

A regular meeting of the County of Chautauqua Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency located at 200 Harrison Street, City of Jamestown, County of Chautauqua, New York, on May 24, 2016, at 10:00 A.M. local time.

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

PRESENT:

|                      |               |
|----------------------|---------------|
| Michael Metzger      | Chairman      |
| Dennis Rak           | Vice Chairman |
| David Bryant         | Member        |
| Cory Duckworth       | Member        |
| George Borrello      | Member        |
| Hans Auer            | Treasurer     |
| Kim Peterson         | Secretary     |
| Brad Walters         | Member        |
| Kelly Farrell DuBois | Member        |

ABSENT:

|                 |           |
|-----------------|-----------|
| Cory Duckworth  | Member    |
| Kim Peterson    | Secretary |
| George Borrello | Member    |

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

|                     |                             |
|---------------------|-----------------------------|
| Kevin M. Sanvidge   | Administrative Director/CEO |
| Richard E. Dixon    | Chief Financial Officer     |
| William Evans, Esq. | Counsel                     |

The attached **Resolution No. 05-24-16-06** was offered by Brad Walters, seconded by Dennis Rak:

**Resolution No. 05-24-16-06**

**RESOLUTION TAKING OFFICIAL ACTION TOWARD AND APPROVING THE STRAIGHT LEASE DOCUMENTS FOR A CERTAIN PROJECT FOR CHADWICK BAY MARINA, LLC AND PIER, LLC**

WHEREAS, the County of Chautauqua Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of Laws of 1969 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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, Chadwick Bay Marina, LLC, a limited liability company existing under the laws of the State of New York and Pier, LLC, a limited liability company existing under the laws of the State of New York, (together, the "Applicant"), presented an application (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Project") consisting of the following: (A) (1) the acquisition of an interest in approximately 5 acres of land located around 8 and 24 Lake Shore Drive, Dunkirk, NY 14048, County of Chautauqua, (collectively, the "Land"), (2) the renovation of an approximately 5,700 square foot building and 200 square foot building (collectively, the "Building"), and potential driveway, parking, landscaping and related improvements to the Land (together with the Building, collectively, the "Facility"), and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (the "Equipment"), all of the foregoing for use by the Applicant as a full service marina (collectively, 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 or partial exemptions from sales and use taxes, and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, in accordance with Section 859-a of the Act, any approval of the Project is contingent upon, inter alia, a determination by the members of the Agency to proceed with the Project following a determination by the Agency that the undertaking of the Project by the Agency and the granting of the Financial Assistance are and will be in compliance with all applicable requirements of SEQRA (as hereinafter defined), and all other statutes, codes, laws, rules and regulations of any governmental authority having jurisdiction over the Project (collectively, "Applicable Laws"); 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 appropriate personnel of the Agency reviewed the materials submitted by the Applicant and made any necessary comments to members of the Agency, and by resolution of the members of the Agency adopted on the date hereof, the Agency determined that the Project constitutes an unlisted action under SEQRA and has issued its negative declaration in connection with the Project; and

WHEREAS, the Agency now desires to make its determination to proceed with the Project and to grant the Financial Assistance, subject to the terms hereof; and

WHEREAS, the Applicant will (A) execute and deliver one or more leases (the "Lease") from the Applicant to the Agency, pursuant to which the Applicant will convey an interest in the Project Facility to the Agency; (B) execute and deliver a certain sublease agreement (the "Sublease") between the Agency and the Applicant, pursuant to which the Agency will grant to the Applicant a sub-leasehold interest in the Project Facility; and (c) execute and deliver certain other certificates, documents, instruments and agreements related to the Project (together with the Lease and the Sublease, the "Transaction Documents");

WHEREAS, the members of the Agency acknowledge the terms and conditions of Section 875(3) of the Act (which terms and conditions are hereby incorporated herein) and the duties and obligations of the Agency thereunder with respect to the granting of State Sales and Use Taxes (as such term is defined in Section 875 of the Act) with respect to the Project.

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

Section 1. The Agency hereby ratifies, confirms and approves all actions heretofore taken by the Administrative Director and the staff of the Agency with respect to the Project.

Section 2. The Agency hereby determines to proceed with the Project and the granting of the Financial Assistance.

Section 3. The Agency is hereby authorized to (a) acquire an interest in the Project Facility pursuant to the Lease and the other Transaction Documents, (b) grant a sub-leasehold interest in the Project Facility pursuant to the Sublease and the other Transaction Documents, (c)

grant the Financial Assistance, and (d) do all things necessary, convenient or appropriate for the accomplishment thereof.

Section 4. The form and substance of the Transaction Documents shall be as determined by the Chairman, Vice Chairmen or Administrative Director of the Agency, and the Chairman, Vice Chairmen and the Administrative Director are hereby authorized, on behalf of the Agency, to execute and deliver the Transaction Documents to which the Agency is a party 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.

Section 5. The officers, employees and agents of the Agency are hereby authorized and directed, acting individually or jointly, 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, to execute and deliver all such additional certificates, instruments, agreements 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, convenient or appropriate to effect the purposes of this Resolution and to cause compliance with all of the terms, covenants and provisions of the Transaction Documents to which the Agency is a party or which are binding on 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:

|                      |        |        |
|----------------------|--------|--------|
| Michael Metzger      | VOTING | AYE    |
| Dennis Rak           | VOTING | AYE    |
| David Bryant         | VOTING | AYE    |
| Cory Duckworth       | VOTING | ABSENT |
| George Borrello      | VOTING | ABSENT |
| Hans Auer            | VOTING | AYE    |
| Kim Peterson         | VOTING | ABSENT |
| Brad Walters         | VOTING | AYE    |
| Kelly Farrell DuBois | VOTING | AYE    |

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK            )  
  ) SS.:  
COUNTY OF CHAUTAUQUA    )

I, the undersigned Chairman of County of Chautauqua Industrial Development Agency (the "Agency"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 24, 2016 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 24th day of May 2016.

  
\_\_\_\_\_  
Chairman