

Approving The Deviation By The Ulster County Industrial Development Agency Relating To The Terms And Conditions Of A Certain PILOT Agreement To Be Entered Into Between The Ulster County Industrial Development Agency And Kingstonian Development, LLC In Connection With The Kingstonian Development, LLC Project, And The Undertaking Of The Project Under The Agency's Housing Policy

Referred to: The Economic Development, Tourism, Housing, Planning and Transit Committee (Chairman Cahill and Legislators Archer, Corcoran, Delaune, Litts, Maio, and Uchitelle), and The Ways and Means Committee (Chairwoman Archer and Legislators Bartels, Gavaris, Haynes, Maio, Ronk, and Walter)

Chairman of the Legislature, David B. Donaldson, and Minority Leader Kenneth J. Ronk, Jr. offer the following:

WHEREAS, pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended (the "Enabling Act") and Chapter 787 of the 1976 Laws of New York, as amended, constituting Section 923 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act"), the County Legislature of Ulster County has heretofore appointed the Chairman and members of Ulster County Industrial Development Agency (the "Agency") and has duly caused to be filed in the office of the Secretary of State of the State of New York the certificates required by Section 856 of the Act; 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, Kingstonian Development, LLC, a New York limited liability company (the "Company"), has submitted an application (the "Application") to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the "Project") for the benefit of Company, said Project consisting of the following: (A) (1) the acquisition of an interest in certain parcels of land containing in the aggregate approximately 2.72 acres and located on Fair and North Front Streets in the City of Kingston, Ulster County, New York (collectively, the "Land"), together with the existing improvements located thereon (collectively, the "Existing Facility"); (2) the demolition of the Existing Facility; (3) the construction on the Land of various improvements to contain in the aggregate approximately 375,000 square feet of space (collectively, the "Facility"); (4) the construction of a public access pedestrian plaza on the Land (the "Plaza Improvements"); (5) the construction of an approximately 420 car parking garage (the "Parking Facility") and (6) the acquisition and installation

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therein and thereon of certain machinery, equipment and other personal property (collectively, the "Equipment"), (the Land, the Facility, the Plaza Improvements, the Parking Facility and the Equipment being collectively referred to as the "Project Facility"), all of the foregoing to be owned by the Company and operated as a mixed used residential, commercial, hotel, parking and retail facility, and any 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, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by 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 (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), the City of Kingston Planning Board (the "Planning Board") is the "lead agency" under SEQRA with respect to the Project, and the Planning Board has issued a negative declaration on December 16, 2019 (the "Negative Declaration"), in which the Planning Board determined that the Project would not have a significant adverse environmental impact on the environment, and therefore, that an environmental statement need not be prepared with respect to the Project; and

WHEREAS, in connection with the undertaking of the Project, the Company will execute and deliver a certain payment in lieu of tax agreement (the "PILOT Agreement") by and between the Agency and the Company pursuant to which the Company will agree to pay certain payments in lieu of taxes with respect to the Project Facility; and

WHEREAS, the proposed payment terms of the PILOT Agreement constitute a deviation from the Agency's Uniform Tax Exemption Policy (the "UTEP Policy"); and

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WHEREAS, under the Policy, prior to entering into a PILOT Agreement that deviates from the Policy's standard payment terms, the Agency shall (1) notify each affected tax jurisdiction, and (2) attempt to obtain the written consent of all the affected tax jurisdictions; and

WHEREAS, under the Agency's Housing Policy, certain "projects" that are housing projects, or are mixed-use projects which include a housing or residential component, before being considered by the Agency must first obtain the consent of the local municipalities and school district where the proposed project is to be located; and

WHEREAS, the Agency desires that the County of Ulster, through its County Legislature, as one of the affected tax jurisdictions with respect to the Project Facility, adopt a resolution indicating whether the County Legislature (A) agrees to the terms of the proposed PILOT Agreement, and (B) approves the proposed project; now, therefore be it

RESOLVED by the County Legislature, as follows:

Section 1. For the purpose of satisfying the requirements contained in the Agency's UTEP Policy, the County Legislature hereby (1) acknowledges notification of the proposed deviation from the Agency's Policy, (2) waives any formal notice from the Agency of the proposed deviation from the Agency's UTEP Policy, and (3) approves the payment terms and other conditions to be contained in the PILOT Agreement, as substantially described in Schedule A attached.

Section 2. Solely for the purpose of satisfying the requirements contained in the Agency's Housing Policy, the County Legislature hereby approves the Project by the Agency.

Section 3. The Chairman of the County Legislature is hereby authorized, on behalf of the County of Ulster, to execute and deliver the PILOT Agreement for the purpose of evidencing its approval to the proposed deviation from the Agency's UTEP Policy, said PILOT Agreement to contain the terms described in Schedule A attached, with such changes, variations, omissions and insertions as the Chairman of the County Legislature shall approve, the execution thereof by the Chairman of the County Legislature to constitute conclusive evidence of such approval.

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Section 4. The officers, employees and agents of the County of Ulster are hereby authorized and directed for and in the name and on behalf of the County of Ulster to do all acts and things required or provided for by the applicable provisions of this Resolution in order to ensure compliance with such provisions as they relate to the execution and delivery of the PILOT Agreement, and to execute and deliver all such additional certificates, instruments and documents, 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.

Section 5. This resolution shall take effect immediately,
and move its adoption.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

Passed Committee: Economic Development, Tourism, Housing, Planning and Transit
on October 6, 2020

Postponed in Committee: Ways and Means on October 13, 2020 for one week

Postponed in Committee: Ways and Means on October 20, 2020

Passed Committee: Ways and Means on _____.

FINANCIAL IMPACT:

AMOUNTS PURSUANT TO SCHEDULE A PAYABLE ANNUALLY FOR
TWENTYFIVE YEARS TO BE APPORTIONED TO EACH AFFECTED TAX
ENTITY ACCORDING TO THE PRORATED TAX RATES