State Development (ESD). NorthStar has not yet met the requirement. Staff will be working with ESD and NorthStar to discuss a possible extension.

Executive Directors Report

R. Murphy noted that she is working to complete the year end reports that will be considered by the Governance Committee and approved by the Board at the December meeting.

The Audit Committee will meet in December to consider responses to the RFP for professional auditing services and prepare a recommendation to the Board.

With no further items to discuss the meeting was adjourned at 1:11pm.



D. Hoover, Vice Chairperson