

**TOWN OF BETHLEHEM**  
*Albany County - New York*  
**INDUSTRIAL DEVELOPMENT AGENCY**

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**Frank S. Venezia**  
*Chairman*

**Joseph P. Richardson**  
*Vice Chairman*

**Sam NeJame**  
*Secretary*

**Brian T. Stenson**  
*Treasurer*

**Victoria Stanton Sweeney**  
*Assistant Secretary*

**Mark Hennessey**  
*Member*

**Stephen P. Rosenblatt**  
*Member*

**MINUTES**  
**February 18, 2011**

A meeting of the Town of Bethlehem Industrial Development Agency was convened in public session in the Bethlehem Town Hall, 445 Delaware Avenue, Delmar, NY at 9:30a.m., on Friday, February 18, 2011.

Attendance was recorded as follows:

<u>Board Members Present</u>	<u>Board Members Absent</u>	<u>Counsel Present</u>	<u>Town Staff Present</u>	<u>Others Present</u>
Frank Venezia	Mark Hennessey	Thomas Connolly	Robin Nagengast	John Smolinsky
Joseph Richardson		Joseph Scott	Suzanne Traylor	Joe Nicolla
Brian Stenson			Terry Ritz	Jon deForest
Sam NeJame			Josh Cansler	Debra Lambek
Victoria Stanton-Sweeney			Erik Deyoe	Thomas Keaney
Stephen Rosenblatt			Mike Morelli	Charles Wiff

Chairman Venezia called the meeting to order at 9:43am.

**OLD BUSINESS**

**Project Updates**

Vista: Mr. Ritz provided a summary list of the progress of the Agency in regards to Vista over the last month. Chairman Venezia noted Mr. Scott sent a memorandum regarding the Proposed Vista Infrastructure Project to the Agency Members on February 17, 2011. Mr. Scott reviewed his memorandum, dated February 16, 2011. Several members provided comments. There was a discussion of timing of the requests for proposals, when appropriate.

Mr. Richardson said it is important for the Finance Committee to meet again as soon as possible to discuss the memorandum. Mr. Scott suggested the memorandum be distributed to all involved Town departments for review. Members should email any issues, feedback or questions concerning the memorandum to Mr. Connolly and Mr. Scott.

Mr. Connolly reviewed the Vista fee structure that was approved by the Finance Committee. Mr. Stenson noted the fees were compared to and found to be in line with the fee structure used by the Dormitory Authority of the State of New York. The Agency's financial advisor also weighed in on the fees.

A Special Meeting of the Finance Committee was scheduled for March 2, 2011 at 7a.m. A Special Meeting of the Agency was scheduled immediately following at 7:45a.m.

The Due Diligence Items list is now outdated and was taken off the agenda.

35 Hamilton of Glenmont LLC: Mr. Scott provided a quick summary of the nature of the project. There are three resolutions currently before the Agency: 1. a sales tax agent resolution, 2. a SEQR resolution and 3. an approving resolution. The goal is to close the transaction by the end of the month. The three items were voted on separately.

Upon motion by Mr. Richardson, seconded by Mr. Stenson, the following resolution was unanimously adopted by all Members present:

**Resolved**, that the Agency adopts the SEQR resolution. **Attachment A**

Upon motion by Ms. Sweeney, seconded by Mr. Richardson, the following resolution was unanimously adopted by all Members present:

**Resolved**, that the Agency adopts the Sales Tax Agent resolution. [Attachment B](#)

Upon motion by Mr. Stenson, seconded by Mr. Richardson, the following resolution was unanimously adopted by all Members present:

**Resolved**, that the Agency adopts the Approving resolution. [Attachment C](#)

#### **NEW BUSINESS**

**Audit Committee Update:** The Audit Committee met January 26, 2011. The auditors are scheduled to start March 1, 2011. The next meeting is scheduled for March 14, 2011 at 7a.m., after the completion of the audit. Ms. Traylor advised the draft Management Discussion and Analysis (MD&A) modifications might not be prepared prior to the meeting. Mr. Stenson said that was acceptable.

**Finance Committee Update:** The Finance Committee met January 26, 2011 and February 3, 2011. The Authorities Budget Office (ABO) recommends adoption of a Finance Committee Charter. The Finance Committee has adopted a charter based on the model provided by the ABO. Mr. Connolly reviewed the duties described in the Charter.

Upon motion by Mr. Stenson, seconded by Mr. Richardson, the following resolution was unanimously adopted by all Members present:

**Resolved**, that the Agency adopts the Finance Committee Charter. [Attachment D](#)

**ABO Filing Document for Mission Statement:** In accordance with the ABO's form for filing the Agency's Mission Statement and Performance Measurements, the Members acknowledged that they have read and understood the responses to the questions on the form.

**2010 Operations and Accomplishments/Resolution:** In accordance with the Public Authority Accountability Act (PAAA) requirements, the Members approved a statement of Operations and Accomplishments.

Upon motion by Mr. Richardson, seconded by Mr. NeJame, the following resolution was unanimously adopted by all Members present:

**Resolved**, that the Agency approves the 2010 Operations and Accomplishments. [Attachment E](#)

#### **MEETING SCHEDULE**

7:00 a.m., Wednesday, March 2, 2011, Room 101- Special Finance Committee Meeting

7:45 a.m., Wednesday, March 2, 2011, Room 101 – Special Agency Meeting

8:00 a.m., Monday, March 14, 2011, Room 107 – Audit Committee Meeting

8:00 a.m., Wednesday, March 23, 2011, Room 101 – Regular Meeting

#### **APPROVAL OF MINUTES**

The minutes of the Regular Meeting held January 26, 2011 were tabled due to time constraint.

#### **MOTION TO ADJOURN**

A motion to adjourn was made by Ms. Sweeney, seconded by Mr. NeJame, and unanimously approved by all Members present at 10:53a.m.

Respectfully submitted,  
Robin Nagengast

**SEQR RESOLUTION  
35 HAMILTON OF GLENMONT LLC PROJECT**

A special meeting of Town of Bethlehem Industrial Development Agency (the “Agency”) was convened in public session in the offices of the Town Hall located at 445 Delaware Avenue in the Town of Bethlehem, Albany County, New York on February 18, 2011 at 9:30 a.m. o’clock, local time.

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

PRESENT:

Frank S. Venezia	Chairman
Joseph P. Richardson	Secretary
Sam NeJame	Assistant Secretary
Brian T. Stenson	Treasurer
Victoria Stanton Sweeney	Member
Stephen P. Rosenblatt	Member

ABSENT:

Mark Hennessey	Member
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AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Terrence W. Ritz	Executive Director and CEO
Suzanne Traylor	CFO and Contracting Officer
Thomas P. Connolly, Esq.	Assistant Executive Director, Assistant Secretary and Agency Counsel
Robin Nagengast	Assistant to the Executive Director and Clerk
A. Joseph Scott, III, Esq.	Agency Bond Counsel

The following resolution was offered by Mr. Richardson, seconded by Mr. Stenson, to wit:

Resolution No. \_\_\_\_\_ - \_\_

RESOLUTION ACCEPTING THE DETERMINATION BY THE TOWN OF BETHLEHEM PLANNING BOARD TO ACT AS LEAD AGENCY FOR THE ENVIRONMENTAL REVIEW OF THE 35 HAMILTON OF GLENMONT LLC PROJECT AND ACKNOWLEDGING RECEIPT OF THE NEGATIVE DECLARATION ISSUED WITH RESPECT THERETO.

WHEREAS, Town of Bethlehem 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 582 of the 1973 Laws of New York, as amended, constituting Section 909-b 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 civic 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 issue its revenue bonds to finance the cost of the acquisition, construction, reconstruction and installation of one or more “projects” (as defined in the Act), to acquire, construct, reconstruct and install said projects 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, 35 Hamilton of Glenmont LLC, a New York limited liability company (the “Company”) 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 the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in an approximately 1.3 acre parcel of land currently comprising a portion of larger parcels of land located at 41 Hamilton Lane and 64 Hannay Lane which 1.3 acre parcel will be known as 35 Hamilton Lane located in the Town of Bethlehem, Albany County, New York (the “Land”), (2) the construction of an approximately 20,000 square foot facility on the Land (the “Facility”) and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the “Equipment”), all of the foregoing to constitute a multi-tenant office and warehousing facility to be leased by the Company to various tenants (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”); (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 property 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 Agency has been informed that (A) the Town of Bethlehem Planning Board (the “Planning Board”) was designated to act as the “lead agency” with respect to the Project and (B) on April 6, 2010 the Planning Board determined that that the Project is a “unlisted action” which will not have a “significant effect on the environment” and, therefore, that an “environmental impact statement” is not required to be prepared with respect to the Project and issued a negative declaration with respect thereto (the “Negative Declaration”); and

WHEREAS, the Agency desires to concur in the designation of the Planning Board as “lead agency” with respect to the Project, to acknowledge receipt of a copy of the Negative Declaration and to indicate that the Agency has no information to suggest that the Planning Board was incorrect in determining that the Project will not have a “significant effect on the environment” pursuant to SEQRA;

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

Section 1. (A) The Agency has received copies of, and has reviewed, the Application, an environmental assessment form prepared by the Company and the Negative Declaration (collectively, the “Reviewed Documents”) and, based upon said Reviewed Documents and the representations made by the

Company to the Agency, the Agency hereby ratifies and concurs in the designation of the Planning Board as “lead agency” with respect to the Project (as such quoted term is defined in SEQRA).

(B) The Agency hereby determines that the Agency has no information to suggest that the Planning Board was incorrect in determining that the Project will not have a “significant effect on the environment” pursuant to SEQRA (as such quoted phrase is used in SEQRA).

Section 2. 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:

Frank S. Venezia	VOTING	Yay
Joseph P. Richardson	VOTING	Yay
Sam NeJame	VOTING	Yay
Brian T. Stenson	VOTING	Yay
Victoria Stanton Sweeney	VOTING	Yay
Mark Hennessey	VOTING	Absent
Stephen P. Rosenblatt	VOTING	Yay

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned (Assistant) Secretary of Town of Bethlehem 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 February 18, 2011 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"), 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 18 day of February, 2011.

\_\_\_\_\_  
(Assistant) Secretary

(SEAL)

**AGENT RESOLUTION  
35 HAMILTON OF GLENMONT LLC PROJECT**

A special meeting of Town of Bethlehem Industrial Development Agency (the "Agency") was convened in public session in the offices of the Town Hall located at 445 Delaware Avenue in the Town of Bethlehem, Albany County, New York, on February 18, 2011 at 9:30 a.m., local time.

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

PRESENT:

Frank S. Venezia	Chairman
Joseph P. Richardson	Vice Chairman
Sam NeJame	Secretary
Brian T. Stenson	Treasurer
Victoria Stanton Sweeney	Assistant Secretary
Stephen P. Rosenblatt	Member

ABSENT:

Mark Hennessey	Member
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THE FOLLOWING PERSONS WERE ALSO PRESENT:

Terrence W. Ritz	Executive Director and CEO
Suzanne Traylor	CFO and Contracting Officer
Thomas P. Connolly, Esq.	Assistant Executive Director, Assistant Secretary and Agency Counsel
Robin Nagengast	Assistant to the Executive Director and Clerk
A. Joseph Scott, III, Esq.	Agency Bond Counsel

The following resolution was offered by Ms. Sweeney, seconded by Mr. Richardson, to wit:

Resolution No. \_\_\_\_\_

RESOLUTION APPOINTING 35 HAMILTON OF GLENMONT LLC AS AGENT OF TOWN OF BETHLEHEM INDUSTRIAL DEVELOPMENT AGENCY FOR THE PURPOSE OF UNDERTAKING AND COMPLETING A PROJECT FOR THE BENEFIT OF THE 35 HAMILTON OF GLENMONT LLC.

WHEREAS, Town of Bethlehem Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of 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 582 of the 1973 Laws of New York, as amended, constituting Section 909-b 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 commercial 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 and install one or more “projects” (as defined in the Act) or to cause said projects to be acquired, constructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, 35 Hamilton of Glenmont LLC, a New York limited liability company (the “Company”) 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 the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in an approximately 1.3 acre parcel of land currently comprising a portion of larger parcels of land located at 41 Hamilton Lane and 64 Hannay Lane which 1.3 acre parcel will be known as 35 Hamilton Lane located in the Town of Bethlehem, Albany County, New York (the “Land”), (2) the construction of an approximately 20,000 square foot facility on the Land (the “Facility”) and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the “Equipment”), all of the foregoing to constitute a multi-tenant office and warehousing facility to be leased by the Company to various tenants (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”); (B) the granting of certain other “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain 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, by resolution adopted by the members of the Agency on March 18, 2008 (the “Public Hearing Resolution”), the Agency agreed to accept the Application and authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Executive Director of the Agency (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Initial Project and the financial assistance being contemplated by the Agency with respect to the Initial Project, to be mailed on March 18, 2008 to the chief executive officers of the county and of each city, town, village and school district in which the Project is or is to be located, (B) caused notice of the Public Hearing to be posted on March 20, 2008 on a bulletin board located in the Bethlehem Town Hall located at 445 Delaware Avenue in the Town of Bethlehem, Albany County, New York, (C) caused notice of the Public Hearing to be published on March 23, 2008 in The Times Union, a newspaper of general circulation available to the residents of the Town of Bethlehem, Albany County, Albany, New York, (D) conducted the Public Hearing on April 30, 2008 at 7:00 p.m., local time in Room 101 of the Bethlehem Town Hall located at 445 Delaware Avenue in the Town of Bethlehem, Albany County, New York, and (E) prepared a report of the Public Hearing (the “Hearing Report”) fairly summarizing the views presented at such Public Hearing and caused copies of said Hearing Report to be made available to the members of 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 Agency has been informed that (A) the Town of Bethlehem Planning Board (the “Planning Board”) was designated to act as the “lead agency” with

respect to the Project and (B) on April 6, 2010 the Planning Board determined that that the Project is a “unlisted action” which will not have a “significant effect on the environment” and, therefore, that an “environmental impact statement” is not required to be prepared with respect to the Project and issued a negative declaration with respect thereto (the “Negative Declaration”)and

WHEREAS, although the lease agreement or installment sale agreement and related documentation (collectively, the “Project Documents”) have not yet been prepared, the Company has indicated to the Agency that the Company desires to commence the Project prior to completion of the Project Documents between the Agency and the Company related to the Project; and

WHEREAS, in order to preserve the sales tax exemption which forms a major portion of the Financial Assistance, the Agency now desires to temporarily formalize its understandings with the Company regarding the undertaking and completion of the Project by the Company as agent of the Agency;

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

Section 1. In order to preserve the sales tax exemption which forms a major part of the Financial Assistance, and in order to facilitate the commencement of the Project, the Company is hereby temporarily appointed the true and lawful agent of the Agency (A) to undertake and complete the acquisition, renovation and installation of the Project Facility, as the stated agent for the Agency, (B) to make, execute, acknowledge and deliver all contracts, orders, receipts, writings and instruments necessary in connection therewith, and in general to do all things as may be requisite or proper for undertaking and completing the Project with the same powers and the same validity as the Agency could do if acting in its own behalf and (C) to pay all fees, costs and expenses incurred in the acquisition, renovation and installation of the Project Facility from its own funds, said temporary appointment being intended to last until the earlier to occur of (1) the execution and delivery of the Project Documents or (2) May 15, 2011 (or such later date as may be agreed to in writing by the Agency), said temporary appointment to be subject to the following conditions:

(1) The Company will, on behalf of the Agency, undertake and complete the acquisition, renovation and installation of the Project Facility in accordance with the plans of the Company described in the Application (the “Plans”).

(2) The Company will not revise the Plans in any material respect without the prior written consent of the Agency, which consent may not be unreasonably withheld or delayed but may be subject to such reasonable conditions as the Agency may deem appropriate.

(3) Title to all materials, equipment, machinery and other items of property intended to be incorporated in or installed as part of the Project Facility shall vest in the Agency immediately upon delivery to the Project Facility site, at which time such materials, machinery and other items of property shall become the sole property of the Agency. The Company shall execute, deliver and record or file all instruments necessary or appropriate to so vest title in the Agency and shall take all action necessary or appropriate to protect such title against claims of any third persons. Title to the Project shall be conveyed by the Agency to the Company pursuant to the provisions of the Project Documents.

(4) All materials, equipment, machinery and other items of personal property intended to be incorporated in or installed as part of the Project Facility shall be ordered and purchased by the Company, as agent of the Agency, and invoices therefore shall be directed to the

Company, as agent of the Agency. The Agency hereby appoints the Company as agent of the Agency to make such purchases of said materials, equipment, machinery and other items of personal property; provided, however, that NO SUCH CONTRACT SHALL RESULT IN THE ASSUMPTION BY THE AGENCY OF ANY OBLIGATION TO PAY ANY COSTS AND EXPENSES, and the Company shall be solely liable for and shall agree to pay all funds necessary to make all payments required under such contracts.

(5) The Company shall indemnify, defend and hold the Agency (and its members, officers, agents, employees and servants) harmless from all claims and liabilities for labor, services, materials and supplies, including equipment, ordered or used in connection with the undertaking and completion of the Project (including any expenses incurred by the Agency and its members, officers, agents, employees and servants, in defending any claims, suits or actions which may arise as a result of any of the foregoing), whether or not such claims or liabilities arise as a result of the Company acting as agent for the Agency pursuant to the authority conferred upon it by this Resolution.

(6) The Company shall indemnify, defend and hold the Agency (and its members, officers, agents, employees and servants) harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever in relation to the Project, including any expenses incurred by the Agency (and its members, officer, agents, employees and servants) in defending any claims, suits or actions which may result as a result of the foregoing.

(7) The Company shall give or cause to be given all notices and comply or cause compliance with all laws, ordinances, rules, regulations and requirements of all governmental agencies and public authorities applying to or affecting the undertaking and completion of the Project (the applicability of all such laws, ordinances, rules, regulations and requirements shall be determined both as if the Agency were deemed to be the owner of the Project Facility and as if the Company and not the Agency were deemed to be the owner of the Project Facility), and the Company will defend and save the Agency and its officers, members, agents, employees and servants harmless from all fines and penalties due to failure to comply therewith. All permits and licenses necessary for the undertaking and completion of the Project shall be procured promptly by the Company.

(8) The Company shall agree, and by executing this Resolution does agree, that as agent for the Agency the Company will comply with all laws applicable to the Agency in connection with the undertaking and completion of the Project by the Agency (the applicability of all such laws, ordinances, rules, regulations and requirements shall be determined both as if the Agency were deemed to be the owner of the Project Facility and as if the Company and not the Agency were deemed to be the owner of the Project Facility).

(9) The Company is hereby authorized to advance such funds as may be necessary to acquire, construct and install the Project Facility as agent of the Agency. Any costs or expenses incurred by the Agency or by the Company as agent of the Agency with respect to the Project shall be paid by the Company.

(10) The Company shall supply the Chairman or Vice Chairman of the Agency with a general liability insurance policy naming the Company and the Agency as insureds and providing coverage in the minimum amounts of ONE MILLION DOLLARS (\$1,000,000) per person and FIVE MILLION DOLLARS (\$5,000,000) per occurrence, which insurance policy shall (a) also name the members, officers, agents, employees and servants of the Agency as additional insureds,

as their interests shall appear, and (b) also provide contractual liability insurance coverage insuring the Company's obligations pursuant to paragraphs (5) and (6) hereof to indemnify, defend and save harmless the Agency and its members, officers, agents, employees and servants, as their interests shall appear.

(11) The Company shall supply the Chairman or Vice Chairman of the Agency with policies, or certificates evidencing such policies, of workers' compensation insurance, disability benefits insurance and each other form of insurance which the Agency or the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company or the Agency who are located at or assigned to work on the Project.

(12) The obligations and agreements of the Agency contained herein shall be deemed the obligations and agreements of the Agency and not of any member, officer, agent (other than the Company), employee or servant of the Agency in his individual capacity, and the members, officers, agents (other than the Company), employees and servants of the Agency shall not be liable personally hereon or be subject to any personal liability or accountability based upon or in respect hereof or of any transaction contemplated hereby.

(13) The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or the Town of Bethlehem, New York, and neither the State of New York nor the Town of Bethlehem, New York shall be liable thereon, and further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Project (excepting funds payable pursuant to paragraphs (5), (6) and (15) of this Section 1 of this Resolution).

(14) Notwithstanding any provision of this Resolution to the contrary, the Agency shall not be obligated to take any action pursuant to any provision hereof unless (a) the Agency shall have been requested to do so in writing by the Company and (b) if compliance with such request is reasonably expected to result in the incurrence by the Agency (or any member, officer, agent (other than the Company), employee or servant of the Agency) of any liability, fees, expenses or other costs, the Agency shall have received from the Company security or indemnity satisfactory to the Agency for protection against all such liability and for the reimbursement of all such fees, expenses and other costs.

(15) Payment by the Company of all fees and expenses incurred by the Agency with respect to the Project, including (A) the Agency's administrative fee with respect to the Project and (B) the fees and expenses of Agency Counsel and/or Special Counsel to the Agency related to the Project.

(16) (A) The Company acknowledges receipt of notice of Section 874(8) of the Act, which requires that the Company as agent of the Agency must annually file a statement with the New York State Department of Taxation and Finance (the "Annual Sales Tax Report"), on a form and in such a manner as is prescribed by the Commissioner of Taxation and Finance, of the value of all sales tax exemptions claimed by the Company under the authority granted by the Agency. Pursuant to Section 874(8) of the Act, the penalty for failure to file the Annual Sales Tax Report shall be removal of authority to act as agent of the Agency. Additionally, if the Company shall fail to comply with the requirements of this subsection (16), the Company shall immediately cease to be the agent of the Agency in connection with the Project. A current sample form of such Annual Sales Tax Report required to be completed by the Company pursuant to this Resolution is

attached hereto as Exhibit A. For future filings of the Annual Sales Tax Report, the Company is responsible for obtaining from the New York State Department of Taxation and Finance any updated or revised versions of such Annual Sales Tax Report.

(B) The Company agrees to furnish to the Agency a copy of each such Annual Sales Tax Report submitted to the New York State Department of Taxation and Finance by the Company pursuant to Section 874(8) of the Act.

(17) The Company acknowledges receipt of notice of Section 874(9) of the Act, which requires that the Company as the agent must file within thirty (30) days of the date of this Resolution a statement with the New York State Department of Taxation and Finance, on a form and in such manner as is prescribed by the Commissioner of Taxation and Finance (the "Thirty-Day Sales Tax Report"), identifying the Company as agent of the Agency, setting forth the taxpayer identification number of the Company, giving a brief description of the goods and/or services intended to be exempted from sales taxes as a result of such appointment as agent, indicating a rough estimate of the value of the goods and/or services to which such appointment as agent relates, indicating the date when such designation as agent became effective and indicating the date upon which such designation as agent shall cease. A current sample form of such Thirty-Day Sales Tax Report required to be completed by the Company pursuant to this Resolution is attached hereto as Exhibit B. For future filings of the Thirty-Day Sales Tax Report, the Company is responsible for obtaining from the New York State Department of Taxation and Finance any updated or revised versions of such Thirty-Day Sales Tax Report.

(18) The foregoing appointment of the Company as agent of the Agency is subject to the condition that, in the event that Project Documents are not executed and delivered by the Agency and the Company on or before May 15, 2011 (or such later date as may be agreed to in writing by the Agency), the foregoing appointment of the Company as agent of the Agency may be revoked by the Agency, retroactive to the date of this Resolution, and thereupon the Agency shall notify the New York State Department of Taxation and Finance of such revocation.

(19) The Company acknowledges receipt of notice of Section 858-b of the Act, which requires that the Company list new employment opportunities created as a result of the Project with the following entities (hereinafter, the "JTPA Entities"): (a) the New York State Department of Labor Community Services Division and (b) the administrative entity of the service delivery area created by the federal job training partnership act (P.L. No. 97-300) in which the project is located (while currently cited in Section 858-b of the Act, the Federal Job Training Partnership Act was repealed effective June 1, 2000, and has been supplanted by the Workplace Investment Act of 1998 (P.L. No. 105-220)). The Company agrees, where practicable, to first consider for such new employment opportunities persons eligible to participate in federal job training partnership programs who shall be referred by the JTPA Entities.

(20) The following additional conditions: \_\_\_\_\_.

Section 2. This Resolution shall take effect upon the date that all of the following shall have occurred: (A) the Company shall have accepted the provisions of this Resolution; (B) the Company shall have delivered two copies of this Resolution, with the acceptance clauses thereof fully executed by the Company, to the Chairman or Vice Chairman of the Agency; (C) the Company shall have obtained the insurance policies required by paragraphs (10) and (11) of Section 1 hereof and shall have delivered evidence thereof to the Chairman or Vice Chairman of the Agency, such evidence to be in such form as the Chairman or the Vice Chairman of the Agency shall deem appropriate; (D) the Company shall have

paid the Agency's administrative fee with respect to Project; and (E) the Agency shall deliver to the Company a copy of this Resolution with the receipt and acknowledgment executed by the Agency.

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

Frank S. Venezia	VOTING	Yay
Joseph P. Richardson	VOTING	Yay
Sam NeJame	VOTING	Yay
Brian T. Stenson	VOTING	Yay
Victoria Stanton Sweeney	VOTING	Yay
Mark Hennessey	VOTING	Absent
Stephen P. Rosenblatt	VOTING	Yay

The foregoing Resolution was thereupon declared duly adopted.

ACCEPTANCE

The Company hereby accepts the appointment to act as agent of the Agency in connection with the Project and the Company accepts the provisions of this Resolution, including the conditions contained in Section 1 of this Resolution, and agrees to comply with such provisions and conditions.

IN WITNESS WHEREOF, the Company has caused this Acceptance to be executed in its name as of this 18 day of February, 2011.

35 HAMILTON OF GLENMONT LLC

BY: \_\_\_\_\_  
Authorized Officer

RECEIPT

The undersigned hereby acknowledges receipt of the items called for in Section 2 of this Resolution and acknowledges that therefore this Resolution is in full force and effect.

TOWN OF BETHLEHEM INDUSTRIAL  
DEVELOPMENT AGENCY

BY: \_\_\_\_\_  
(Vice) Chairman

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

I, the undersigned (Assistant) Secretary of Town of Bethlehem Industrial Development Agency (the "Agency"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on February 18, 2011 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 set forth 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"), 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 18<sup>th</sup> day of February, 2011.

\_\_\_\_\_  
(Assistant) Secretary

(SEAL)

EXHIBIT A  
ANNUAL SALES TAX REPORT

New York State Department of Taxation and Finance  
**Annual Report Of Sales And Use Tax Exemptions  
 Claimed By Agent/Project Operator Of  
 Industrial Development Agency/Authority (IDA)**  
 For Period Ending December 31, 20\_\_\_\_

**ST-340**  
 (8/95)

Project Information			
Name of IDA agent/project operator		Federal employer identification number (EIN)	
Street Address		Telephone Number	
City	State	Zip code	
Name of IDA agent/project operator's authorized representative, if any		Title	
Street Address		Telephone number	
City	State	Zip code	
Name of IDA			
Street Address			
City	State	Zip code	
Name of project		Project Number	
Street address of project site			
City	State	Zip code	
1.	Project purpose	<input type="checkbox"/> Services <input type="checkbox"/> Construction <input type="checkbox"/> Agriculture, forestry, fishing <input type="checkbox"/> Wholesale trade <input type="checkbox"/> Retail trade <input type="checkbox"/> Finance, insurance or real estate <input type="checkbox"/> Transportation, communication, electric, gas or sanitary services <input type="checkbox"/> Manufacturing <input type="checkbox"/> Other (specify) _____	
2.	Date Project began: _____		
3.	Beginning date of construction or installation (actual or expected):		
4.	Completion date of construction phase of project (actual or expected):		
5.	Completion date of project (actual or expected)		
6.	Duration of project (years/months; actual or expected):		
Total sales and use tax exemptions .....		7	\$
Print name of officer, employer or authorized representative signing for the IDA agent/project operator		Title of person signing	
Signature		Date	

**Failure to file a complete report annually may result in the removal of authority to act as an IDA agent/project operator.**

Mail completed report to: NYS TAX DEPARTMENT, IDA UNIT, BLDG. 9 RM 215, W A HARRIMAN CAMPUS, ALBANY, NY 12227.

## INSTRUCTIONS

**General Information**

The General Municipal Law (GML) and the Public Authorities Law require agents or project operators (also known as project occupants) of an Industrial Development Agency or Authority (i.e., an IDA) to file an annual report with the New York State Department of Taxation and Finance. The agent/project operators required to file this report are those persons the IDA appoints to act for and represent the IDA with regard to the project, and the industrial, manufacturing, commercial or other enterprise the IDA appoints to use, occupy to operate the project undertaken by the IDA. It does not include persons who are mere tenants of the IDA agent/operator, nor does it include officers or employees of an IDA in their capacity as such officers or employees.

The reporting requirement applies to IDA projects commenced on or after July 21, 1993. The initial report that must be filed is for the period October 19, 1993, through December 31, 1994, and is due by September 30, 1995. Because September 30, 1995 is a Saturday, this initial report is actually due by October 2, 1995. Subsequent reports must be filed on a calendar-year basis and are due by the last day of February of the following year.

The report must show the total value of all state and local sales and compensating use taxes exempted during the reporting period as a result of the project's designation as an IDA project. The IDA agent or project manager must include in its report the value of the exemptions if obtained, as well as the value of the dates and use tax exemptions obtained by its contractors, subcontractors, consultants and other agents. You are not required to report separately the value of the sales and use tax exemptions obtained by contractors, subcontractors, consultants, etc., individually. However, since you must include the value of the exemptions they have obtained by reason of the IDA project's exempt status in the total amount you report on line 7, you should keep documentation of the amounts they provide to you for your use in completing this report, or in the event you are asked to produce this information.

Do not include in this report the amount of any sales and use tax exemptions arising out of other provisions of the Tax Law (e.g., manufacturer's production equipment exemption, research and development exemption, etc.)

**Instructions**

At the top of the form, identify the reporting period by entering the year in the space provided. If an address is required, always include the ZIP code.

**Name of IDA agent/project operator**

Enter the name, address, federal employer identification number (EIN), and telephone number of the IDA agent/project operator.

**Name of IDA agent/project operator's authorized representative**

Enter the name, address, title and telephone number of the individual (e.g. attorney or accountant) authorized by the IDA agent/project operator to submit this report.

**Name of IDA**

Enter the name and address of the IDA.

Note If more than one IDA is involved in a particular project, the IDA agent or project operator must file a separate report for the tax exemptions attributable to each IDA.

**Name of Project**

Enter the name of the project, the address of the project site, and the number assigned to the project (if applicable). A separate report must be filed by the IDA agent or project operator for each project, even if authorized by the same IDA.

**Line Instructions**

**Line 1 – Project purpose** – Check the box that identifies the purpose of the project. If you check *Other*, please be specific in identifying its purpose.

**Line 2** – Enter the date the project started (this means the earliest of the date of any bond or inducement resolution, the execution of any lease, or any bond (issuance). Include month, day and year.

**Line 3** – Enter the date on which you, or your general contractor or subcontractor, actually began or expect to begin construction or

installation on the project. If the project does not involve any construction, enter: **Does not apply.**

**Line 4** – Enter the date the construction phase of the project was completed. If it has not been completed by the end of the reporting period, enter the date you expect to complete this phase of the project.

**Line 5** – Enter the date on which installation, lease, or rental of property (e.g., machinery, computers, etc.) on the project ended. If the project was not completed by the end of the reporting period, enter the date the project is expected to be completed.

**Line 6** – Enter the total number of years and months from the project's inception to its completion or expected completion.

**Line 7** – Enter the total amount of New York State and local sales and compensating use taxes exempted during the reporting period (if non, enter "0") as a result of the project's receipt of IDA financial assistance. This includes exemptions obtained at the time of purchase as well as through a refund or credit of tax paid. Include the sales and use taxes exempted on purchases of property

or services incorporated into or used on the exempt project. This includes the taxes exempted on purchases made by or on behalf of the agent or project operator, the general contractor for the project and any subcontractors, consultants or other agents.

**Signature area**

Enter the name and title of the person signing on behalf of the IDA agent/project operator (e.g., the IDA agent/project operator's officer, employee or other authorized representative). The report must be signed by the IDA agent/project operator's officer, or employee or authorized representative. Enter the date signed.

Mail completed report to: **NYS Tax Department, IDA Unit, Bldg. 9 Rm. 215, W A Harriman Campus, Albany NY 12227**

**Privacy Notation**

The right of the Commissioner of Taxation and Finance and the Department of Taxation and Finance to collect and maintain personal information, including mandatory disclosure of social security numbers in the manner required by tax regulations, instructions and forms, is found in Articles 8, 15, 18-A, 28 and 28-A of the Tax Law and 42 USC 405(c)(2)(C)(i).

The Tax Department will use this information primarily to determine and administer the insurance awards and sales tax liabilities under the Tax Law, and for any other purpose authorized by law.

Failure to provide the required information may result in civil or criminal penalties, or both, under the Tax Law.

This information will be maintained by the Director of the Data Management Services Bureau, NYS Tax Department, Building 8 Room 905, W A Harriman Campus, Albany NY 12227; telephone (from New York State only) 1 800 CALL TAX (1 800 225-2829); from areas outside New York State call (518) 438-8581.

**Need Help?**

**For forms or publications**, call toll free (from New York State only) 1 800 462 8100. From areas outside New York State, call (518) 438-1073.

**For information, forms or publications**, call the Business Tax Information Center at 1800 972 1233. The call is toll free from anywhere in the U.S. (including Alaska and Hawaii) and Canada. For information, you can also call toll free (from New York State only) 1 800 CALL TAX (1 800 225-5829). From areas outside New York State, call (518) 438-8581.

**Telephone assistance is available from 8:30 a.m. to 4:25 p.m. Monday through Friday.**

**Persons with Disabilities** – In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call the information and assistance numbers listed above.

**Hotline for the Hearing and Speech Impaired** – If you have a hearing or speech impairment and have access to a telecommunications device for the deaf (TDD), you can get answers to your New York State tax questions by calling 1 800 634 2110 toll free from anywhere in the U.S. (including Alaska and Hawaii) and Canada. Hours of operation are from 8:30 a.m. to 4:15 p.m. Monday through Friday. If you do not own a TDD, check with independent living centers or community action programs to find out where machines are available for public use.

**If you need to write**, address your letter to: NYS Tax Department Taxpayer Assistance Bureau, W A Harriman Campus, Albany, NY 12227.

EXHIBIT B

THIRTY-DAY SALES TAX REPORT



New York State Department of Taxation and Finance

**IDA Appointment of Project Operator or Agent  
For Sales Tax Purposes**

**ST-60**  
(7/02)

The industrial development agency or authority (IDA) must submit this form within 30 days of the appointment of a project operator or agent, whether appointed directly by the IDA or indirectly by the operator or another agent.

**For IDA use only**

Name of IDA		IDA project number (use OSC numbering system for projects after 1998)	
Street address		Telephone number ( )	
City	State	ZIP code	
Name of IDA project operator or agent		Check box if directly appointed by the IDA: <input type="checkbox"/>	Employer identification or social security number
Street address		Telephone Number ( )	Primary operator or agent? <input type="checkbox"/> Yes <input type="checkbox"/> No
City	State	Zip code	
Name of Project		Purpose of project (see instructions)	
Street address of project site			
City	State	Zip Code	
Description of goods and services intended to be exempted from sales and use taxes			
mm dd yyyy		mm dd yyyy	
Date project operator or agent appointed		Date project operator or agent status ends	
Estimated value of goods and services to be exempted from sales and use taxes as a result of the project's designation as an IDA project:			
Print name of officer or employee signing on behalf of the IDA		Print Title	
Signature	Date	Telephone Number ( )	

**Instructions**

**Filing Requirements**

An IDA must file this form within 30 days of the date the IDA designates a project operator or appoints a person as agent of the IDA, for purposes of extending a sales and compensating use tax exemption.

The IDA must file a separate form for each project operator or agent appointed, whether directly or indirectly, and regardless of whether it is the primary operator or agent. If the IDA authorizes an operator or agent to appoint other agents, the operator or agent making such an appointment within 30 days of the new agent's appointment. The IDA need not file this form if there are no sales or use tax exemption benefits authorized for a project as a result of the project's designation as an IDA project.

**Purpose of project**

For *Purpose of project*, enter one of the following:

- Services
- Agriculture, forestry, fishing
- Finance, insurance, real estate
- Transportation, communication electric, gas, sanitary services
- Construction
- Wholesale trade
- Retail trade
- Manufacturing
- Other (specify)

**Mailing instructions**

Mail completed form to: NYS Tax Department, IDA Unit, Building 8 Room 738, W A Harriman Campus, Albany NY 12227

**Privacy notification**

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 171, 171-a, 287, 306, 425, 473, 505, 697, 1096, 1142, and 1415 of that Law, and may require disclosure of social security numbers pursuant to 42 USC 405(x)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany, NY 12227, telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 455-6600.

**Need help?**

Telephone assistance is available from 8 a.m. to 5:55 p.m. (eastern time), Monday through Friday.

Business tax information: 1 800 972-1233  
Forms and publications: 1 800 462-8100  
From areas outside the U.S. and outside Canada: (518) 485-6800  
Fax-on-demands forms: 1 800 748-3676

Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110 (8 a.m. to 5:55 p.m., eastern time).

Internet access: [www.tax.state.ny.us](http://www.tax.state.ny.us)

Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 225-5829.

If you need to write, address your letter to: NYS Tax Department, TaxPayer Contact Center, W A Harriman Campus, Albany NY 12227.

**APPROVING RESOLUTION  
35 HAMILTON OF GLENMONT LLC PROJECT**

A special meeting of Town of Bethlehem Industrial Development Agency (the “Agency”) was convened in public session in the offices of the Town Hall located at 445 Delaware Avenue in the Town of Bethlehem, Albany County, New York on February 18, 2011 at 9:30 a.m. o’clock, local time.

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

PRESENT:

Frank S. Venezia	Chairman
Joseph P. Richardson	Vice Chairman
Sam NeJame	Secretary
Brian T. Stenson	Treasurer
Victoria Stanton Sweeney	Assistant Secretary
Stephen P. Rosenblatt	Member

ABSENT:

Mark Hennessey	Member
----------------	--------

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Terrence W. Ritz	Executive Director and CEO
Suzanne Traylor	CFO and Contracting Officer
Thomas P. Connolly, Esq.	Assistant Executive Director, Assistant Secretary and Agency Counsel
Robin Nagengast	Assistant to the Executive Director and Clerk
A. Joseph Scott, III, Esq.	Agency Bond Counsel

The following resolution was offered by Mr. Stenson seconded by Mr. Richardson, to wit:

Resolution No. \_\_\_\_ - \_\_

**RESOLUTION AUTHORIZING EXECUTION OF DOCUMENTS IN CONNECTION WITH A LEASE/LEASEBACK TRANSACTION FOR A PROJECT FOR 35 HAMILTON OF GLENMONT LLC (THE “COMPANY”).**

WHEREAS, Town of Bethlehem 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 582 of the 1973 Laws of New York, as amended, constituting Section 909-b 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 civic 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, 35 Hamilton of Glenmont LLC, a New York limited liability company (the “Company”) 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 the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in an approximately 1.3 acre parcel of land currently comprising a portion of larger parcels of land located at 41 Hamilton Lane and 64 Hannay Lane which 1.3 acre parcel will be known as 35 Hamilton Lane located in the Town of Bethlehem, Albany County, New York (the “Land”), (2) the construction of an approximately 20,000 square foot facility on the Land (the “Facility”) and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the “Equipment”), all of the foregoing to constitute a multi-tenant office and warehousing facility to be leased by the Company to various tenants (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”); (B) the granting of certain other “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain 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, by resolution adopted by the members of the Agency on March 18, 2008 (the “Public Hearing Resolution”), the Agency agreed to accept the Application and authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Executive Director of the Agency (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Initial Project and the financial assistance being contemplated by the Agency with respect to the Initial Project, to be mailed on March 18, 2008 to the chief executive officers of the county and of each city, town, village and school district in which the Project is or is to be located, (B) caused notice of the Public Hearing to be posted on March 20, 2008 on a bulletin board located in the Bethlehem Town Hall located at 445 Delaware Avenue in the Town of Bethlehem, Albany County, New York, (C) caused notice of the Public Hearing to be published on March 23, 2008 in The Times Union, a newspaper of general circulation available to the residents of the Town of Bethlehem, Albany County, Albany, New York, (D) conducted the Public Hearing on April 30, 2008 at 7:00 p.m., local time in Room 101 of the Bethlehem Town Hall located at 445 Delaware Avenue in the Town of Bethlehem, Albany County, New York, and (E) prepared a report of the Public Hearing (the “Hearing Report”) fairly summarizing the views presented at such Public Hearing and caused copies of said Hearing Report to be made available to the members of 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 Agency has been informed that (A) the Town of Bethlehem Planning Board (the “Planning Board”) was designated to act as the “lead agency” with

respect to the Project and (B) on April 6, 2010 the Planning Board determined that that the Project is a “unlisted action” which will not have a “significant effect on the environment” and, therefore, that an “environmental impact statement” is not required to be prepared with respect to the Project and issued a negative declaration with respect thereto (the “Negative Declaration”)and

WHEREAS, the Agency has given due consideration to the Application, and to representations by the Company that (A) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Company to undertake the Project in Town of Bethlehem, New York and (B) the completion of the Project will not result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State of New York to another area in the State of New York and will not result in the abandonment of one or more plants or facilities of any occupant of the Project Facility located in the State of New York; and

WHEREAS, the Agency desires to encourage the Company to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of Town of Bethlehem, New York by undertaking the Project in Town of Bethlehem, New York; and

WHEREAS, in order to consummate the Project and the granting of the Financial Assistance described in the notice of the Public Hearing, the Agency proposes to enter into the following documents (hereinafter collectively referred to as the “Agency Documents”): (A) a certain lease to Agency (the “Underlying Lease”) by and between the Company, as landlord, and the Agency, as tenant pursuant to which the Company will lease to the Agency the Land and all improvements now or hereafter located on the Land (collectively, the “Premises”); (B) a lease agreement (and a memorandum thereof) (the “Lease Agreement”) by and between the Agency and the Company, pursuant to which, among other things, the Company agrees to undertake the Project as agent of the Agency and the Company further agrees to lease the Project Facility from the Agency and, as rental thereunder, to pay the Agency’s administrative fee relating to the Project and to pay all expenses incurred by the Agency with respect to the Project; (C) a payment in lieu of tax agreement (the “Payment in Lieu of Tax 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; (D) if the Company intends to finance the Project with borrowed money, one or more mortgages and any other security documents and related documents (collectively, the “Mortgage”) from the Agency and the Company to the Company’s lenders with respect to the Project (the “Lender”), which Mortgage will grant liens on and security interests in the Project Facility to secure one or more loans from the Lender to the Company with respect to the Project (collectively, the “Loan”); (E) all building loan and other agreements requested by the Lender in connection with the Loan (collectively with the Mortgage, the “Loan Documents”); and (F) various certificates relating to the Project (the “Closing Documents”);

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

Section 1. All action taken by the Executive Director/CEO, Agency Counsel and Special Counsel of the Agency with respect to the Public Hearing with respect to the Project is hereby ratified and confirmed.

Section 2. The law firm of Hodgson Russ LLP is hereby appointed Special Counsel to the Agency with respect to all matters in connection with the Project. Special Counsel for the Agency is hereby authorized, at the expense of the Company, to work with the Company, counsel to the Company, counsel to the Agency and others to prepare, for submission to the Agency, all documents necessary to effect the transactions contemplated by this Resolution. Special Counsel has prepared and submitted an initial draft of the Agency Documents to staff of the Agency.

Section 3. 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;

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

(C) The Project site is located entirely within the boundaries of Town of Bethlehem, New York;

(D) It is estimated at the present time that the costs of the planning, development, acquisition, construction, reconstruction and installation of the Project Facility (collectively, the “Project Costs”) will be approximately \$1,200,000;

(E) The completion of the Project will not result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State of New York to another area in the State of New York and will not result in the abandonment of one or more plants or facilities of any occupant of the Project Facility located in the State of New York;

(F) The granting of the Financial Assistance by the Agency with respect to the Project will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of Town of Bethlehem, New York and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act;

(G) The Agency has reviewed the Hearing Report and has fully considered all comments contained therein; and

(H) It is desirable and in the public interest for the Agency to enter into the Agency Documents.

Section 4. In consequence of the foregoing, the Agency hereby determines to: (A) proceed with the Project; (B) acquire, construct and install the Project Facility; (C) lease the Project Facility to the Company pursuant to the Lease Agreement; (D) enter into the Payment in Lieu of Tax Agreement; (E) secure the Loan by entering into the Loan Documents; and (F) grant the Financial Assistance with respect to the Project.

Section 5. The Agency is hereby authorized (A) to acquire a leasehold interest in the Premises pursuant to the Underlying Lease and (B) to acquire title to the Equipment pursuant to a bill of sale (the “Bill of Sale to Agency”) from the Company to the Agency, and (C) to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisitions are hereby approved, ratified and confirmed.

Section 6. The Agency is hereby authorized to acquire, construct and install the Project Facility as described in the Lease Agreement and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition, construction and installation are hereby ratified, confirmed and approved.

Section 7. The Chairman (or Vice Chairman) of the Agency, with the assistance of Agency Counsel and Special Counsel, is authorized to negotiate and approve the form and substance of all Agency Documents.

Section 8. (A) The Chairman (or Vice Chairman) of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Agency Documents, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in the forms thereof as the Chairman (or Vice Chairman) shall approve, the execution thereof by the Chairman (or Vice Chairman) to constitute conclusive evidence of such approval.

(B) The Chairman (or Vice Chairman) of the Agency is hereby further authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

Section 9. 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 or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional 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 Resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 10. 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:

Frank S. Venezia	VOTING	Yay
Joseph P. Richardson	VOTING	Yay
Sam NeJame	VOTING	Yay
Brian T. Stenson	VOTING	Yay
Victoria Stanton Sweeney	VOTING	Yay
Mark Hennessey	VOTING	Absent
Stephen P. Rosenblatt	VOTING	Yay

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned (Assistant) Secretary of Town of Bethlehem 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 February 18, 2011 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"), 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 \_\_\_ day of February, 2011.

\_\_\_\_\_  
(Assistant) Secretary

(SEAL)

**TOWN OF BETHLEHEM  
INDUSTRIAL DEVELOPMENT AGENCY  
DRAFT FINANCE COMMITTEE CHARTER**

**Purpose**

The members of the Town of Bethlehem Industrial Development Agency (“Agency”) established the Finance Committee to oversee the Agency's debt and debt practices and to recommend policies concerning the Agency’s issuance and management of debt.

**Duties of the Finance Committee**

It shall be the responsibility of the Finance Committee to:

- Review proposals for the issuance of debt by the Agency and to make recommendations concerning those proposals to the board.
- Make recommendations to the board concerning the level of debt and nature of debt issued by the Agency.
- Make recommendations concerning the appointment and compensation of bond counsel, investment advisors and underwriting firms used by the Agency, and to oversee the work performed by these individuals and firms on behalf of the Agency.
- Meet with and request information from Agency staff, independent auditors and advisors or outside counsel, as necessary to perform the duties of the committee.
- Retain, at the Agency’s expense, such outside counsel, experts and other advisors as the Finance Committee may deem appropriate.
- Review proposals relating to the repayment of debt or other long-term financing arrangements by the Agency and its subsidiaries.
- Annually review the Agency’s financing guidelines and make recommendations to the board concerning criteria that should govern its financings. These should include security provisions required for a bond financing undertaking, specific requirements of credit enhancements or additional guarantees used, such as a pledge of revenues, financial covenants or debt service reserves.
- Undertake such other responsibilities as may be requested by the Agency's board.

**Composition of Committee and Selection of Members**

The Finance Committee shall consist of not less than three independent members of the board of directors, who shall constitute a majority on the committee. If the board has less than three independent members, non-independent members may be appointed to the committee provided that the independent members constitute a majority of the committee. The Agency’s board shall appoint the Finance Committee members and the Finance Committee chair. Members shall serve on the committee at the discretion of the board. Members appointed to the committee shall have the background necessary to perform its duties.

## Attachment D

### **Meetings**

The Finance Committee shall meet at such times as deemed advisable by the chair, but not less than twice a year. The committee must meet prior to any debt issuance planned to be undertaken by the Agency.

Members of the Finance Committee are expected to attend each committee meeting, in person or via telephone or videoconference. The Finance Committee may invite other individuals, such as members of management, auditors or other technical experts to attend meetings and provide pertinent information, as necessary. A majority of the committee members present or participating through telephone or videoconference shall constitute a quorum.

Meeting agendas shall be prepared prior to every meeting and provided to Finance Committee members along with briefing materials five (5) business days before the scheduled Finance Committee meeting. The Finance Committee may act only on the affirmative vote of a majority of the members or by unanimous consent. Minutes of these meetings shall be recorded.

A report of the committee's meeting shall be prepared and presented to the board at its next scheduled meeting following the meeting of the committee.

Meetings of the committee are open to the public, and the committee shall be governed by the rules regarding public meetings set forth in the applicable provisions of the Public Authorities Law and Article 7 of the Public Officers Law that relate to public notice and the conduct of executive session.

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## **2010 Operations and Accomplishments**

### **Town of Bethlehem Industrial Development Agency**

In 2010 the recession of 2007 was declared to have ended, but weak economic data led to fear of a double-dip recession which inhibited economic development in Bethlehem.

Against this backdrop, the Agency's operations and accomplishments in 2010 were as follows:

- The Agency continued to support the Town's Bethlehem 20/20 planning initiative which calls for the development of a long term needs assessment, development of a long term tax base analysis to quantify the tax base and diversification goals, development of a marketing and communications program and development of a community compact on principles, goals and objectives for the year 2020 and continuation of the existing business development and retention program.
- The Agency continued to support the Town's planning initiatives for the Capital District Transportation Committee & NYS Department of Transportation - 2010 Grant Programs; the 9W Corridor Study, the Clapper Road Interchange Feasibility Study, the Local Waterfront Revitalization Plan, the Delaware Avenue Hamlet Enhancement Study, the New Scotland Road Hamlet Master Plan, the Open Space Plan and the Agriculture and Farmland Protection Plan.
- The Agency negotiated a 2010 Service Agreement with the Town pursuant to which the Town provides professional services to the Agency.
- The Agency filed its Audited Financial Statements for 2009 on the Public Authorities Reporting Information System ("PARIS") which were included in the Agency's 2010 Annual Report. The Audited Financial Statements for 2009 are posted on the Agency's website ([www.bethlehemida.com](http://www.bethlehemida.com)).
- The Agency's Policy Manual continues to be posted on the Agency's website.
- The Agency and the Town also met with the leaders of SABIC and Selkirk Cogen to consider the feasibility of providing low cost power to SABIC and to other nearby industrial users.
- The Agency continued to support the Vista Technology Campus project which calls for construction of a 40,000 square foot building and roads and infrastructure to support the future development of 1.4 million square feet of building space. The Agency participated in many, many meetings with the Town and the developer of the Campus to explore whether the Town or the Agency could build

## Attachment E

the road, water, sewer and drainage infrastructure which would provide access to the Campus.

- The Agency introduced a new and improved website.
- The Agency modified the payment in lieu of tax agreement of Selkirk Cogen Partners, L.P. to provide for semi-annual payments instead of monthly payments.
- The Agency partnered with the Supervisor on a program to visit businesses within the Town so that the Agency and the Town could become familiar with business development and expansion issues of existing businesses and to determine whether the Agency and Town would be able to assist with any such issues. Visits were made to Spotlight Newspaper, Verstandig's Florist, PSEG/Bethlehem Energy Center and Owens Corning. The Agency also supported the Supervisor in the State of the Town presentations.
- The Agency issued a report on Agency and Town projects in 2010.