

**APPROVING RESOLUTION  
THE PLAINS, LLC PROJECT**

A regular meeting of the County of Otsego Industrial Development Agency (the "Agency") was convened in public session at 242 Main Street in the City of Oneonta, Otsego County, New York on Thursday, December 6, 2007, at 7:30 o'clock a.m., local time.

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

PRESENT:

Joseph A. Bernier	Chairman
Jeffrey C. Lord	Treasurer
Sharon A. Oberriter	Secretary
Hugh I. Henderson	Member
Gregory Relic	Member
Walter Buist	Member
Jim Salisbury	Member

ABSENT:

Len Marsh	Vice Chairman
Richard Hanna	Member

THE FOLLOWING PERSONS WERE ALSO PRESENT:

Alfred Quick	Economic Development Specialist
A. Joseph Scott, III, Esq.	Bond Counsel

The following resolution was offered by Jim Salisbury, seconded by Hugh I. Henderson, to wit:

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

**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN  
DOCUMENTS WITH RESPECT TO THE PLAINS, LLC PROJECT.**

WHEREAS, 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 252 of the 1973 Laws of New York, as amended, constituting Section 910-a 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, warehousing, research, commercial, industrial and 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 equip one or more "projects" (as defined in the Act), or to cause

said projects to be acquired, constructed, reconstructed and equipped, and to convey said projects or to lease said projects (with an obligation to purchase); and

WHEREAS, in August, 2007, The Plains, 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 approximately 30 acre parcel of land located at 4389 State Highway 7 in the Town of Oneonta, Otsego County, New York (the "Land"), (2) the construction on the Land of an approximately 120,000 square foot interconnected building consisting of the following components: (a) a 3 story, 68 unit, independent living facility, (b) a 2 story, 28 unit, enriched living program facility, and (c) a single story, 15 unit, memory care living facility (collectively, the "Facility"), and (3) the acquisition and installation therein and thereon of machinery and equipment (the "Equipment") (the Land, the Facility and Equipment hereinafter collectively referred to as the "Project Facility"), all of the foregoing to constitute an active adult community; (B) the granting of certain other "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing, including potential exemptions from certain sales taxes, mortgage recording taxes, deed transfer 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 and/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 September 6, 2007 (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 Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on September 20, 2007 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Public Hearing to be posted on September 24, 2007 on a bulletin board located at 242 Main Street, County Satellite Building, in the City of Oneonta, Otsego County, New York, (C) caused notice of the Public Hearing to be published on September 20, 2007 in The Daily Star, a newspaper of general circulation available to the residents of the Town of Oneonta, Otsego County, New York, (D) conducted the Public Hearing on October 23, 2007 at 9:00 o'clock, a.m., local time at the Town of Oneonta Town Hall, Assembly Room, located at 3966 State Highway Hall in the Town of Oneonta, Otsego County, New York, and (E) prepared a report of the Public Hearing (the "Report") fairly summarizing the views presented at such Public Hearing and caused copies of said Report to be made available to the members of the Agency; and

WHEREAS, by resolution adopted by the Agency on December 6, 2007 (the "Commercial Findings Resolution"), the Agency made certain findings with respect to the qualification of the Project for the granting by the Agency of the Financial Assistance under the Act; 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, being 6NYCRR Part 617, as amended (collectively with the SEQR Act, "SEQRA"), by resolution adopted by the members of the Agency on December 6, 2007 (the "SEQR Resolution"), the Agency (A) ratified the determination by the Town Board of the Town of Oneonta (the "Town Board") to act as "lead agency" with respect to the Project, (B) acknowledged receipt of a copy of a negative declaration

issued by the Town Board on April 11, 2007 with respect to the Project (the "Negative Declaration"), and (C) indicated that the Agency had no information to suggest that the Town Board was incorrect in authorizing issuance of 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 Otsego County, 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 Otsego County, New York by undertaking the Project in Otsego County, 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") which, among other things, the Company agrees to undertake and complete 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, a mortgage and any other security documents and related documents, including, without limitation, an assignment of leases and rents, all in form and content reasonably acceptable to Bond Counsel for the Agency (collectively, the "Mortgage") from the Agency and the Company to the Company's lender with respect to the Project ("the "Lender"), which Mortgage will grant a lien on and security interest in the Project Facility to secure a loan from the Lender to the Company with respect to the Project (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 COUNTY OF OTSEGO INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. 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; and

(B) The Project constitutes a "project" within the meaning of the Act; and

(C) Although the Project may constitute a project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one-third of the total project cost, (1) the predominant purpose of the Project is to make

available goods or services which would not, but for the Project, be reasonably accessible to the residents of Otsego County because of a lack of reasonably accessible facilities offering such goods or services, and (2) completion of the Project will serve the public purposes of the act by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the State of New York; and

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

(E) The granting of the Financial Assistance by the Agency with respect to the Project, through the granting of the various tax exemptions described in Section 2(D) of this Resolution, will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of Otsego County, New York and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act; and

(F) The Project site is located entirely within the boundaries of Otsego County, New York;

(G) 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 \$17,000,000; and

(H) Upon compliance with the provisions of the Act, the Agency would then be authorized under the Act to undertake the Project in order to promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of the Otsego County, New York and the State of New York and improve their standard of living; and

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

Section 2. In consequence of the foregoing, the Agency hereby determines to: (A) proceed with the Project; (B) acquire an interest in the Land and all the improvements now or hereafter located on the Land (collectively the "Premises") from the Company; (C) acquire, reconstruct and renovate the Project Facility, or cause the Project Facility to be acquired, reconstructed and renovated (D) lease the Project Facility to the Company pursuant to the Lease Agreement; (E) enter into the Payment in Lieu of Tax Agreement; (F) secure the Loan by entering into the Mortgage; and (G) grant the Financial Assistance with respect to the Project.

Section 3. The Agency is hereby authorized to acquire title to the Project Facility pursuant to (A) a lease to agency dated as of December 1, 2007 (the "Lease to Agency") from the Company to the Agency and (B) a bill of sale dated as of December 1, 2007 (the "Bill of Sale to Agency") from the Company to the Agency and 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 4. The Agency is hereby authorized to acquire, reconstruct and renovate 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, reconstruction, renovation and installation are hereby ratified, confirmed and approved.

Section 5. The form and substance of the Agency Documents (in substantially the forms presented to this meeting) are hereby approved.

Section 6. (A) Subject to confirmation by the chief executive officer of Otsego County of the private sector job finding contained in Section 2(C) of this Resolution pursuant to Section 862(2)(b) of the Act, 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 substantially the forms thereof presented to this meeting, with such changes, variations, omissions and insertions thereto 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 7. 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 8. 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:

Joseph A. Bernier	VOTING	<u>Yes</u>
Len Marsh	VOTING	<u>Absent</u>
Jeffrey C. Lord	VOTING	<u>Yes</u>
Sharon Oberriter	VOTING	<u>Yes</u>
Richard Hanna	VOTING	<u>Absent</u>
Hugh I. Henderson	VOTING	<u>Yes</u>
Gregory Relic	VOTING	<u>Yes</u>
Walter Buist	VOTING	<u>Yes</u>
Jim Salisbury	VOTING	<u>Yes</u>

The Resolution was thereupon declared duly adopted.

STATE OF NEW YORK                    )  
  ) SS:  
COUNTY OF OTSEGO                    )

I, the undersigned (~~Assistant~~) Secretary of County of Otsego 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 December 6, 2007 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of the whole of such proceedings of the Agency and of such Resolution set forth therein 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 6<sup>th</sup> day of December, 2007.

Sharon Overiter  
(~~Assistant~~) Secretary

(SEAL)