MINUTES OF THE MEETING OF THE VILLAGE OF PORT CHESTER INDUSTRIAL DEVELOPMENT AGENCY

HELD: July 8, 2020

TIME AND PLACE: 7:55 P.M via WebEx Virtual conferencing (following 30 Broad Street Public Hearing)

A meeting of the Village of Port Chester Industrial Development Agency was convened on Wednesday June 23, 2020 at 7:55 p.m. (following a Public Hearing meeting) via WebEx Virtual Conferencing

ROLL CALL

The PCIDA meeting was called to order at 7:55 p.m. by Chairman Frank Ferrara. On the motion of Board member Richard Cuddy, which was seconded by Board member John Hiensch, the meeting was called to order with the following additional Board members being present: Daniel Brakewood, Michael Brescio, Richard O'Connell and James Taylor.

Also in attendance was Administrative Director Christopher Steers, Board Counsel Justin Miller, Treasurer Anthony Siligato, Planning Director Eric Zamft and Acting Board Secretary Constance Phillips.

MEMBER	MOTION	SECOND	YES	NO	ABSTAIN
BRAKEWOOD			X		
BRESCIO			X		
<u>CUDDY</u>	<u>X</u>		<u>X</u>		
FERRARA			X		
HIENSCH		X	X		
O'CONNELL			X		
TAYLOR			X		

CHAIRMAN'S REMARKS

a. Eric Zamft joins IDA staff

Chairman Ferrara extended a formal welcome to Mr. Eric Zamft, Port Chester Planning and Development Director, who joins our staff officially tonight as IDA Planning Director. Mr. Zamft has worked closely with the IDA for several years behind the scenes and has made occasional presentations, but will now deliver a monthly scope of work to the Agency, as directed by the Board.

OUTSTANDING MINUTES

a. March 11, 2020

b. June 10, 2020

c. June 23, 2020

Mr. Ferrara mentioned that staff is now being allowed to spend more time in the office with access to their usual work tools and the minutes should be up to date by next month.

NEW BUSINESS

a. <u>Completion of due diligence process on the application for financial assistance from 30</u> <u>Broad Development LLC</u>

Chairman Ferrara brought up for discussion the 30 Broad Development project for which a Public Hearing on the application and proposed benefits had just been concluded.

The Board held a discussion on the application looking at the merits of the case, assessed values, abatements etc. After said discussion the Board agreed to support the project.

RESOLUTIONS

a. Project authorizing resolution for 30 Broad Development application for financial assistance

On the motion of Board member James Taylor, which was seconded by Board member john Hiensch, the Project Authorizing Resolution was approved.

Roll Call

MEMBER	MOTION	SECOND	YES	NO	ABSTAIN
BRAKEWOOD			<u>X</u>		
BRESCIO			<u>X</u>		
<u>CUDDY</u>			<u>X</u>		
FERRARA			X		
HIENSCH		X	X		
O'CONNELL			X		
TAYLOR	<u>X</u>		<u>X</u>		

See the Project Authorizing Resolution starting on the next page.

PROJECT AUTHORIZING RESOLUTION

(30 Broad Development, LLC Project)

A regular meeting of the Village of Port Chester Industrial Development Agency was convened on Wednesday July 8, 2020 at 6:30 p.m.at 350 North Main Street, Port Chester, New York 10573.

The following resolution was duly offered and seconded, to wit:

Resolution No. 7/2020 - ___

RESOLUTION OF THE VILLAGE OF PORT CHESTER INDUSTRIAL DEVELOPMENT AGENCY (i) APPOINTING 30 BROAD DEVELOPMENT, LLC (THE "COMPANY") AS ITS AGENT TO UNDERTAKE A CERTAIN PROJECT (AS MORE FULLY DESCRIBED BELOW); (ii) AUTHORIZING THE EXECUTION AND DELIVERY OF A DEED, AGENT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, PAYMENT-IN-LIEU-OF-TAX AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT; (iii) AUTHORIZING THE PROVISION OF CERTAIN FINANCIAL ASSISTANCE TO THE COMPANY (AS FURTHER DEFINED HEREIN); (iv) ADOPTING FINDINGS WITH RESPECT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT ("SEQRA"); AND (v) AUTHORIZING THE EXECUTION OF RELATED DOCUMENTS WITH RESPECT TO THE PROJECT.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 632 of the Laws of 1972 of the State of New York, as amended (hereinafter collectively called the "Act"), the VILLAGE OF PORT CHESTER INDUSTRIAL DEVELOPMENT AGENCY (hereinafter called "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **30 BROAD DEVELOPMENT, LLC**, for itself and/or on behalf of an entity or entities to be formed (collectively, the "Company"), has submitted an application to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of (i) the acquisition by the Agency of a leasehold interest in certain real property located at 30 Broad Street and 136-138 Irving Avenue, Port Chester, New York (the "Land", being more particularly described as tax parcel numbers 142.22-2-2 and 142.22-2-3, as may be merged) along with the existing improvements thereon consisting of commercial and residential mixed-use structures, along with related infrastructure improvements (the "Existing Improvements"); (ii) the demolition of the Existing Improvements and the planning, design, construction, operation and leasing by the Company of a 9-story, multi-tenanted, mixed use redevelopment project that will include (a) five (5) floors of commercial spaces including a proposed 2-story commercial brewery and restaurant facility and three (3) floors of commercial office space, and (b) four (4) floors of residential apartments containing 22 units, along with related building systems, site work, utility

improvements, signage, curbage, sidewalks, and landscaping improvements (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the 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"); and

WHEREAS, on February 12, 2020, the Agency adopted an initial resolution (the "Initial Project Resolution") which (i) accepted the Company's application, (ii) authorized the scheduling and conduct of a public hearing in compliance with the Act, (iii) described the contemplated forms of financial assistance to be provided by the Agency (the "Financial Assistance", as described herein); and (iv) authorized the negotiation of an Agent and Financial Assistance and Project Agreement (the "Agent Agreement"), Lease Agreement (the "Lease Agreement"), Leaseback Agreement (the "Leaseback Agreement") and Payment-in-lieu-of-Tax agreement (the "PILOT Agreement") to be entered into with respect to the Project; and

WHEREAS, in accordance with the Initial Project Resolution, the Agency published and forwarded a Notice of Public Hearing to the Village of Port Chester (the "Village"), the Town of Rye (the "Town"), the County of Westchester (the "County"), and the Port Chester School District (the "School", and together with the Village, Town and County, the "Affected Tax Jurisdictions), a copy of which is attached hereto within **Exhibit A**; and

WHEREAS, the Village of Port Chester Planning Commission reviewed the proposed Project pursuant to the State Environmental Quality Review Act, as codified under Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, "SEQRA") and related Environmental Assessment Form ("EAF") and issued a negative declaration (the "Negative Declaration"), a copy of which, along with the EAF, are attached hereto as **Exhibit B**; and

WHEREAS, pursuant to Section 859-a of the Act, the Agency held a public hearing on July 8, 2020 at 350 North Main Street, Port Chester, New York 10573 with respect to the Project (the "Public Hearing") and the proposed Financial Assistance (as further defined herein) being contemplated by the Agency whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views, and a copy of the minutes of the Public Hearing is also attached hereto within **Exhibit A**; and

WHEREAS, in furtherance of the foregoing, the Agency desires to authorize (i) the undertaking of the Project and the appointment of the Company as agent of the Agency to undertake same; (ii) the execution and delivery of the Agent Agreement, Lease Agreement, the Leaseback Agreement, the PILOT Agreement, and related documents; and (iii) the provision of the Financial Assistance to the Company, which shall include (a) an exemption from all state and local sales and use taxes with respect to the qualifying personal property included in or incorporated into the Facility or used in the construction and equipping of the Facility, (b) mortgage recording tax exemptions in connection with financings undertaken by the Company for

the Project, and (c) a partial real property tax abatement through the execution of an agreement with the Agency regarding payments in lieu of real property taxes to be made for the benefit of the Affected Tax Jurisdictions.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE VILLAGE OF PORT CHESTER INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

- <u>Section 1</u>. Based upon the representations made by the Company to the Agency in the Application, 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; and
- (B) It is desirable and in the public interest for the Agency to (i) acquire title to or other interest in the Land, the Existing Improvements, Improvements and the Equipment constituting the Facility, (ii) lease or sell the Agency's interest in the Land, Existing Improvements, Improvements and Equipment constituting the Facility to the Company pursuant to a lease agreement or sale agreement to be negotiated, and (iii) enter into a Straight Lease Transaction with the Company; and
- (C) The Agency has the authority to take the actions contemplated herein under the Act; and
- (D) The action to be taken by the Agency will induce the Company to undertake the Project, thereby increasing employment opportunities in the Village, and otherwise furthering the purposes of the Agency as set forth in the Act; and
- (E) The Project will not result in the removal of a facility or plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's Application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other facility or plant to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and
- (F) Based upon a review of the Application, the EAF and the Negative Declaration issued by the Village Planning Commission and submitted to the Agency, the Agency hereby:
 - (i) consents to and affirms the status of the Village Planning Commission as Lead Agency for review of the Facility, within the meaning of, and for all purposes of complying with SEQRA;

- (ii) ratifies the proceedings undertaken by the Village Planning Commission as Lead Agency under SEQRA with respect to the construction and equipping of the Facility pursuant to SEQRA; and
- (iii) finds that the Project involves an "unlisted action" (as such quoted term is defined under SEQRA). The review is "uncoordinated" (as such quoted term is defined under SEQRA). Based upon the review by the Agency of the EAF and related documents delivered by the Company to the Agency and other representations made by the Company to the Agency in connection with the Project, the Agency hereby finds that (i) the Project will result in no major impacts and, therefore, is one which may not cause significant damage to the environment; (ii) the Project will not have a "significant effect on the environment" (as such quoted term is defined under SEQRA); and (iii) no "environmental impact statement" (as such quoted term is defined under SEQRA) need be prepared for this action. This determination constitutes a "negative declaration" (as such quoted terms are defined under SEQRA) for purposes of SEQRA.
- The Agency hereby accepts supplements and amendments to the application Section 2. as submitted by the Company, along with comments received at the Public Hearing. Subject to (i) the Company executing the Agent Agreement and/or Leaseback Agreement, (ii) payment by the Company of all outstanding fees and costs incurred by the Agency in connection with reviewing the Project, and (iii) the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, renovation, construction, reconstruction, rehabilitation and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, construct and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; provided, however, the Agent Agreement shall expire on December 31, 2021 (unless extended for good cause by the Administrative Director of the Agency).
- Section 3. Based upon the representation and warranties made by the Company the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project and that would otherwise be subject to New York State and local sales and use tax in an amount up to approximately \$8,208,000.00, which result in New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed \$446,823.00. The Agency agrees to consider any requests by the Company for increase to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services, and, to the extent required, the Agency authorizes and conducts any supplemental public hearing(s).
- <u>Section 4</u>. Pursuant to Section 875(3) of the Act, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make

purchases for the benefit of the Project, any sales and use tax exemption benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; (iv) the Company has made a material false statement on its application for financial assistance; (v) the sales and use tax exemption benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project; and/or (vi) the Company obtains mortgage recording tax benefits and/or real property tax abatements and fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project (collectively, items (i) through (vi) hereby defined as a "Recapture Event").

As a condition precedent of receiving sales and use tax exemption benefits and real property tax abatement benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, must (i) if a Recapture Event determination is made by the Agency, cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, mortgage recording tax benefits and/or real property tax abatements abatement benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands, if and as so required to be paid over as determined by the Agency.

<u>Section 5.</u> Subject to the conditions set forth within Section 2, above, the Chairman, Vice Chairman and/or Administrative Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Agent Agreement, Lease Agreement, Leaseback Agreement, PILOT Agreement, a PILOT Mortgage, and related documents with such changes as shall be approved by the Chairman, Vice Chairman, the Administrative Director and counsel to the Agency upon execution.

Section 6. The Chairman (or Vice Chairman), and/or Administrative Director 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 (the "Lender") up to a maximum principal amount necessary to undertake the Project, acquire the Facility and/or finance or refinance equipment and other personal property and related transactional costs (hereinafter with the Straight Lease Documents, the "Agency Documents"); and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chairman (or Vice Chairman), Administrative Director of the Agency shall approve, the execution thereof by the Chairman (or Vice Chairman), Administrative Director of the Agency to constitute conclusive evidence of such

approval; provided, that, in all events, recourse against the Agency is limited to the Agency's interest in the Project.

Section 7. 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 and to execute and deliver all such 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 resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 8. These Resolutions shall take effect immediately upon adoption.

The question of the adoption of the foregoing resolutions was duly put to vote on roll call, which resulted as follows:

	YEA		NE A	4	ABS	STAIN	ABS	SENT
Hon. Daniel Brakewood	[X]	[]	[]	[]
Michael Brescio	[X]	[]	[]	[]
Richard Cuddy	[X]	[]	[]	[]
Hon. Frank Ferrara	[X]	[]	[]	[]
John Hiensch	[X]	[]	[]	[]
Richard O'Connell	[X]	[]	[]	[]
James Taylor	[X]	Ī]	Ī]	[]

The resolutions were thereupon duly adopted.

STATE OF NEW YORK)	
COUNTY OF WESTCHESTER) S	S

I, the undersigned Secretary of the Village of Port Chester Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the Village of Port Chester Industrial Development Agency (the "Agency"), including the resolution contained therein, held on July 8, 2020, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that 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 modified.

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

Constance R. Phillips
Secretary

[SEAL]

AD REPORT

a. Discussion of potential IDA Loan program

Administrative Director Christopher Steers reported to the Board on his research into this program newly enabled by the State. Any industrial development agency may administer a state disaster emergency loan program to provide loans from available revenue to eligible entities pursuant to this section, provided that no IDA may create more than one state disaster emergency loan program. The IDA Emergency Loan Program allows the IDA to provide financial assistance of up to \$10,000 for grants and up to \$25,000 for no interest loans. Further, the legislation also requires IDAs to offer credit counseling services or to refer eligible entities to not-for-profit credit counselors.

The Board discussed the potential efficacy of such a program. Chairman Ferrara suggested that a grant program might be more effective and easier to administer than one that included loans. He said he thought the Agency was in position to commit \$50,000 to such a program, perhaps up to double that if outstanding approved IDA applications close in a timely manner.

Board Member Jim Taylor suggested bulk buying of in demand items might be the best use of funds, with distribution done at the Agency level. He also suggested investigating a match program.

The Board agreed that Mr. Steers should do some further research. Mr. Steers mentioned that he had been in touch with Westchester County Deputy Director of Economic Development Bridget Gibbons and they had scheduled a call to discuss the Westchester County IDA's program structure.

b. PARIS update

Mr. Steers told the Board that almost all information had been collated and would be ready for the August meeting and the approval of the ABO annual reporting requirements.

c. Public meetings update

Mr. Steers informed the Board that the governor has just extended the order to allow for online meetings for yet another week, to the week of August 5th. Chairman Ferrara said that we will be on the WebEx platform at least through our August meeting.

TREASURER'S REPORT

a. Approval of Invoices and Financial Snapshot

On the motion of Board member Richard Cuddy, which was seconded by Board member James Taylor, invoice and monthly snapshot were approved

Roll Call

MEMBER	MOTION	SECOND	YES	NO	ABSTAIN
BRAKEWOOD			X		
BRESCIO			X		
<u>CUDDY</u>	X		X		
FERRARA			X		
HIENSCH			X		
O'CONNELL			X		
TAYLOR		X	X		

See the Account Snapshot next page

Port Chester Industrial Development Agency - Fiscal Year June 1, 2020 to May 31, 2021 Cash Analysis & Net Assets Report

As of June 30, 2020



Cash on Hand @ 6/1/2020 \$178,597.48

Deposits/Wire Transfers/ Interest Received:

Interest Earned - June 2020 1.01 JP Morgan Chase 25.45 TD Bank Interest Earned - June 2020 260,082.99 G&S Port Chester Unit 28,LLC Agency Admin Fees & 2020 Pilot (Retail D)

> \$ 260,109.45 Total Deposits/Transfers/Interest

Checks Written / Disbursements:

(1,500.00) Christopher Steers-A/P Administrative Director - May 2020 Anthony Siligato-A/P Treasurer / CFO - May 2020 (750.00)Deputy Financial Officer - Mar-May 2020 (250.00)Joelle Rovello-A/P Constance Phillips-A/P Secretary - June 2020 (400.00)PCIDA Corporate Matters - May 2020 (2,575.00)Harris Beach, PLLC

> \$ (5,475.00) Checks Written / Disbursements during June 2020

5433,231.93 Cash on Hand @ 6/30/2020 Reconciliation of Bank Accounts \$ 23,344.14 JPMorgan Chase at 6/1/2020 \$ 260,082.99 Deposits 1.01 Interest Earned (5,475.00) Checks Presented 5 277,953.14 Total JPMorgan Chase at 6/30/2020 \$ 155,253.34 TD Bank at 6/1/2020 5

25.45 Interest Earned Total TD Bank at 6/30/2020 \$ 155,278.79

\$ 433,231.93 Total Bank Balance @ 6/30/2020

G&S Port Chester Unit 28, LLC - 2020 Pilot Payment (Due to School, Town/Cty & Vig)

\$ (53,906.00) \$ (53,906.00)

PCIDA Net Assets @ 6/30/2020

379,325.93

Prepared by PODA Finencial Officer

ADJOURNMENT

On the motion of Board member Richard Cuddy, which was seconded by Board member john Hiensch, the meeting was adjourned.

Roll Call

<u>MEMBER</u>	MOTION	SECOND	YES	<u>NO</u>	<u>ABSTAIN</u>
BRAKEWOOD			<u>X</u>		
BRESCIO			X		
<u>CUDDY</u>	X		X		
FERRARA			X		
HIENSCH		<u>X</u>	X		
O'CONNELL			<u>X</u>		
TAYLOR			<u>X</u>		

Reminders:

- Next meeting August 12, 2020
 - o Auditor's presentation on financial statements
 - o Review approval of statements and PARIS filings

Respectfully,

Constance R. Phillips