

# THE AGENCY

B R O O M E C O U N T Y I D A / L D C

## BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY

### GOVERNANCE COMMITTEE MEETING

September 18, 2019 – 11:30 a.m.

The Agency Conference Room, 2<sup>nd</sup> Floor

FIVE South College Drive, Suite 201

Binghamton, NY 13901

## AGENDA

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|----|---|-----------|
| 1. | Call to Order   | R. Bucci  |
| 2. | Accept the August 21, 2019 Governance Committee Meeting Minutes   | R. Bucci  |
| 3. | Public Comment  | R. Bucci  |
| 4. | Resolution Authorizing The Agency to Act as Lead Agency in the Environmental Review for the Redevelopment Plan of the Former BAE Systems Site at 600 Main Street, Village of Johnson City, Town of Union, Broome County, New York | S. Duncan |
| 5. | Resolution to Approve the Request of Broome Culinary, LLC to Increase the Amount of their Sales Tax Exemption from \$516,000.00 to \$754,000.00   | S. Duncan |
| 6. | Executive Session to Discuss the Sale of Real Estate and Personnel Issues   | S. Duncan |
| 7. | Adjournment   | R. Bucci  |

**BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
GOVERNANCE COMMITTEE  
August 21, 2019 – 3:00 PM  
The Agency Conference Room, 2<sup>nd</sup> Floor  
FIVE South College Drive, Suite 201  
Binghamton, NY 13905**

**PRESENT:** R. Bucci, J. Peduto, B. Rose, C. Sacco, W. Howard, J. Stevens

**GUESTS:** Gregory Jennison, JE Properties  
Jeff Platsky, Press & Sun-Bulletin  
Kyle Johnson, Marchuska Brothers  
Tom Augostini, Town of Union  
John Solak, Binghamton, NY

**ABSENT:** None

**STAFF:** S. Duncan, T. Gray, N. Abbadessa, and C. Hornbeck

**PRESIDING:** R. Bucci

**AGENDA ITEM 1:** Chairman Bucci called the meeting to order at 3:00 p.m.

**AGENDA ITEM 2:** Accept the July 17, 2019 Governance Committee meeting minutes: Chairman Bucci stated the first item on the agenda is to accept minutes for July 17, 2019; hearing no revisions or deletions, the minutes are accepted and added to the record.

**MOTION:** No motion necessary.

**AGENDA ITEM 3:** Public Comment: Chairman Bucci asked if there is anyone who would like to speak to introduce themselves and provide their address. Mr. Kyle Johnson, Marchuska Brothers, Endicott, NY, addressed the Board, stating Marchuska, LLC is seeking a Sales Tax Exemption for 408 Commerce Road.

Chairman Bucci asked if there were other public comments; hearing none, Chairman Bucci closed the Public Comment section of the meeting.

**AGENDA ITEM 4:** Review/Discussion/Recommendation of a Resolution Authorizing a Lease/Leaseback Transaction to Facilitate the Acquisition, Construction and Equipping of Property

Located at 380 Chenango Street in the City of Binghamton, Broome County, New York, to be Used as an Affordable Housing Apartment Project Appointing JE Properties, LLC, or an Entity to be Determined, (The "Company"), Agent of The Agency for the Purpose of Acquiring, Constructing, Renovating, Equipping and Leasing the Project and Authorizing the Execution and Delivery of Certain Documents with Respect Thereto, Including a Payment in Lieu of Tax Agreement Deviating from the Agency's Uniform Tax Exemption Policy and a Sales Tax Exemption in an Amount not to Exceed \$1,467,980.00. Ms. Duncan stated The Agency is looking for a recommendation of the Governance Committee for approval of JE Properties, LLC (JE Properties) PILOT application. Ms. Duncan advised the committee that Mr. Greg Jennison, representing JE Properties, is present, should anyone have questions. Ms. Duncan continued Mr. Joe Eddy is the principal for this project and that Mr. McLaughlin started working with Mr. Eddy about two years ago. Mr. Eddy's intention is to purchase the Town and Country Apartments on the north side of the city of Binghamton. Ms. Duncan continued there will be a complete renovation of all of the units; the interior is being gutted and renovated and the exterior will include new windows, fencing, landscaping and lighting, to improve the safety in the area. JE Properties is working with New York State's Office of Homes and Community Renewal on securing housing tax credits. The plan is to retain as many of the current residents as possible, although, because of the Lytech program, residents will be rescreened. Ms. Duncan stated it is a great opportunity to improve an area of the city that has been subject to issues in the past. Ms. Duncan stated a copy of the Cost Benefit Analysis was included in the Governance Committee packet; The Agency held a public hearing on August 15<sup>th</sup>, which was attended by Mr. Gray and a transcript was distributed to the Governance Committee. Chairman Bucci asked if the PILOT is for a 30-year term, which Ms. Duncan confirmed and stated is tied to the terms and mortgage, as well as linked with the program. Chairman Bucci asked if all residents would be moved out during the construction; Mr. Jennison replied the 22-building project would be built building-by-building. Ms. Duncan continued that the PILOT schedule was reviewed by the Mayor's office, assessor and approved by counsel. Chairman Bucci asked Mr. Jennison what their targeted start date was; Mr. Jennison replied the start date is this winter. Chairman Bucci asked if there were any questions; hearing none, asked for a motion.

**MOTION:** Ms. Sacco moved the Motion to Recommend the Resolution to the Board for approval, seconded by Mr. Peduto; the MOTION CARRIED.

**AGENDA ITEM 5:** Review/Discussion/Recommendation of a Resolution Accepting an Application from 1435-1439 Marchuska, LLC and Authorizing a Sales and Use Tax Exemption in an Amount not to Exceed \$64,000.00, Consistent with the Policies of The Agency, in Connection with the Renovation and Equipping of the Property and Building Located at 408 Commerce Road, Town of Vestal, Broome County, New York. Ms. Duncan stated Marchuska, LLC submitted a Small Business Incentive Program application, seeking a Sales Tax Exemption for the purchase of 408 Commerce Road. Marchuska LLC is renovating the property which formerly housed a tenant known as Jackson Avenue School, now a housing project. Marchuska, LLC will be relocating tenants into this facility. Since the amount of the request is under \$100,000.00, the application can be recommended and approved at today's session. Chairman Bucci asked if there were any questions or discussion; hearing none, requested a motion.

**MOTION:** Motion to move the Recommendation to the full Board for Approval. On a MOTION by Mr. Rose; seconded by Mr. Peduto, the MOTION CARRIED.

**AGENDA ITEM 6:** Review/Discussion/Recommendation of a Resolution Consenting to the Transfer of Premises Located in the Town of Conklin, County of Broome, New York, by Maple Lane Holdings, LLC ("Maple Lane") to Darden Direct Distribution, Inc., Together with all the Right, Title and Interest in and to a Certain Payment in Lieu of Tax Agreement By and Between Maple Lane and the Broome County Industrial Development Agency (The "Agency") Dated August 31, 2007, Covering Premises set forth in Exhibit "A" Attached Hereto, and all the Right, Title and Interest in and to a Certain Payment in Lieu of Tax Agreement By and Between Maple Lane and The Agency Dated December 23, 2011, Covering Premises set forth in Exhibit "B" Attached Hereto. Ms. Duncan stated this was a late addition to the agenda, which committee members should have received last evening. Ms. Duncan stated The Agency received a letter from Darden Direct Distribution, Inc. (Darden), who is purchasing the Maple Lane Expansion project (also known as Maines); consisting of two PILOTS, dated 2007 and 2011. Darden is requesting a transfer of the PILOTS. Ms. Duncan stated Maines will still serve as manager of the facility; only products related to Darden will be maintained. Chairman Bucci asked if Darden is acquiring the property and Maines will manage; which Ms. Duncan confirmed. Chairman Bucci then asked if there were any questions or comments. Ms. Sacco asked if Darden is a long-involved partner; Attorney Meagher stated Maines was built for Darden. Attorney Meagher further clarified that

The Agency held three PILOTS for Maines; Maines increased the size of the facility to accommodate Darden. Chairman Bucci requested a motion.

**MOTION:** Motion to Move the Recommendation to the full Board for Approval. On a MOTION by Ms. Sacco; seconded by Mr. Rose, the MOTION CARRIED.

**AGENDA ITEM 7:** Review/Discussion/Recommendation of a Resolution Approving an Extension of the February 20, 2019 Sales and Use Tax Exemption Agreement with 250 Main LLC from August 20, 2019, Through and Including December 31, 2019, of which the Total Shall Not Exceed \$17,280.00. Mr. Gray stated this is a request to extend the time and not the amount of the Sales Tax Extension. The applicant had some difficulty putting their closing together. Ms. Sacco confirmed 250 Main LLC has not closed. Mr. Gray stated this Small Business Incentive Tax Exemption was instituted when the program only had a sales tax window of six months. Chairman Bucci commented this timeline will work for 250 Main LLC. Ms. Duncan clarified that when The Agency created the Small Business Incentive Program, there was a timeline of six months; after some time, it was realized it made more sense to mirror the timeframe allowed for a PILOT Agreement (one year). Ms. Duncan restated the applicant is not requesting a monetary increase, just time.

**MOTION:** Motion to Move the Recommendation to the full Board for Approval. On a MOTION by Mr. Rose, seconded by Ms. Sacco, the MOTION CARRIED.

**AGENDA ITEM 8:** Review/Discussion/Recommendation of a Resolution Approving an Extension of the January 15, 2019 Sales Tax Agreement with 265 Main St LLC, Erroneously Named 265 Main Street, LLC in the Sales Tax Agreement, from July 15, 2019 Through and Including December 31, 2019, of which the Total Shall Not Exceed \$4,000.00. Mr. Gray stated this request is in the same category, and is for time and not the amount; the applicant would like to extend their extension to the end of the year. Mr. Gray continued that Mr. Whalen is waiting on a Main Street Grant and that contractors are lined up. Chairman Bucci asked for an anticipated opening date; Mr. Whalen stated early next year. Mr. Gray stated these are two of the projects the IDA has been involved with to revitalize the downtown area of Johnson City.

**MOTION:** Motion to Move the Recommendation to the full Board for Approval. On a MOTION by Ms. Sacco; seconded by Mr. Rose, the MOTION CARRIED.

**AGENDA ITEM 9:** Review/Discussion/Recommendation of a Resolution Approving the Agency's Policy for Sexual Harassment, a copy of which is Attached Hereto as Exhibit "A." Mr. Gray stated this policy came about as a result of Ms. Hornbeck, Ms. Abbadessa and Mr. Gray ensuring The Agency's website complied with ABO requirements. During this process, it was noted that other organizations had separate Sexual Harassment Policies and it was determined it would be beneficial to be in-line with other IDA's in the state.

**MOTION:** Motion to Move the Recommendation to the full Board for Approval. On a MOTION by Ms. Sacco and seconded by Mr. Rose, the MOTION CARRIED.

**AGENDA ITEM 10:** Review/Discussion/Recommendation of a Resolution Approving the Agency's Amended Whistleblower Policy, a copy of which is Attached Hereto as Exhibit "A." Mr. Gray stated this came about after a letter was received by The Agency from the ABO. The Agency did have a policy on the website under Policies and Procedures, but decided to reformat the Whistleblower Policy to include the recommended phrase.

**MOTION:** Motion to Move the Recommendation to the full Board for Approval. On a MOTION by Ms. Sacco and seconded by Mr. Rose, the MOTION CARRIED.

**AGENDA ITEM 11:** Adjournment: Mr. Bucci requested a motion for adjournment.

**MOTION:** On a MOTION by Mr. Rose; seconded by Ms. Sacco, the MOTION CARRIED. Chairman Bucci adjourned the meeting at 3:16 p.m.

The next meeting of The Agency Governance Committee is to be determined.

The Agency – Broome County IDA/LDC  
Resolution: To Declare Lead Agency

WHEREAS: The State Environmental Review Act (SEQRA) and its implementing regulations, 6 NYCRR Part 617, require that a lead agency be established for conducting environmental review of Type I projects, and

WHEREAS: SEQRA implementing regulations specify that the lead agency is an involved agency principally responsible for undertaking, funding or approving an action, and therefore responsible for determining whether an environmental impact statement is required in connection with the action, and for the preparation and filing of the statement if one is required, and

WHEREAS: The Agency received funding from the Department of Defense to implement the redevelopment of the former BAE Systems facility, and

WHEREAS: The Agency is an involved agency pursuant to SEQRA, with jurisdiction by law to fund, approve or directly undertake the action, and

WHEREAS: Implementation of the redevelopment of the former BAE Systems facility is a Type I Action pursuant to SEQRA, which requires a coordinated SEQRA review among involved agencies,

WHEREAS: The Agency Board of Directors, on September 18, 2019, declare its intent to act Lead Agency for the purposes of initiating a coordinated SEQRA review of potential environmental and socio-economic impacts, which could occur from the site redevelopment, and having heard no objections from other involved agencies, *now therefore be it*

**RESOLVED:** that The Agency declares itself Lead Agency for the purposes of initiating a coordinated SEQRA review of potential environmental and socio-economic impacts, which could occur from the redevelopment of the former BAE Systems facility.

# Broome Culinary Realty LLC

PO Box 1017 Binghamton, NY 13902

September 6, 2019

Ms. Stacey Duncan  
Executive Director  
The Agency - Broome County IDA / LDC  
Five South College Drive, Suite 201  
Binghamton, NY 13905

Dear Ms. Duncan:

Broome Culinary Realty LLC was approved for a sales tax exemption of \$516,000 for the period from December 29, 2017 through December 29, 2019. We are writing to request an increase of \$238,000 for a total sales tax exemption of \$754,000.

As this project continues to progress, we have discovered that we will exceed the previously anticipated exemption amount because of several factors. These include unanticipated costs encountered during construction, changes in the scope of the project, and underestimating the costs of the subcontractors on the project. In addition, Broome Culinary Realty LLC initially provided SUNY Broome Community College's sales tax exemption forms to its contractors and vendors instead of the Contract in Lieu of Sales Tax Exemption and Form ST-60, which caused confusion and delayed the process of obtaining the correct paperwork.

These factors are applicable to many construction projects, but even more so to a project of this magnitude and complexity. We hope you will take this into account as you consider this request.

Very truly yours,

BROOME CULINARY REALTY LLC

By:

