



AGENDA

May 24, 2023

1. Call to Order.
2. Roll Call
3. Pledge of Allegiance
4. **Resolution # 1**

Resolution to accept the minutes from the April 26, 2023, IDA/IDC Board meeting.

5. **Resolution # 2**

Resolution granting approval of and authorizing the grant of certain financial assistance by the Town of Babylon Industrial Development Agency to EnCon Industries Corp. in connection with the acquisition of a fleet of new service vehicles and support equipment for use in the Town of Babylon.

6. **Resolution # 3**

A resolution granting Farmingdale Hospitality Partners, LLC request for relief.

7. **Resolution # 4**

Authorizing the sale of a certain property.

8. Chief Executive Officer's report
9. Old Business
10. New Business
11. Adjournment

BABYLON INDUSTRIAL DEVELOPMENT AGENCY

IDA/IDC MEETING MINUTES

April 26, 2023

Present: Tom Gaulrapp, Chairman
Justin Belkin, Vice Chairman
Paulette LaBorne, Secretary
Marcus Duffin
Carol Quirk
Vincent Piccoli
William Bogardt
Rosemarie Dearing

Absent: William Celona

Also Present: Thomas Dolan, TOBIDA Chief Executive Officer
Frank Dolan, TOBIDA Chief Operations Officer
David Batkiewicz, Special Projects Manager
William Wexler, Agency Counsel

A quorum being present, the meeting was called to order at 8:05 A.M.

A motion was made by Justin Belkin and seconded by Paulette LaBorne in favor of a resolution to accept the minutes from the March 22, 2023, IDA/IDC Board meeting. All in favor, motion carries.

A motion was made by William Bogardt and seconded by Rosemarie Dearing in favor of a resolution to accept the minutes from the Public Hearing held April 25, 2023, for proposed amendments to the Agency's UTEP. All in favor, motion carries.

A motion was made by Rosemarie Dearing and seconded by Justin Belkin in favor of a resolution to accept the minutes from the Public Hearing held April 25, 2023, for Crystal Fusion Technologies, Inc. All in favor, motion carries.

A motion was made by Paulette LaBorne and seconded by Marcus Duffin in favor of a resolution to accept the minutes from the Public Hearing held April 25, 2023, for Vogue Group, Inc. All in favor, motion carries.

A motion was made by Rosemarie Dearing and seconded by Vincent Piccoli in favor of a resolution granting approval of an authorizing amendments to the Agency's UTEP. All in favor, motion carries.

A motion was made by Marcus Duffin and seconded by Carol Quirk in favor of a resolution granting approval of and authorizing the grant of certain financial assistance by the Town of

Babylon Industrial Development Agency to Crystal Fusion Technologies, Inc. in connection with the demolition, construction and equipping of a manufacturing, warehouse and distribution facility. All in favor, motion carries.

A motion was made by Rosemarie Dearing and seconded by Paulette LaBorne in favor of a resolution granting approval of and authorizing the grant of certain financial assistance by the Town of Babylon Industrial Development Agency to 550 Smith Street LLC, 480 Smith Street LLC, 480 Smith Street LLC, Vogue Holding LLC and Vogue Group, Inc. in connection with acquisition, construction, renovation and equipping of manufacturing, warehouse and distribution facilities. All in favor, motion carries.

A motion was made by Justin Belkin and seconded by William Bogardt in favor of a preliminary inducement resolution of the Town of Babylon Industrial Development Agency relating to the granting of preliminary approval to Thor 377 Carlls Path LLC in connection with the potential grant of certain financial assistance. All in favor, motion carries.

A motion was made by William Bogardt and seconded by Paulette LaBorne in favor of a resolution authorizing an amendment to project documents relating to the Lakeville Industries, Inc. D/B/A/ Lakeville Kitchen & Bath Project. All in favor, motion carries.

A motion was made by Marcus Duffin and seconded by Rosemarie Dearing in favor of a resolution authorizing the Town of Babylon Industrial Development Agency to Execute a Loan Agreement between the Agency, Century Carries, Inc. and Flushing Bank in an amount not to exceed \$380,000.00. All in favor, motion carries.

A motion was made by Paulette LaBorne and seconded by William Bogardt in favor of a resolution permitting the Termination of Lease Agreement and Company Lease and authorizing the Chief Executive Officer to terminate the Sales Tax Exemption regarding the premises located at One Michael Avenue, Farmingdale, New York 11735 (SCTM# 0100 069.00 03.00 005.022), to Human First, Inc. All in favor, motion carries.

CEO Report

Mr. Dolan stated that, as evidenced from the board Agenda, the Agency was starting to see an increase in economic activity as various projects start to move forward. Mr. Dolan stated that some of these projects were with existing clients whom were looking to expand their business here in the town. Mr. Dolan informed the Board that Ryan Silva, Executive Director of the New York State Economic Development Council would be on the Agency's Economically Speaking podcast. Mr. Dolan thanked the Board for its leadership.

Old Business

No old business.

New Business

No new business.

A motion was made by William Bogardt and seconded by Rosemarie Dearing to adjourn the meeting. All in favor, motion carries.

RESOLUTION GRANTING APPROVAL OF AND AUTHORIZING THE GRANT OF CERTAIN FINANCIAL ASSISTANCE BY THE TOWN OF BABYLON INDUSTRIAL DEVELOPMENT AGENCY TO ENCON INDUSTRIES CORP. IN CONNECTION WITH THE ACQUISITION OF A FLEET OF NEW SERVICE VEHICLES AND SUPPORT EQUIPMENT FOR USE IN THE TOWN OF BABYLON

WHEREAS, the New York State Industrial Development Agency Act, 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**”) has been heretofore enacted by the Legislature of the State of New York for the purposes, among others, of providing for the creation of industrial development agencies in the several counties, cities, villages and towns in the State of New York (the “**State**”), to promote, develop, encourage, assist and advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their prosperity and standard of living; and

WHEREAS, the Enabling Act further authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and empowers such agencies, among other things, to acquire, construct, reconstruct, renovate, refurbish, equip, lease, sell and dispose of land and any building or other improvements thereon, and all other such real and personal property, including but not limited to machinery and equipment deemed necessary in connection therewith, whether now in existence or under construction, which is suitable for manufacturing, warehousing, research, commercial, recreational, residential or industrial facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Town of Babylon Industrial Development Agency (the “**Agency**”) has been heretofore established under said Enabling Act pursuant to Chapter 177 of the 1973 Laws of New York, as amended (together with the Enabling Act, the “**Act**”), and is authorized to acquire real property and interests therein, buildings and other improvements thereon and machinery and equipment in connection therewith for the purposes set forth above, and to lease the same as herein more particularly described; and

WHEREAS, representatives of Encon Industries Corp. (the “**Company**”) have filed or caused to be filed an application with the Agency concerning a project (the “**Project**”) consisting of the acquisition of a fleet of new service vehicles and support equipment (the “**Facility Equipment**”) to be stored (when not in use) at the Company’s garage located at 38-42 Wyandanch Avenue, Wyandanch, in the Town of Babylon (the “**Town**”), all for use by the Company in its business of providing residential municipal solid waste collection and delivery services to the Town pursuant to a residential solid waste and recyclables collection service agreement between the Company and the Town, as amended; and

WHEREAS, in order to induce the Company to retain and grow jobs in the Town, it appears necessary for the Agency to assist the Company by taking title to the Facility Equipment so as to afford the Company of certain relief from State and local sales and use taxation; and

WHEREAS, it is contemplated that the Company will cause the transfer by Bill of Sale (the “**Bill of Sale**”) or Equipment Lease (each an “**Equipment Lease**”) of the Facility Equipment

to the Agency and the Agency will assist the Company to undertake the Project and will lease or sublease the Facility Equipment to the Company pursuant to a Lease and Project Agreement (the "**Lease Agreement**"), by and between the Company and the Agency pursuant to which the Company agrees, among other things, to undertake the Project; and

WHEREAS, in connection with the Agency's evaluation of the Project for the provision of financial assistance, the Agency has (i) assessed all material information relating to the Project included in the Company's project application (the "**Project Application**") in order to afford a reasonable basis for the decision of the Agency to provide financial assistance to the Project; (ii) reviewed the Agency's written cost benefit analysis for the Project which identifies the extent to which (A) the Project will create or retain permanent, private sector jobs; (B) the estimated value of any tax exemption to be provided to the Project, (C) the amount of private sector investment generated or likely to be retained or generated by the Project; (D) reviewed the likelihood of accomplishing the proposed Project in a timely fashion; and (E) considered the extent to which the Project will provide additional sources of revenue for the Town and the school district where the Facility is located; and

WHEREAS, in connection with the adoption of this resolution the Agency has reviewed the Project Application and the Company has confirmed in such Project Application that as of the date of the Project Application, as amended, the Company is in substantial compliance with the Act; and

WHEREAS, it is desired that the Agency authorize the granting of certain financial assistance to the Company in connection with the Project including exemption from State and local sales and use taxes.

NOW, THEREFORE, BE IT DETERMINED, APPROVED AND RESOLVED by the Members of the Agency as follows:

Section 1. With respect to the Agency's evaluation criteria for Manufacturing/Warehousing/Distribution Projects the Agency makes the following determinations:

- (a) It has reviewed the information in the Cost Benefit Analysis with respect to the Project.
- (b) The Company proposes a capital investment in the machinery and equipment, soft costs and capital improvements with respect to the Project of approximately \$14,750,000.
- (c) The wage rates for employees of the Company average \$1,200 per week for management positions, \$1,200 per week for administrative positions, \$844 per week for driver positions, \$740 per week for helpers/laborers positions and \$30.76 per hour for part time/per diem positions.
- (d) The Project will not have significant impact from local labor construction in the Town.
- (e) The Project will not have a significant effect on in-region purchases.

- (f) The Project will not have an effect on research and development.
- (g) The Project will not have a significant effect on energy efficiency.
- (h) The Project will not affect existing land use or zoning.
- (i) The Project is necessary to provide solid waste disposal and recycling services to the Town.

Section 2. Based on the evaluation of the foregoing evaluation criteria, (a) The Agency hereby finds and determines that (i) the Project constitutes a “Project” within the meaning of the Act; (ii) the Project is necessary to provide solid waste disposal and recycling services to the Town; and (iii) the granting of State and local sales and use tax abatements (the “**Financial Assistance**”) by the Agency with respect to the Project and the Facility Equipment pursuant to the Act, will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the Town and the State and improve their standard of living, and thereby serve the public purposes of the Act.

(b) It is desirable and in the public interest for the Agency to grant Financial Assistance to the Company with respect to the Project.

(c) The Agency shall grant Financial Assistance to the Company in the form of New York State and local sales and use tax abatements in a maximum amount not to exceed \$1,155,750 as provided in the Lease Agreement and in the event of the occurrence of a recapture event under the Lease Agreement the Agency will pursue recapture of the Financial Assistance as provided in the Lease Agreement.

Section 3. To accomplish the purposes of the Act, the Agency shall acquire title or leasehold interest to the Facility Equipment pursuant to the Bill of Sale or Equipment Leases, assist the Company to undertake the Project and lease or sublease the Facility Equipment to the Company pursuant to the Lease Agreement.

Section 4. In order to provide the Company with Financial Assistance with respect to exemption from State and local sales and use taxes with respect to the Project the Agency may issue one or more Sales Tax Agent Authorization Letters (“**Sales Tax Authorization Letters**”) which shall be used pursuant to the terms contained therein and in the Lease Agreement.

Section 5. The form and substance of the Lease Agreement in substantially the form previously executed for other equipment “straight lease” transactions is hereby approved.

Section 6. The form and substance of the Bill of Sale and Equipment Lease in substantially the form previously executed for other equipment “straight lease” transactions is hereby approved.

Section 7. Thomas E. Dolan, as the Chief Executive Officer (“**CEO**”) of the Agency or any successor CEO of the Agency or any other Authorized Representative including the Chief Financial Officer (“**CFO**”) of the Agency, is hereby authorized, on behalf of the Agency, to execute and deliver final forms of the Bill of Sale, Equipment Leases, Lease Agreement, Sales Tax Agent Authorization Letters, and any other agreements or certificates consistent herewith

(hereinafter collectively called the “**Agency Documents**”), all in substantially the forms previously executed by the Agency for other equipment “straight lease” transactions acceptable to Agency Counsel, with such changes, variations, omissions and insertions in the Agency Documents as the CEO or any other Authorized Representative of the Agency shall upon advice of counsel approve. The execution thereof by the CEO or any other Authorized Representative of the Agency shall constitute conclusive evidence of such approval.

The CEO or CFO of the Agency or any other authorized representative are further hereby authorized, on behalf of the Agency, to designate any additional authorized representatives including the Chairman, the Secretary or Assistant Secretary of the Agency, to execute any Agency Documents or certificates of the Agency authorized pursuant to this Resolution and determine the terms of the Agency Documents.

The Secretary, Assistant Secretary or Counsel to the Agency is hereby authorized to attest to the CEO’s, the CFO’s or any other authorized representative’s signature on the foregoing documents and to impress or affix the seal or facsimile seal of the Agency thereto.

Section 8. The CEO of the Agency, the CFO of the Agency or any other authorized representative including the Chairman or the Secretary and any member of the Agency (as used in this resolution, the “**Authorized Representatives**”) are hereby designated the authorized representatives of the Agency and each of them is hereby authorized and directed to cause the transactions as described in the Bill of Sale, Equipment Leases, and the Lease Agreement to be undertaken and in relation thereto, to execute and deliver any and all papers, instruments, agreements, opinions, certificates, affidavits and other documents, and to do and cause to be done any and all acts and things necessary or proper for carrying out this resolution, and the Agency Documents including such changes or revisions in the forms of such documents as may be requested by counsel to the Agency.

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, agreements and documents, 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. All covenants, stipulations, obligations and agreements of the Agency contained in this resolution, and the Agency Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Agency to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Agency and its successors from time to time and upon any board or body to which any powers or duties, affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Agency or the members thereof by the provisions of this resolution, and the Agency Documents shall be exercised or performed

by the Agency or by such members, officers, board or body as may be required by law to exercise such powers and to perform such duties.

Section 11. No covenant, stipulation, obligation or agreement contained in this resolution, or the Agency Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency or the Town in his or their individual capacity and neither the members of the Agency nor any officer shall be liable personally on the Agency Documents or be subject to any personal liability or accountability by reason of the execution thereof.

Section 12. The law firm Katten Muchin Rosenman LLP is hereby appointed transaction counsel to the Agency for this transaction.

Section 13. Notwithstanding the foregoing, the Agency will not grant any Financial Assistance to be granted hereunder in excess of \$100,000 to the Company until the Agency has held a public hearing with respect to the grant of financial assistance in accordance with the provisions of the Act.

Section 14. 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, preliminary sales tax agreements and/or documents (collectively, the “**Interim Documents**”) in such form as the CEO of the Agency shall deem advisable are hereby approved; and the CEO of the Agency is hereby authorized and directed to execute, acknowledge and deliver the Interim Documents in the name of the Agency. 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 15. This resolution shall take effect immediately.

RESOLUTION NO. 3, MAY 24, 2023
A RESOLUTION GRANTING FARMINGDALE HOSPITALITY PARTNERS
LLC REQUEST FOR RELIEF

WHEREAS, the Town of Babylon Industrial Development Agency (the “Agency”) entered into the Lease and Project Agreement (the “Agreement”) dated December 23, 2021, with Farmingdale Hospitality Partners LLC (the “Company”); and

WHEREAS, the Company agreed to complete Project Work and deliver a Certificate of Occupancy with respect to the facility by no later than December 31, 2023 (the “Required Completion Date”) pursuant to section 3.6 of the Agreement; and

WHEREAS, by letter of Company counsel (the “Letter”) dated April 17, 2023, the Company requested relief from section 3.6 of the Agreement; and

WHEREAS, the Letter states that the delays in construction were due to the COVID19 pandemic, cost increases of financing and construction, and Company changes in management; and

WHEREAS, design and development has started in earnest and the Company anticipates breaking ground by at least the first quarter of 2024 and has not yet availed itself of any financial benefits offered under the Agreement.

NOW, THEREFORE, BE IT

RESOLVED, that the Company is granted relief under 3.6 and such schedule for completion shall now start as of the first quarter of 2024; and be it further

RESOLVED, that capitalized terms in this Resolution are intended to have the same definition as they do in the Agreement; and be it further

RESOLVED, that this Resolution shall take effect immediately.

RESOLUTION NO. 4 MAY 17, 2023
AUTHORIZING THE SALE OF A CERTAIN PROPERTY

The following resolution was offered by Member
and seconded by Member

WHEREAS, the Town of Babylon Industrial Development Agency is desirous of selling property to the Town of Babylon; and

WHEREAS, the Agency has preliminarily determined that 831 Broadway, Amityville, NY 11701 (“Subject Parcel”) is surplus; and

WHEREAS, the Town has further preliminarily determined that, in furtherance of that surplusage, the Subject Parcel should be sold, transferred and conveyed to the Town; and

WHEREAS, the Agency has further preliminarily determined that, in furtherance of the said sale, the Agency should convey and transfer all of its right, title and interest in and to that portion of the Subject Parcel; and

WHEREAS, the sales offer of the unimproved property is ONE MILLION SEVENTY THOUSAND 00/100 (\$1,070,000.00) DOLLARS which is consistent with the real estate appraisal obtained to assess the value of the property; and

WHEREAS, the Town has complied with all applicable requirements, and made all required determinations, under and pursuant to the New York State Environmental Quality Review Act, and the regulations promulgated thereunder, with respect to the use, including, without limitation, the proposed purchase, transfer and conveyance of the Subject Parcels.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby determines that the following plots and parcels of land now owned by the Agency are no longer required for use by the Town:

831 Broadway, Amityville, NY 11701; and

BE IT FURTHER RESOLVED, that the Board hereby determines that, upon its sale of fee title to the same, and in furtherance of the development of the use, the Subject Parcel is required for use by the Town; and

BE IT FURTHER RESOLVED that the Board hereby determines that in furtherance of the Agency's mission and purpose, one or more tracts, pieces and parcels of the Subject Parcel should be sold, transferred and conveyed from the Agency by the Town Supervisor; and

BE IT FURTHER RESOLVED that the Board hereby authorizes the sale, transfer and conveyance by the Town, in one transaction as deemed necessary or appropriate from time to time by the Chief Executive Officer, to secure the Agency's right, title and interest in and to the Subject Parcel, or any of them, from the Agency for a purchase price of ONE MILLION SEVENTY THOUSAND 00/100 (\$1,070,000.00) Dollars and upon such other terms and conditions as the Town, acting by and through the Chief Executive Officer, all documents are subject to approval as to form by the Agency Counsel or his designee; and

BE IT RESOLVED, that this resolution shall take effect immediately.