

**SEQR RESOLUTION  
MARLBORO DISTR. RTE 9 LLC PROJECT**

A regular meeting of Ulster County Industrial Development Agency (the “Agency”) was convened in public session in the Ulster County Legislative Chambers located in the Ulster County Office Building, 6th Floor, 244 Fair Street, Kingston, New York on May 9, 2018 at 8:00 o’clock a.m., local time.

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

**PRESENT:**

John Morrow	Chairman
Randall Leverette	Vice Chairman
Robert Kinnin	Secretary
John Livermore	Assistant Secretary/Assistant Treasurer
James Malcolm	Assistant Secretary/Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Suzanne Holt	Director, Office of Economic Development
Evelyn Heinbach	Senior Economic Development
Bernadette Andreassen	Office of Economic Development
A. Joseph Scott, III, Esq.	Agency Counsel

The following resolution was offered by \_\_\_\_\_, seconded by \_\_\_\_\_, to wit:

Resolution No. 0518-\_\_

**RESOLUTION ACCEPTING THE DETERMINATION BY THE TOWN OF MARLBOROUGH PLANNING BOARD TO ACT AS LEAD AGENCY FOR THE ENVIRONMENTAL REVIEW OF THE MARLBORO DISTR. RTE 9 LLC PROJECT AND ACKNOWLEDGING RECEIPT OF THE NEGATIVE DECLARATION ISSUED WITH RESPECT THERETO.**

WHEREAS, Ulster County 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 787 of the 1976 Laws of New York, as amended, constituting Section 923 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 manufacturing, warehousing, research, commercial 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, in March, 2018, Marlboro Distr. Rte 9 LLC, a New York limited liability company (the “Company”), presented an application (the “Application”) to the Agency, which Application requested 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 an approximately 7.80 acre parcel of land located at 1100 NYS Route 9W (tax map no. 108.4-5-27) in the Town of Marlborough, Ulster County, New York (the “Land”), (2) the construction of a building on the Land to contain approximately 40,000 square feet of space (the “Facility”) and (3) the acquisition and installation therein and thereon of certain machinery, equipment and other personal property (collectively, the “Equipment”) (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”), all of the foregoing to be owned by the Company and leased and operated by PODS Enterprises, LLC (the “Tenant”) as a warehouse and storage facility for PODs storage units, and any other directly and indirectly related activities; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer 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 Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on April 11, 2018 (the “Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Director, Office of Economic Development 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 April 17, 2018 to the chief executive officers of the county and of each city, town, village and school district in which the Project is or is to be located; (B) caused notice of the Public Hearing to be posted on April 17, 2018 on a bulletin board located at the Town Hall, Town of Marlborough, 21 Milton Turnpike, Milton, Ulster County, New York, as well as on the Agency’s website; (C) caused notice of the Public Hearing to be published on April 19, 2018 in The Daily Freeman, the Shawangunk Journal and the Almanac Weekly, newspapers of general circulation available to the residents of the Town of Marlborough, Ulster County, New York; (D) conducted the Public Hearing on April 30, 2018 at 7:00 p.m., local time at the Town of Marlborough Town Hall located at 21 Milton Turnpike in the Town of Marlborough, Ulster County, New York; and (E) prepared a report of the Public Hearing (the “Hearing Report”) fairly summarizing the views presented at such Public Hearing and caused copies of said 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 has been informed that (A) the Town of Marlborough Planning Board (the “Planning Board”) was designated to act as the “lead agency” with respect to the Project and (B) on March 19, 2018, the Planning Board determined that that the Project is a

“unlisted action” which will not have a “significant effect on the environment” and, therefore, that an “environmental impact statement” is not required to be prepared with respect to the Project and issued a negative declaration with respect thereto (the “Negative Declaration”); and

WHEREAS, at the time that the Planning Board determined itself to be the “lead agency” with respect to the Project, it was not known that the Agency was an “involved agency” with respect to the Project, and, now that the Agency has become an “involved agency” with respect to the Project, the Agency desires to concur in the designation of the Planning Board as “lead agency” with respect to the Project, to acknowledge receipt of a copy of the Negative Declaration and to indicate that the Agency has no information to suggest that the Planning Board was incorrect in determining that the Project will not have a “significant effect on the environment” pursuant to SEQRA;

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

Section 1. (A) The Agency has received copies of, and has reviewed, the Application, an environmental assessment form prepared by the Company and the Negative Declaration (collectively, the “Reviewed Documents”) and, based upon said Reviewed Documents and the representations made by the Company to the Agency at this meeting, the Agency hereby ratifies and concurs in the designation of the Planning Board as “lead agency” with respect to the Project (as such quoted term is defined in SEQRA).

(B) The Agency hereby determines that the Agency has no information to suggest that the Planning Board was incorrect in determining that the Project will not have a “significant effect on the environment” pursuant to SEQRA (as such quoted phrase is used in SEQRA).

Section 2. 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:

John Morrow	VOTING	_____
Randall Leverette	VOTING	_____
Robert Kinnin	VOTING	_____
John Livermore	VOTING	_____
James Malcolm	VOTING	_____

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned (Assistant) Secretary of Ulster County Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 9, 2018 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 contained 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 \_\_\_\_\_ day of May, 2018.

\_\_\_\_\_

(Assistant) Secretary

(SEAL)