

**RESOLUTION AUTHORIZING ENFORCEMENT ACTION
ULSTER NH REALTY, LLC PROJECT**

A regular meeting of Ulster County Industrial Development Agency (the "Agency") was convened in public session at the Ulster County Office Building, Legislative Chambers, 6th floor located at 244 Fair Street in the City of Kingston, Ulster County, New York on July 21, 2021 at 9:00 o'clock a.m., local time.

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

PRESENT:

James Malcolm	Chair
Diane Eynon, Ph.D.	Vice Chair/Treasurer
Faye Storms	Assistant Treasurer
Michael J. Ham	Secretary
Orlando Reece	Assistant Secretary
Daniel Savona	Assistant Secretary
Richard O. Jones	Chief Financial Officer/Member

ABSENT:

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Rose Woodworth	Chief Executive Officer
A. Joseph Scott, III, Esq.	Agency Counsel

The following resolution was offered by Michael J. Ham, seconded by Daniel Savona, to wit:

Resolution No. 0721 -06

RESOLUTION AUTHORIZING THE ULSTER COUNTY INDUSTRIAL DEVELOPMENT AGENCY TO TAKE CERTAIN ENFORCEMENT ACTIONS IN CONNECTION WITH THE REVIEW AND MONITORING BY THE AGENCY OF THE ULSTER NH REALTY LLC PROJECT.

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 and install one or more "projects" (as defined in the Act) or to cause said projects to be acquired, constructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, pursuant to a closing on June 26, 2013 (the "Closing"), the Agency entered into a lease agreement dated as of June 1, 2013 (the "Lease Agreement") by and between the Agency and the Golden Hill Acquisition LLC (the "Original Company") in connection with a project (the "Project") consisting of the following: (A)(1) the acquisition of an interest in an approximately 20 acre parcel of land located at 99 Golden Hill Drive in the City of Kingston, Ulster County, New York (the "Land"), including the existing improvements located thereon consisting of a 3-story building containing approximately 155,000 square feet of space (the "Facility"), (2) the reconstruction and renovation of the Facility, and (3) the acquisition and installation therein and thereon of certain machinery and equipment (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 Original Company and leased to Golden Hill Planning Corporation, an affiliate of the Original Company, and operated as an approximately 280-bed nursing care facility providing continual nursing care, including physical therapy, other rehabilitation services and certain clinical services and 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 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 Original Company pursuant to the Lease Agreement; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement, (A) the Original Company executed and delivered to the Agency (1) a certain lease to agency dated as of June 1, 2013 (the "Underlying Lease") by and between the Original Company, as landlord and the Agency, as tenant, pursuant to which the Original 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, 2039, and (2) a bill of sale dated as of June 1, 2013 (the "Bill of Sale to Agency"), which conveyed to the Agency all right, title and interest of the Original Company in the Equipment, (B) the Original Company and the Agency executed and delivered a payment in lieu of tax agreement dated as of June 1, 2013 (the "Payment in Lieu of Tax Agreement") by and between the Agency and the Current Company, pursuant to which the Original Company agreed to pay certain payments in lieu of taxes with respect to the Project Facility, (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 Payment in Lieu of Tax Agreement, (D) the Agency executed and delivered to the Original 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") (collectively, with the Lease Agreement, the "Basic Documents"); and

WHEREAS, on or about August 26, 2020, the Agency, the Original Company and the Company entered into an assignment and assumption agreement dated as of August 1, 2020 (the "Assignment and Assumption Agreement"), whereby the Original Company assigned the Project Facility and the interests of the Original Company in the Basic Documents to the Company; and

WHEREAS, in connection with the execution and delivery of the Assignment and Assumption Agreement, the Agency and the Company entered into a uniform agency project agreement dated as of August 1, 2020 (the "Uniform Agency Project Agreement") by and between the Agency and the Company; and

WHEREAS, the Uniform Agency Project Agreement conditioned the granting of the Financial Assistance on the Company satisfying a number of conditions, including, but not limited to, the maintaining of a certain number of jobs at the Project Facility; and

WHEREAS, the Company, as described in more detail in this resolution, has failed to satisfy a number of the conditions contained in the Uniform Agency Project Agreement; and

WHEREAS, in light of this failure by the Company to satisfy such conditions, the Agency is considering certain enforcement action regarding the Company and the Project; and

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

Section 1. The Agency hereby finds and determines that:

(A) 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;

(B) The Agency staff has prepared a summary sheet describing the review and monitoring by the Agency staff and the Governance Committee of the Project and the failures by the Company to comply with the terms of the Uniform Agency Project Agreement (the "Defaults") (a copy of such summary sheet is included the Company file) (the "Compliance Report");

(C) The Company was invited to attend the May and June monthly meetings of the Agency for the purpose of providing an explanation of the Defaults, and the Company failed to attend such meetings;

(D) The Company was further invited to attend the June Governance Committee meeting for the purpose of providing an explanation of the Defaults and the Company failed to attend such meeting;

(E) Counsel to the Agency has sent letters to the Company dated June 17, 2021 and July 16, 2021 and the Company has not responded to such letters;

(F) At the June 22, 2021 meeting of the Governance Committee, the Governance Committee recommended to the Agency that the Agency review the Defaults and a make a determination to take the enforcement action or actions with respect to the Project and the Company;

(G) The Agency has reviewed the materials referenced in this resolution and has considered the recommendation of the Governance Committee;

(H) The enforcement action to be taken with respect to the Company and the Project is the action or actions described in Schedule A attached; and

(I) It is desirable and in the public interest for the Agency to review and monitor the Project, to consider various enforcement actions and to determine to take enforcement action(s) with respect to the Project.

Section 2. Based upon the findings and determinations described in Section 1 above, the Agency hereby approves and authorizes the enforcement action(s) described in Schedule A to this resolution, and directs the Agency staff and Agency Special Counsel (A) to prepare the necessary documents to accomplish and implement such enforcement action(s) (collectively, the "Enforcement Documents") and (B) to contact the Company and arrange for the implementation of the enforcement action(s).

Section 3. The Chair (or Vice Chair) of the Agency is hereby authorized to execute and deliver the Enforcement 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 form presented at this meeting, with such changes, variations, omissions and insertions as the Chair (or Vice Chair) shall approve, the execution thereof by the Chair (or Vice Chair) 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 Enforcement 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 Enforcement 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:

James Malcolm	VOTING	<u>Aye</u>
Diane Eynon, Ph.D.	VOTING	<u>Aye</u>
Faye Storms	VOTING	<u>Aye</u>
Michael J. Ham	VOTING	<u>Aye</u>
Orlando Reece	VOTING	<u>Absent</u>
Daniel Savona	VOTING	<u>Abstain</u>
Richard O. Jones	VOTING	<u>Aye</u>

The foregoing Resolution was thereupon declared duly adopted.

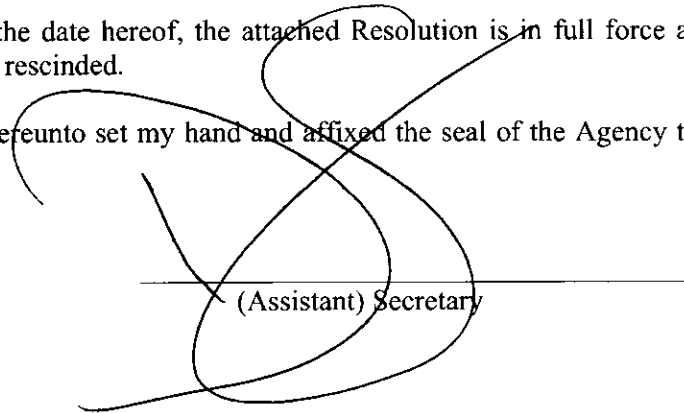
STATE OF NEW YORK)
) SS.:
COUNTY OF ULSTER)

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 July 21, 2021 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"), except as modified by Executive Order 202.1, as supplemented, 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 21 day of July, 2021.



(Assistant) Secretary

(SEAL)

SCHEDULE A

ENFORCEMENT ACTION OR ACTIONS

**[TO BE DETERMINED BY THE AGENCY AT THE MEETING
AFTER CONSIDERATION AND DELIBERATION BY THE MEMBERS]**