

Genadyne 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, Mineola, County of Nassau, New York on March 21, 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
Gary Weiss	Secretary
Christopher Fusco	Asst. Secretary
John T. Ahern	

ABSENT:

John Coumatos	Vice Chairman
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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

The attached resolution no. 2013-15 was offered by G. Weiss, seconded by C. Fusco:

Resolution No. 2013-15

RESOLUTION FINDING THAT THE PROPOSED PROJECT OF GENADYNE BIOTECHNOLOGIES INC. AND LUCINA ADVANCED CARE, INC. 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 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, GENADYNE BIOTECHNOLOGIES INC., a corporation organized and existing under the laws of the State of New York ("Genadyne") and LUCINA ADVANCE CARE, INC., a corporation organized and existing under the laws of the State of New York ("Lucina" and together with Genadyne, the "Applicants"), presented an application (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Project") consisting of the following: (A) (1) the acquisition of an interest in an approximately 1 acre parcel of land located at 16 Midland Avenue, Hicksville, Town of Oyster Bay, County of Nassau, New York (Section: 12; Block: 174; Lot: 37) (the "Midland Parcel"), (2) the renovation of an existing approximately 14,000 square foot building on the Midland Parcel (the "Midland Building"), and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (collectively, the "Midland Equipment"), all of the foregoing for use by Genadyne as a manufacturing and distribution facility (collectively, the "Midland Project Facility"); (B) (1) the acquisition of an interest in an approximately 1 acre parcel of land located at 65 Watermill Lane, Great Neck, Town of North Hempstead, County of Nassau, New York (Section: 2; Block: 042; Lot: 297) (the "Watermill Parcel"), (2) the renovation of an existing 8,000 square foot building on the Watermill Parcel (the "Watermill Building"), and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (collectively, the "Watermill Equipment"), all of the foregoing for use by Genadyne as a warehouse facility (collectively, the "Watermill Project

Facility”); (C)(1) the acquisition of an interest in a parcel of land located at 159 Express Street, Plainview, Town of Oyster Bay, County of Nassau, New York (Section: 13; Block: 083; Lot: 99) (the “Express Parcel” and together with the Midland Parcel and the Watermill Parcel, collectively, the “Land”), (2) the renovation of an existing building on the Express Parcel (the “Express Building” and together with the Midland Building and the Watermill Building, collectively, the “Building”), and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (the “Express Equipment” and together with the Midland Equipment and the Watermill Equipment, collectively, the “Equipment”), all of the foregoing for use by the Applicants as a manufacturing facility (collectively, the “Express Project Facility” and together with the Midland Project Facility and the Watermill Project Facility, collectively, the “Project Facility”); (D) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions or partial exemptions from sales and use taxes, mortgage recording taxes and real property taxes (collectively, the “Financial Assistance”); (E) the lease (with an obligation to purchase) or sale of the Project Facility to the Applicants or such other entity(ies) as may be designated by the Applicants and agreed upon by the Agency; and (F) the sublease of the Project Facility to the Applicants or such other entity(ies) as may be designated by the Applicants and agreed upon by the Agency; and

WHEREAS, by letter dated February 15, 2013 (the “Amendment Letter”), the Applicants advised the Agency that they were electing not to proceed with the portion of the Project consisting of the acquisition, renovation, installation and equipping of the Express Project Facility and that they were withdrawing their request for Financial Assistance with respect to the Express Project Facility; and

WHEREAS, as a result of the Amendment Letter, all references herein to the Land, the Building, the Equipment, the Project Facility and the Project shall be deemed to exclude the Express Parcel, the Express Building, the Express Equipment and the Express Project Facility; 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 Applicants submitted to the Agency: 1) Applicants’ Application for Financial Assistance to the Agency dated November 27, 2012; and 2) Short Environmental Assessment Forms for each part of the Project dated November 27, 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) of the Regulations 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 SEQRA Act; and

WHEREAS, 6 NYCRR 617.5(c) of the Regulations states that Type II actions not subject to further review under SEQRA include “replacement, rehabilitation or reconstruction or a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, unless such action meets or exceeds any of the thresholds in section 617.4 of this Part”; and

WHEREAS, the Project consists of renovation of existing buildings within their existing footprint and improvements to the interior of such buildings to accommodate the installation of the Equipment.

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 upon the Agency’s knowledge of the area surrounding the Land and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings with respect to the Project:

(A) The Project is a Type II action under SEQRA because it is “replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes” and does not meet or exceed any threshold for a Type I action.

(B) More specifically, the Project is a replacement, rehabilitation or reconstruction of a structure or facility, in kind, because it involves interior renovation and rehabilitation of existing vacant warehouse space with use and occupancy by a type of use permitted within the zoning district occupied by the Land. The Project will not expand the footprint of the building on the Land nor increase or substantially alter environmental impacts associated with the Land.

Section 2. The Chairman, Administrative Director and Executive Director of the Agency are hereby authorized and directed to distribute copies of this Resolution to the Applicants 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	ABSENT	
Gary Weiss	VOTING	Aye
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 March 21, 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 21st day of March, 2013.



[~~Asst.~~] Secretary
(SEAL)