

A regular meeting of the Town of Colonie Industrial Development Agency (the “Agency”) was held remotely by conference call or similar service pursuant to the New York State Executive Order 202.1 (as amended and extended), on December 21, 2020 at 6:00 p.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: Carm Basile
Alison Blessing
John Kearney
Gary Rinaldi
Peter Gannon
Eric Phillips
Benjamin Syden

ABSENT: None.

THE FOLLOWING PERSONS WERE ALSO PRESENT:

Sean Maguire	Executive Director
Christopher Kelsey	Chief Financial Officer
Melissa C. Bennett, Esq.	Barclay Damon LLP

The following resolution was offered by Carm Basile, seconded by Gary Rinaldi, to wit:

RESOLUTION APPROVING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A CERTAIN FACILITY FOR LINCOLN AVENUE DEVELOPMENT, LLC AND APPROVING THE FORM, SUBSTANCE AND EXECUTION OF RELATED DOCUMENTS AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, the Town of Colonie 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 232 of the Laws of 1977, as amended by Chapter 594 of the Laws of 1980 of New York, as amended, constituting Section 911-d 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, renovating, 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 “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, Lincoln Avenue Development, LLC (the “Company”), on behalf of itself and/or entities formed or to be formed on behalf of the foregoing, has submitted an application (the “Application”) to the Agency, a copy of which was presented at this meeting and copies of which are on file at the office of the Agency, requesting that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A)(1) the acquisition of an interest in approximately 28 acres of real estate located at 855, 857, 859, 861 First Street (a/k/a 950 First Street), Watervliet (tax map no. 44.10-1-32.3) in the Town of Colonie, Albany County, New York (the “Land”), (2) the construction of four buildings to be located on the Land, of which two buildings are to be each approximately 15,000 square feet and two building are to be each approximately 10,000 square feet, including related sitework and road construction (the “Improvements”), and (3) the acquisition and installation therein and thereon of various building materials, furniture, fixtures, machinery, equipment and personal property (the “Equipment” and, together with the Land and the Improvements, the “Project Facility”), which Project Facility is to be leased and subleased by the Agency to the Company and further subleased by the Company to (i) Peter Luizzi & Bros. Contracting, Inc., Luizzi Construction Services, LLC and Luizzi Property Management Corp. (the “Luizzi Companies”) for corporate headquarters for their construction and property management businesses and (ii) third-party tenants for flex space/warehousing/distribution uses (each a “Third-Party Tenant”); (B) the granting of certain “financial assistance” (within the meaning of section 854(14) of the Act) with respect to the foregoing limited to potential exemptions from certain sales and use taxes, mortgage recording taxes (except to the extent limited by the Act), transfer taxes and real property taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, in order to induce the Company to proceed with the Project within the Town it appears necessary for the Agency to assist the Company by taking a leasehold interest in the Project Facility so as to afford the Company certain relief from mortgage recording taxation (to the extent requested), relief from real property taxation and relief from sales and use taxation for a limited period; and

WHEREAS, the members of the Agency adopted a resolution on October 19, 2020 (the “Public Hearing/Deviation Process Resolution”) authorizing a public hearing in compliance with the provisions of Section 859-a of the Act and the deviation process in compliance with the provisions of Section 874(4)(b) of the Act and the Agency’s Uniform Tax Exemption Policy (the “UTEP”); and

WHEREAS, in compliance with the provisions of Section 859-a of the Act, the Public Hearing/Deviation Process Resolution indicated that the undertakings of the Agency contained

therein are contingent upon the Agency making a determination to proceed with the Project following compliance by the Agency with the public notice and public hearing requirements set forth in Section 859-a of the Act; and

WHEREAS, pursuant to the authorization contained in the Public Hearing/Deviation Process Resolution, the Agency (A) caused notice of 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 December 11, 2020 to the chief executive officers of the county, the town and the school district in which the Project Facility is or is to be located (each an “Affected Tax Jurisdiction” and collectively, the “Affected Tax Jurisdictions”), (B) caused notice of the Public Hearing to be published on December 11, 2020 in the Times Union, a newspaper of general circulation available to the residents of the Town of Colonie, Albany County, New York, and (C) conducted the Public Hearing on December 21, 2020 at 6:00 p.m. remotely by a video/audio conference pursuant to Executive Order 202.1 (2020), issued and further extended by the Governor of the State of New York; and

WHEREAS, the Agency caused to be mailed on December 11, 2020 a letter to the chief executive officers of Albany County and the Town of Colonie (the “Current Municipalities”) notifying the Current Municipalities that the Luizzi Companies currently lease space at 49 Railroad Avenue, Albany, New York 12205, located in the Town of Colonie (the “Current Facility”) and that the Company has informed the Agency that the Luizzi Companies will “abandon” (as such term is used in Section 859-a(5)(d) of the Act) the Current Facility upon completion of the Project; and

WHEREAS, a portion of the Project Facility will be for a facility that does not qualify for real property abatements within the terms of the UTEP and the Company has requested that the payment in lieu of tax agreement to be entered into in connection with the Project in deviation from the UTEP; and

WHEREAS, pursuant to the authorization contained in the Public Hearing/Deviation Process Resolution and in compliance with the provisions of Section 874(4)(b) of the Act and the UTEP, the Agency caused a letter (the “PILOT Deviation Letter”) to be mailed on December 11, 2020 to the chief executive officers of each Affected Tax Jurisdiction, informing said individuals that the Agency would, at its meeting to be held on December 21, 2020, consider a proposed deviation from the UTEP with respect to the payment in lieu of tax agreement to be entered into by the Agency with respect to the Project Facility based upon the schedule of payments in lieu of taxes set forth in Exhibit A, with the schedule to be phased in with respect to each of the four buildings as construction is completed for each building; and

WHEREAS, prior to the date hereof, the Agency responded to all communications and correspondence received from the Affected Tax Jurisdictions regarding the proposed deviation from the UTEP; and

WHEREAS, the Agency allowed representatives from the Affected Tax Jurisdictions present at this meeting to address the Agency regarding such proposed deviation; and

WHEREAS, proposed Third-Party Tenants (1) shall be subject to the prior written consent of the Executive Director, which consent shall not be unreasonably withheld or delayed, but which consent shall be subject to all requirements of the Act, including but not limited to that such sublease to the proposed Third-Party Tenant shall not cause the Project Facility to be in violation of Section 862(2)(a) of the Act and such sublease shall not cause any portion of the Project Facility to be occupied by a sublessee in violation of Section 862(1) of the Act, except that (2) in the event that the Agency must make a determination pursuant to Section 862(1) of the Act, such proposed Third-Party Tenant shall be subject to the prior written consent of the Agency, which consent shall not be unreasonably withheld or delayed, subject to a determination that such sublease shall not cause any portion of the Project Facility to be occupied by a sublessee in violation of Section 862(1) of the Act and otherwise subject to all requirements of the Act (all of the foregoing, collectively, the “Prior Tenant Approvals”); and

WHEREAS, in order to consummate the Project and the granting of the Financial Assistance, the Agency proposes to enter into the following documents (collectively, the “Agency Documents”): (A) one or more underlying lease agreements (and a memorandum thereof) (collectively, the “Underlying Lease”) each by and between the Company and the Agency, pursuant to which, among other things, the Agency will acquire a leasehold interest in the Land and the improvements now or hereafter located on the Land from the Company; (B) one or more lease agreements (and a memorandum thereof) (collectively, the “Lease Agreement”) each by and between the Agency and the Company, pursuant to which, among other things, the Company will agree to undertake and complete the Project as agent of the Agency and the Company will further agree to lease the Project Facility from the Agency and, as rental thereunder, to pay the Agency’s administrative fee relating to the Project and to pay all expenses incurred by the Agency with respect to the Project; (C) one or more project agreements (collectively, the “Project Agreement”) that complies with the requirements of Section 859-a(6) of the Act; (D) one or more payment in lieu of tax agreements (collectively, the “PILOT Agreement”) each by and between the Agency and the Company, pursuant to which the Company will agree to make payments in lieu of taxes in accordance with the terms set forth in Exhibit A; (E) one or more tenant agency compliance agreements (collectively, the “Tenant Agency Compliance Agreement”) each by and between the Agency and a Third-Party Tenant; and (F) various other documents and certificates relating to the Project; and

WHEREAS, in connection with the Project, the Company will execute and deliver to the Agency one or more bills of sale (collectively, the “Bill of Sale to Agency”), which convey from the Company to the Agency all right, title and interest of the Company in the Equipment; and

WHEREAS, as security for the Loan (as such term is defined in the Lease Agreement), the Agency and the Company will execute and deliver to a lender or lenders to be determined (the “Lender”), one or more mortgages, assignments of leases and rents and such other loan documents satisfactory to the Agency, upon advice of counsel, in both form and substance, as may be reasonably required by the Lender, to be dated a date to be determined (collectively, the “Loan Documents”) in connection with the financing, refinancing or permanent financing of the costs of acquiring, constructing and equipping the Project Facility; and

WHEREAS, in order to secure the performance by the Company of its obligations under the PILOT Agreement, the Company will execute one or more mortgages (collectively, the “PILOT Mortgage”) in favor of the Agency granting to the Agency a mortgage lien on the Company’s interest in the Project Facility; and

WHEREAS, the Agency will file with the assessor and mail to the chief executive officers of each “affected tax jurisdiction” (within the meaning of such quoted term in Section 854(16) of the Act) a copy of one or more New York State Board of Real Property Services Form RP-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) (each, a “Real Property Tax Exemption Form”) relating to the Project; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement, the Agency will file with the State Department of Taxation and Finance one or more forms entitled “IDA Appointment of Project Operator or Agent for Sales Tax Purposes” (the form required to be file pursuant to Section 874(9) of the Act) (the “Thirty-Day Sales Tax Reports”) and provide copies of the Thirty-Day Sales Tax Reports to the Company; and

WHEREAS, in order to begin the construction of the Project Facility and the acquisition of Equipment prior to the execution and delivery of the Agency Documents and other final documents and agreements in connection with the Project, the Company has requested the appointment of the Company as agent of the Agency for sales and use tax purposes; and

WHEREAS, in connection with the appointment of the Company as agent of the Agency for sales and use tax purposes, the Agency and the Company will enter into a preliminary project agreement and certain related documents (the “Interim Documents”) with respect to the Project; and

WHEREAS, simultaneously with the execution of the Interim Documents, the Agency will file with the New York State Department of Taxation and Finance the form entitled a Thirty-Day Sales Tax Form pursuant to Section 874(9) of the Act; and

WHEREAS, for purposes of exemption from New York State (the “State”) sales and use taxation as part of the Financial Assistance requested, “sales and use taxation” shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight; 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 Project had been subject to an environmental review pursuant to the requirements of the State Environmental Quality Review Act and the regulations thereunder, resulting in the issuance of a Negative Declaration by the Agency by resolution dated December 21, 2020;

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

Section 1. The Agency, based upon the representations made by the Company to the Agency in the Application and at this meeting, hereby finds and determines that:

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

(B) The Agency has reviewed and responded to all written comments received from any Affected Tax Jurisdiction with respect to the proposed deviation;

(C) The Agency has given all representatives from any Affected Tax Jurisdictions in attendance at this meeting the opportunity to address the members of the Agency regarding the proposed deviation;

(D) 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;

(E) The Project constitutes a "project," as such term is defined in the Act;

(F) The Project site is located entirely within the boundaries of the Town of Colonie, New York;

(G) The undertaking of the Project pursuant to the Lease Agreement is for a proper purpose, to wit, to preserve and/or create permanent private sector jobs and to advance the job opportunities, health, general prosperity and economic welfare of the inhabitants of the Town of Colonie and the State of New York;

(H) Although the completion of the Project Facility will result in the removal of a plant or facility of the Luizzi Companies of the Project Facility from one area of the State to another area of the State or in the abandonment of a plant or facility of the proposed occupant of the Project Facility located in the State the Project is reasonably necessary to preserve the competitive position of the Luizzi Companies in their respective industries;

(I) This Project does not constitute a project where the facilities or property comprising the Project will be primarily used in making retail sales of goods or services to customers who personally visit such facilities and constitute more than one-third (1/3) of the total Project cost; and

(J) The Agency, based upon its review of the following factors, finds and determines that it is desirable and in the public interest of the Agency to deviate from its UTEP and to approve the execution and delivery of the PILOT Agreement:

1. The nature of the proposed Project (e.g., manufacturing, commercial, warehouse):

The proposed Project will create approximately 50,000 square feet of commercial, flex, warehousing and distribution space in four buildings, to be constructed in four phases. The first, approximately 10,000 square foot building will be leased to Peter Luizzi & Bros. Contracting, Inc., Luizzi Construction Services, LLC and Luizzi Property Management Corp. for corporate headquarters for their construction and property management businesses. The remaining buildings of approximately 15,000, 15,000, and 10,000 square feet, respectively, will be marketed, built for and leased to third-party tenants for flex space/warehousing/distribution uses. Once fully operational, the proposed Project will retain and/or create approximately 193 jobs in the Town of Colonie (the "Town"). As part of the proposed Project, the Company also will construct a road consistent with the Route 32 Linkage Study and other Town Planning recommendations; upon completion, the road will be turned over to the Town.

The proposed Project is consistent with the plans for this area of the Town as adopted by the Agency relating to the Lincoln Avenue Brownfield Opportunity Area in terms of developing of an historically underutilized area of the Town and the related road construction would alleviate traffic congestion through nearby residential areas. The proposed Project will clean up the former D&H rail yard and old infrastructure, creating a new, well-manicured industrial complex with warehouses and office space.

2. The nature of the property before the proposed Project begins (e.g., vacant land, vacant buildings):

The property has been vacant land for approximately fifteen years.

3. The economic condition of the area at the time of the Application:

This once-thriving area of the Town has been under-utilized and economically depressed for many years and is part of the Lincoln Avenue Brownfield Opportunity Area.

4. The extent to which the proposed Project will create or retain permanent, private sector jobs:

The proposed Project is intended to be carried out in multiple phases. The initial phase is the construction of a building to be used as corporate headquarters for Peter Luizzi & Bros. Contracting, Inc., Luizzi Construction Services, LLC and Luizzi Property Management Corp. The operations of this first phase will support the development and management of the project site for the subsequent phases. The initial phase of the Project is anticipated to retain 121 full time equivalent jobs within the Town and to create an

additional 24 full-time equivalent jobs within the Town. Additional job growth is anticipated upon completion of each of the additional phases of the proposed Project, with a commitment of at least 16 full time equivalent jobs within the Town for each of the three additional buildings (total job creation of 48 full-time equivalent for the subsequent phases). The entire proposed Project is anticipated to create or retain permanent, private sector jobs of approximately 193 full-time equivalent jobs.

5. The estimated value of tax exemptions to be provided:

Sales and Use Tax Exemption: \$262,920. Mortgage Recording Tax Exemption: \$85,000. Real Property Tax Exemption: \$305,562 (based on an estimated taxable assessed value and current tax rates).

6. The extent to which the proposed Project will provide additional sources of revenue for municipalities and school districts in which the Project is located:

The proposed Project will generate significant additional real estate taxes for the affected tax jurisdictions due to the significantly increased assessed value of the property resulting from the construction of four new buildings. The affected tax jurisdictions will receive higher payments under the Proposed PILOT Agreement than are currently received on the vacant land.

The Project Facility also is expected to result in increased sales and use taxes generated by local purchases by the employees located at the Project Facility.

7. The impact of the Project and the proposed tax exemptions on affected tax jurisdictions:

The proposed Project will retain and/or create at least 193 jobs, while redeveloping land that has been vacant and underutilized for 15 years. Despite the real estate tax abatements, the amounts due under the proposed PILOT Agreement will result in increased taxes compared to what the affected tax jurisdictions are currently receiving from the property.

8. The impact of the proposed Project on existing and proposed business and economic development projects within the vicinity:

The proposed Project will develop a longtime vacant parcel of land in a strategic location within the Town. It is likely that the proposed Project will have a positive effect on existing and proposed businesses in the Town and will be a draw for additional economic development in the vicinity. The large number of employees working at the Project Facility will likely increase demand for retail and restaurant facilities in the surrounding area.

9. The amount of private sector investment generated or likely to be generated by the proposed Project:

The Company estimates that it will expend in excess of \$11.5 million on the acquisition, construction and installation of the Project Facility.

10. The likelihood of accomplishing the proposed Project in a timely fashion:

The Company anticipates that the proposed Project will be completed by fall 2022 and the Agency believes there is a strong likelihood of meeting this anticipated completion date because the Company is run by an experienced and established developer in the community with a strong reputation.

11. The effect of the proposed Project on the environment:

The Town Planning Board has issued a negative declaration for the proposed Project pursuant to the New York State Environmental Quality Review Act.

12. The extent to which the proposed Project will require the provision of additional services including, but not limited to, additional educational, transportation, police, emergency medical or fire services:

Minimal demand for police, fire and emergency medical services (EMT) services is anticipated. It is expected that most employees at the Project Facility will use their own cars but there may be some increased demand in public transportation to the Project Facility. The proposed Project does not create housing so it will not create a direct demand for educational services.

13. The extent to which the proposed Project will follow local input from local planning agencies:

The Town was heavily involved in and influenced the proposed Project planning, with extensive review by the Town Planning Board and Town departments including Planning and Economic Development, Building, Public Works and Engineering.

14. The extent to which the proposed Project will provide needed benefit (economic or otherwise) not otherwise available within the Town:

The proposed Project will provide a significant economic benefit by redeveloping and revitalizing property that has been vacant for approximately 15 years in a once thriving area of the Town, while creating and/or retaining over 190 jobs. The proposed Project will redevelop a substantial portion of property within the Town of Colonie Lincoln Avenue Brownfield Opportunity Area and will clean up the old D&H rail yard site and old infrastructure. The

proposed Project would also support the Route 32 Linkage Study with the construction of a road that will eventually be dedicated to the Town.

15. The extent to which the Company will enter into apprenticeship agreements within the meaning of Section 816 of the Labor Law of the State of New York with respect to the construction, reconstruction or operation of the proposed Project:

The Agency will encourage the Company to enter into apprenticeship agreements.

Section 2. In consequence of the foregoing, the Agency hereby determines to: (A) proceed with the Project; (B) acquire: (i) a leasehold interest in the Land and all improvements now or hereafter located on the Land from the Company pursuant to the Underlying Lease, and (ii) title to the Equipment pursuant to the Bill of Sale to Agency from the Company to the Agency; (C) lease the Project Facility to the Company pursuant to the Lease Agreement; (D) acquire, construct and install the Project Facility, or cause the Project Facility to be acquired, constructed and installed, as provided in the Lease Agreement; (D) enter into the PILOT Agreement; (E) enter into the Project Agreement; (F) accept the PILOT Mortgage; (G) , subject to any required Prior Tenant Approvals, enter into the Tenant Agency Compliance Agreement; (H) secure the Loan by entering into the Mortgage; and (I) grant to the Company the Financial Assistance with respect to the Project. In the event of the occurrence of a recapture event under the Project Agreement, the Agency will pursue recapture of Financial Assistance as provided therein.

Section 3. The Agency is hereby authorized to acquire a leasehold interest in the Project Facility pursuant to the Underlying Lease and title to the Equipment pursuant to the Bill of Sale and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition, construction and installation are hereby ratified, confirmed and approved.

Section 4. (A) The Agency Documents shall be in form and substance satisfactory to Chairman (or Vice Chairman or Executive Director) and the Agency Counsel and shall be in substantially similar form to the documents used in connection with prior Agency projects. The Chairman (or Vice Chairman or Executive Director) of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Agency Documents and the Loan 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.

(B) The Chairman of the Agency is hereby further authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency.

Section 5. For purposes of providing the terms and conditions for which the Company will receive the benefit of certain State and local sales and use tax exemptions in connection with the Project, the Interim Documents in such form as the Chairman (or Vice Chairman) of the Agency shall (with the advice of Agency counsel) deem advisable, be, and the same are, hereby approved;

and the Chairman and Vice Chairman of the Agency are each hereby authorized and directed to execute, acknowledge and deliver the Interim Documents in the name of the Agency. The execution and delivery of the Interim Documents shall be conclusive evidence of due authorization and approval of the Interim Documents in their respective final form. The Chairman or Vice Chairman of the Agency shall determine the date of expiration of the Company's appointment as temporary agent of the Agency; provided, however, that such expiration date shall be not later than December 31, 2021 unless either (a) the Agency and the Company have entered into a "straight-lease" transaction (as defined in the Act) prior to such date; or (b) the Agency has agreed to an extension of such expiration date.

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 Interim Documents, the Agency Documents and the Loan 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 the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Interim Documents, the Agency Documents and the Loan Documents binding upon the Agency.

Section 7. The Agency hereby delegates to the Company as agent of the Agency, the authority to designate (following the execution and delivery of the Interim Documents or Agency Documents, as the case may be), agents and sub-agents of the Agency (each, a "Sub-Agent") for purposes of utilizing the Agency sales and use tax exemption with respect to the acquisition, construction and installation of the Project Facility; provided that any such sub-agency designation shall become effective only upon submission to the Agency within fifteen (15) days of such agency and sub-agency designation: (1) an executed sub-agent appointment agreement (in a form approved by the Agency) and (2) a completed Form ST-60 of the New York State Department of Taxation and Finance (IDA Appointment of Project Sublessee or Agent for Sales Tax Purposes). Such agents and sub-agents may include contractors and subcontractors involved in the acquisition, construction, reconstruction and installation of the Facility.

Section 8. The Agency shall maintain records of the amount of State and local sales and use tax exemption benefits provided to the Project and each agent or Project operator and shall make such records available to the State Commissioner of Taxation and Finance (the "Commissioner") upon request. The Agency shall, within thirty (30) days of providing any State sales and use tax exemption benefits, report to the Commissioner the amount of such benefits for the Project, identifying the Project, along with any such other information and specificity as the Commissioner may prescribe. As a condition precedent to the Company's receipt of, or benefit from, any State or local sales and use tax exemptions, the Company must acknowledge and agree to make, or cause its agents and/or operators to make, all records and information regarding State and local sales and use tax exemption benefits available to the Agency upon request. The provisions of Section 875 of the Act are hereby incorporated herein as if set forth herein and the Agency agrees that it shall comply with the requirements of such Section 875.

Section 9. The terms and conditions of subdivision 3 of Section 875 of the Act are herein incorporated by reference and the Company shall agree to such terms as a condition precedent to receiving or benefiting from an exemption from New York State sales and use exemptions benefits. Notwithstanding anything herein to the contrary, the amount of State and local sales and use tax exemption benefits comprising the Financial Assistance approved herein shall not exceed **\$262,920 and shall last no longer than two years from the execution and delivery of the respective Agency Documents.**

Section 10. Notwithstanding anything herein to the contrary, the amount of mortgage recording tax exemption benefits comprising the Financial Assistance approved herein shall not to exceed **\$85,000.**

Section 11. Notwithstanding anything herein to the contrary, the amount of real property tax exemption benefits comprising the Financial Assistance approved herein shall be approximately **\$305,562**, which such amount reflects the total estimated real property tax exemptions for the Project Facility (which constitute those taxes that would have been paid if the Project Facility were on the tax rolls and not subject to the Lease Agreement) of approximately \$576,107 less the estimated payments in lieu of taxes of approximately \$270,545 to be made by the Company to the affected tax jurisdictions with respect to the Project Facility during the terms of the Lease Agreement. The approximate amount of estimated real property tax exemptions and the approximate amount of estimated payments in lieu of taxes are estimated based on an assumed assessed value of the Project Facility and assumed future tax rates of the affected tax jurisdictions. The actual amount of real property tax abatement benefit is subject to change over the terms of the Lease Agreement depending on any changes to assessed value and/or tax rates of the Affected Tax Jurisdictions. Exhibit A attached hereto reflects the calculation for the annual amount of the payments in lieu of taxes to be made to the affected tax jurisdictions in each year during the terms of the Lease Agreement, with the schedule to be phased in with respect to each of the four buildings as construction is completed for each building; however, in no event shall any such schedule commence on a tax year later than seven years from the date hereof.

Section 12. The Interim Documents, the Agency Documents and the Loan Documents shall be deemed the obligations of the Agency, and not of any member, officer, agent or employee of the Agency in his/her individual capacity, and the members, officers, agents and employees of the Agency shall not be personally liable thereon or be subject to any personal liability or accountability based upon or in respect hereof or of any transaction contemplated hereby. The Interim Documents, the Agency Documents and the Loan Documents shall not constitute or give rise to an obligation of the State of New York or the Town of Colonie, New York and neither the State of New York nor the Town of Colonie, New York shall be liable thereon, and further, such agreement shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency.

Section 13. This resolution shall take effect immediately upon adoption.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Carm Basile	X			
Alison Blessing	X			
Peter Gannon	X			
John Kearney	X			
Eric Phillips	X			
Gary Rinaldi	X			
Benjamin Syden	X			

The Resolution was thereupon declared duly adopted.

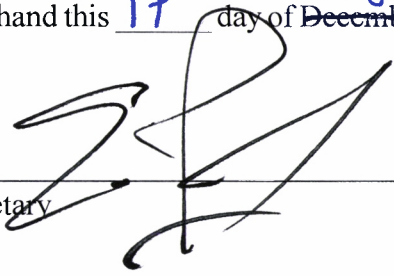
STATE OF NEW YORK)
) SS.:
COUNTY OF ALBANY)

I, the undersigned Secretary of the Town of Colonie Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that I have compared the foregoing copy of the minutes of the meeting of the Agency, including the Resolution contained therein, held on December 21, 2020, with the original thereof on file in my office, and that the same is a true and correct copy of such proceedings of the Agency and 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”), as modified by New York State Executive Order 202.1 (as amended and extended), 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 and rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of May, 2021.



Secretary

Exhibit A

The PILOT Agreement would not provide any abatements for any special assessments levied on the Project Facility. The Company will pay 100% of taxes due on the Land and the Improvements will be subject to the following schedule:

<u>Tax Year following completion of construction</u>	<u>Percentage of Normal Tax Exemption on the Improvements</u>
1	90%
2	80%
3	70%
4	60%
5	45%
6	30%
7	15%
8 and thereafter	0%