

**AMENDED APPLICATION, PUBLIC HEARING AND
DEVIATION PROCESS RESOLUTION
CAPITAL CITY PRODUCE LLC AND
3 E INDUSTRIAL ASSOC., LLC**

A regular meeting of Rensselaer County Industrial Development Agency (the "Agency") was convened in public session, remotely by conference call or similar service pursuant to the New York State Executive Order 202.1 (as amended and extended), on October 8, 2020 at 4:00 o'clock p.m., local time.

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

PRESENT:

Michael Della Rocco	Vice Chairman
Cynthia A. Henninger	Secretary/Treasurer
Ronald Bounds	Assistant Secretary/Treasurer
Renee Powell	Member

ABSENT:

John H. Clinton, Jr.	Chairman
Douglas Baldrey	Member

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Robert L. Pasinella, Jr.	Executive Director
Robin LaBrake	Assistant
John E. Sweeney, Esq.	Agency Counsel
Peter R. Kehoe, Esq.	Special Agency Counsel
Melissa C. Bennett, Esq.	Special Counsel

The following resolution was offered by Michael Della Rocco, seconded by Ronald Bounds, to wit:

Resolution No. 1020-5

RESOLUTION TO WITH RESPECT TO AN AMENDED APPLICATION CAPITAL CITY PRODUCE LLC AND 3 E INDUSTRIAL ASSOC., LLC AND RE-AUTHORIZING THE EXECUTIVE DIRECTOR OF THE RENSSELAER COUNTY INDUSTRIAL DEVELOPMENT AGENCY TO HOLD A PUBLIC HEARING AND TO COORDINATE THE DEVIATION PROCESS WITH RESPECT THERETO.

WHEREAS, Rensselaer 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 128 of the 1974 Laws of New York, as amended, constituting Section 903-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, 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, 3 E Industrial Assoc., LLC (the “Real Estate Holding Company”) and Capital City Produce LLC (the “Operating Company”) presented an application (the “Original Application”) to the Agency, a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the “Project”) for the benefit of the Real Estate Holding Company and the Operating Company, said Project consisting of the following: (A) (1) the acquisition of an interest in an approximately 2.4 acres of real estate located at 3 E Industrial Parkway (tax map no. 111.51-1-3) in the City of Troy, Rensselaer County, New York (the “Land”), the renovation of an approximately 25,700 square foot existing commercial industrial building, together with related amenities and improvements (collectively, the “Facility”), and the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property not part of the Equipment (as such term is defined herein) (collectively, the “Facility Equipment”) (the Land, the Facility and the Facility Equipment being collectively referred to as the “Company Project Facility”), which Company Project Facility is to be leased and subleased by the Agency to the Real Estate Holding Company and further subleased by the Real Estate Holding Company to the Operating Company, and (2) the acquisition and installation of certain equipment and personal property (the “Equipment”, and together with the Company Project Facility, the “Project Facility”), all of the foregoing Project Facility to constitute a commercial facility to be used for the wholesale distribution and processing of produce and related products and associated uses 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 certain sales and use taxes, mortgage recording taxes (subject to statutory limitations), real property taxes and real estate transfer taxes (collectively, the “Original Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Real Estate Holding Company or such other person as may be designated by the Real Estate Holding Company and agreed upon by the Agency and the lease (with an obligation to purchase) or sale of the Equipment to the Operating Company or such other person as may be designated by the Operating Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on May 14, 2020 (the “Public Hearing/PILOT Deviation Resolution”), the Agency authorized a public hearing with respect to the Project to be held pursuant to Section 859-a of the Act and the deviation process

with respect to the proposed payment in lieu of tax agreement to be followed in compliance with the provisions of Section 874-b of the Act and the Policy; and

WHEREAS, by a resolution adopted by the members of the Agency on July 9, 2020, as amended and restated by a resolution adopted by the members of the Agency on August 13, 2020 (collectively, the "Original Approving Resolution"), the members of the Agency authorized the Project, the granting of the Original Financial Assistance to the Real Estate Holding Company and the Operating Company and the execution and delivery of documentation with respect thereto; and

WHEREAS, the Real Estate Holding Company and the Operating Company have requested that, due to increased project costs, the Agency consider an amendment to the Original Application (the Original Application as so amended, the "Amended Application"), a copy of which is on file at the office of the Agency, that contemplates additional financial assistance to the Real Estate Holding Company and the Operating Company in the form of increased real property tax exemption benefits (the "Additional Financial Assistance" and together with the Original Financial Assistance, the "Financial Assistance"), as more specifically set forth in the Amended Application; and

WHEREAS, pursuant to Section 859-a of the Act, prior to the Agency providing any "financial assistance" (as defined in the Act) of more than \$100,000 to any project, the Agency, among other things, must hold a public hearing pursuant to Section 859-a of the Act with respect to said project; and

WHEREAS, the Real Estate Holding Company and the Operating Company have requested that the Agency enter into a payment in lieu of tax agreement (the "Proposed PILOT Agreement") with respect to the Project Facility, the terms of which deviate from the standard terms of a payment in lieu of tax agreement under the Agency's Uniform Tax Exemption Policy (the "UTEP"); and

WHEREAS, the Agency desires to comply with the public hearing and notice requirements contained in Section 859-a of the Act and the procedure and notice requirements for a deviation from the UTEP with respect to the Proposed PILOT Agreement contained in Section 874 of the Act and the UTEP; and

WHEREAS, the Additional Financial Assistance is not material, will not result in any additional environmental impacts that were not addressed as part of the original SEQRA determination, and does not require that the Agency alter or amend its prior negative declaration for the Project, which is hereby ratified and reaffirmed;

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

Section 1. (A) The Additional Financial Assistance does not constitute a significant change from the Project that was reviewed under SEQRA and therefore no further or additional review is required; and

(B) A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

Section 2. The Agency hereby re-authorizes the Executive Director of the Agency, after consultation with the members of the Agency and Agency Counsel, (A) to establish the time, place and date for a public hearing of the Agency to hear all persons interested in the Project and the Financial Assistance being contemplated by the Agency, said public hearing to be held, as appropriate, in the city, town or village where the Project Facility is or is to be located or remotely by conference call or similar service pursuant to Executive Order 202.1 (as amended and extended); (B) to cause notice of such public hearing to be given to the public by publishing a notice of such hearing in a newspaper of general circulation to available to the residents of the governmental units where the Project Facility is or is to be located, such notice to comply with the requirements of Section 859-a of the Act; (C) to cause notice of said public hearing to be given to the chief executive officer of the county and each city, town, village and school district in which the Project Facility is or is to be located to comply with the requirements of Section 859-a of the Act; (D) to conduct such public hearing; and (E) to cause a report of said public hearing fairly summarizing the views presented at said public hearing to be promptly prepared and cause copies of said report to be made available to the members of the Agency.

Section 3. The Agency hereby further authorizes the Executive Director of the Agency to (A) establish a time, date and place for a meeting of the Agency to consider the approval by the Members of the Agency of the Proposed PILOT Agreement (if applicable, said meeting to be held remotely by conference call or similar service pursuant to Executive Order 202.1 (as amended and extended)); and (B) cause notice of said meeting to be given to the chief executive officer of the county and each city, town, village and school district in which the Project Facility is located, such notice or notices to comply with the requirements of Section 874 of the Act and the UTEP.

Section 4. The Chairman, Vice Chairman and/or Executive Director of the Agency is hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

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:

John H. Clinton, Jr.	VOTING
Michael Della Rocco	VOTING
Cynthia A. Henninger	VOTING
Ronald Bounds	VOTING
Douglas Baldrey	VOTING
Renee Powell	VOTING

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned (Assistant) Secretary of Rensselaer 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 October 8, 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"), 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 or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 8th day of October, 2020.

Cynthia A. Henninger
Secretary

(SEAL)