

**RESOLUTION AUTHORIZING ASSIGNMENT AND ASSUMPTION
GOLDEN HILL ACQUISITION LLC PROJECT**

A special meeting of Ulster County Industrial Development Agency (the "Agency") was convened in public session on August 25, 2020 at 7:00 o'clock p.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
Faye Storms	Vice Chair/Assistant Treasurer
Dr. Diane Eynon	Treasurer
Michael J. Ham	Secretary
Orlando Reece	Assistant Secretary
Daniel Savona	Assistant Secretary
Richard O. Jones	Member/Chief Financial Officer

Each of the members present participated in the meeting telephonically pursuant to Executive Order No. 202.1 issued by New York State Governor Andrew M. Cuomo, suspending provisions of Article 7 of the Public Officers Law that require public in-person access to public meetings and authorizing board members to participate in said meetings by conference call or similar service.

ABSENT:

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Rose Woodworth	Chief Executive Officer
Joseph P. Eriele, Esq.	Local Counsel
A. Joseph Scott, III, Esq.	Special Counsel

The following resolution was offered by Richard Jones, seconded by Faye Storms, to wit:

Resolution No. 0820-04

**RESOLUTION CONSENTING TO AND AUTHORIZING THE EXECUTION AND
DELIVERY OF CERTAIN DOCUMENTS WITH RESPECT TO THE ASSIGNMENT
AND ASSUMPTION OF THE GOLDEN HILL ACQUISITION 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, (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 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 Golden Hill Acquisition, LLC (the “Current 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 Current Company and leased to Golden Hill Planning Corporation, an affiliate of the Current 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 Current Company pursuant to the Lease Agreement; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement, (A) the Current 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 Current Company, as landlord and the Agency, as tenant, pursuant to which the Current 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 Current Company in the Equipment, (B) the Current 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 Current 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 Current 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, pursuant to an application (the “Application”) submitted to the Agency by Ulster NH Realty LLC, a limited liability company organized and existing under the laws of the State of

Delaware (the “New Company”), the Agency was notified that the Current Company desires to convey the Project Facility and its interests in the Basic Documents to the New Company and, in connection with such conveyance, provide for the assignment of the Basic Documents from the Current Company to the New Company, as described in the Application (the “Assignment”); and

WHEREAS, the Lease Agreement provides that the Current Company is prohibited from selling, leasing, transferring or otherwise conveying any part of the Project Facility without the prior written consent of the Agency; and

WHEREAS, in connection with the conveyance of the Project Facility, the Current Company and the New Company have requested (the “Assignment Request”) that the Agency execute documents providing for the following (the “Conveyance and Assignment Documents”): the consent by the Agency of the conveyance of the Project Facility and the assignment and assumption of the Basic Documents from the Current Company to the New Company; and

WHEREAS, the Agency considered the Assignment Request at a meeting of the Agency on August 12, 2020 and at such meeting the Agency adopted a resolution (the “Public Hearing Resolution”) whereby the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Assignment Request; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Chief Executive Officer 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 August 14, 2020 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is located, (B) caused notice of the Public Hearing to be posted on August __, 2020 on a public bulletin Board located at the City Hall in the City of Kingston, Ulster County, New York and on the Agency’s website, (C) caused notice of the Public Hearing to be published on August 15, 2020 in the Daily Freeman, a newspaper of general circulation available to the residents of the City of Kingston, Ulster County, New York, (D) as a result of the ban on large meetings or gatherings pursuant to Executive Order 202.1 and the suspension of the Open Meetings Law relating to public hearings pursuant to Executive Order 202.15, each as issued by Governor Cuomo in response to the novel Coronavirus (COVID-19) pandemic, conducted the Public Hearing on August 25, 2020 at 7:00 o’clock p.m., local time electronically via conference call rather than in person; 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 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 whether to proceed with the execution and delivery of the Conveyance and Assignment Documents; and

WHEREAS, pursuant to SEQRA, the Agency has reviewed the Assignment Request and the Application in order to make a determination as to whether the execution and delivery of the Conveyance and Assignment Documents is subject to SEQRA, and it appears that the Assignment Request is not an “Action” under SEQRA;

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

Section 1. Based upon an examination of the Assignment Request, the Agency hereby makes the following determinations:

(A) Pursuant to SEQRA, the approval of the Assignment Request is not an “Action” under SEQRA and therefore is not subject to SEQRA review by the Agency.

(B) 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;

(C) The Project constituted a “project,” as such term is defined in the Act, and there are no changes in the Project contemplated as part of the Assignment Request;

(D) The Project site is located entirely within the boundaries of Ulster County, New York;

(E) The Assignment Request involves the assignment of the Basic Documents, including the Payment in Lieu of Tax Agreement, to the New Company;

(F) The Agency is willing to consider the Assignment Request, including the assignment of the Payment in Lieu of Tax Agreement, on the following conditions:

(1) That the payments in lieu of taxes payable by the New Company under the Payment in Lieu of Tax Agreement are increased;

(2) The Company agrees to maintain the following:

(a) A full time employment level of employees at the Project Facility;

(b) A certain “star” rating regarding the operations at the Project Facility; and

(c) A full time employment level with respect to nurse staffing levels at the Project Facility;

(G) The increase in payments in lieu of taxes payable by the New Company will benefit Ulster County, the City of Kingston and the City of Kingston City School District;

(H) The maintaining by the New Company of certain employment levels will benefit the citizens of Ulster County, New York;

(I) The maintaining of a certain “star” rating and nurse staffing levels will provide the citizens of Ulster County, New York with nursing home care;

(J) The granting of the Assignment Request and any related Financial Assistance by the Agency will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of Ulster County, New York and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act;

(K) The Agency has reviewed the Public Hearing Report and has fully considered all comments contained therein;

(L) The Assignment Request does not include any exemptions from sales tax and mortgage recording tax; and

(M) It is desirable and in the public interest for the Agency to enter into the Agency Documents.

Section 2. The Agency hereby approves (A) the assignment to the New Company of all of the Current Company's interest in the Project Facility, and the Basic Documents, including but not limited to the benefits of the Lease Agreement and the Payment in Lieu of Tax Agreement, and (B) the assumption by the New Company of all obligations of the Current Company under the Basic Documents pursuant to the Assignment and Assumption; subject in each case, however to the following conditions: (1) receipt of confirmation that all real property taxes and payments in lieu of taxes required by the Project have been satisfied; (2) evidence of current certificates of insurance acceptable to the Agency; (3) approval by Special Counsel and Local Counsel to the Agency of the form of the Conveyance and Assignment Documents to be executed by the Agency in connection with the Assignment Request; (4) receipt by the Agency of its administrative fee relating to the Assignment Request, and all fees and expenses incurred by the Agency with respect to the Assignment Request, including the fees and expenses incurred by Agency Special Counsel and Local Counsel with respect thereto; (5) the execution and delivery of a Uniform Agency Project Agreement and an amended Payment in Lieu of Tax Agreement, each in form acceptable to the Agency (collectively, with the Conveyance and Assignment Documents, the "Assigned Documents"), and (6) the following additional conditions: _____.

Section 3. Subject to (A) satisfaction of the conditions contained in Section 2 hereof; and (B) the execution and delivery of the Assigned Documents by the other parties thereto, the Chairman (or Vice Chairman) of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Assigned 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 Special Counsel and Local Counsel to the Agency, with such changes, variations, omissions and insertions as the Chairman (or Vice Chairman) shall approve, the execution thereof by the Chairman (or Vice Chairman) 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 Assignment Request and the Assignment, 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 Assignment Request.

Section 5. The members of the Agency waive and approve any notice provided to them in connection with the scheduling of this special meeting.

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:

James Malcolm	VOTING	<u>Yes</u>
Faye Storms	VOTING	<u>Yes</u>
Dr. Diane Eynon	VOTING	<u>Yes</u>
Michael J. Ham	VOTING	<u>Yes</u>
Orlando Reece	VOTING	<u>Yes</u>
Daniel Savona	VOTING	<u>Yes</u>
Richard O. Jones	VOTING	<u>Yes</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 August 25, 2020 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, 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, either in-person or appearing telephonically in accordance with Executive Order 202.1, 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 August, 2020.



(Assistant) Secretary

(SEAL)