

## **EBS Massapequa SEQR Resolution**

A regular meeting of the Nassau County Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency located at 1550 Franklin Avenue, Suite 235, Mineola, County of Nassau, New York, on January 31, 2013 at 5:30 p.m., local time.

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

### **PRESENT:**

Timothy Williams	Chairman
John Coumatos	Vice Chairman
Christopher Fusco	Asst. Secretary
John T. Ahern	

### **ABSENT:**

Gary Weiss	Secretary
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### **THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:**

Joseph J. Kearney	Executive Director
Joseph Foarile	Chief Financial Officer
Colleen Pereira	Administrative Director
Nicholas Terzulli	Director of Business Development
Mary Dolan Grippo	Chief Marketing Officer
Edward Ambrosino, Esq.	General Counsel
Paul O'Brien, Esq.	Bond/Transaction Counsel
Milan K. Tyler, Esq.	Bond/Transaction Counsel

The attached resolution no. 2013-04 was offered by C. Fusco, seconded by J. Coumatos:

Resolution No. 2013-04

RESOLUTION FINDING THAT THE PROPOSED PROJECT OF  
HSRE-EB MASSAPEQUA, LLC IS A TYPE II ACTION UNDER THE STATE  
ENVIRONMENTAL QUALITY REVIEW ACT AND NOT SUBJECT  
TO FURTHER REVIEW

WHEREAS, the Nassau County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I 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 674 of the 1975 Laws of New York, as amended, constituting Section 922 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, industrial and 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, reconstruct and install one or more "projects" (as defined in the Act) or to cause said project to be acquired, constructed, reconstructed and installed and to convey said project or to lease said project with the obligation to purchase; and

WHEREAS, HSRE-EB MASSAPEQUA, LLC, a limited liability company organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York as a foreign limited liability company (the "Applicant"), has submitted an application (the "Application") to the Agency requesting that the Agency consider undertaking a project consisting of the following: (A)(1) the acquisition of an interest in an approximately 4.22 acre parcel of real property located at 400 County Line Road, Massapequa, Town of Oyster Bay, County of Nassau, New York (Section: 53; Block: 143; Lot: 3) (collectively, the "Land"), and (2) the renovation of an existing approximately 120,000 square foot building and related structures, facilities, equipment and furnishings on the Land (collectively, the "Building"), all for the providing of a senior citizen assisted housing facility comprised of approximately 120 living units (collectively, 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 in the form of a potential exemption or partial exemption from real property taxes; and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency and the sublease of the Project Facility to the Applicant; and

WHEREAS, at this time, the Applicant is requesting only that the Agency consent to the transfer by CSH Massapequa LP ("CSH") of its interests in and to the Project Facility to

the Applicant and to the assignment and assumption of the Lease Agreement and the PILOT Agreement in connection therewith (the "Project"); and

WHEREAS, pursuant to Article 8 of the New York Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, et. seq., as amended (the "Regulations" and collectively with the SEQR Act, "SEQRA"), the Agency must consider whether the Project is an "action" that would require it to satisfy the requirements contained in SEQRA prior to making a final determination whether to undertake the Project; and

WHEREAS, pursuant to SEQRA, to aid the Agency in determining whether the Project is an "action" subject to SEQRA, the Applicant submitted to the Agency: (1) Applicant's Application for Financial Assistance to the Agency dated August 6, 2012; and (2) a Short Environmental Assessment Form dated July 31, 2012 (collectively the "Project Environmental Documents"); and

WHEREAS, 6 NYCRR 617.2(aj) of the Regulations states that a Type II action is an action or class of actions identified under 6 NYCRR 617.5; and

WHEREAS, 6 NYCRR 617.5(a) states that actions identified as Type II actions have been determined not to have a significant impact on the environment or are otherwise precluded from environmental review under the SEQR Act; and

WHEREAS, the Project consists of the assignment and assumption of an existing payment in lieu of taxes agreement and lease agreement;

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

Section 1. Based upon a thorough review and examination of the Project Environmental Documents and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following finding with respect to the Project:

(A) The Applicant's request for a previously approved and unchanged Project is a Type II Action pursuant to SEQRA involving "continuing agency administration" which does not involve "new programs or major reordering of priorities that may affect the environment (6 NYCRR Section 617.5(c)(20)) and therefore no Finding or determination of significance are required under SEQRA.

Section 2. The Chairman, Executive Director and Administrative Director of the Agency are hereby authorized and directed to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 3. 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:

Timothy Williams	VOTING	Aye
John Coumatos	VOTING	Aye
Gary Weiss	EXCUSED	
Christopher Fusco	VOTING	Aye
John T. Ahern	VOTING	Aye-

The foregoing Resolution was thereupon declared duly adopted.

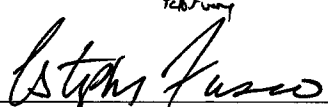
STATE OF NEW YORK                    )  
  ) SS.:  
COUNTY OF NASSAU                    )

I, the undersigned [Asst.] Secretary of the Nassau County 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 January 31, 2013, 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 7<sup>th</sup> day of ~~January~~<sup>February</sup>, 2013.

  
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[Asst.] Secretary  
(SEAL)