

**CITY OF GLENS FALLS INDUSTRIAL DEVELOPMENT AGENCY
MEETING MINUTES**

A special meeting of the City of Glens Falls Industrial Development Agency was held on Thursday, March 28, 2019 in the Mayor's Conference Room, 42 Ridge Street, Glens Falls, New York 12801.

Members Present: Judy Calogero; Mayor Daniel Hall; Jane Reid; Lois Robinson; Todd Feigenbaum

Members Absent: John Cordes

Also Present: Edward Bartholomew, CEO; Attorney Kara Lais, Michael Goot, The Post Star; Jon Lapper; Shaun Rivers; Joe Stevens

Judith Calogero opened the meeting and determined there was a quorum present.

Ms. Calogero stated that the first item on the agenda is a presentation from Etain regarding its proposal to acquire and develop Lot # 4 in the Tech Meadows Industrial Park. Ms. Calogero invited Jon Lapper, counsel to Etain to discuss any changes to the project since the Agency's initial approval that was given on November 1, 2018. Mr. Lapper explained that nothing has changed with the project from what was previously presented to the Agency with the exception of the timing. He stated that there was a delay in securing financing from the NYS Job Development Agency, but that the company has secured financing through the National Bank of Coxsackie. He stated that they anticipate commencing construction at the end of 2019 and complete construction by the first quarter of 2021.

CEO Bartholomew stated that due to the amount of time that has passed since the original approval it will be in the best interests of the Agency to schedule a second public hearing to describe the project and hear any comments from the public.

RESOLUTION NO. 16-2019

On the motion of Judy Calogero, seconded Mary Gooden, all voting affirmatively it was resolved that the Agency hereby schedules a public hearing for the Etain project to be held on Thursday, April 11, 2019 at 7:30am in the Mayor's Conference Room, 2nd Floor City Hall, 42 Ridge Street, Glens Falls, NY and it was further resolved that the CEO, in conjunction with counsel, shall arrange for posting, publishing and mailing of any and all required notice pursuant to General Municipal Law.

The next item on the agenda is the consideration of resolutions.

RESOLUTION NO. 17-2019

On the motion of Judy Calogero, seconded Lois Robinson, all voting affirmatively it was resolved that the Agency hereby approves of the Form ST-62 for year ending 12/31/2018, as presented at this meeting, indicating that sales tax exemption benefits were provided during calendar year 2018 and indicating that no recapture efforts were commenced by the Agency during calendar year 2018 and further authorizing the CEO to execute and file same with NYS Department of Taxation and Finance.

RESOLUTION NO. 18-2019

On the motion of Judy Calogero, seconded Lois Robinson, all voting affirmatively, the following resolution was adopted:

WHEREAS, in order to adhere with the applicable laws, rules, regulations and best practices, the Agency expends a considerable amount of administrative resources on compliance matters on behalf of IDA clients; and

WHEREAS, to assist the Agency with these expenses, it is in the best interests of the Agency to collect an annual compliance fee from IDA clients, both current clients and future clients, that have projects benefitting from existing PILOT Agreements.

RESOLVED that an annual compliance fee in the amount of \$300.00 shall be invoiced for each individual IDA project, to be paid by the IDA client within 30-days of receipt, during the term of the PILOT Agreement is hereby approved, and further that the CEO, in conjunction with legal counsel, shall have the authority to amend all necessary closing documents to address the annual compliance fee and to contact all current IDA clients regarding the same.

RESOLUTION NO. 19-2019

On the motion of Judy Calogero, seconded Todd Feigenbaum, all voting affirmatively, the following resolution was adopted:

WHEREAS, any and all current IDA projects must report to the Agency annually concerning jobs retained and created, construction jobs and other; and

WHEREAS, it has been determined that it is in the best interest of the Agency to include specific language in lease agreements and project agreements concerning reporting requirements.

RESOLVED that the form project closing documents shall be amended to include a specific provision requiring the IDA client and its tenants to report annual information on a calendar basis concerning job categories and counts, as well as any other information that may be deemed reasonably necessary by the CEO, no later than 60 days from the end of each calendar year, in a format that may be determined by the CEO.

FURTHER RESOLVED that the following language shall be included in project closing documents: "A copy of the NYS 45 form for the project location is required to be submitted with this report. If the NYS 45 form is not available for the specific project location or the form does not accurately reflect the full-time jobs created, an internal report verifying the total jobs by employment category as outlined above at the location is required with this submission".

RESOLUTION NO. 20-2019

On the motion of Judy Calogero, seconded Mary Gooden, all voting affirmatively, the following resolution was adopted:

WHEREAS, it has been determined that it is a best practice of the IDA to have a written agreement with legal counsel concerning the terms and conditions of said representation; and

WHEREAS, at the March 14, 2019 meeting a RFP for legal services was authorized; and

WHEREAS, the Agency wishes to enter into a temporary agreement with FitzGerald Morris Baker Firth PC for professional legal services until such time as the RFP process is complete.

RESOLVED that the agreement for legal services with FitzGerald Morris Baker Firth PC, as presented at this meeting is hereby approved and accepted and the Chair or CEO is authorized to execute said agreement.

RESOLUTION NO. 21-2019

On the motion of Judy Calogero, seconded Mary Gooden, all voting affirmatively, the following resolution was adopted:

WHEREAS, on October 15, 2010, the Agency entered into an Agent Agreement with Warren Street Square, LLC for the purpose of undertaking a project at 77-87 Warren Street in the City of Glens Falls to consist of the demolition, rehabilitation, renovation and upgrade of the existing improvements to accommodate a mixed use commercial project of office and retail space as well as residential apartments; and

WHEREAS, said project has been completed; and

WHEREAS, the Agency records indicate that on December 21, 2010, a NYS Form ST-60 was filed with the NYS Tax Department, IDA Unit for said project and was stamped by the NYS Tax Department as received on December 22, 2010; and

WHEREAS, the Agency records indicate that the NYS Form ST-60 that was filed inadvertently did not include an “estimated value of good services to be exempted from sales and use taxes” as required; and

WHEREAS, upon a diligent review of the records and proceedings of said project, it has been determined that said amount was estimated at \$2,000,000.

RESOLVED, that it is hereby approved that a correction NYS Form ST-60 shall be filed with the NYS Tax Department to include the estimated value of goods and services to be \$2,000,000 and be it further resolved that the CEO shall have the authority to execute any and all documents necessary to effectuate this resolution and shall coordinate with counsel on filing.

RESOLUTION NO. 22-2019

On the motion of Judy Calogero, seconded Lois Robinson, all voting affirmatively, the following resolution was adopted:

RESOLUTION APPROVING OF THE EXTENSION OF PROJECT COMPLETION DATE AND SALES TAX EXEMPTION IN CONNECTION WITH THE 70 WARREN, LLC PROJECT

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Sections 856 and 923-b of the General Municipal Law of the State of New York (collectively, the “Act”), the City of Glens Falls Industrial Development Agency (the “Agency”) was created and granted the authority to enter into agreements for the purpose of acquiring, constructing and equipping certain industrial facilities; and

WHEREAS, 70 Warren, LLC (the “Company”) is a New York limited liability company with an offices at 100 Glen Street, Suite 3A, Glens Falls, New York, 12801; and

WHEREAS, the Agency and the Company entered into a Lease Agreement and related documents all dated as of March 5, 2015 in regard to a certain project (the “Project”), as more particularly defined therein; and

WHEREAS, on January 11, 2018, the Agency approved of an extension of the project completion date and extension of the sales tax exemption through January 31, 2019; and

WHEREAS, the Company has secured a tenant for the premises and has requested that the Agency extend the project completion date and sales tax appointment date through March 31, 2020; and

WHEREAS, the Agency has not found the Company to be in default of any of the terms of the Lease Agreement or the PILOT Agreement.

NOW, THEREFORE, BE IT RESOLVED

1. That the Agency does hereby approve of the extension of the project completion date and extension of the sales tax exemption until March 31, 2020 and further states that no request was made to increase the sales tax exemption authorization.
2. That there shall be no sales tax exemption claimed by applicant for any purchases made by applicant regarding the 70 Warren Street project subject to sales tax from February 1, 2019 to the date of the executed ST-60 form by the IDA following receipt of a fully executed lease agreement for the subject premises.
3. That the Company shall be responsible for any fees, costs and expenses relating to this transaction, including the administrative fee due the Agency, Agency's legal fees and County recording fees, and shall provide documentation to the Agency that the aforementioned were duly approved by the Company.
4. That the Agency does hereby authorize the Chief Executive Officer or the Chairman of the Agency, upon advice and consent of Agency Counsel, to execute and deliver on behalf of the Agency any documents necessary to consummate the transaction.
5. This Resolution shall take effect immediately.

RESOLUTION NO. 23-2019

On the motion of Lois Robinson, seconded Todd Feigenbaum, all voting affirmatively, the Agency approved a payment to be made on behalf of the GGFLDC for insurance with repayment to be made by the GGFLDC to the Agency upon receipt of proceeds from the sale of any lot in Tech Meadows.

The next item on the agenda was a review by the CEO of the PARIS filing, inclusive of a discussion on the 11 existing IDA projects. A copy of the project descriptions is attached hereto and incorporated herein by reference.

There being no further business. Ms. Calogero noted that the next meeting will be held on April 11, 2019 at 7:30am. Ms. Calogero called for a motion to adjourn the meeting.

RESOLUTION NO. 24-2019

On the motion of Jane Reid, seconded Lois Robinson, all voting affirmatively it was resolved that the City of Glens Falls Industrial Development Agency hereby adjourns the March 28, 2019 special meeting.

**CITY OF GLENS FALLS INDUSTRIAL DEVELOPMENT AGENCY
MEETING MINUTES**

The regular meeting of the City of Glens Falls Industrial Development Agency was held on Thursday, April 11, 2019 in the Mayor's Conference Room, 42 Ridge Street, Glens Falls, New York 12801.

Members Present: Judith Calogero; Mayor Daniel Hall; Jane Reid; Lois Robinson; John Cordes; Todd Feigenbaum

Members Absent: None

Also Present: Edward Bartholomew, CEO; Attorney Kara Lais, Michael Goot, The Post Star

Judith Calogero opened the meeting and determined there was a quorum present.

Ms. Calogero stated that the first item on the agenda is to conduct a second public hearing on the E'tain, LLC project to be located in Tech Meadows Park. The following representatives of E'tain, LLC were in attendance: Shaun Rivers, Joe Stevens and John Riley. Ms. Calogero welcomed them and explained that the original public hearing was held on November 1, 2018, but since a significant amount of time has passed and the financing mechanisms have changed, the Board wanted to conduct a second public hearing to confirm the project information and specifics.

Mr. Stevens explained that construction is expected to commence in the 4th quarter of 2019 and will last approximately 1 year. They anticipate employing 60 construction workers and would like to have all construction workers to be local. The company advised that they expect to create 10-12 jobs in the first year with a salary range of \$30,000 to \$70,000 depending on the position. By the end of the second year of operation, the company expects to have created 20-25 jobs in total.

A question was posed regarding the site work and construction. Mr. Riley explained that there will be no changes from what was previously presented and approved by the Joint Committee. He stated that it will be a pre-engineered, metal building. He stated that they may change from horizontal to vertical siding, but acknowledged that if this change was considered the company may need to go back to the Joint Committee. Ms. Calogero reiterated that this would be the case. It was noted that there will be no change to the parking and that there will be 35 parking spaces.

Mr. Stevens explained that there will be no cultivation at this site, as that is in Chester.

The company that they are making approximately a \$4.9m investment and have requested a 7 year PILOT, mortgage tax exemption and a sales tax exemption. It was noted that the project will not receive any other incentives from NYS or financing with JDA besides IDA benefits.

There were no other comments or questions.

Ms. Calogero stated that the first item on the agenda is to approve the minutes from the following meetings held on March 14, 2019, as presented: Joint Nomination, Governance and Audit Committee meeting; Annual meeting and Regular meeting.

RESOLUTION NO. 16-2019:

On the motion of Lois Robinson, seconded by Mary Gooden and, all voting affirmatively, the March 14, 2019 Joint Nomination, Governance and Audit Committee meeting; Annual meeting and Regular meeting minutes were approved.

The next item on the agenda is the consideration of the payment of bills. The following bills were presented at the meeting for payment:

Prepaid Bills for Reaffirmation

i.	COOL Insuring Agency, Inc. -General Liability Insurance 4/3/19-4/3/20 on behalf of LDC	\$6,508.17
ii.	COOL Insuring Agency, Inc. -Excess Liability Insurance 4/3/19-4/3/20 on behalf of LDC	\$7,152.59
iii.	FitzGerald Morris Baker Firth -Services 2/6-2/27/19	\$2,688.00
iv.	McCarthy and Conlon, LLP -February 2019 CFO Report and	\$325.00
v.	The Post Star -Special Meeting Notice 3/28/19	\$33.10
vi.	Warren County EDC -Reimbursement for file storage boxes purchased 1/16/19	\$95.89

RESOLUTION NO. 17-2019:

On the motion of Lois Robinson, seconded by Jane Reid and, all voting affirmatively, the payment of the above bills were approved.

Ms. Calogero stated that the next item on the agenda is the monthly financial reports. The members noted that there was no unusual activity to report since the last report other than bills being paid.

RESOLUTION NO. 18-2019

On the motion of Lois Robinson, seconded by Mary Gooden, all voting affirmatively, the monthly financial report for March 2019 was approved. CEO Bartholomew stated that upon the sale of Lot #4 the LDC will be reimbursing the Agency for monies that have been advanced.

The next item on the agenda is the CEO Report. No report at this time.

The next item on the agenda is the consideration of resolutions.

RESOLUTION NO. 19-2019

On the motion of Jane Reid, seconded by Lois Robinson, all voting affirmatively, the following resolution was approved:

RESOLUTION APPROVING A MORTGAGE AND ASSIGNMENT OF RENTS AND LEASES WITH THE ADIRONDACK TRUST COMPANY IN CONNECTION WITH 13 CHESTER STREET LLC AND AUTHORIZING EXECUTION AND DELIVERY OF THE SAME

WHEREAS, the City of Glens Falls Industrial Development Agency (the "Agency") is a body corporate and politic duly organized and existing under Sections 856 and 890-c of the General Municipal Law ("GML") of the State of New York (the "State"), with its principal place of business at 333 Glen Street, Glens Falls, New York; and

WHEREAS, the Agency has approved a "Project" to be undertaken at 13 Chester Street in the City of Glens Falls by 13 Chester Street LLC (the "Company"), as described in the Inducement Resolution dated January 15, 2015 and the Closing Resolution dated February 5, 2015; and

WHEREAS, on March 17, 2015, the Agency entered into a Lease Agreement and Leaseback Agreement with the Company in connection with the Project; and

WHEREAS, the Company in order to obtain financing to undertake renovations at 13 Chester Street in the City of Glens Falls unrelated to the Project from The Adirondack Trust

Company, the Company must arrange execute a mortgage on the property known at 13 Chester Street in the City of Glens Falls, in which the Agency has a leasehold interest; and

WHEREAS, the renovations will be undertaken in the basement of 13 Chester Street for the purpose of accommodating a new commercial tenant that is expected to employ approximately 15 people; and

WHEREAS, the ground level project will not be considered part of the original Project as defined in the Closing Documents and will not be eligible for any financial incentives from the Agency; and

WHEREAS, the Company has requested that the Agency execute a mortgage in favor of The Adirondack Trust Company in connection with 13 Chester Street in the City of Glens Falls; and

WHEREAS, 13 Chester Street LLC is not in default of any of the terms of the Leaseback Agreement or the PILOT Agreement.

NOW, THEREFORE, BE IT RESOLVED

1. That the Agency does hereby approve of the execution of a mortgage and an assignment of rents and leases from 13 Chester Street LLC to The Adirondack Trust Company in an estimated amount of \$250,000.00 and further determines that said mortgage shall not be entitled to a mortgage tax exemption from the Agency upon filing in the Warren County Clerk's Office as it does not relate to the Project nor is it an expansion of the 13 Chester Street LLC Project.

2. That the Company shall be responsible for any expenses relating to this transaction, including an administrative fee to the Agency in the amount of \$375.00, legal fees and County recording fees.

3. That the Agency does hereby authorize the Chairman or the Chief Executive Officer of the Agency, or in the absence of the Chairman or the Chief Executive Officer, the Vice Chairman, upon advice and consent of Agency Counsel, to execute and deliver on behalf of the Agency any documents necessary to consummate the transaction.

4. This Resolution shall take effect immediately and shall be contingent upon the Company entering into an amendment to the existing PILOT Agreement dated March 17, 2015 that will prohibit any increase in the assessed value of the property due to the improvements on the ground level for the commercial tenant from being eligible for a real property tax exemption based on the current PILOT Agreement schedule.

RESOLUTION NO. 20-2019

On the motion of Lois Robinson, seconded by Todd Feigenbaum, all voting affirmatively, the following resolution was approved:

**RESOLUTION APPROVING OF TRANSFER OF THE PROPERTY
COMMONLY KNOWN AS 14 PARK STREET IN THE CITY OF GLENS FALLS
FROM EASM PROPERTIES, LLC TO PARK THEATER, LLC AND AUTHORIZING
THE EXECUTION OF DOCUMENTS ASSOCIATED WITH SAME**

WHEREAS, the City of Glens Falls Industrial Development Agency (the "Agency") is a body corporate and politic duly and a public benefit corporation organized and existing under Chapter 555 of the Laws of 1976 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York, with its principal place of business at 333 Glen Street, Suite 1, Glens Falls, New York 12801; and

WHEREAS, EASM Properties, LLC (the "Company") is a New York limited liability company with its principal office for the transaction of business at 51 Walnut Street, Glens Falls, New York 12801; and

WHEREAS, the Agency and the Company entered into a Lease Agreement (the "Lease"), a Leaseback Agreement (the "Leaseback") and a Payment in Lieu of Tax Agreement (the "PILOT"), all as of September 29, 2016, in regard to a certain parcel of land (the "Property") located at 10-14 Park Street, City of Glens Falls, New York 12801 (Tax Map # 310.5-1-17), as more particularly defined therein; and

WHEREAS, the Company is not currently in default of any of the terms and provisions of the Lease or the Leaseback; and

WHEREAS, due to the Company's planning, it has requested the Agency to consent to a transfer of the Property to a newly created entity, Park Theater, LLC, which remains with the same underlying ownership as EASM Properties, LLC; and

WHEREAS, the Agency has reviewed the Company's request and determined said request is valid and is not prohibited by any of the terms of the Lease, Leaseback or PILOT or laws of the State of New York applicable thereto.

NOW, THEREFORE, BE IT RESOLVED

1. That the Agency does hereby consent to the Company's request to transfer the real property known as 10-14 Park Street, City of Glens Falls, New York 12801 (Tax Map # 310.5-1-17) and hereby approves of an assignment of the Lease Agreement (the "Lease"), a Leaseback Agreement (the "Leaseback") and a Payment in Lieu of Tax Agreement (the "PILOT"), all dated as of September 29, 2016 to Park Theater, LLC.

2. That the Company shall be responsible for any expenses relating to this transaction, including an administrative fee to the Agency in the amount of \$375.00, legal fees and County recording fees.
3. That the Agency does hereby authorize the Chairman of the Agency, or in the absence of the Chairman, the Executor Director, upon advice and consent of Agency Counsel, to execute and deliver any and all documents necessary to consummate the transaction.
4. This Resolution shall take effect immediately and shall be contingent upon the NYS Empire State Development's consent, in writing, to said transfer.

RESOLUTION NO. 21-2019

On the motion of Jane Reid, seconded by Lois Robinson, all voting affirmatively, the following resolution was approved:

**RESOLUTION AMENDING RESOLUTION NO. 62-2018 IN ITS ENTIRETY,
RATIFYING AND APPROVING A CERTAIN PROJECT, AS DEFINED HEREIN,
APPOINTING KDBF VENTURES, LLC, AGENT OF THE AGENCY FOR THE
PURPOSE OF CONSTRUCTING AND EQUIPPING THE PROJECT FACILITY (AS
DEFINED HEREIN) AND AUTHORIZING THE EXECUTION AND DELIVERY OF
CLOSING DOCUMENTS BY AND BETWEEN THE AGENCY AND KDBF
VENTURES, LLC**

(PROJECT NO. 5201-19-01)

WHEREAS, the City of Glens Falls Industrial Development Agency (the "Agency") is a body corporate and politic duly organized and existing under Sections 856 and 923-b of the General Municipal Law ("GML") of the State of New York (the "State"), with its principal place of business at 333 Glen Street, Suite 101, Glens Falls, New York; and

WHEREAS, KDBF Ventures, LLC, a limited liability company established pursuant to the laws of the State of New York, having an address of 29 Old Aspetong Road, Katonah, NY 10536 (the "Company") has requested that the Agency provide financial assistance in the form of a payment of lieu of taxes, mortgage tax exemption and sales tax abatements regarding a project (the "Project") to consist of: (i) the acquisition by the Agency of a leasehold interest in certain real property located on Veterans Road (Lot #4) in the City of Glens Falls, County of Warren, New York (the "Land", being more particularly described as tax parcel number 309.6-3-4); (ii) the planning, design, construction, operation and maintenance by the Company of an approximately 15,000+/- square foot light manufacturing/office facility (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision

(15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"), all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the "Act"), as amended.; and

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Sections 856 and 923-b of the General Municipal Law of the State of New York, the City of Glens Falls Industrial Development Agency (the "Agency") was created and granted the authority to enter into agreements for the purpose of acquiring, constructing and equipping certain industrial facilities; and

WHEREAS, the Project will require the Agency and the Company to enter into an agreement whereby the Company will acquire, by lease, and construct the Project Facility and the Agency will lease the Project Facility to the Company; and

WHEREAS, the Agency is a state agency under Section 8-0105 of the Environmental Conservation Law of the State of New York and the Project is an action under Article 8 of said law (Article 8 hereinafter being referred to as the "State Environmental Quality Review Act" or "SEQRA") and under 6 NYCRR Part 617, §§ 617.2(b) and 617.3(g); and

WHEREAS, the Project is located in Tech Meadows (formerly known as Veterans Field); and

WHEREAS, the Town of Queensbury Town Board adopted the Veterans Field Industrial Park Generic Environmental Impact Findings Statement dated April 23, 2001 by resolution 177, 2001 of the Town of Queensbury Town Board on April 23, 2001, and the City of Glens Falls Common Council adopted the Findings Statement (the "Findings Statement") by resolution 226 dated July 5, 2001, which Findings Statement were related to a certain industrial development located off Luzerne Road, Veterans Road, and Sherman Avenue in the Town of Queensbury; and

WHEREAS, included in the Findings Statement was the acknowledgement and creation of a joint committee of the Greater Glens Falls Development Corporation, now known as the Greater Glens Falls Local Development Corporation (the "GGFLDC"), and the Queensbury Economic Development Corporation, which corporation was merged with the Hudson River Local Development Corporation (the "HRLDC"), now merged into the Economic Development Corporation Warren County, and which committee was to be known as the Veterans Field Capital Improvement Review Committee (the "Committee"); and

WHEREAS, the Committee was charged in the Findings Statement with the review of certain visual elements of buildings to be developed in Tech Meadows; and

WHEREAS, the Committee met on October 25, 2018 and October 30, 2018 to review certain visual elements of the building plans of the Project and on October 30, 2018 adopted a resolution approving the plans as presented at said meetings; and

WHEREAS, said Findings Statement and the action of this Committee, as described herein, satisfies the review requirements of SEQRA; and

WHEREAS, the Agency conducted a public hearing on November 1, 2018 pursuant to Article 18-A of the Act before taking official action relating to the Project; and

WHEREAS, on November 1, 2018, the Agency adopted Resolution No. 62 of 2018 approving of the Project and appointing KDBF Ventures, LLC, as agent of the Agency; and

WHEREAS, the Project scope has not been modified but the Project was delayed due to financing; and

WHEREAS, the Agency found it in the best interests to conduct a subsequent public hearing pursuant to the requirements of General Municipal Law; and

WHEREAS, the Agency conducted a subsequent public hearing on April 11, 2019; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities which may arise in connection with the transactions contemplated by the lease of the Facility; and

WHEREAS, the Agency has determined that all of the requirements of the Act have been complied with and that the contemplated transaction will further the public purposes of the Act; and

WHEREAS, the Project constitutes a "Project" within the meaning of the Act; and

WHEREAS, a lease agreement (the "Lease Agreement") with respect to the Project, along with certain financing documents, will be executed by and between the Company and the Agency; and

WHEREAS, it is the intention of the Agency amend Resolution No. 62 of 2018 in its entirety and replace with this Resolution before the Agency at its April 11, 2019 meeting.

NOW, THEREFORE, BE IT RESOLVED:

SECTION 1. FINDINGS. The Agency has reviewed the application to determine compliance with the requirements of the Act and based on the representations of the Company to the Agency in said application and elsewhere, the Agency hereby makes the following findings and determinations with respect to the Project:

(A) The Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes of the Act and to exercise all powers granted to it under the Act;

(B) The Project constitutes a “project”, as that quoted term is defined in the Act;

(C) The acquisition, construction and installation of the Facility and the lease of the Facility to the Company (i) will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the State of New York and the City of Glens Falls, and (ii) will not result in the removal of an industrial or manufacturing plant of the Company from one area of the State to another area of the State; and (iii) will lead to the creation of at least ten (10) full time equivalent job opportunities within the next two (2) years for the inhabitants of the City of Glens Falls, New York and the State of New York;

(D) The location of the site of the Project is acceptable to the Agency;

(E) The Facility is not known by the Agency to be in material violation of the local zoning laws and planning regulations of the City of Glens Falls and all regional and local land use plans for the area in which the Facility shall be located; and

(F) The Facility and the operations of the Company are not known by the Agency to cause or result in the violation of the health, labor, environmental or other laws of the United States of America, the State of New York, the County of Warren or the City of Glens Falls; and

(G) The Agency hereby adopts of the Findings Statement and the approval resolution of the Committee, thereby satisfying the requirements of SEQRA.

(H) The Agency further determines that the Project consists of a private investment estimated at \$4,928,400.00, with a total project cost estimated at \$4,928,400.00.

(I) The Agency hereby finds that for this Project the private investment described in subsection (H) herein and the creation of jobs described in subsection (C) herein shall be considered Material Factors for purposes of monitoring in accordance with the policies and procedures of the Agency.

SECTION 2. DESCRIPTION OF PROJECT.

Subject to the conditions set forth herein and in the Lease Agreement, the Agency shall:

- (1) acquire an interest in, construct and install the Project Facility; and
- (2) lease the Project Facility to the Company pursuant to an agreement or agreements whereby the Company will obligate itself, among other things, to undertake the Project on behalf of the Agency.

SECTION 3. COMPANY APPOINTED AGENT OF AGENCY.

(A) The Company is hereby appointed the true and lawful agent of the Agency to:

- (1) construct and install the Project Facility;
- (2) make, execute, acknowledge, and deliver all contracts, orders, receipts, instructions, and writings needed to complete the Project; and
- (3) do all other things requisite and proper for the completion of the Project.

(B) The Company is authorized to proceed with the acquisition, construction and installation of the Project Facility, subject to receiving any and all appropriate municipal approvals needed prior to commencement of construction, and to advance such funds as may be necessary to accomplish these goals. The Company shall complete the Project Facility within eighteen (18) months from the commencement thereof. The failure of the Company to complete the project within eighteen (18) months shall be considered a "significant change in the use of the facility" as set forth in the Agency's Recapture of Benefits Policy, as amended from time to time.

(C) The Company is also authorized to appoint third party agents to undertake the Project and thereby make available to such third party agents an exemption from New York State sales and use taxes in connection with undertaking the Project. This provision is subject to the Company entering into an Agent Agreement with the Agency.

(D) The Agency hereby approves of the execution of a Sales Tax Exemption Agreement authorizing exemptions from the sales and use taxes for purchases and rentals related to the undertaking of the project in an amount not to exceed Nine Thousand Eight Hundred Dollars (\$9,800.00), based on eligible project costs of One Hundred Forty Thousand Dollars (\$140,000.00), which exemption will expire on October 10, 2020.

(E) The Agency hereby acknowledges and approves a mortgage tax exemption relating to the Project in an exemption amount not to exceed \$39,375.00 based on a mortgage amount not to exceed \$3,150,000.00.

SECTION 4. INSURANCE REQUIRED. At all times the Company shall maintain, or cause to be maintained, insurance with respect to the Project Facility against such risks and for such amounts as are customarily insured against by businesses of like size and type paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:

(A) Insurance protecting the interests of the Company and the Agency against loss or damage to the Project Facility by fire, lightning and other casualties normally insured against with a uniform standard extended coverage endorsement, such insurance at all times to be in an amount not less than the total cash replacement value of the Project Facility, as determined by a recognized appraiser or insurer selected by the Company; provided, however, that the Company

may, insure all or a portion of the Project Facility under a blanket insurance policy or policies covering not only the Project Facility or portions thereof but other property.

(B) Workers' compensation insurance, disability benefits insurance, and each other form of insurance which the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Project Facility and for all contractors and subcontracts.

(C) Insurance protecting the Company and the Agency against loss or losses from liabilities imposed by law or assumed in any written contract (including the contractual liability assumed by the Company under Section 8.2 hereof) and arising from personal injury and death or damage to the Property of others caused by any accident or occurrence, with a single combined limit of not less than \$1,000,000.00 per accident or occurrence on account of personal injury, including death resulting therefrom, and damage to the Property of others, excluding liability imposed upon the Company by any applicable workers' compensation law; and a blanket excess liability policy in the amount not less than \$2,000,000 protecting the Company and the Agency against any loss or liability or damage for personal injury, death or Property damage.

(D) If the Project Facility is located within an area identified by the Secretary of Housing and Urban Development as having special flood hazards, insurance against loss by floods in an amount not less than \$1,000,000.00 or to the maximum limit of coverage made available, whichever is less.

(E) Other insurance coverage required by any Governmental Authority in connection with any Requirement.

(F) The Agency is to be included as additional insured's on a primary, non-contributory basis (using CG 2010 11/85 or its equivalent), including products-completed operations coverage for 3 years.

(G) No insurance policies obtained in accordance with this section shall exclude coverage for liability resulting from application of either Section 240 or Section 241 of the New York State Labor Law. A copy of the Additional Insured endorsement should be provided to the Agency.

(H) The Company agrees to require any and all subcontractors hired to perform work on the project to obtain insurance coverage as provided above. All such insurance coverage shall name the Agency as an Additional Insured on a primary, Non-contributory basis on form CG 2010 11/85 or its equivalent. The foregoing coverage's and limits are to be considered as minimum requirements and in no way limit the liability of the subcontractor.

(I) All policies required by this section shall include a waiver of subrogation in favor of the Agency.

(J) All policies and certificates of insurance shall expressly provide that the Agency must receive 30 days written notice in the event of material alteration, cancellation or nonrenewal of coverage.

SECTION 5. §144 ELECTION. Not Applicable.

SECTION 6. BOND COUNSEL. Not Applicable.

SECTION 7. DOCUMENT PREPARATION. Counsel to the Agency is hereby authorized and directed to cooperate with counsel to the Company, as well as all other necessary parties, in order to prepare the documents needed to undertake the Project.

SECTION 8. PAYMENT IN LIEU OF TAX (PILOT) AGREEMENT. The Agency's approval is subject to the Company entering into a PILOT Agreement with the Agency whereby the Company agrees to make payments in lieu of taxes in any given year as if the Company were the owner of the Project and not the Agency. The Agency's approval is also subject to the Company agreeing to the terms of the Agency's Recapture Policy. The following PILOT schedule is consistent with the Agency's uniform policy is approved as follows:

The PILOT Agreement shall be for a term of seven (7) years. The PILOT payment schedule shall be as follows: Years 1-3: Base Value and Years 4-7: Base Value plus 50% of increased assessed valuation attributable to improvements made to the Project Facility. The Base Value is \$155,000.00. At all times, including during the term of the PILOT Agreement, the Company shall be responsible for the full payment of water and sewer assessments and charges and Crandall Library Special Assessments.

The estimated real property tax benefit during the term of the PILOT Agreement is Five Hundred Seventy Nine Thousand Five Hundred Eighty Five Dollars and Fifteen Cents (\$579,585.15).

The substance and form of the Agreement for Payments in Lieu of Taxes is hereby approved, subject to approval as to content by the Chairman and the Agency's counsel.

SECTION 9. ADMINISTRATIVE AND LEGAL FEES. The Company will pay all costs incurred by the Agency, including but not limited to attorney's fees, which arise out of Company's application for Financial Assistance. Upon closing of the Project documents, the Company will pay to the Agency an administrative fee of \$36,963.00 based upon an estimated Project cost of \$4,928,400.00 pursuant to the schedule set forth below and contained within the Company's Application for Financial Assistance:

First \$10 Million of Project Costs:	¾ of 1%
Next \$10 Million of Project Costs:	½ of 1%

Next \$10 Million of Project Costs:	¼ of 1 %
Above \$30 Million of Project Costs:	1/8 of 1%.

The Company shall provide a security deposit in the amount of \$7,500.00 to the Agency at the time of the acceptance of the terms of this resolution. Said deposit shall be credited towards the administrative and legal fees and other costs of the Agency at the time of closing. In the event a closing does not occur, said deposit shall be used to cover any legal fees and other costs incurred by the Agency at that time.

Following the completion of the Project Facility, the Company shall confirm, in writing, the actual Project cost. In the event that the total Project cost exceeds the estimate provided herein, the Agency may require the payment of the difference that would otherwise be due pursuant to the above-schedule.

SECTION 10. APPROVAL OF COMPANY'S FINANCING DOCUMENTS. The substance and form of the Underlying Lease, the Lease Agreement, the Agreement for Payments in Lieu of Taxes, Agent Agreement, Environmental Compliance Agreement, and all other certificates or documents to be delivered or executed and delivered by the Agency (hereinafter collectively referred to as the "Closing Documents") are hereby approved, subject to approval as to content by the Chairman and the Agency's counsel.

SECTION 11. APPROVAL OF SUBLEASE. It is the intention of the Company to sublease the Project Facility to Etain, LLC, a limited liability company organized pursuant to the laws of the State of New York. Etain, LLC is a family-run, women-owned medical marijuana business which will manufacture projects at the Project Facility for wholesale contracts and distribution. The Agency hereby approves and consents to the sublease from the Company to Etain, LLC, subject to Etain, LLC agreeing to certain terms of the Closing Documents.

SECTION 12. APPROVAL OF COMPANY'S FINANCING DOCUMENTS. The Chairman or Chief Executive Officer of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company up to a maximum principal amount of \$3,150,000.00 to undertake the Project, acquire the Facility and/or finance equipment and other personal property and related transactional costs. The Agency hereby approves of a mortgage tax exemption in connection with the mortgage, assignment of leases and rents, and/or security agreement set forth in this Section.

SECTION 13. AUTHORIZED REPRESENTATIVES. (A) The Chairman or the Chief Executive Officer is hereby authorized to execute and deliver the Closing Documents. If required, the signature of the Chairman or Chief Executive Officer shall be attested by the Secretary or Treasurer of the Agency (or Agency Counsel, in the absence of a

Secretary/Treasurer) who, if required, shall affix a facsimile of the Agency's seal to documents required to be under seal. (B) On the advice of Counsel to the Agency, the Chairman or Chief Executive Officer shall make such reasonable changes to the Closing Documents as shall be required to promote and protect the Agency's interests with respect to the Project. All such changes shall be made prior to the closing.

SECTION 14. FURTHER ASSURANCE. The officers, employees and agents of the Agency are hereby authorized and directed to do all acts required by the provisions of the Closing Documents, and to execute and deliver all additional certificates, instruments and documents and to pay all fees, charges and expenses and do all other acts that may be necessary or proper to effectuate the purposes of this resolution. None of the members, officers, directors, employees or agents (except the Company) of the Agency, shall be personally liable under the other Closing Documents.

SECTION 15. ADDITIONAL COMPANY REQUIREMENTS. In addition to the terms and conditions set forth in the Closing Documents, the Company shall:

- (A) Pay to the Agency, pursuant to the terms set forth in the PILOT Agreement, a compliance fee in the amount of \$300.00 for each term of the PILOT Agreement.
- (B) Timely respond to any requests for information from the Agency concerning job reporting and monitoring Project compliance with any and all applicable laws, rules and regulations of the State of New York and policies of the Agency.
- (C) Pursuant to Section 874(8) of the General Municipal Law, annually files with the New York State Department of Taxation and Finance Form ST-340 identifying the value of all sales and use tax exemptions claimed by the Company and its contractors, third party agents and/or consultants. The Company shall concurrently with the filing with NYS shall provide a copy of said Form ST-340 to the Agency. Said filings shall occur no later than February 28 in any year. Failure to make said filings may result in the Company losing authority to act as agent on behalf of the Agency.
- (D) Cooperate with the Agency in the event Agency seeks to recapture sales tax benefits and if the Company fails to cooperate with the Agency, the Agency shall have the right to commence a legal action against the Company to recapture unauthorized sales tax exemption benefits.
- (E) Within 30 days of the end of the tax exemption period, provide the Agency with a report summarizing all expenditures incurred in connection with the Project for which sales tax exemption benefits were received and the total amount of sales tax benefits received during said tax exemption period.
- (F) Along with its tenants, report annual information on a calendar basis concerning job categories and counts, as well as any other information that may be deemed reasonably necessary by the Agency, no later than 60 days from the end of each calendar year, in a format that may be determined by the Agency. A copy of the NYS 45 form for the project location is required to be submitted with this report. If the NYS 45 form is not available for the specific project location or the form does not

accurately reflect the full-time jobs created, an internal report verifying the total jobs by employment category as outlined above at the location is required with this submission.

SECTION 16. FILING OF DOCUMENTS. Originals of all Closing Documents for the Project shall be filed and maintained in the office of the Agency.

SECTION 17. PUBLIC INSPECTION. A copy of this resolution and the Closing Documents shall be placed on file in the office of the Agency, where they shall be available for public inspection during business hours.

SECTION 18. EFFECTIVE DATE. This resolution shall take effect immediately.

CEO Bartholomew circulated drafts of the revised application and indicated that additional amendments will be made and will be presented to the Board members for final comment and approval.

There being no further business. Ms. Calogero noted that the next meeting will be held on May 9, 2019 at 7:30am. Ms. Calogero called for a motion to adjourn the meeting.

RESOLUTION NO. 22-2019

On the motion of Mary Gooden, seconded Lois Robinson, all voting affirmatively it was resolved that the City of Glens Falls Industrial Development Agency hereby adjourns the April 11, 2019 regular meeting.

**Glens Falls Industrial Development Agency
May 9, 2019 Meeting
Schedule A Payment Bills**

Industrial Development Agency Prepaid Bills for Reaffirmation

LDC Payroll Account

-For contributions to LDC payroll and personnel services provided by Keena Staffing \$1,500.00

Total Prepaid Bills for Reaffirmation: \$1,500.00

Industrial Development Agency Bills to be Paid

FitzGerald Morris Baker Firth

-Services 3/11-3/28/2019 \$4,422.95

-Services 3/11-3/29/2019 \$943.20

McCarthy and Conlon, LLP

-CFO Report March 2019 \$325.00

-Quarterly compliance services, PARIS report \$300.00

Musick Designs

-IDA and CDC 2/2019 and 3/2019 financial statements, 3/14/2019 IDA and CDC meeting minutes, and IDA PILOT project uploads \$300.00

-IDA Annual Joint Meeting updates and IDA PILOT project uploads \$220.00

Whittemore, Downen & Ricciardelli

-2018 IDA Audit final billing \$3495.00

Bill Pay Total: \$10,006.15