

Town of Colonie Industrial Development Agency

Board Minutes January 22, 2018 Meeting

Meeting called to order by John Kearney, Chairman, at 6:06 pm, The Agency meeting was conducted simultaneously with the Town of Colonie Local Development Corporation meeting due to the common actions necessary this evening.

Mr. Kearney welcomed the Agency's newest member Alison Blessing and introduced Town of Colonie Deputy Supervisor Linda Murphy who is the Town liaison to the Corporation for 2018.

Members in attendance:

John Kearney, Chairman

Alison Blessing

Gary Rinaldi

Eric Phillips

Benjamin Syden

Members absent:

Carmino Basile

Peter Gannon

Other Persons in attendance:

Agency Counsel: Melissa Bennett, Barclay Damon, LLP

Chief Executive Officer: Joseph LaCivita

Chief Fiscal Officer: Christopher Kelsey

Guest: Linda Murphy, Town of Colonie Deputy Supervisor

Approval of the Minutes

Mr. Kearney indicated the draft of the December 18, 2017 minutes were in the Board packets for review.

MOTION: To accept the December 18, 2017 minutes as provided. Motion offered by Benjamin Syden and seconded by Eric Phillips. Ms. Blessing abstained. Motion was unanimously approved by the remaining members.

Election of Officers

Ms. Bennett indicated the election of officers and appointment of committees for 2018 needed to be addressed this evening. Discussion ensued as to the existing slate of officers and committee assignments. Ms. Bennett noted that Mr. Kearney had assigned Ms. Blessing to the Audit and Finance Committees upon her appointment by the Town of Colonie Town Board, and also had appointed Mr. Basile as Acting Audit and Finance Committee Chairs at the December 2017 meeting.

RESOLUTION 2018-001: Regarding organizational matters. Resolution offered by Benjamin Syden and seconded by Eric Phillips. Resolution was unanimously approved by the members in attendance.

Committee Reports

Governance –Mr. Syden indicated the Committee met at 5:30 this evening to review, and update as necessary, the following statement and policies for 2018:

- a) Mission Statement
- b) By-Laws
- c) Code of Ethics
- d) Conflicts of Interest Policy
- e) Procurement Policy
- f) Property Acquisition Policy
- g) Property Disposition Policy
- h) Whistleblower Policy

Additionally, the Committee reviewed the following reports for 2017:

- a) Operations and Accomplishments Report
- b) Report of Real Property Owned

The Committee voted to recommend to the full Board adoption of the above statement and policies for 2018 and reports for 2017 as presented.

Mr. Syden indicated the Committee also reviewed its Committee Charter, Board Self-Evaluation Form, and the self-evaluation of committee performance. It voted to recommend the Governance Committee Charter as presented, and to amend the existing Board Self Evaluation Form to add a section for each committee to document the self-evaluation of committee performance. The revised Self-Evaluation Form will be distributed to the members and will be due back prior to the March 2018 meeting.

The Committee also addressed the compensation and benefits for Agency staff. As the Agency's staff is provided by the Town of Colonie under the annual management agreement the Agency has no need to provide any employee compensation or benefits.

Additionally, the Committee indicated to all members the need to provide a short biography so it can be placed on the Agency website to be in compliance with Authority Budget Office recommendations.

Mr. Syden indicated the Governance Committee, and potentially the full Board if there was interest, to meet prior to the March meeting to discuss the direct the Agency wanted to go in 2018. Mr. LaCivita inquired of Ms. Bennett if Barclay Damon could provide a brief training update at the same time.

Mr. Phillips inquired if the Town had specific goals or accomplishments the Agency could assist with for 2018. Deputy Supervisor Murphy indicated she would obtain a copy of the Supervisor's 2018 State of the Town for the board members if they were interested.

Mr. Kelsey and Mr. LaCivita indicated they were aware of one goal for 2018 was to update the Town's aged recreation facilities.

Audit –Mr. Kearney indicated the Committee met at 5:30 this evening to review, and update as necessary, the Committee's Charter for 2018.

The Committee voted to recommend to the full Board adoption of the Audit Committee Charter for 2018 as presented.

Finance – Mr. Kearney indicated the Committee met this evening, after the Audit Committee meeting, to review, and update as necessary, the following policies for 2018:

- a) Investment Policy
- b) Procurement Policy
- c) Uniform Tax Exemption Policy

The Committee also reviewed the Corporation's existing fee schedule of .50% of project costs, Finance Committee Charter, and the existing insurance coverages in place.

The Committee voted to recommend to the full Board adoption of the above policies and Committee Charter for 2018 as presented, and to leave the fee schedule and insurance coverages at the existing levels.

Ms. Bennett stated there is a resolution before the Board this evening to approve and re-adopt the Corporation's Governance, Audit and Finance Committees recommendations for 2018.

RESOLUTION 2018-002: Approving annual actions. Resolution offered by Eric Phillips and seconded by Gary Rinaldi. Resolution was unanimously approved by the members in attendance.

Chief Fiscal Officer's Report

Mr. Kelsey indicated the Agency's annual external audit of year end 2017 will take place during the last week of January 2018, and once completed Mr. LaCivita and he will begin working on the 2017 PARIS reporting. Ms. Bennett was good enough to prepare the annual project tracking letters for 2017 and Mr. LaCivita's office issued them on January 9th.

There is nothing significant to report as it relates to financial activity since the December 18th update.

Chief Executive Officer's Report

Mr. LaCivita indicated he did not have any significant updates this evening.

The Galasei Group/Ayco Projects (a/k/a Starlite Redevelopment Project) is still working its way through the early phases of the Town of Colonie's Planning Board process. It will be a while before the project is back before the Agency for a public hearing.

Additionally, he was contracted by a pool company that was interested in expanding its operations to property, in the Village of Menands, already owned by the company. It would retain its current operations in the City of Albany. The owner of the company was interested in sales and use tax exemptions, mortgage recording tax exemption, and a payment in lieu of taxes agreement. It is estimated it would create about 30 manufacturing jobs. Mr. LaCivita indicated to the owner that he should communicate with the Village of Menands and Menands Unionfree School District about the project before coming to the Agency.

Old Business

Afrim Realty Company, LLC: Ms. Bennett indicated Barclay Damon has been in communication with Afrim's financial institution about bank documents and scheduling the closing on the project. The bank and project are anxious to close by the end of January 2018.

Additionally, the Agency approved a temporary sales tax exemption, from January 1 to January 31, 2018, for Afrim's at the December 18, 2017 meeting. Afrim's has requested an extension of the temporary exemption until February 28, 2018 in case the closing doesn't happen by January 31, 2018. Mr. Syden expressed some apprehension at approving the extension if Afrim's financial institution had indicated the closing would happen by January 31, 2018.

Ms. Bennett reviewed the two resolutions before the Agency this evening.

RESOLUTION 2018-003: Authorizing the execution of bank documents for Afrim Realty Company, LLC and determining other matters in connection therewith. Resolution offered by Benjamin Syden and seconded by Gary Rinaldi. Resolution was unanimously approved by members in attendance.

RESOLUTION 2018-004: Approving the execution and delivery of a first amendment to preliminary project agreement with regard to the acquisition, construction and equipping of a certain facility for Afrim Realty Company, LLC. Resolution offered by Eric Phillips and seconded by Gary Rinaldi. Resolution was approved by Alison Blessing, John Kearney, Eric Phillips and Gary Rinaldi. Mr. Syden voted nay.

New Business

New York State Economic Development Council Conference: Mr. Syden reminded the Board that the NYS EDC Annual Conference is being held on January 31 and February 1, 2018. The location has been moved this year to the Albany Capital Center. As Mr. LaCivita cannot attend, as he is presenting at a conference in Saratoga those days, Mr. Syden will register and the Agency will reimburse him the registration fee.

Mr. Phillips requested Mr. Syden to send the conference link to all the members so they could decide if they would also like to attend.

Gerald J. Hausler D.O., PLLC: Ms. Bennett explained there was a final resolution before the Board for action this evening. The Hausler Project is an extremely old Agency project that closed well before anyone in the room was part of the Agency's management. At the time the project was undertaken it was common for the Agency to take title to the property while the project was going on and then return the deed once the project was completed. Apparently this was not done, and Dr. Hausler realized this during some estate planning and has requested the Agency return the deed. The research has been done to determine no undue tax exemption had been provided to the property over the years and Counsel is comfortable in recommending the resolution before the Agency this evening.

RESOLUTION 2018-005 – Authorizing the execution of a deed and termination of lease agreement for the Gerald J. Hausler D.O. PLLC Project and determining other matters in connection therewith. Resolution offered by Alison Blessing and seconded by Gary Rinaldi. The resolution was unanimously approved by the members in attendance.

Meeting adjourned at 7:15 pm.

Next meeting will be March 19, 2018 at 6:00 pm at 347 Old Niskayuna Road, Latham, NY 12110.

RESOLUTION 2018-001 - REGARDING ORGANIZATIONAL MATTERS

WHEREAS, the Town of Colonie Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of Laws of 1969 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 594 of the Laws of 1980 of New York, as amended, constituting Section 911-d 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, renovating, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreation 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, the Agency is conducting its organizational meeting for the 2018 fiscal year and wishes to elect its officers;

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

Section 1. The Agency hereby appoints the following officers of the Agency:

Chairperson	John Kearney
Vice Chairperson	Benjamin Syden
Treasurer	Carmino Basile
Secretary	Eric Phillips
Alt. Secretary	Benjamin Syden

Section 2. The Agency hereby appoints the following members to the following committees:

Audit Committee	Carmino Basile, Chair Alison Blessing John Kearney Gary Rinaldi
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Finance Committee	Carmino Basile, Chair Alison Blessing John Kearney Gary Rinaldi
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Governance Committee	Benjamin Syden, Chair Peter Gannon John Kearney Eric Phillips
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Section 3. This Resolution shall take effect immediately.

RESOLUTION 2018-002 - APPROVING ANNUAL ACTIONS

WHEREAS, the Town of Colonie Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of Laws of 1969 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 594 of the Laws of 1980 of New York, as amended, constituting Section 911-d 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, renovating, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreation 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, the Act and Article 9 of the Public Authorities Law (the “Public Authorities Law”) require that the Agency annually review and approve its mission statement (the “Mission Statement”), Investment Policy, Procurement Policy, Property Acquisition Policy and Property Disposition Policy (collectively, the “Annual Policies”); and

WHEREAS, the Act and the Public Authorities Law require that the Agency prepare annual reports of its operations and accomplishments and real property owned (collectively, the “Annual Reports”); and

WHEREAS, the Finance Committee has reviewed the Policies and the Annual Reports and recommended their approval by the Agency; and

WHEREAS, the Governance Committee has reviewed (A) the Mission Statement, the Policies and the Annual Reports, and has recommended their approval by the Agency; and (B) the Agency’s By-Laws, Uniform Tax Exemption Policy, Code of Ethics, Conflicts of Interest Policy and Whistleblower Policy (collectively, the “Other Policies”); and

WHEREAS, each of the Finance Committee, the Audit Committee and the Governance Committee have recommended that its respective charters be amended to clarify that the members of each such Committee shall be appointed by the Chairman; and

WHEREAS, the members of the Agency desire to review and approve the Mission Statement, the Annual Policies and the Annual Reports, reaffirm the prior approval of the By-Laws and the Other Policies and amend the charters of the Finance Committee Charter, the Audit Committee Charter and the Governance Committee Charter to clarify that the members of each such Committee shall be appointed by the Chairman, each in the form presented at this meeting;

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

Section 1. The Agency hereby: (a) approves and re-adopts the Mission Statement and the Policies; (b) approves the Annual Reports, (c) reaffirms its prior approval of the By-Laws

and the Other Policies, each in the form presented at this meeting, (d) approves the changes to the Finance Committee Charter, the Audit Committee Charter and the Governance Committee Charter to clarify that the members of each such Committee shall be appointed by the Chairman.

Section 2. The Executive Director of the Agency is hereby directed to: (a) post copies of the Mission Statement, the Policies and the Annual Reports on the Agency's website; and (b) file the Annual Reports with the New York State Authorities Budget Office, as required by the Public Authorities Law.

Section 3. The Agency hereby designates Joseph LaCivita as contracting officer for the disposal of Agency property.

Section 4. This Resolution shall take effect immediately.

RESOLUTION 2018-003 - AUTHORIZING THE EXECUTION OF BANK DOCUMENTS FOR AFRIM REALTY COMPANY, LLC AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, the Town of Colonie Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of Laws of 1969 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 594 of the Laws of 1980 of New York, as amended, constituting Section 911-d 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, renovating, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreation 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 “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, pursuant to a resolution duly adopted by the members of the Agency on October 16, 2017 (the “Approving Resolution”), the Agency approved a project (the “Project”) on behalf of Afrim Realty Company, LLC, on behalf of itself and entities formed or to be formed on behalf of the foregoing, including Afrim Sports, Inc. (the “Company”) consisting of the following: (A)(1) the acquisition of an interest in approximately 28.6 acres of land located at 969 Watervliet Shaker Road (Tax Map # 30.-2-2.21) in the Town of Colonie, Albany County, New York (the “Land”), (2) the construction of an approximately 86,400 square foot air supported dome, an approximately 12,000 square foot building and an approximately 900 square foot building (collectively, the “Facility”), and (3) the acquisition and installation therein and thereon of various machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”), such Project Facility to constitute a recreation project providing facilities for sporting events, including, but not limited to, soccer and lacrosse games and tournaments; (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 mortgage recording taxes (except as limited by Section 874 of the Act), real estate transfer taxes, sales and uses taxes and real property 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, in order to finance the cost of the Project, the Company has determined to obtain from M&T Bank (the “Bank”) a loan in the amount of \$9,000,000 (the “Loan”); and

WHEREAS, in connection with the Loan, the Company has requested that the Agency join in the execution of (A) a mortgage and security agreement with assignment of leases and

rents (the “First Bank Mortgage”) dated as of February 1, 2018 from the Agency and the Company to the Bank, which First Mortgage will grant a lien on and security interest in the Project Facility to the Bank to secure a portion of the Loan; (B) a mortgage and security agreement with assignment of leases and rents dated as of February 1, 2018 (the “Second Bank Mortgage” and, collectively with the First Mortgage, the “Bank Mortgages”) from the Agency and the Company to the Bank, which Third Mortgage will grant a lien on and security interest in the Project Facility to the Bank to secure an additional portion of the Loan; (C) a general assignment of rents dated as of February 1, 2018 (the “Assignment”) from the Agency and the Company to the Bank; and (D) such other documents as may be requested by the Bank in connection with the Loan (collectively with the Bank Mortgages and the Assignment, the “Bank Documents”); and

WHEREAS, as contemplated in the Approving Resolution and as confirmed hereby, the Agency will grant a mortgage recording tax exemption with respect to the recording of the Bank Documents (except as limited by Section 874 of the Act); and

WHEREAS, in order to permanently finance a portion of the cost of the Project, the Company has determined to obtain from New York Business Development Corporation (“NYBDC”) an additional loan (the “SBA Loan”); and

WHEREAS, the Company’s obligations to NYBDC with respect to the SBA Loan will be secured by a mortgage and security agreement with assignment of leases and rents (the “NYBDC Mortgage”) from the Company to NYBDC, which NYBDC Mortgage will grant a lien on and security interest in the Project Facility to NYBDC; and

WHEREAS, NYBDC requires that the Agency execute and deliver an intercreditor agreement dated as of February 1, 2018 (the “SBA Intercreditor Agreement”) by and among the Agency, the Bank and NYBDC, which sets forth the rights of the Agency with respect to the PILOT Mortgage, the Bank with respect to the Bank Mortgages and NYBDC with respect to the NYBDC Mortgage; 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 must determine the potential environmental significance of the execution and delivery of the Bank Documents (the “Transaction”);

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

Section 1. Pursuant to SEQRA, the Agency hereby finds and determines that:

(A) Pursuant to Section 617.5(c)(23) of the Regulations, the Transaction is a “Type II action” (as said quoted term is defined in the Regulations); and

(B) Therefore, the Agency hereby determines that no environmental impact statement or any other determination or procedure is required under the Regulations with respect to the Transaction.

Section 2. The Agency, based upon the representations made by the Company to the Agency in the Application, 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; and

(B) The execution and delivery of the Bank Documents and the SBA Intercreditor Agreement and the grant of the mortgage recording tax exemption with respect to the recording of the Bank Documents will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of the Town of Colonie and the State of New York and improve their standard of living and will serve the public purposes of Article 18-A of the General Municipal Law by preserving permanent, private sector jobs and increasing the overall number of private sector jobs in the State.

Section 3. In consequence of the foregoing, the Agency hereby determines to (A) grant to the Bank mortgage interests in and liens on the Agency's interest in the Project Facility, assign to the Bank all of its interest in, to and under all leases affecting the Project Facility and the rents and other amounts payable thereunder, and grant to the Bank a continuing security interest in all Property, (B) grant to the Company a mortgage recording tax exemption with respect to the recording of the Bank Documents in the office of the County Clerk of Albany County, subject to the statutory limitations of Section 874 of the Act, and (C) subject its interests under the PILOT Mortgage to the SBA Intercreditor Agreement.

Section 4. The form and substance of the Bank Documents and the SBA Intercreditor Agreement (all in substantially the forms presented to this meeting and which, prior to the execution and delivery thereof, may be redated) are hereby approved.

Section 5. (A) The Chairman of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Bank Documents and the SBA Intercreditor Agreement, 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 substantially the forms thereof presented to this meeting with such changes, variation, omissions and insertions as the Chairman shall approve, the execution thereof by the Chairman to constitute conclusive evidence of such approval.

(B) The Chairman of the Agency is hereby further authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency.

Section 6. 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 Bank Documents and the SBA Intercreditor Agreement, 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 Bank Documents and the SBA Intercreditor Agreement binding upon the Agency.

Section 7. Neither the members nor officers of the Agency, nor any person executing the Bank Documents and the SBA Intercreditor Agreement on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution, issuance or delivery thereof or the transaction contemplated thereby.

Section 8. The provisions of Sections 8 and 9 of the Approving Resolution shall remain in full force and effect.

Section 9. This Resolution shall take effect immediately.

**RESOLUTION 2018-004 – APPROVING THE EXECUTION AND DELIVERY OF A
FIRST AMENDMENT TO PRELIMINARY PROJECT AGREEMENT
WITH REGARD TO THE ACQUISITION, CONSTRUCTION, AND
EQUIPPING OF A CERTAIN FACILITY FOR AFRIM REALTY COMPANY, LLC**

WHEREAS, the Town of Colonie Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of Laws of 1969 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 594 of the Laws of 1980 of New York, as amended, constituting Section 911-d 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, renovating, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreation 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 “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, by a resolution adopted by the members of the Agency on October 16, 2017 (the “Approving Resolution”), the Agency approved a project (the “Project”) on behalf of Afrim Realty Company, LLC, on behalf of itself and entities formed or to be formed on behalf of the foregoing, including Afrim’s Sports, Inc. (the “Company”) consisting of the following: (A)(1) the acquisition of an interest in approximately 28.6 acres of land located at 969 Watervliet Shaker Road (Tax Map # 30.-2-2.21) in the Town of Colonie, Albany County, New York (the “Land”), (2) the construction of an approximately 86,400 square foot air supported dome, an approximately 12,000 square foot building and an approximately 900 square foot building (collectively, the “Facility”), and (3) the acquisition and installation therein and thereon of various machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”), such Project Facility to constitute a recreation project providing facilities for sporting events, including, but not limited to, soccer and lacrosse games and tournaments; (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 mortgage recording taxes (except as limited by Section 874 of the Act), real estate transfer taxes, sales and uses taxes and real property 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, the Agency and the Company entered into a Preliminary Sales Tax Exemption Agreement dated as of January 1, 2018, which provided that the state and local sales and use tax exemption to be granted would end at the earliest of several events specified therein

and in no event later than January 31, 2018 (the “Preliminary Sales Tax Exemption Agreement”); and

WHEREAS, the Owner and Operator have requested that the Agency extend its appointment of the Company as temporary agent of the Agency for sales and use tax purposes until February 28, 2018; and

WHEREAS, in connection with the extension of the appointment of the Company as temporary agent of the Agency for sales and use tax purposes, the Agency and the Company will enter into a First Amendment to the Preliminary Sales Tax Exemption Agreement (the “Amendment”; the Preliminary Sales Tax Exemption Agreement, as amended by the Amendment, is hereinafter referred to as the “Interim Documents”);

WHEREAS, simultaneously with the execution of the Amendment, the Agency will file with the New York State Department of Taxation and Finance the form entitled “IDA Appointment of Project Sublessee or Agent for Sales Tax Purposes” (the form required to be filed pursuant to Section 874(9) of the Act) (the “Thirty-Day Sales Tax Form”);

WHEREAS, for purposes of exemption from New York State (the “State”) sales and use taxation as part of the Financial Assistance requested, “sales and use taxation” shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight;

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

Section 1. For purposes of providing the terms and conditions for which the Company will receive the benefit of certain State and local sales and use tax exemptions in connection with the Project, the Interim Documents in such form as the Chairman (or Vice Chairman) of the Agency shall (with the advice of Agency counsel) deem advisable, be, and the same are, hereby approved; and the Chairman and Vice Chairman of the Agency are each hereby authorized and directed to execute, acknowledge and deliver the Interim Documents in the name of the Agency. The state and local sales and use tax abatements granted under the Interim Documents shall not exceed \$280,000.00 in the aggregate and, in the event a straight lease transaction is not consummated by the Company by February 28, 2018, the Agency shall recapture all State and local sales and use tax benefits granted under the Interim Documents. The execution and delivery of the Interim Documents shall be conclusive evidence of due authorization and approval of the Interim Documents in their respective final form.

Section 2. The Agency hereby delegates to the Company, as agent of the Agency, the authority to designate (following the execution and delivery of the Agency Documents), agents and sub-agents of the Agency (each, a “Sub-Agent”) for purposes of utilizing the Agency sales and use tax exemption with respect to the acquisition, reconstruction and installation of the Facility; provided that any such sub-agency designation shall become effective only upon submission to the Agency within fifteen (15) days of such agency and sub-agency designation: (1) an executed sub-agent appointment agreement (in a form approved by the Agency) and (2) a completed Form ST-60 of the New York State Department of Taxation and Finance (IDA

Appointment of Project Sublessee or Agent for Sales Tax Purposes). Such agents and sub-agents may include contractors and subcontractors involved in the acquisition, reconstruction and installation of the Facility.

Section 3. The terms and conditions of subdivision 3 of Section 875 of the Act are herein incorporated by reference and the Owner and the Operator shall agree to such terms as a condition precedent to receiving or benefiting from an exemption from State and local sales and use tax exemptions benefits.

Section 4. The Interim Documents shall be deemed the obligations of the Agency, and not of any member, officer, agent or employee of the Agency in his/her individual capacity, and the members, officers, agents and employees of the Agency shall not be personally liable thereon or be subject to any personal liability or accountability based upon or in respect hereof or of any transaction contemplated hereby. The Interim Documents shall not constitute or give rise to an obligation of the State of New York or the Town of Colonie, New York and neither the State of New York nor the Town of Colonie, New York shall be liable thereon, and further, such agreement shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency.

Section 5. The Authorized Representatives are hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 7. This Resolution shall take effect immediately.

**RESOLUTION 2018-005 - AUTHORIZING THE EXECUTION OF A DEED AND
TERMINATION OF LEASE AGREEMENT FOR THE
GERALD J. HAUSLER D.O. PLLC PROJECT AND
DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.**

WHEREAS, the Town of Colonie Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of Laws of 1969 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 594 of the Laws of 1980 of New York, as amended, constituting Section 911-d 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, renovating, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreation 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, Gerald J. Hausler D.O. PLLC d/b/a The Center for Family Practice (the “Company”) conveyed the premises known as 8 Century Hill Drive in the Town of Colonie, New York (the “Property”) to the Agency by deed dated January 5, 2007 and recorded in the Office of the Albany County Clerk on January 10, 2007 in Liber 2871 of Deeds at Page 1124 (the “Deed to IDA”) as part of a project (the “Project”) previously undertaken by the Agency; and

WHEREAS, in connection with the Project and the execution of the Deed to IDA, the Agency and the Company entered into a lease agreement dated as of January 1, 2007 (the “Lease Agreement”); and

WHEREAS, the Project has been terminated and the Company has requested that the Agency execute and deliver (1) a deed (the “Deed to Related Company”) conveying the Property to 8 Century Hill, LLC (the “Related Company”), which Related Company has ownership similar to the Company; and (2) a Termination of Lease Agreement (the “Termination of Lease” and together with the Deed to Related Company, the “Termination Documents”) by and between the Agency and the Company terminating the Lease Agreement; 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 must determine the potential environmental significance of the execution and delivery of the Termination Documents (the “Transaction”);

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

Section 1. Pursuant to SEQRA, the Agency hereby finds and determines that:

(A) Pursuant to Section 617.5(c)(23) of the Regulations, the Transaction is a “Type II action” (as said quoted term is defined in the Regulations); and

(B) Therefore, the Agency hereby determines that no environmental impact statement or any other determination or procedure is required under the Regulations with respect to the Transaction.

Section 2. The Agency hereby finds and determines that, 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;

Section 3. The form and substance of the Termination Documents (in substantially the forms presented to this meeting and which, prior to the execution and delivery thereof, may be redated) are hereby approved.

Section 4. (A) The Chairman of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Termination 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 substantially the forms thereof presented to this meeting with such changes, variation, omissions and insertions as the Chairman shall approve, the execution thereof by the Chairman to constitute conclusive evidence of such approval.

(B) The Chairman of the Agency is hereby further authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency.

Section 5. 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 Termination 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 Termination Documents binding upon the Agency.

Section 6. Neither the members nor officers of the Agency, nor any person executing the Termination Documents on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution, issuance or delivery thereof or the transaction contemplated thereby.

Section 7. This Resolution shall take effect immediately.